
Safety Xpress Unit Trust T/A Safety Xpress/Durasafe – Terms & Conditions of Trade

1. Definitions

- 1.1 "Safety Xpress" means Safety Xpress Unit Trust T/A Safety Xpress & Durasafe its successors and assigns or any person acting on behalf of and with the authority of Safety Xpress Unit Trust T/A Safety Xpress & Durasafe.
- 1.2 "Customer" means the person/s buying the Goods and / or Services as specified in any invoice, document or order, and if there is more than one Customer is a reference to each Customer jointly and severally.
- 1.3 "Goods" means all Goods and / or Services supplied by Safety Xpress to the Customer at the Customer's request from time to time (where the context so permits the terms 'Goods' and / or 'Services' shall be interchangeable for the other).
- 1.4 "Price" means the Price payable (plus any GST where applicable) for the Goods as agreed between Safety Xpress and the Customer in accordance with clause 4 below.
- 1.5 "GST" means Goods and Services Tax (GST) as defined within the "A New Tax System (Goods and Services Tax) Act 1999".

2. Acceptance

- 2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of the Goods.
- 2.2 These terms and conditions may only be amended with the consent of both parties in writing, and shall prevail to the extent of any inconsistency with any other document or agreement between the Customer and Safety Xpress.
- 2.3 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions (Victoria) Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.
- 2.4 None of Safety Xpress's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the general manager of Safety Xpress in writing, nor is Safety Xpress bound by any such unauthorised statements.

3. Change in Control

- 3.1 The Customer shall give Safety Xpress not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number/s, or business practice). The Customer shall be liable for any loss incurred by Safety Xpress as a result of the Customer's failure to comply with this clause.

4. Price and Payment

- 4.1 At Safety Xpress's sole discretion, the Price shall be either:
- (a) as indicated on any invoice provided by Safety Xpress to the Customer; or
 - (b) the Price as at the date of delivery of the Goods according to Safety Xpress's current price list; or
 - (c) Safety Xpress's quoted price (subject to clause 4.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days. Any variation from the Goods quoted and accepted will be charged for on the basis of Safety Xpress's quotation and will be shown as variations on the invoice. The Customer shall be required to respond to any variation submitted by Safety Xpress within ten (10) working days. Failure to do so will entitle Safety Xpress to add the cost of the variation to the Price Payment for all variations must be made in full at their time of completion.
- 4.2 Safety Xpress reserves the right to change the Price:
- (a) if a variation to the Goods which are to be supplied is requested; or
 - (b) in the event of increases to Safety Xpress's in the cost of labour or materials, or fluctuations in currency exchange rates, which are beyond Safety Xpress's control.
- 4.3 At Safety Xpress's sole discretion, a non-refundable deposit may be required.
- 4.4 Time for payment for the Goods being of the essence, the Price will be payable by the Customer on the date/s determined by Safety Xpress, which may be:
- (a) before delivery of the Goods/Services;
 - (b) the date specified on any invoice or other form as being the date for payment; or
 - (c) failing any notice to the contrary, the date which is thirty (30) days following the date of any invoice given to the Customer by Safety Xpress.
- 4.5 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (a surcharge may apply per transaction), or by any other method as agreed to between the Customer and Safety Xpress.
- 4.6 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by Safety Xpress nor to withhold payment of any invoice because part of that invoice is in dispute.
- 4.7 Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay to Safety Xpress an amount equal to any GST Safety Xpress must pay for any supply by Safety Xpress under this or any other agreement for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition, the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

5. Delivery of Goods

- 5.1 Delivery ("Delivery") of the Goods is taken to occur at the time that:
- (a) the Customer or the Customer's nominated carrier takes possession of the Goods at Safety Xpress's address; or
 - (b) Safety Xpress (or Safety Xpress's nominated carrier) delivers the Goods to the Customer's nominated address even if the Customer is not present at the address. This includes carrying out any works or installations.
- 5.2 At Safety Xpress's sole discretion, the cost of delivery is in addition to the Price.
- 5.3 Safety Xpress may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 5.4 Any time specified by Safety Xpress for delivery of the Goods is an estimate only and Safety Xpress will not be liable for any loss or damage incurred by the Customer as a result of delivery being late. However, both parties agree that they shall make every endeavour to enable the

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- 5.5 Goods to be delivered or works completed at the time and place as was arranged between both parties. In the event that Safety Xpress is unable to supply the Goods or complete the works as agreed solely due to any action or inaction of the Customer, then Safety Xpress shall be entitled to charge a reasonable fee for redelivery and/or storage.
- 5.6 The Customer shall ensure that Safety Xpress has clear and free access to the work site at all times to enable them to deliver the Goods. Safety Xpress shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of Safety Xpress. Should a re-visit be required to complete works, Safety Xpress will at its own discretion charge a re-visit fee.
- 6. On-Line Ordering**
- 6.1 The Customer acknowledges and agrees that:
- (a) Safety Xpress does not guarantee the website's performance;
 - (b) display on the website does not guarantee the availability of any particular Goods; therefore, all orders placed through the website shall be subject to confirmation of acceptance by Safety Xpress
 - (c) on-line ordering may be unavailable from time to time for regularly scheduled maintenance and/or upgrades;
 - (d) there are inherent hazards in electronic distribution, and as such Safety Xpress cannot warrant against delays or errors in transmitting data between the Customer and Safety Xpress including orders, and you agree that to the maximum extent permitted by law, Safety Xpress will not be liable for any losses which the Customer suffers as a result of online-ordering not being available or for delays or errors in transmitting orders;
 - (e) when making a transaction through the website, the Customer's information will pass through a secure server using SSL (secure sockets layer) encryption technology. The encryption process ensures that the Customer's information cannot be read by or altered by outside influences;
 - (f) if the Customer is not the cardholder for any credit card being used to pay for the Goods, Safety Xpress shall be entitled to reasonably assume that the Customer has received permission from the cardholder for use of the credit card for the transaction.
- 6.2 Safety Xpress reserves the right to terminate the Customer's order if it learns that you have provided false or misleading information, interfered with other users or the administration of Safety Xpress's business, or violated these terms and conditions.
- 7. Dimensions and Specifications**
- 7.1 Safety Xpress shall be entitled to rely on the accuracy of any dimensions, specifications and other information provided by the Customer, and Safety Xpress shall not be liable for any defect in the Goods or markings or installations as a result of any incorrect dimensions, specified and other information provided by the Customer to Safety Xpress.
- 8. Risk**
- 8.1 Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.
- 8.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, Safety Xpress is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by Safety Xpress is sufficient evidence of Safety Xpress's rights to receive the insurance proceeds without the need for any person dealing with Safety Xpress to make further enquiries.
- 8.3 If the Customer requests Safety Xpress to leave Goods outside Safety Xpress's premises for collection or to deliver the Goods to an unattended location, then such Goods shall be left at the Customer's sole risk. This also applies where a Customer representative is not on site when installations cannot be completed due to the Customer not providing accurate information of where the installation location is.
- 9. Title**
- 9.1 Safety Xpress and the Customer agree that ownership of the Goods shall not pass until:
- (a) the Customer has paid Safety Xpress all amounts owing to Safety Xpress; and
 - (b) the Customer has met all of its other obligations to Safety Xpress.
- 9.2 Receipt by Safety Xpress of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.
- 9.3 It is further agreed that, until ownership of the Goods passes to the Customer in accordance with clause 9.1:
- (a) the Customer is only a bailee of the Goods and must return the Goods to Safety Xpress on request.
 - (b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for Safety Xpress and must pay to Safety Xpress the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
 - (c) the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for Safety Xpress and must pay or deliver the proceeds to Safety Xpress on demand.
 - (d) the Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of Safety Xpress and must sell, dispose of or return the resulting product to Safety Xpress as it so directs.
 - (e) the Customer irrevocably authorises Safety Xpress to enter any premises where Safety Xpress believes the Goods are kept and recover possession of the Goods or remove any markings or installation work which was carried out by Safety Xpress.
 - (f) Safety Xpress may recover possession of any Goods in transit whether or not delivery has occurred.
 - (g) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of Safety Xpress.
 - (h) the Customer shall not "make good" any works or installations alleged by the Customer as not acceptable, without prior written approval from Safety Xpress. Safety Xpress will not be liable for any costs incurred by the Customer should this take place.
 - (i) Safety Xpress may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.

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10. Personal Property Securities Act 2009 (“PPSA”)

- 10.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 10.2 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods and/or collateral (account) – being a monetary obligation of the Customer to Safety Xpress for Services – that have previously been supplied and that will be supplied in the future by Safety Xpress to the Customer.
- 10.3 The Customer undertakes to:
- (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Safety Xpress may reasonably require to:
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 10.3(a)(i) or 10.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, Safety Xpress for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of Safety Xpress;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of Safety Xpress;
 - (e) immediately advise Safety Xpress of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 10.4 Safety Xpress and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 10.5 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 10.6 The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 10.7 Unless otherwise agreed to in writing by Safety Xpress, the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 10.8 The Customer must unconditionally ratify any actions taken by Safety Xpress under clauses 10.3 to 10.5.
- 10.9 Subject to any express provisions to the contrary (including those contained in this clause 10) nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

11. Security and Charge

- 11.1 In consideration of Safety Xpress agreeing to supply the Goods, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 11.2 The Customer indemnifies Safety Xpress from and against all Safety Xpress’s costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Safety Xpress’s rights under this clause.
- 11.3 The Customer irrevocably appoints Safety Xpress and each director of Safety Xpress as the Customer’s true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 11 including, but not limited to, signing any document on the Customer’s behalf.

12. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

- 12.1 The Customer must inspect the Goods on delivery or completion of works and must within seven (7) days of delivery or completion of works notify Safety Xpress in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow Safety Xpress to inspect the Goods or the works or installations.
- 12.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).
- 12.3 Safety Xpress acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 12.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Safety Xpress makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. Safety Xpress’s liability in respect of these warranties is limited to the fullest extent permitted by law.
- 12.5 If the Customer is a consumer within the meaning of the CCA, Safety Xpress’s liability is limited to the extent permitted by section 64A of Schedule 2.
- 12.6 If Safety Xpress is required to replace the Goods under this clause or the CCA, but is unable to do so, Safety Xpress may refund any money the Customer has paid for the Goods.
- 12.7 If the Customer is not a consumer within the meaning of the CCA, Safety Xpress’s liability for any defect or damage in the Goods is:
- (a) limited to the value of any express warranty or warranty card provided to the Customer by Safety Xpress at Safety Xpress’s sole discretion;
 - (b) limited to any warranty to which Safety Xpress is entitled, if Safety Xpress did not manufacture the Goods;
 - (c) otherwise negated absolutely.
- 12.8 Subject to this clause 12, returns will only be accepted provided that:
- (a) the Customer has complied with the provisions of clause 12.1; and
 - (b) Safety Xpress has agreed that the Goods are defective; and
 - (c) the Goods are returned within a reasonable time at the Customer’s cost (if that cost is not significant); and
 - (d) the Goods are returned in as close a condition to that in which they were delivered as is possible.

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- 12.9 Notwithstanding clauses 12.1 to 12.8 but subject to the CCA, Safety Xpress shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
- (a) the Customer failing to properly maintain or store any Goods;
 - (b) the Customer using the Goods for any purpose other than that for which they were designed;
 - (c) the Customer continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - (d) the Customer failing to follow any instructions or guidelines provided by Safety Xpress;
 - (e) fair wear and tear, any accident, or act of God.
- 12.10 Safety Xpress may in its absolute discretion accept non-defective Goods for return in which case Safety Xpress may require the Customer to pay handling fees and re-stocking fees of up to twenty-five percent (25%) of the value of the returned Goods plus any freight costs.
- 12.11 Notwithstanding anything contained in this clause if Safety Xpress is required by a law to accept a return then Safety Xpress will only accept a return on the conditions imposed by that law.

13. Intellectual Property

- 13.1 Where Safety Xpress has designed, drawn or developed Goods for the Customer, then the copyright in any designs and drawings and documents shall remain the property of Safety Xpress. Under no circumstances may such designs, drawings and documents be used without the express written approval of Safety Xpress.
- 13.2 The Customer warrants that all designs, specifications or instructions given to Safety Xpress will not cause Safety Xpress to infringe any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify Safety Xpress against any action taken by a third party against Safety Xpress in respect of any such infringement.
- 13.3 The Customer agrees that Safety Xpress may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which Safety Xpress has created for the Customer.

14. Default and Consequences of Default

- 14.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Safety Xpress's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 14.2 If the Customer owes Safety Xpress any money the Customer shall indemnify Safety Xpress from and against all costs and disbursements incurred by Safety Xpress in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Safety Xpress's contract default fee, and bank dishonour fees).
- 14.3 Further to any other rights or remedies Safety Xpress may have under this contract, if a Customer has made payment to Safety Xpress, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by Safety Xpress under this clause 14 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this agreement.
- 14.4 Without prejudice to Safety Xpress's other remedies at law Safety Xpress shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to Safety Xpress shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to Safety Xpress becomes overdue, or in Safety Xpress's opinion the Customer will be unable to make a payment when it falls due;
 - (b) the Customer has exceeded any applicable credit limit provided by Safety Xpress;
 - (c) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

15. Cancellation

- 15.1 Without prejudice to any other remedies Safety Xpress may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions Safety Xpress may suspend or terminate the supply of Goods to the Customer. Safety Xpress will not be liable to the Customer for any loss or damage the Customer suffers because Safety Xpress has exercised its rights under this clause.
- 15.2 Safety Xpress may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice Safety Xpress shall repay to the Customer any money paid by the Customer for the Goods. Safety Xpress shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 15.3 In the event that the Customer cancels delivery of Goods the Customer shall be liable for any and all loss incurred (whether direct or indirect) by Safety Xpress as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 15.4 Cancellation of orders for Goods made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

16. Privacy Act 1988

- 16.1 The Customer agrees for Safety Xpress to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Customer in relation to credit provided by Safety Xpress.
- 16.2 The Customer agrees that Safety Xpress may exchange information about the Customer with those credit providers and with related body corporates for the following purposes:
- (a) to assess an application by the Customer; and/or
 - (b) to notify other credit providers of a default by the Customer; and/or

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- (c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
 - (d) to assess the creditworthiness of the Customer including the Customer's repayment history in the preceding two years.
 - 16.3 The Customer consents to Safety Xpress being given a consumer credit report to collect overdue payment on commercial credit.
 - 16.4 The Customer agrees that personal credit information provided may be used and retained by Safety Xpress for the following purposes (and for other agreed purposes or required by):
 - (a) the provision of Goods; and/or
 - (b) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Goods; and/or
 - (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
 - (d) enabling the collection of amounts outstanding in relation to the Goods.
 - 16.5 Safety Xpress may give information about the Customer to a CRB for the following purposes:
 - (a) to obtain a consumer credit report;
 - (b) allow the CRB to create or maintain a credit information file about the Customer including credit history.
 - 16.6 The information given to the CRB may include:
 - (a) personal information as outlined in 16.1 above;
 - (b) name of the credit provider and that Safety Xpress is a current credit provider to the Customer;
 - (c) whether the credit provider is a licensee;
 - (d) type of consumer credit;
 - (e) details concerning the Customer's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Customer no longer has any overdue accounts and Safety Xpress has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of Safety Xpress, the Customer has committed a serious credit infringement;
 - (h) advice that the amount of the Customer's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
 - 16.7 The Customer shall have the right to request (by e-mail) from Safety Xpress:
 - (a) a copy of the information about the Customer retained by Safety Xpress and the right to request that Safety Xpress correct any incorrect information; and
 - (b) that Safety Xpress does not disclose any personal information about the Customer for the purpose of direct marketing.
 - 16.8 Safety Xpress will destroy personal information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this agreement or is required to be maintained and/or stored in accordance with the law.
 - 16.9 The Customer can make a privacy complaint by contacting Safety Xpress via e-mail. Safety Xpress will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at www.oaic.gov.au.
- 17. Service of Notices**
- 17.1 Any written notice given under this contract shall be deemed to have been given and received:
 - (a) by handing the notice to the other party, in person;
 - (b) by leaving it at the address of the other party as stated in this contract;
 - (c) by sending it by registered post to the address of the other party as stated in this contract;
 - (d) if sent by facsimile transmission to the fax number of the other party as stated in this contract (if any), on receipt of confirmation of the transmission;
 - (e) if sent by email to the other party's last known email address.
 - 17.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.
- 18. General**
- 18.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
 - 18.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Victoria the state in which Safety Xpress has its principal place of business, and are subject to the jurisdiction of the Melbourne Court in that state.
 - 18.3 Subject to clause 12 Safety Xpress shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by Safety Xpress of these terms and conditions (alternatively Safety Xpress's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
 - 18.4 Neither party shall assign or sub-contract all or any part of their rights and obligations under this agreement without the written consent of the other party.
 - 18.5 The Customer agrees that Safety Xpress may amend these terms and conditions by notifying the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for Safety Xpress to provide Goods to the Customer.
 - 18.6 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
 - 18.7 Both parties warrant that they have the power to enter into this agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this agreement creates binding and valid legal obligations on them.