



**SAFT AMERICA d/b/a TADIRAN BATTERIES  
TERMS AND CONDITIONS OF SALE**

**1. GENERAL**

1.1. These General Terms and Conditions of Sale shall apply to all Offers submitted by SAFT to a Customer and to Purchase Orders received from a Customer and accepted by SAFT for the sale of Products. These Terms and Conditions shall prevail over any other terms and conditions contained in any Purchase Order or other document of or communication from the Customer. All orders, offers and contracts must be approved and accepted by SAFT office in New York, New York.

1.2. The Offer is open for acceptance within 30 days after its date of issuance unless a different validity period is stated in the Offer. All Purchase Orders are subject to acceptance by SAFT in writing.

1.3. Descriptions and illustrations contained in SAFT's catalogues, brochures, price lists and other advertisements are for general information purposes only and Customer shall be deemed to have purchased the Products without reliance on such descriptions and illustrations.

**2. DEFINITIONS**

2.1. "Terms and Conditions" shall mean these SAFT's General Terms and Conditions of Sale.

2.2. "Offer" shall mean an offer issued by SAFT that includes a quotation and/or a price list for the purchase of Products by Customer.

2.3. "Purchase Order" shall mean the order issued by the Customer for the purchase of Products, and acknowledged by SAFT in accordance with these Terms and Conditions.

2.4. "Products" shall mean the goods, materials or equipment and any part or component thereof supplied by SAFT and/or any work or services performed by SAFT pursuant to these Terms and Conditions.

2.5. "Customer" shall mean the buyer of Products, the recipient of an Offer or the party issuing a Purchase Order.

2.6. "SAFT" shall mean Saft America, Inc. doing business as Tadiran Batteries.

**3. PRICE – PAYMENT**

3.1. Unless otherwise agreed in writing, Products are invoiced at the prices applicable on the date when the Products leave SAFT's warehouses. All prices and discounts, now in effect, or hereafter issued are subject to change without notice.

3.2. Unless otherwise agreed in writing, all prices are given by SAFT on a F.O.B. Tadiran Batteries US warehouse. Whenever SAFT agrees to deliver the Products otherwise than at SAFT's premises, Customer shall be liable to pay all SAFT's charges and duties in respect of carriage, freight, packaging, customs and insurance.

3.3. Payment for Products shall be made by the Customer within 30 days from the date of the invoice or as otherwise agreed between SAFT and the Customer. Unless otherwise stated, SAFT's prices do not include sales, use, excise tax or any other duties, including all export and import fees and port handling fees. All taxes of any kind levied by any federal, state, municipal or other governmental authority which SAFT is required to collect or pay with respect to the sale or shipment of Products sold hereunder (excluding only income taxes imposed on the net income of SAFT) shall be the responsibility of Customer. Customer agrees to pay all such taxes and to reimburse SAFT for any such payments made by SAFT.

3.4. Any past due Invoice shall, from the date due, be subject to a finance charge equal to (1) the lesser of one and one-half percent (1½%) per month or the highest rate allowed by law. Additionally, Customer shall be responsible for all collection costs, court costs, and reasonable attorneys' fees (where allowed by law) in connection with the recovery of any delinquent accounts.

3.5. If, in SAFT's opinion, the credit of Customer becomes impaired, SAFT may, at its sole option, suspend performance of its obligations to Customer until such time as SAFT has received full payment or satisfactory security for deliveries of Products made and is satisfied as to Customer's credit for future deliveries.



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**4. DELIVERY**

4.1. All Products will be suitably packed for shipment in accordance with SAFT's standard, unless otherwise requested by the Customer and agreed to in writing by SAFT.

4.2. SAFT shall do its best efforts to comply with the delivery date specified in the Purchase Order acknowledged and/or in the Offer. Partial delivery shall be permitted. Delays shall, in no case whatever, justify the cancellation of the Purchase Order. SAFT shall not be responsible for delays in delivery or performance due to causes beyond its reasonable control, including Force Majeure as defined in Section 14. If performance by SAFT is delayed by reason thereof, SAFT shall notify Customer, and the time for performance shall be extended for the period of such contingency. If, as a result of any such contingency, SAFT is unable to perform any accepted Purchase Order in whole or in part, then to the extent that it is unable to perform, such Purchase Order shall be deemed terminated without liability to either party, but shall remain in effect as to the unaffected portion thereof, if any.

4.3. Delivery takes place in accordance with F.O.B. Tadiran Batteries US warehouse.

4.4. It is agreed between SAFT and Customer that the Products are shipped at the Customer's risk even if the shipping is done at SAFT's expense. Customer shall then take all necessary precautions including insurance to cover these risks.

4.5. Customer shall accept or reject Products within fifteen (15) days of receipt of each shipment. Failure to notify SAFT in writing of nonconforming Products within such period shall be deemed as an acceptance. Final acceptance testing will be conducted using SAFT's standard acceptance test procedures as specified in the Product test specification.

4.6. Should Customer postpone delivery of any Products, Customer will be required to (i) pay to SAFT the invoice at the due date and, (ii) 1% of the Purchase Order price per week for the Products storage at SAFT premises.

Should Customer postpone delivery of any Product above 12 weeks from the scheduled delivery date, SAFT shall have the right to deliver the Product and to invoice accordingly.

**5. RETENTION OF TITLE**

5.1. SAFT retains full ownership of the Products until full payment of the selling price has been received.

5.2. Notwithstanding SAFT's retention of title, the risks related to the Products (including the risk of loss or destruction) shall pass to the Customer in accordance with Section 4.3 above.

5.3. Until full payment of the price, the Customer shall keep the Products separate from any other products and properly stored, protected, insured and identified as SAFT's property.

5.4. SAFT reserves the right to reclaim the Products if the selling price is unpaid at the due date and Customer undertakes to return the Product on SAFT's first demand and bear all related expenses.

**6. CANCELLATION BY CUSTOMER**

Customer may cancel an order only on the following for standard Products, any cancellation or rescheduling will be accepted only with specific approval of SAFT's Customer Service Department and will be subject to termination charges as determined by SAFT. Customer shall not be able to cancel an order for non-standard Products. Cancellation of an order shall not relieve Customer of the obligation to pay all expenses of work performed prior to cancellation, plus any other cancellation charges determined by SAFT.

**7. RETURN  
MATERIAL AUTHORIZATION**

If Customer believes that a Products defective, it must obtain a Return Material Authorization ("RMA") number from SAFT prior to shipment of such Product back to SAFT. The RMA number must appear on all packages returned to SAFT and be referred to in all related correspondence.



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Return shipment of the Product for which damages are claimed shall be at Customer's expense, and such Products shall not be returned, repaired or discarded without SAFT's written consent. Returned Products will be subject to inspection and final determination as to whether or not any adjustment is due. If the inspection shows that the warranty for the Product is breached, the provision of section 8 "Warranty" will apply.

**8. WARRANTY**

8.1. SAFT warrants that the Products shall, for a period of one year from SAFT's delivery of such Products, be free from defects in materials and workmanship for a period of one (1) year from shipment. This warranty does not cover defects or failure caused by improper handling, storage, maintenance or repair or by any modification, misconnection, abuse, abnormal use of such Products (inter alia overloading or overcharging) or use not complying with SAFT's user manual provisions if any.

8.2. Warranty claims must be made to SAFT immediately after discovering the defect and within the warranty period or are forever waived.

8.3. The foregoing warranty is exclusive of any other warranties, express, implied or statutory. In particular, this warranty shall not apply to failure arising from defect in design, when the design has been completed in part by the Customer or a third party. Unless otherwise agreed, the warranty shall not apply to the compliance of Products to Customer's needs. Should the Products warranty be breached, Customer's exclusive remedy against SAFT, and SAFT's sole obligation, shall be limited to, at SAFT's option, repairing or replacing the defective Products or refunding the purchase price of such defective Products.

8.4. The Product shall be considered as defective if the failure may be duplicated by SAFT, it being understood that non conformity shall be determined by reference to the contractual specifications applicable to the allegedly defective Products.

8.5. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL WARRANTIES, WHETHER ORAL, WRITTEN, EXPRESSED, IMPLIED OR STATUTORY. IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY SHALL NOT APPLY. IN NO EVENT SHALL SAFT BE LIABLE FOR BUSINESS EXPENSES, LOSS OF PROFITS, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED. SAFT DISCLAIMS ALL LIABILITY, WHETHER IN CONTRACT, TORT, WARRANTY OR OTHERWISE, TO ANY PARTY OTHER THAN CUSTOMER.

8.6. This warranty applies only to Products manufactured by SAFT. Warranties on products sold, but not produced or manufactured by SAFT, or its affiliates, are assigned to Customer by SAFT (without recourse) at time of delivery.

**9. INSTALLATION**

9.1. Unless otherwise agreed in writing, all prices are exclusive of any installation or service Customer may require.

9.2. If SAFT is required to install the Products supplied hereunder at the Customer's premises, SAFT shall be under no liability whatsoever for damage incurred by the Customer, caused by SAFT, its agents or sub-contractors in installing the Products or for any consequential damages or purely financial loss howsoever caused.

**10. LIABILITY**

10.1. In no event shall SAFT have any liability for damages in an amount exceeding the purchase price of the related defective Products.

10.2. SAFT shall not have any liability for incidental, indirect or consequential damages arising out or relating to the Purchase Order or the Products, including but not limited to loss of profit or revenue, loss of business opportunity or anticipated saving.

10.3. Unless otherwise agreed in writing with the Customer, SAFT shall not be liable for damages arising from the integration or the use of Products in a system or equipment (the "System"), on the design of which SAFT has no control. In such case, the Customer



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is solely liable for the System quality and reliability, as well as for necessary security

**11. INTELLECTUAL PROPERTY**

11.1. Any and all intellectual property rights related to or in connection with the Products (including any designs, drawings, specifications, test results, technical descriptions, catalogue, brochures, manuals, and other data, submitted with or in connection with SAFT's Offer or resulting from the performance of the Purchase Order by SAFT) is the property of SAFT. No license is granted by SAFT on the Products under these Terms and Conditions.

11.2. The Customer shall refrain from infringing upon SAFT's intellectual property rights (as defined Section 11.1) and shall not destructively test, disassemble, radiograph, reverse engineer or otherwise analyze any Products, without SAFT's prior written consent.

11.3. Customer shall hold SAFT harmless against any expenses or liabilities from claims of unfair competition, infringement or contributory infringement of any patents, trademarks, copyrights or mask work registrations related to Products sold hereunder from (1) use of any Product in combination with products not supplied by SAFT or (2) use of any Product in connection with a manufacturing or other process.

11.4. In the event that Products are developed and/or manufactured in accordance with plans, drawings and specifications provided by the Customer, the Customer shall hold harmless SAFT against any and all claims and damages resulting from alleged or actual infringement of any industrial or intellectual property rights of a third party.

11.5. Customer shall promptly notify SAFT of any intellectual property claim related to the Products and shall give SAFT any assistance and information requested by SAFT for the defense of such intellectual property claim.

11.6. Unless otherwise agreed in writing, specific tooling designed and produced to manufacture Products designed by SAFT according to Customer's specifications shall remain SAFT's exclusive property.

device and shall indemnify SAFT against any demand, claim, action, decision, loss or damage arising from the use of the System which incorporates the Product.

**12. CONFIDENTIALITY**

Any information, data, know-how disclosed by SAFT shall at all times be treated by the Customer as strictly confidential and shall not without SAFT's prior written consent (i) be used by the Customer for any other purpose than the use of the Product, and/or (ii) be communicated to third parties.

**13. RECYCLING**

SAFT commits to recycle at the end of their life Nickel Cadmium batteries delivered under the Purchase Order. The spent Nickel Cadmium batteries shall be delivered by Customer at their expense to a national bring-back point approved by SAFT in order to ensure proper recycling.

**14. PRECIOUS METAL ADDER**

The purchase price of SAFT's Product shall be in the sum of the price, plus, where applicable, a "Precious Metal Adder" which is an additional charge reflecting the fluctuation of SAFT's cost of each particular Product, resulting from the change in price of the Precious Metal content of such Products.

**15. FORCE MAJEURE**

15.1. SAFT shall not be liable for any losses, damages, or penalties for delay or non-delivery or for failure to give notice of delay when such delay or non-delivery is due to the elements, acts of God, act of Customer, acts of civil or military authority, war, riot, insurrection, boycott, or other civil disturbances, blockages, embargoes, sabotage, epidemics, fires, strikes, lockouts, or other industrial disturbances or labor action, delays of carriers, an inability to secure materials labor or manufacturing facilities, or any other causes beyond its reasonable control of SAFT. The anticipated delivery date shall be deemed extended for a period of time equal to the time lost due to any delay excusable under this provision. SAFT shall be entitled to an extension of time for economically reasonable delays.



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15.2. If Products are ordered by Customer and SAFT does not have sufficient stock to fill the order, or for any reason, deems, in its reasonable discretion, that it cannot fill the order in its usual course of business, SAFT may, at its option and without any liability (i) not fill the order (ii) allocate Products as to which there is a shortage among its buyers, distributors and agents in any reasonable manner, or (iii) accept the order on such conditions as it may deem appropriate. If SAFT agrees to fill the order, but, for any reason beyond its reasonable control including, without limitation, inventory shortages, work slowdown or stoppages, is unable to fill the order or make delivery of the Products ordered by Customer, SAFT will have no liability in respect of such order.

**16. APPLICABLE LAW AND DISPUTES**

These Terms and Conditions shall be governed by the laws of Florida without making reference to its conflict of law provisions. Any action shall be brought by the parties within the exclusive jurisdiction of the State and Federal courts located in the State of Florida. Nothing in this paragraph shall limit the right of SAFT to bring proceedings in any other courts of competent jurisdiction to the extent permitted by applicable law.

**17. COMPLIANCE AND EXPORT CONTROL**

17.1. Customer shall not offer, promise or give any undue pecuniary, bribes or other advantage for any reason, whether in dealings with governments or the private sector. Customer will not violate or knowingly permit anyone (including but not limited to its affiliates or employees) to violate any applicable laws, including without limitation anti-corruption laws, such as those of local, state, federal, domestic or international, including, but not limiting to, the provisions of the OECD Convention on combating Bribery of Foreign Public officials in International Business Transactions. Customer undertakes that the Products shall not be sold, directly or indirectly, to any country/person if it is in violation of export control or economic sanctions laws or regulations. The Customer shall also ensure that its sub-distributors and agents will comply with such laws. SAFT shall

be excused from performance of any contractual obligation to the extent that such performance is prohibited under any export control or sanctions laws and regulations, without any liability whatsoever.

17.2. Customer shall procure that any third parties to whom the products from SAFT will be supplied are under the same obligations as set out in this Section 17 such that all third parties down the supply chain, as far as the end-user, are under the same strict compliance obligations.

17.3. SAFT may perform unannounced audits at any time to validate whether Customer is in compliance with the provisions of this Compliance and Export Control section.

17.4. Customer will be responsible for the timely obtaining of all required authorizations, including export or import licenses, exchange permits and all governmental authorizations even though such authorizations may be applied for by SAFT. Customer and SAFT will assist each other in every manner reasonably possible to securing such authorizations as may be required.

**18. LIFE SUPPORT POLICY**

SAFT Products are not authorized for use as critical components in life support devices or systems without the express written approval of authorized management of SAFT. As used herein, "life support devices or systems" which (1) are intended for surgical implant into the body, or (2) support or sustain life and whose failure to perform when properly used in accordance with instructions for use provided in the labeling can be reasonably expected to result in a significant injury to the user. A "critical care component" is any component in a life support device or system whose failure to perform can be reasonably expected to cause the failure of life support device or system or to affect its safety and effectiveness.

**19. MISCELLANEOUS**

19.1. Modification: SAFT reserves the right, at any time, to make any technical improvements of the Products subject to an increase of price.

19.2. Waiver: no failure or delay by SAFT or by the Customer in exercising any of its rights under these Terms and Conditions shall operate as a waiver thereof nor shall any single defective or partial exercise thereof preclude any other or



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further exercise of that or any other right.

19.3. Assignment: the Purchase Order shall not be assigned nor transferred by the Customer without the prior written consent of SAFT.

19.4. Amendment:

19.4.1 Any modification to the Purchase Order shall be made only in writing and duly signed by SAFT and the Customer.

19.4.2 SAFT can revise these Terms and Conditions without notice to the Customer.

19.5. Nullity: if any provisions of these Terms and Conditions are declared null and void, the validity of the other provisions shall not be affected.

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