

General Terms and Conditions

APRIL 2017



1. Introduction

- 1.1. The General Terms and Conditions set out below will apply to the Services and Equipment that are provided to you by Safer Homes NZ Limited.
- 1.2. These are the general terms and conditions of Safer Homes NZ's agreement with you and you should read these before using Services and Equipment provided by Safer Homes NZ

2. Definitions

- 2.1. In this agreement, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise:
- 2.2. "Agreement" means any written agreement between Safer Homes NZ and you for the provision of Services and Equipment and shall include the General Terms and Conditions as contained in this document.
- 2.3. "Safer Homes NZ", "our", "us" or "we" means Safer Homes NZ Limited
- 2.4. "You" and "yourself" means the customer who has entered into an Agreement with Safer Homes NZ for the provision of Equipment and Services.
- 2.5. "Equipment" means all equipment and software provided to you by Safer Homes NZ in order to provide the Services.
- 2.6. "Services" means any services as specified in an Agreement between Safer Homes NZ and yourself.

3. Term of the agreement

- 3.1. The term of the agreement shall be in accordance with the term specified in the Agreement between Safer Homes NZ and yourself and shall continue thereafter until cancelled by either party in accordance with the terms contained in the Agreement.

4. Supply and use of Services

- 4.1. Safer Homes NZ shall provide the Services to you with reasonable care and skill. We shall ensure that the Services are reliable and are of a high standard although we do not guarantee that the Services will be continuous or fault free. We shall ensure that all work that we perform in connection with the provision of the Services is carried out by competent and suitably qualified personnel and in a professional manner.
- 4.2. After an Agreement has been entered into by the parties, we will as soon as reasonably practical, arrange for the supply, delivery and installation of Equipment to your specified site. You shall, at your own expense, secure and maintain all necessary approvals and consents for the installation of the Equipment at or on your selected site, for any alterations at your site needed to install such Equipment and for the right of access to install the Equipment. We shall have no responsibility whatsoever in relation to any such approval or consent.
- 4.3. Safer Homes NZ shall be entitled at any time to alter, at its own expense, the mechanism or method by which we provide the Services, provided that any such alteration shall not, diminish, impinge or otherwise reduce the quality, capacity or accessibility of the Services.
- 4.4. You must not use or permit our Services to be used in any way that breaks any law, infringes anyone's rights, is malicious, obscene or offensive.
- 4.5. You must keep confidential any password or PIN number, which is used by you to access our Services.
- 4.6. You must comply with any reasonable restrictions we impose or directions we give regarding the use of the Services.
- 4.7. You must ensure that all information you provide to us is correct. If any information you have supplied to us changes you must provide us with updated information as soon as possible.
- 4.8. You must immediately report any misuse of the Services or disclosure of your account information.
- 4.9. Where we provide you with any software we remain the owner or licensee of the software. We provide it for your own internal use and for the purposes for which we provide it. You must not change or interfere with the software in any way. You must not copy any part of the software without our permission.
- 4.10. Where we, at our discretion, provide upgraded or new versions of the software we expect you to install the upgrade or new version as soon as you reasonably can, assuming it will not adversely affect any Services we provide to you, or your use of our Services.

5. Supply and use of Equipment

- 5.1. Safer Homes NZ may supply Equipment to you in connection with the provision of Services to you. Where Equipment is supplied to you, ownership remains with Safer Homes NZ and you must not:
 - 5.1.1. remove the Equipment from your site without the prior written consent of Safer Homes NZ;
 - 5.1.2. sell, lease, dispose of, lend or otherwise part with possession of or modify in any way the Equipment;
 - 5.1.3. use the Equipment for any purpose other than the Services in your specified site in accordance with the Agreement and these General Terms and Conditions;
 - 5.1.4. deface, obliterate or remove any label or mark which identifies the ownership of the Equipment by Safer Homes NZ; or
 - 5.1.5. do any other act which may adversely affect or prejudice the ownership of the Equipment by Safer Homes NZ.
- 5.2. You agree to supply at your sole cost electricity sufficient to operate the Equipment.

- 5.3. You must immediately return the Equipment to us on termination or cancellation of the Agreement.
- 5.4. You shall be liable for any loss (including by fire), theft, or damage caused to the Equipment. It is your responsibility to effect insurance cover if you elect to do so, against potential liability under this clause.
- 5.5. Safer Homes NZ or its agent has the right during the term of the Agreement to enter your specified site in order to maintain, replace or repossess the Equipment or where we have reasonable grounds to believe that you are not complying with your obligations under the Agreement.

6. *Payment and Charges*

- 6.1. Safer Homes NZ's standard billing period is one calendar month.
- 6.2. The name that will appear on your statement will be Safer Homes NZ and it will be sent to you on or around the first business day of each month via your nominated email address.
- 6.3. All charges are shown in New Zealand Dollars unless specified otherwise.
- 6.4. You must pay for Services that we provide you as specified in the Agreement
- 6.5. Unless otherwise specified in the Agreement, we may alter prices for the Services, change the way it charges or introduce chargeable services that were previously free. Where this occurs, we will give you a minimum of ten (10) working days' written notice (one month where possible). The notice will be delivered to your nominated contact email address.
- 6.6. You agree to pay Safer Homes NZ the following:
 - 6.6.1. any installation fees specified in the Agreement;
 - 6.6.2. charges for Services and access, as specified in the Agreement, with such charges for the first month being due immediately prior to connection of establishment of the Services;
 - 6.6.3. after the first month, charges for the Services and access as specified in invoices rendered by Safer Homes NZ with such charges to be paid on the 20th of the month following the invoice date unless otherwise agreed;
 - 6.6.4. on demand, any additional services or usage fees as specified in the Agreement or any relocation fees if any Equipment is relocated at your request to an alternate site;
 - 6.6.5. on demand, GST and any other applicable taxes, levies or duties which may be payable on payments under the Agreement;
 - 6.6.6. on demand, reimbursements for any costs caused by a dishonoured payment from you;
 - 6.6.7. on demand, all reasonable costs incurred for the collection of any overdue debts owed by you to Safer Homes NZ under the Agreement; and
 - 6.6.8. on demand, a reconnection fee after disconnection of Services for non-payment of account
- 6.7. You agree to pay the payments referred to above without set-off, counterclaim or deduction.
- 6.8. Unless otherwise specified, all payments are to be made via direct credit to the bank account number specified in your invoice.
- 6.9. Safer Homes NZ may charge interest at the rate of 2% per month on any payments under the Agreement, which remains unpaid after 30 days from the due date for payment.
- 6.10. If your account is in credit, we will refund this amount directly to your bank account upon request.

7. *Privacy*

- 7.1. During the term of the Agreement you may supply us with personal information. We may also obtain personal information from your use of the Services. You authorise Safer Homes NZ to use this personal information collected about you for the purposes of marketing its products and services to you, market research, credit control and debt collection (which includes logging overdue debts and/or liquidated damages owed to us with credit reference agencies). You acknowledge and agree that such personal information may be held by us for such period both before and after termination or cancellation of the Agreement as Safer Homes NZ in its absolute discretion considers appropriate.
- 7.2. You are entitled to see any personal information we hold about you (although you must pay our reasonable charge for making it available) and to request that any incorrect information be corrected.

8. *No Warranty*

- 8.1. You assume full responsibility and risk for use of the Services.
- 8.2. Safer Homes NZ does not warrant that the Services will be continuous or fault free. Due to the requirement for power and internet we are unable to guarantee uptime of the service as these factors are outside of our control.
- 8.3. No advice or information given by Safer Homes NZ or its representative shall create a warranty.

9. *Liability*

- 9.1. While Safer Homes NZ endeavours to provide a secure service to you, Safer Homes NZ (including its officers, employees, contractors or agents) are not liable:
 - 9.1.1. If any communication between you and us is intercepted;
 - 9.1.2. if any of our Services are not available at any time or are faulty;
 - 9.1.3. for any delay in commencing the provision of Services;
 - 9.1.4. if any Equipment supplied by us does not operate properly;
 - 9.1.5. For any loss, theft or damage to your property regardless of if our Services are able to provide any evidence.
- 9.2. You acknowledge that no third party whose network or services that Safer Homes NZ uses to supply the Services to you (nor any officer, employee, contractor or agent of such third party) is in any way liable to you in connection with the Services. This clause is intended to confer a benefit, which those third parties can enforce.

- 9.3. If Safer Homes NZ is held to be liable to you for any reason, then our liability to you is limited to an amount equal to the average charges to you for one month in respect of any single event or related series of events and to a maximum amount equal to our average charges to you for a three-month period in any one year.
- 9.4. You agree to indemnify and hold harmless Safer Homes NZ, our authorised representatives, and each of their respective officers, directors, agents, contractors and employees from and against any and all claims, demands, liabilities, obligations, losses, damages, penalties, fines, punitive damages, amounts in interest, expenses and disbursements of any kind and nature whatsoever (including reasonable lawyer's fees) brought by a third party arising out of or in relation to your breach of the Agreement.

10. Termination

- 10.1. Safer Homes NZ may suspend or terminate the Agreement and Services without written notice to you if:
 - 10.1.1. you fail to pay any monies payable to Safer Homes NZ in terms of the Agreement by the due date;
 - 10.1.2. you breach any other term of the Agreement;
 - 10.1.3. you use the Services in an unlawful manner;
 - 10.1.4. you display abusive or threatening behaviour to our employees or authorised representatives.
- 10.2. This clause applies even if the agreement is for a fixed period.
- 10.3. We may provide notice of the termination of the Agreement to you by email to your nominated contact email account, or by mail or courier service to the address of your specified site. Notices to you shall be deemed effective immediately.
- 10.4. You may terminate the Agreement in accordance with the specific terms contained in the Agreement with Safer Homes NZ.
- 10.5. Where you wish to terminate the Agreement, you must provide us with one (1) month's written notice.

11. Dispute Resolution

- 11.1. If any dispute arises out of or in connection with the Agreement, neither party shall commence any court proceedings relating to the dispute unless that party has complied with the provisions of this clause.
- 11.2. A party claiming a dispute will promptly give notice to the other party, specifying the nature of the dispute. On receipt of a notice claiming a dispute has arisen, the parties will endeavour in good faith to resolve the dispute.
- 11.3. If the parties do not resolve the dispute within six (6) weeks of receipt of the notice claiming a dispute has arisen (or such further period as agreed in writing by the parties) then the dispute shall be subject to common law.

12. Force Majeure

- 12.1. If Safer Homes NZ is prevented from carrying out any obligation imposed upon it in terms of the Agreement by reason of any act of God, inclement weather, act of State, riot, insurrection, civil commotion, strike, sanctions, boycott, embargo or any other circumstances beyond our reasonable control, we will endeavour to advise you of the existence of the circumstances and the expected duration thereof. The performance of the Agreement will, to the extent that it is made impossible by such circumstances, be suspended until such circumstances cease to prevail. Safer Homes NZ shall not be liable for any loss, damage, compensation or other reimbursement arising by any of the matters specified in this clause.

13. Consumer Guarantees Act

- 13.1. You may have the benefit of statutory guarantees under the Consumer Guarantees Act 1993 (CGA). Unless you use, or hold yourself out as using, the Services for the purpose of a business, nothing in these General Terms and Conditions will limit or exclude your rights under the CGA.

14. General

- 14.1. Safer Homes NZ may change these General Terms and Conditions or any additional terms of the Agreement from time to time. If so, we will provide you with a minimum of ten (10) working days (one month where possible) written notice. The notice will be delivered to your nominated contact email address. Current terms and conditions can be found on our website at <http://saferhomes.nz>.
- 14.2. The Agreement supersedes all prior discussions and agreements that you may have had with Safer Homes NZ for the provision of the Services and Equipment.
- 14.3. Safer Homes NZ may at any time assign the Agreement to any person, company or business entity. You must not assign or otherwise transfer your rights under the Agreement.
- 14.4. Safer Homes NZ may at any time subcontract out any or all of its obligations under the Agreement without your consent as long as Safer Homes NZ is ultimately responsible for its obligation under the Agreement.
- 14.5. The parties agree that the Agreement may be executed in several counterparts (including copies), all of which when taken together shall constitute one single agreement between the parties.
- 14.6. If any clause or term of the Agreement shall be invalid, unenforceable or illegal, then the remaining conditions of the Agreement shall be deemed to be severable therefrom and will continue in full force and effect until such invalidity, unenforceability or illegality is fundamental to the Agreement.
- 14.7. The failure of either party at any time or times to require performance by the other party of any term of the Agreement shall not affect the right to enforce the same. The waiver by either party to any breach of any one or more terms contained in the Agreement shall not be construed to be a waiver of any succeeding breach of such term or any other term.
- 14.8. The headings in the Agreement are not part of the Agreement, but are for the convenience of the parties.
- 14.9. The Agreement shall be governed by and construed in accordance with the laws of New Zealand.

- 14.10. Any notice or other communication to be given by Safer Homes NZ to you under the Agreement may be given by personally serving it on you, by sending it by post or transmitting it by email to the address contained in the Agreement.
- 14.11. Any notice or communication to be given by you to Safer Homes NZ under the Agreement may be given by personally serving it, by sending it by post or transmitting it by email to the address detailed on our website at <http://saferhomes.nz>.

15. Support and Fault Restoration

- 15.1. Safer Homes NZ is contactable via email 24/7 and will endeavour to return contact as soon as possible, no later than 2 hours during business hours.
- 15.2. Urgent requests to assist with information for Police may be received via other contact methods as detailed in the Agreement.