
SCF GROUP - SALE TERMS AND CONDITIONS

1. GENERAL

- 1.1. The sale of Equipment by SCF Group Pty Ltd ACN 065 732 078 (**SCF Group**) to the Customer is exclusively comprised of and subject to these sale terms and conditions (**Terms**) and the Schedule of Supply (together the **Agreement**). To the extent of any inconsistency between them, the following order of precedence applies:
 - 1.1.1. the relevant Schedule of Supply; then
 - 1.1.2. the Terms.
- 1.2. SCF Group agrees to sell and the Customer agrees to buy the Equipment set in the Schedule of Supply and signed by the Customer in accordance with these Terms.
- 1.3. By signing the Schedule of Supply, the Customer agrees that the Terms will apply to the sale of Equipment by SCF Group, unless another contract has been signed by the parties. The Customer's terms and conditions, whether electronic or in printed form, attached to any purchase order, any Invoice or any other documentation will be of no force and effect and will not be accepted by SCF Group.

2. COLLECTION

- 2.1. SCF Group will make the Equipment available for collection at SCF Group's depot specified in the Schedule of Supply. The Customer will be responsible for any transport of the Equipment from SCF Group's depot.
- 2.2. If notwithstanding the above, SCF Group agrees to organise transport of the Equipment, the Customer will pay the cost of transport to SCF Group as specified in the Schedule of Supply or otherwise upon receipt of an Invoice. The Customer agrees that the Equipment will be at the risk of the Customer at all times once made available at SCF Group's depot, including transport of the Equipment as arranged by SCF Group.
- 2.3. The Customer acknowledges and agrees that SCF Group will not be liable in any event or circumstance to the Customer for any loss, damage, claims, costs or expenses of any kind suffered by the Customer arising out of any delay or inability on the part of SCF Group to supply the Equipment to the Customer on the Delivery Date.

3. PAYMENTS

- 3.1. Any monies payable by the Customer to SCF Group under this Agreement must be paid without any set off or counterclaim and free of any deduction or abatement whatsoever. If the Purchase Charges are not paid by the Customer to SCF Group in accordance with this Agreement, the Customer acknowledges and agrees that SCF Group has the right (without prejudice to any other rights and remedies it may have) to recover, remove and/or resell the Equipment. For that purpose, SCF Group's employees, agents or workers may without notice enter any place SCF Group believes the Equipment to be without trespassing.
- 3.2. The Customer will pay SCF Group upon demand the costs and expenses (including debt collection fees and commission and legal costs on a solicitor client basis) incurred or payable by SCF Group in respect of the recovery and any attempted recovery of any monies payable by the Customer to SCF Group under this Agreement as a result of a breach by the Customer.
- 3.3. Until SCF Group receives full payment of the Purchase Charges, the provisions of clause 11 apply and SCF Group has the right (without prejudice to any other rights and remedies it may have) to recover, remove and/or resell the Equipment free from any claims by the Customer.
- 3.4. The Customer will indemnify SCF Group against any costs, claims, damages or losses suffered by SCF Group or a third party as a result of the Customer's inability to pay the Purchase Charges.
- 3.5. In relation to all Equipment, if the Customer has not paid the total Purchase Charges, but sells or otherwise disposes of the Equipment or any part of them, the monies received in respect of the disposal of the Equipment will be held on trust by the Customer for SCF Group and will be payable immediately to SCF Group on demand.
- 3.6. The payment by the Customer of the Purchase Charges and any other moneys payable by the Customer to SCF Group under this Agreement is an essential term of this Agreement, and unless specified otherwise, is to be paid within 30 days of the Invoice being presented to the Customer by SCF Group.
- 3.7. If any monies payable by the Customer to SCF Group under this Agreement are not paid on or by the due date for payment, the Customer will be liable for interest on any outstanding amount up to the date of payment at the rate of 12% per month, compounding and calculated daily.

4. WARRANTY

- 4.1. For sale of new Equipment, to the maximum extent permitted by law SCF Group warrants for a period of 12 months following the sale of Equipment that the Equipment is in good and serviceable condition and corresponds with the description in the Schedule. It is the responsibility of the Customer to inspect the Equipment prior to collecting the Container.
- 4.2. For sale of second-hand Equipment, it is the responsibility of the Customer to inspect the Container prior to collecting the Container. SCF Group provides no warranty in respect of second-hand Equipment. The Customer acknowledges that it purchases second-hand Equipment on an as is basis.
- 4.3. For sale of Equipment that have had modifications, it is the responsibility of the Customer to inspect the Container prior to collecting the Container. SCF Group does not offer any warranty on such modifications, including air conditioners, unless a warranty is supplied by the manufacturer of the components installed.
- 4.4. Any damages caused to the Equipment solely by mishandling, incorrect loading, impact and/or accident, fire and acid spillage by the Customer after delivery, are not covered by this warranty.

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- 4.5. For any agreed warranty repairs or replacement Equipment, the Customer will, at its own cost, transport the Equipment to the nearest practicable depot notified by the SCF Group to the Customer to allow the SCF Group to perform any repairs or maintenance on the Equipment pursuant to this clause 4. The Customer will give SCF Group a reasonable time to have the work completed or provide replacement Equipment.
- 4.6. To the maximum extent permitted by law, SCF Group will not be liable for any indirect or consequential loss or damage (including loss of profit or opportunity).

5. OWNERSHIP OF THE EQUIPMENT

- 5.1. SCF Group retains full legal and beneficial ownership of the Equipment until the Purchase Charges are paid in full.
- 5.2. At time of final payment of the Purchase Charges, the full, unencumbered and unconditional title of each of the Equipment will pass from SCF Group to the Customer.

6. INDEMNITY

The Customer will indemnify SCF Group and keep SCF Group indemnified against all claims, demands and actions and all losses, damages, costs and expenses incurred or suffered by the Customer in respect of any death, bodily injury, loss or damage to any person or property whatsoever caused by, arising out of or in connection with the use of the Equipment, other than those arising from the negligence or wilful acts of SCF Group, its agents, contractors or employees.

7. NOTICES

- 7.1. Any notice or other communication in connection with this Agreement is taken to have been duly given when made in writing and delivered or sent by post or email to the party to which such notice or communication is intended to be given at the address set out in the Schedule or such other address or email as may be from time to time be notified in writing from one party to the other for the purpose of this clause 7.
- 7.2. Notices to SCF Group will be sent to the attention of the Company Secretary and either posted to PO Box 10219, Adelaide, SA 5000, or emailed to company.secretary@scf.com.au.
- 7.3. Any notice or other communication sent by post will be taken to have been received at the expiration of two business days after the date of posting.
- 7.4. Any notice or other communication sent by email is taken to have been received upon completion of a successful transmission to the recipient. However, if the email is transmitted after 5.00pm at the place of receipt or on a day which is not a business day, it will be deemed to have been received on the next business day.

8. GOVERNING LAW

This Agreement will be governed by and construed in accordance with the law of the State of South Australia and the parties to this Agreement agree to submit to the jurisdiction of the courts of South Australia.

9. CONFIDENTIAL INFORMATION

- 9.1. The Customer acknowledges and agrees that information regarding the operation of SCF Group's intellectual property, business, its products, services and systems ("Confidential Information") may be disclosed to it during the sale process.
- 9.2. The Customer will not, during or after the sale process:
- 9.2.1. use the Confidential Information for any other purpose or in connection with any other goods or services;
 - 9.2.2. disseminate, distribute, offer for sale, sell, dispose of or publish the Confidential Information to a third party without SCF Group's consent;
 - 9.2.3. permit unauthorised persons, including third parties, to have access to areas where the Confidential Information may be displayed, reproduced or stored; or
 - 9.2.4. make, or assist any person to make any unauthorised use of the Confidential Information.

10. FORCE MAJEURE

No party is liable for any failure to perform its obligations under this Agreement if the failure or delay is due to anything beyond that party's reasonable control. If that failure exceeds 90 days, the other party may terminate this Agreement with immediate effect by giving notice to the other party. This clause 10 does not apply to any obligation to pay the Purchase Charges due by the Customer in accordance with this Agreement.

11. PERSONAL PROPERTY SECURITIES ACT 2009

- 11.1. If this Agreement or any of the transactions contemplated by it create a security interest for the purposes of the *Personal Property Securities Act 2009* ("PPSA"), including but not limited to a Purchase Money Security Interest, SCF Group may register or give any notification or exercise any rights it may have in connection with the security interest. The parties acknowledge and agree that SCF Group is only required to make a single registration against the Customer with respect to the security interests granted by the Customer to SCF Group pursuant to the terms of this Agreement.
- 11.2. The parties acknowledge that the security interest includes all proceeds from any dealings with the Equipment in accordance with the PPSA.
- 11.3. The Customer must do such acts and provide such information (which information the Customer warrants to be complete, accurate and up to date in all respects) as in the opinion of SCF Group may be required or desirable to enable SCF Group to perfect the security interest created under the PPSA. The Customer undertakes not to change its name in any form or other details on the Personal Property Securities Register without first notifying SCF Group.
- 11.4. The Customer irrevocably and unconditionally waives its right to receive from SCF Group any notice under the PPSA (including without limitation under s157 of the PPSA), unless required by the PPSA and if the notice cannot be excluded. SCF Group need not give any notice under the PPSA (including a verification statement or a financing

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change statement) unless the notice is required by the PPSA and cannot be excluded. The Customer agrees that, to the maximum extent permitted by law, it waives any rights it may have pursuant to, and the parties contract out of, sections 95, 118, 123, 125, 128, 129, 130, 132(1), 132(4), 135, 142 and 143 of the PPSA.

- 11.5. The Customer agrees to pay the costs, charges and expenses of any incidental to the need for, or desirability of registration of, a financing statement or financing change statement or any action taken by SCF Group to comply with the PPSA or to protect its position under the PPSA. The Customer agrees to pay any costs incurred by SCF Group arising from any disputes or negotiations with third parties claiming an interest in goods supplied by SCF Group.
- 11.6. No party may disclose information of the kind referred to in section 275(1) of the PPSA (except where the parties may do so and where required due to the operation of section 275(7) of the PPSA) and the Customer must not authorise the disclosure of such information.
- 11.7. The Customer acknowledges that, unless otherwise defined in this Agreement, the terms and expressions used in this clause 11 have the meanings given to them in, or by virtue of, the PPSA.

12. PRIVACY

- 12.1. The privacy of the Customer's personal information and credit related personal information ("personal information") is important to SCF Group. SCF Group is committed to respecting the Customer's right to privacy and protecting the personal information provided by the Customer in the Credit Application. SCF Group is bound by the Australian Privacy Principles in the *Privacy Act 1988* (Cth).
- 12.2. The Customer acknowledges that any personal information collected by SCF Group is subject to SCF Group's Privacy Policy, available at www.scf.com.au.

13. VARIATION

SCF Group may add to or vary the terms of this Agreement from time to time by giving seven days' written notice to the Customer.

14. NOT USED

15. ELECTRONIC DOCUMENTS

- 15.1. Each party acknowledges that:
- 15.1.1. SCF Group may issue to the Customer a Schedule of Supply; and
- 15.1.2. the Customer may accept the Schedule of Supply,
- by electronic means, and SCF Group and the Customer agree that the issue or acceptance of such documents electronically (irrespective of whether the relevant document is signed) will be deemed to be of the same effect as if the document had been issued or accepted as a signed hard copy.
- 15.2. SCF Group will not be liable to the Customer or to any other person for any loss or damage suffered in relation to any document transmitted electronically, including any loss or damage under, out of, or in connection with:
- 15.2.1. the transmission of any harmful code (such as viruses) to the Customer by email (including in any document attached to email); or
- 15.2.2. any failure by SCF Group to notify the Customer that SCF Group may have received any harmful code (such as viruses) from the Customer in any email (including in any document attached to email).
- 15.3. The parties to this Agreement consent to the execution of this document wherever necessary by virtue of electronic communication permitted by the *Electronic Transaction Act 1997* (Cth) and any corresponding State legislation.

16. INTERPRETATION

In this Agreement, unless the context otherwise requires:

- 16.1. words denoting the singular will include the plural and vice versa;
- 16.2. headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement;
- 16.3. "Agreement" refers to the Schedule and Supply and these Terms;
- 16.4. "business day" means a day which is not a Saturday or a Sunday or a public holiday in South Australia.
- 16.5. "Credit Application" means the credit application issued by SCF Group to the Customer;
- 16.6. "Delivery Date" means the estimated delivery date of the Equipment as set out in the relevant Schedule of Supply;
- 16.7. "Equipment" refers to all equipment outlined in the relevant Schedule of Supply;
- 16.8. "Invoice" means the invoice issued by SCF Group to the Customer which sets out the Purchase Charges;
- 16.9. "Purchase Charges" means the total amount payable for the Equipment, including applicable GST and delivery costs;
- 16.10. "SCF Group" refers to SCF Group Pty Ltd; and
- 16.11. "Schedule of Supply" means the schedule(s) which detail the Equipment.