

GENERAL TERMS & CONDITIONS (DISTRIBUTOR)

The goods and services of **RADIO SYSTEMS PETSAFE EUROPE LIMITED** (the “**Supplier**”) are supplied in accordance with the Distributor Agreement signed between the parties (the “**Distributor Agreement**”) and these General Terms and Conditions (together, the “**Agreement**”), which apply unless the Supplier enters into a further written agreement with the Distributor which expressly overrides these General Terms and Conditions.

Terms used but not otherwise defined in these General Terms and Conditions have the same meaning as in the Distributor Agreement.

1 Orders

- 1.1 Each order shall be deemed to be a separate offer by the Distributor on the terms of these General Terms and Conditions, which the Supplier shall be free to accept or decline at its absolute discretion.
- 1.2 No order shall be deemed to be accepted by the Supplier until it issues an order number or (if earlier) the Supplier notifies the Distributor that the order is ready for collection.
- 1.3 Each order shall:
 - (a) be given in writing or, if given orally, shall be confirmed in writing within two days (other than a Saturday, Sunday or public holiday) when banks in Dublin are open for business (“**Business Days**”);
 - (b) specify the type and quantity of Products ordered and, where applicable the Products' code numbers; and
 - (c) specify the date on which the order is to be ready for collection (“**Delivery Date**”). If the Delivery Date is to be specified after the placing of an order, the Distributor shall give the Supplier reasonable advance notice of the relevant information.
- 1.4 The Supplier shall assign an order number to each order it accepts and notify such order numbers to the Distributor together with the Delivery Date. Each Party shall use the relevant order number in all subsequent correspondence relating to the Order.

1.5 The Distributor may at any time within 5 days of placing an order amend or cancel an order by written notice to the Supplier. If the Distributor amends or cancels an order, its liability to the Supplier shall be limited to payment to the Supplier of all costs reasonably incurred by the Supplier in fulfilling the order up until the date of deemed receipt of the amendment or cancellation.

1.6 The Supplier may at any time cancel one or more orders at its absolute discretion.

2 Delivery

2.1 The Distributor shall collect each order from the Delivery Location on the Delivery Date.

2.2 Delivery of an order shall be completed when the Supplier places the order at the Distributor's disposal at the Delivery Location.

2.3 Delays in the delivery of an order shall not entitle the Distributor to:

- (a) refuse to take delivery of the order; or
- (b) claim damages; or
- (c) terminate the Agreement, subject always to clause 13.2(c) and clause 13.2(j) of these General Terms and Conditions.

2.4 The Supplier shall have no liability for any failure or delay in delivering an order.

2.5 If the Distributor fails to take delivery of an order on the Delivery Date, then, except where such failure or delay is caused by the Supplier's failure to comply with its obligations under the Agreement:

- (a) delivery of the order shall be deemed to have been completed at 9.00am on the Delivery Date; and
- (b) the Supplier shall store the order until delivery takes place, and charge the Distributor for all related costs and expenses (including insurance).

2.6 Each order shall be accompanied by a delivery note from the Supplier showing the order number, the date of the order, the type and quantity of Products included in the order, including, where applicable, the code numbers of the Products, and, in the case of an order being delivered by instalments, the outstanding balance of Products remaining to be delivered.

3 Title and Risk

3.1 Risk in Products shall pass to the Distributor on completion of

delivery of an order in accordance with the Agreement (“**Delivery**”).

3.2 Title to Products shall not pass to the Distributor until the Supplier has received payment in full in accordance with the Agreement.

3.3 Until title to Products has passed to the Distributor, the Distributor shall:

- (a) hold such Products on a fiduciary basis as the Supplier's bailee;
- (b) store such Products separately from all other goods held by the Distributor so that they remain readily identifiable as the Supplier's property;
- (c) not remove, deface or obscure any identifying mark or packaging on or relating to such Products; and
- (d) maintain such Products in satisfactory condition and keep them insured on the Supplier's behalf for their full price against all risks with an insurer that is reasonably acceptable to the Supplier. The Distributor shall obtain an endorsement of the Supplier's interest in the Products on its insurance policy, subject to the insurer being willing to make the endorsement. On request the Distributor shall allow the Supplier to inspect such Products and the insurance policy, but the Distributor may resell or use Products in the ordinary course of its business.

3.4 If before title to Products passes to the Distributor the Distributor becomes subject to any of the events in clause 14.2(d) to clause 14.2(i) of these General Terms and Conditions then, provided that such Products have not been resold and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Distributor to deliver up such Products and, if the Distributor fails to do so promptly, enter any premises of the Distributor or of any third party where the relevant Products are stored in order to recover them.

4 Monitoring

4.1 The Supplier shall be entitled to such information, in paper or electronic form, as it may reasonably request in writing from the Distributor for the purposes of verifying sales volumes and for the purposes of assessing and understanding the sale and marketing of the Products in the Territory.

- 4.2 The Distributor shall fully cooperate in good faith with the Supplier for this purpose and shall furnish to the Supplier the information as requested within 5 Business Days of such request being received (or deemed to have been received).
- 5 Audits**
- 5.1 The Supplier shall, throughout the Term, be entitled either itself or by its duly authorised representative on reasonable advanced written notice (it being acknowledged that five (5) or more days' notice shall be reasonable in the circumstances) to conduct an audit of the Distributor's records and books of account and of any other information retained by the Distributor in relation to the sales of the Products, and to enter on the premises where the same are located and to inspect and take copies of such books of account, records and other information at all reasonable times during business hours, provided that such inspection shall not unreasonably interfere with the business of the Distributor.
- 6 Prices and Payment**
- 6.1 The prices to be paid by the Distributor to the Supplier for the Products shall be the Supplier's list prices as notified to the Distributor by the Supplier from time to time. The Supplier reserves the right to change prices at any time with 30 days' notice.
- 6.2 The Supplier may recommend prices to be charged by the Distributor to the Authorised Retailers or to end users for the Products within the Territory.
- 6.3 To the extent permitted by applicable legal requirements, the Distributor shall not charge prices for the Products in excess of the recommended prices as indicated by the Supplier.
- 6.4 Without prejudice to clauses 6.1, 6.2 and 6.3 above, and for the avoidance of doubt, the Distributor shall be free to determine the price of the Products and the indication by the Supplier of recommended retail prices shall not restrict the Distributor's ability to determine its sale price equal to or below the recommended retail prices as indicated by the Supplier.
- 6.5 The Supplier shall be entitled to invoice the Distributor for each order on or at any time after Delivery. Each invoice shall quote the relevant order numbers.
- 6.6 The Distributor hereby acknowledges that the Supplier may amend the payment terms applicable to any order from time to time at its absolute discretion.
- 6.7 The Distributor shall pay for any and all expenses, costs and charges incurred by it in the performance of its obligations under the Agreement, unless the Supplier has expressly agreed in advance in writing to pay such expenses, costs and charges.
- 7 Promotion**
- 7.1 Any advertising, branding or promotional material to be used by the Distributor within the Territory (if any) shall be submitted to the Supplier for prior approval, such approval not to be unreasonably withheld or delayed by the Supplier.
- 7.2 The Distributor hereby agrees and confirms that it shall promote and sell the Products using the approved business name(s) and using such approved websites as approved in writing by the Supplier.
- 8 Distributor's Undertakings**
- 8.1 The Distributor hereby agrees and undertakes that, at its own expense, it shall:
- promote the sale and use of the Products within the Territory;
 - at all times represent the Products in a professional manner and refrain from any conduct that is or could be detrimental to the reputation or integrity of the Distributor, the Supplier, the Authorised Retailer or the Products;
 - make available sufficient resources to ensure that the business can operate effectively within the Territory;
 - maintain a staff of competent sales personnel trained to describe, demonstrate and sell the Products;
 - promptly and effectively respond to questions and service requests from Authorised Retailers;
 - lawfully collect and record all relevant customer information as reasonably requested by the Supplier in order to promote customer satisfaction and customer management.
- g) maintain sufficient stock of Products to ensure that the Distributor can comply with its obligations under this Agreement;
- h) procure that the business contemplated by this Agreement continues within the Territory in the ordinary course and is not materially changed or wound up without the Suppliers consent;
- i) maintain appropriate, up-to-date and accurate records to enable the immediate recall of any Products or batches of Products from the retail or wholesale markets. These records shall include records of deliveries to customers (including batch numbers, delivery date, name and address of customer, telephone number, fax number and e-mail address).
- j) promptly and effectively comply with any request made by the Supplier, including, but not limited to, any request in relation to the modification or recall of Products; and
- k) comply with all applicable legal requirements.
- 8.2 The Distributor further undertakes to fully implement, maintain and promote adequate procedures for handling customer support matters and for discharging warranty services, to the sole satisfaction of the Supplier.
- 9 Restrictions**
- 9.1 The Distributor agrees and undertakes that throughout the Term it shall not:
- purchase the Products from any person other than the Supplier;
 - sell the Products to final customers;
 - sell or export the Products outside the Territory, save in respect of unsolicited requests;
 - sell the Products to intermediaries for export outside the Territory without the prior written consent of the Supplier;
 - advertise the Products outside the Territory;
 - represent itself as an agent of the Supplier for any purpose;
 - pledge the Supplier's credit;
 - give any condition or warranty on the Supplier's behalf;
 - make any representation on the Supplier's behalf;
 - commit the Supplier to any contracts; or

k) otherwise incur any liability for or on behalf of the Supplier.

10 Intellectual Property

10.1 In the Agreement, “**Intellectual Property Rights**” means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world and Intellectual Property Right means any one of the Intellectual Property Rights.

10.2 The Distributor acknowledges that all Intellectual Property Rights in the Products shall belong to the Supplier and the Distributor shall have no rights in or to the Products other than the right to make the Products available in accordance with the terms of the Agreement.

10.3 The Distributor shall not remove, alter or deface the Supplier’s identification or any other marks, logos, numbers or letters affixed to or appearing on any Products.

10.4 The Distributor shall at all times use the Intellectual Property of the Supplier only as permitted in accordance with the terms of the Agreement.

10.5 The Distributor shall, at the expense of the Supplier, take all such steps as the Supplier may reasonably require to assist the Supplier in maintaining the validity and enforceability of the Intellectual Property Rights of the Supplier during the Term.

10.6 Without prejudice to the right of the Distributor or any third party to challenge the validity of any Intellectual Property Rights of the Supplier, the Distributor shall not do or authorise any third party to do any act which would or might invalidate or be inconsistent with any

Intellectual Property Rights of the Supplier and shall not omit or authorise any third party to omit to do any act which, by its omission, would have that effect or character.

11 Limitation of liability

11.1 To the greatest extent permitted by law, this clause sets out the entire financial liability of the parties (including any liability for the acts or omissions of their respective employees, agents and subcontractors) to each other in respect of:

- (a) any breach of the Agreement however arising;
- (b) any use made or resale of the Products by the Distributor, or of any product incorporating any of the Products; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.

11.2 The Supplier shall not under any circumstances whatsoever be liable to the Distributor, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any: loss of profit; loss of goodwill; loss of business; loss of business opportunity; loss of anticipated savings; loss or corruption of data or information; special, indirect or consequential damage; suffered by the Distributor that arises under or in connection with the Agreement.

11.3 Without prejudice to clause 11.2, the Supplier's total liability arising under or in connection with the Agreement, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall in all circumstances be limited to any amount actually paid to the Supplier by the Distributor in the 6 month period prior to the relevant liability arising.

12 Assignment and sub-contracting

The Distributor may not assign or transfer or sub-contract any of its rights, benefits or obligations under the Agreement without the prior written consent of the Supplier.

13 Confidentiality

13.1 Each Party undertakes that it shall not at any time during the

Agreement, and for a period of five years after termination of the Agreement, disclose to any person any confidential information concerning the business, affairs, Distributors, clients or suppliers of the other Party or of any member of the group of companies to which the other Party belongs (“**Confidential Information**”), except as permitted by clause 13.2.

13.2 Each Party may disclose the other Party's Confidential Information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the Party's obligations under the Agreement. Each Party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's Confidential Information comply with this clause 13; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13.3 Subject to the provisions of clause 13.2 above, no Party shall use any other Party's Confidential Information for any purpose other than to perform its obligations under the Agreement.

14 Obligations on termination

14.1 On termination of the Agreement each Party shall promptly:

- (a) return to the other Party all property belonging to the other Party that the other Party had supplied to it or a member of its group in connection with the supply and purchase of the Products under the Agreement;
- (b) return to the other Party all documents and materials (and any copies) containing the other Party's Confidential Information;
- (c) erase all the other Party's Confidential Information from its computer systems (to the extent possible); and
- (d) on request, certify in writing to the other Party that it has complied with the requirements of this clause.

15 Survival of obligations

15.1 On termination of the Agreement the following clauses shall survive and continue in full force and effect:

- (a) Clause 11 (Limitation of liability);
- (b) Clause 13 (Confidentiality); and
- (c) Clause 14 (Obligations on termination).

15.2 Notwithstanding clause 15.1 above, on termination of the Agreement, the obligations of the Distributor shall survive and continue in full force and effect until the Distributor has sold or otherwise disposed of its entire inventory of Products (if any), such sale or disposal to be in a manner consistent with the Agreement.

16 Force Majeure

16.1 Neither Party (or any person acting on its behalf) shall have any liability or responsibility for failure to fulfil any obligation under the Agreement so long as and to the extent to which the fulfilment of such obligation is prevented, frustrated, hindered or delayed as a consequence of a Force Majeure Event.

16.2 A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event:

- (a) notify the other Party of the nature and extent of such Force Majeure Event; and
- (b) use all reasonable endeavours to remove any such causes and resume performance under the Agreement as soon as feasible.

16.3 A **Force Majeure Event** means an event beyond the control of a Party (or any person acting on its behalf), which by its nature could not

have been foreseen by such Party (or such person), or, if it could have been foreseen, was unavoidable, and includes, without limitation, acts of God, storms, floods, riots, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) or armed hostilities or other national or international calamity or one or more acts of terrorism or failure of energy sources.

17 Severance

17.1 If any provision of the Agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

17.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

18 No partnership or agency

18.1 Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other party.

18.2 The Distributor shall not represent itself as an agent of the Supplier for any purpose, nor pledge

the Supplier's credit or give any condition or warranty or make any representation on the Supplier's behalf or commit the Supplier to any contracts. Further, the Distributor shall not without the Supplier's prior written consent make any representations, warranties, guarantees or other commitments with respect to the specifications, features or capabilities of Products which are inconsistent with those contained in the promotional material supplied by the Supplier or otherwise incur any liability on behalf of the Supplier in any circumstances.

19 Waiver

No failure or delay by the Supplier to exercise any right or remedy provided under the Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

20 Interpretation

In the event that an ambiguity or question of intent or interpretation arises from the Agreement, the Agreement shall be construed as if jointly drafted by the parties hereto and no presumption or burden of proof shall arise favouring or disfavouring any party by virtue of the authorship of any of the provisions of the Agreement.

