



A-SAFE, INC.
General Terms and Conditions of Sale
May 2023

NOTICE: THIS TRANSACTION, AND ALL DOCUMENTS PERTAINING TO IT, INCLUDING ANY QUOTATION, PROPOSAL, ORDER CONFIRMATION, ORDER ACCEPTANCE OR INVOICE (COLLECTIVELY, "SALES DOCUMENTS"), IS SUBJECT TO AND CONDITIONED UPON BUYER'S ACCEPTANCE OF THESE TERMS AND CONDITIONS OF SALE ("TERMS") UNLESS OTHERWISE EXPRESSLY AGREED IN WRITING BY A-SAFE, INC. ("SELLER").

- 1. Order Process; Acceptance; Additional or Conflicting Terms; Cancellation.**
 - (a) All sales of barrier products and any other products sold by Seller (individually, "Product" and collectively, "Products") and any services Seller provides to Buyer including installation services ("Services") are contracts entered into in Maryland and then only in accordance with Seller's Sales Documents and these Terms.
 - (b) Seller shall sell Products to Buyer in the quantities and at the times agreed to by Seller in writing. Any quotation or estimate prepared by Seller shall be valid for a period of thirty (30) days from its date, unless withdrawn by Seller. Buyer may order Products by submitting written purchase orders (each, a "Purchase Order") that contain the requested Product(s) and requested delivery date. All orders submitted to Seller for Products or Services, whether via Purchase Order or otherwise, are subject to final written acceptance by Seller and no orders are binding upon Seller until so accepted. Seller's acceptance may be in writing (such as via an order confirmation), including via email, or by delivery of the Products to, or performance of the Services for, Buyer. Buyer is solely responsible for proper selection of the Products and determining whether such Products meet Buyer's needs.
 - (c) Every contract between Buyer and Seller for the sale of Products or the provision of Services shall be governed by the terms contained in Seller's Sales Documents and these Terms (the "Contract"). In no event shall Buyer's terms apply to, nor shall Buyer's proposed additional or different terms modify, the Contract unless Seller expressly includes the proposed terms in the Contract. Seller hereby objects to and rejects any additional or different terms or conditions proposed by Buyer or contained in any Purchase Order, commercial document, or other correspondence from Buyer, regardless of any knowledge Seller may have of such terms, and such terms shall not bind Seller. If any of these Terms conflict with Seller's Sales Documents, the specific terms stated in those Sales Documents shall prevail over these Terms. The Contract supersedes any commercial documents issued by Seller. The applicable terms of the latest Sales Documents shall control over such terms in any prior Sales Documents. No other terms or changes, modifications, amendments, or waivers of any terms in the Contract shall apply to Seller unless in writing and signed by an authorized officer of Seller.
 - (d) Buyer may not cancel or change the Contract, or any Purchase Order issued except with the prior written consent of Seller (in which case a cancellation charge will apply equal to the greater of the value of the Products delivered and Services performed on the cancelled order or 25% of the full order value) and upon terms that will indemnify Seller against any loss. Seller may change an order at any time to correct mathematical or clerical errors.
- 2. Description of Products.**
 - (a) The quantity and description of the Products and/or Services are set out in Seller's Sales Documents.
 - (b) Seller reserves the right to change any descriptions, drawings, specifications, technical data, illustrations, brochures, catalogues, advertising materials and any other materials provided regarding the Products at any time without notice. The Seller will inform the Buyer of any material changes to the Products within 30 days of such changes.
- 3. Prices.**
 - (a) All prices are listed payable in United States Dollars.
 - (b) All prices hereunder are FCA (Incoterms 2020) point of shipment (York PA Warehouse) unless otherwise stated in A-SAFE Inc's quotation and order acknowledgement. In addition to the price set forth in the Sales Documents, Buyer shall pay the cost of all freight and shipping charges, plus a handling fee equal to the then current rates charged by Seller. Unless otherwise agreed in writing, delivery of Products to carrier constitutes delivery to Buyer, regardless of quoted shipping term or freight payment, all risk or damage during transit will be borne by Buyer.
 - (c) All prices will be as specified by Seller in its Sales Documents and are firm for the quantity and schedule set forth in the Sales Documents (and are subject to change if Seller allows a change in the quantity or schedule). All prices published by Seller or quoted by Seller's representatives may be changed at any time without notice. Issued valid quotes will be honored for a period of thirty (30) days from the date of the quote.
 - (d) The price does not include any sales, use, personal property, excise, transfer or other tax, duties or assessment related to the Products or Services or their purchase and sale which may be imposed by any governmental authority, all of which shall be the obligation of, and paid by, Buyer. In the event that Seller pays any such tax or assessment, Buyer shall reimburse Seller in accordance with the terms of Section 5(a). Buyer is responsible for obtaining and providing to Seller any certificate of exemption or similar document required to exempt any sale from sales, use or similar tax liability.
 - (e) In addition to the price, the Buyer shall be responsible for costs associated with the following: (i) any additional work carried out by Seller, at the Buyer's request, which Seller was not originally contracted to undertake; (ii) any work required as a result of any conditions that the Seller did not know existed at the date of the order acknowledgement; (iii) any work or costs as a result of the Buyer providing inadequate or inaccurate instructions, information or drawings to Seller; (iv) Seller's travel costs at its standard travel rate then in effect and (v) all shipping, handling or freight costs incurred to deliver the Products, whether or not such costs are set forth in the quote or Sales Documents. Buyer shall pay Seller for such additional costs in accordance with the terms of Section 5(a).
- 4. Claims.** Buyer shall inspect the Products immediately upon delivery, and file with the delivering carrier claims for loss or damage during transit. A-SAFE Inc must be notified immediately in writing of such claims. All other claims which are not due to damage during shipping must be made in writing to A-SAFE Inc within ten (10) days from receipt of Product. Buyer's failure to give such notice shall constitute unqualified acceptance of all shipments made prior to A-SAFE Inc's receipt of Buyer's notice of claim and shall constitute a waiver of all such claims by Buyer. A-SAFE Inc shall not be responsible or liable for any damage due to improper storage or handling prior to installation of Products. Buyer will provide A-SAFE Inc with an opportunity to inspect all such Products with respect to which a claim is made, either at Buyers or A-SAFE Inc's premises.
- 5. Payment.**
 - (a) Unless expressly specified otherwise in Seller's Sales Documents, the standard payment terms are payment is due within thirty (30) days from receipt of an invoice. Time is of the essence with regard to payment. The date of payment will be the date Seller receives payment in full. If at any time, in its sole judgment, Seller has any doubt as to Buyer's financial responsibility, Seller may decline to make further shipments, or provide further Services, except upon receipt of a deposit or other satisfactory security or cash before shipment of Products or provision of Services.
 - (b) If Buyer fails to make any payments when due, then (i) interest shall accrue from the date the payment was due until payment is received in full at the lower of 1.5% per month or the maximum amount allowed by applicable law, (ii) Buyer shall pay Seller's reasonable attorneys' fees, expert witness fees and other costs of collection of any past due amounts, and (iii) Seller may, at its sole discretion, take any of the following actions: suspend or cancel delivery of the Products and/or performance of the Services; terminate the Contract for default; require Buyer to pay the full Contract price for all Products or Services ordered prior to the date of termination; and take any other actions or pursue any other remedies under applicable law. Failure by Seller to charge interest on late payments or to exercise its right to suspend its performance shall not be construed as a waiver of any other legal or equitable remedies.
 - (c) Payment received via credit/debit card will require a transaction fee of 3% of the invoice total.
 - (d) Until A-SAFE Inc collects the full amounts owed by the Buyer to A-SAFE Inc for the Products supplied, A-SAFE Inc retains title to the Products.
- 6. No Setoff.** Buyer shall not have any right of set-off with regard to any amounts owed to Seller, regardless of any dispute that may arise between the parties.
- 7. Delivery.**
 - (a) All prices hereunder are FCA point of shipment (York, PA Warehouse) unless otherwise stated in A-SAFE Inc's quotation and order acknowledgement.



- Buyer shall pay all costs associated with freight and shipment of the Products to Buyer's location (or the location requested by Buyer).
- (b) Unless otherwise agreed in writing, delivery of Products to carrier constitutes delivery to Buyer, regardless of quoted shipping term or freight payment, all risk or damage during transit will be borne by Buyer.
- (c) Buyer shall inspect the delivered Products immediately upon arrival and immediately file with the delivering carrier claims for loss or damage during transportation. A-SAFE Inc must be notified immediately in writing of any such claims. All other claims must be made in writing to A-SAFE Inc within ten (10) days from receipt of Products. Buyer's failure to give such notice shall constitute unqualified acceptance of all shipments made prior to A-SAFE Inc's receipt of Buyers notice of claim and shall constitute a waiver of all such claims by the Buyer. A-SAFE Inc shall not be responsible or liable for any damage due to improper storage or handling prior to installation of Product. Buyer shall provide A-SAFE Inc with an opportunity to inspect the Products with respect to which a claim is made, either at Buyers or A-SAFE Inc's premises. A-SAFE Inc shall not credit the Buyer for any Products returned to A-SAFE Inc, or any costs incurred by the Buyer for the repair thereof, as the case maybe, without A-SAFE Inc's written consent thereof, nor shall A-SAFE Inc be responsible for any such repaired Products.
- (d) Unless otherwise stated in Seller's order confirmation, all deliveries of Products shall be made to Buyer's location. Buyer shall be solely responsible for the costs and expenses of any handling, transportation, packaging, insurance, duties, and tariffs associated with the Products. Any Services will be performed at the location set forth in the Sales Documents. Seller may make partial deliveries. Any such partial delivery shall not give the Buyer any right to reject the Products delivered or to claim damages and the Buyer shall be obliged to accept and pay for the quantity of Products delivered. Notwithstanding any requested dates by Buyer, the delivery and performance dates in Seller's order confirmation shall control. Any shipping, delivery or performance schedule, quotation, forecast or commitment is only an estimate and Seller will not be liable for any delay or failure to deliver all or any part of any order for any reason. Seller shall not be responsible for any damage to the Products caused by a carrier and Buyer's sole recourse for such damage shall be against the carrier. If, for any reason, the Buyer fails to accept delivery of any of the Products when they are ready for delivery, or the Seller is unable to deliver the Products on time because the Buyer has not provided appropriate instructions, documents, licenses or authorizations, then Seller may store the Products until actual delivery, whereupon the Buyer will be liable for all related costs and expenses (including, without limitation, storage and insurance costs).
- (e) If the Products are not shipped within fifteen (15) days after notification to Buyer that the Products are ready for shipping, for any reason beyond A-SAFE Inc's reasonable control, including Buyers failure to provide shipping instructions, A-SAFE Inc may store such Products at Buyers risk and expense in a warehouse or yard on upon A-SAFE Inc's premises. During any period of delay or deferment requested by Buyer, Buyer shall pay all handling, transportation and storage charges at the prevailing commercial rates upon submission by A-SAFE Inc or invoice thereof. Notwithstanding, Seller shall not be obligated to store any Products for a period longer than thirty (30) days. If the Products are not shipped within thirty (30) days of the date Seller notifies Buyer the Products are ready to ship, Seller shall have no further obligation to store the Products and Seller shall not be liable for any loss or damage to the Products. Buyer shall also immediately make payment of the full price set forth in the Sales Documents.
- 8. Security Agreement.** Buyer grants Seller a continuing purchase money security interest in all Products sold or delivered to it (collectively, the "Collateral") to secure the full payment of the purchase price of the Products and all other obligations of Buyer. Buyer authorizes Seller to file all financing statements, continuation statements and other documents necessary or desirable to establish, perfect, maintain, preserve and enforce Seller's security interest in the Collateral.
- 9. Buyer's Obligations and Warranties.**
- (a) Buyer shall promptly pay the Contract price and any other amounts due under the Sale Documents.
- (b) Buyer warrants that it has the necessary authority to enter into the Sale Documents. Buyer warrants that all the information provided to Seller is true and accurate and acknowledges that Seller is relying upon such information in relation to the provision of the Products and/or Services.
- 10. Limited Warranty; Limited Remedy.**
- (a) Subject to these terms, for a period of twelve (12) months from delivery of the Products to Buyer's facility, A-SAFE Inc warrants to the Buyer that the Products manufactured by A-SAFE Inc or its affiliates, are free from defects in material and workmanship (manufacturing defects) and will be manufactured in accordance with the Seller's product specifications. This warranty shall be conditioned upon A-SAFE Inc's receipt of notice of nonconformity within 10 days from receipt of Product at Buyers facility, or as the case maybe notice of any alleged defect within 10 days of its discovery, and at A-SAFE Inc's option, return of such Products to its facility, at Buyer's sole cost and expense, for inspection.
- (b) The limited warranty set forth in the 10(a) ("Limited Product Warranty") is limited to the Buyer only and is non-transferable. For any Products, or parts of Products, that Seller or its affiliates do not manufacture, Seller does not offer any warranty for such Products, or parts of Products and they are sold "as is" without any warranty; however, to the extent allowed, Seller will assign to Buyer the associated manufacturer's warranty, if any.
- (c) With respect to the Services, Seller warrants, to the Buyer only, that the Services it or its affiliates perform will be performed in a workmanlike manner ("Limited-Service Warranty").
- (d) Any Product or Service descriptions, diagrams, illustrations, and similar depictions, whether included in catalogs, prospectuses, or otherwise, are descriptions, illustrations or approximations only, and do not constitute any specifications, representations, warranties, or guarantees, implicitly or explicitly.
- (e) EXCEPT FOR THE LIMITED WARRANTIES EXPRESSLY PROVIDED IN SECTIONS 10(a), 10(b), and 10(c) ABOVE, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE PRODUCTS OR THE SERVICES AND SELLER DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS AND IMPLIED, WRITTEN OR ORAL, WITH RESPECT TO THE PRODUCTS AND SERVICES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.
- (f) No sales representative, employee or any other person or entity is authorized to offer any different or additional warranties or remedies, or to change the Limited Product Warranty or Limited-Service Warranty, without the signature of an authorized officer of Seller.
- (g) Buyer shall timely give Seller written notice of any Products or Services which Buyer alleges do not conform to the Limited Product Warranty or the Limited-Service Warranty, specifying in detail the alleged non-conformities (each notice, a "Warranty Claim"). Buyer agrees to follow Seller's Warranty Claims process then in effect. Buyer must make any Warranty Claim within ten (10) days of the date that such Warranty Claim was known, or should have been discovered, and failure to do so shall void the Limited Product Warranty or the Limited-Service Warranty, as applicable. Seller shall have a reasonable opportunity to inspect the Product or part thereof to determine whether it complies with the Limited Product Warranty.
- (h) For any Products which Seller determines do not conform to the Limited Product Warranty, Seller's sole liability and obligation, and Buyer's sole and exclusive remedy, shall be, at Seller's sole choice, to either repair or replace non-conforming Products or, at the sole option of Seller, to refund to Buyer the price Buyer paid for such non-conforming Products. Buyer shall be responsible for the costs of any labor associated with repair or replacement of any non-conforming Product.
- (i) For any Services which Seller determines do not conform to the Limited-Service Warranty, Seller's sole liability and obligation, and Buyer's sole and exclusive remedy, shall be, at Seller's sole choice, Seller repeating or correcting any non-conforming Services or, at the sole option of Seller, refunding the price Buyer paid for such non-confirming Services.
- 11. Limited Warranty Exclusions.** The Limited Product Warranty does not cover damage to Products caused (i) during or after delivery; (ii) by normal wear and tear; (iii) by use under circumstances exceeding Seller's specifications or limitations or contrary to any instructions or information contained in Seller's maintenance manuals (as supplemented from time to time by Seller); (iv) by unauthorized or improper installation, repair, modification or alteration; (v) by failure to provide reasonable and necessary maintenance; (vi) by corrosion, erosion, abrasion or similar causes; and (vii) by accidents, vii) or following an impact.
- 12. Limitations; Exclusions**
- (a) Seller's sole obligation and Buyer's sole remedy for any breach of the Limited Product Warranty shall be as set forth in Section 10(g) and for any breach of the Limited-Service Warranty shall be as set forth in Section 10(h).
- (b) **SELLER'S MAXIMUM AGGREGATE LIABILITY UNDER THE CONTRACT OR WITH RESPECT TO THE PRODUCTS OR THEIR USE OR THE SERVICES, WHETHER IN WARRANTY, CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED \$200,000.00 FOR THE PARTICULAR PRODUCTS OR SERVICES AT ISSUE.**
- (c) **IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, REGARDLESS OF THE THEORY OF RECOVERY, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH**



DAMAGES.

- (d) **THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS, OBLIGATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AND A-SAFE INC EXPRESSLY DISCLAIMS AND EXCLUDES ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR AS PARTICULAR PURPOSE. NEITHER A-SAFE INC NOR ANY OF ITS SUPPLIERS ASSUMES OR AUTHORIZES ANY PERSON TO ASSUME ON ITS BEHALF ANY OTHER WARRANTY OR OBLIGATION.**
13. **Termination.** Without limiting Seller's rights and remedies available under applicable law, Seller may suspend or terminate performance and delivery, if: (a) there is a change in the control or management of either party; (b) either party ceases to conduct its operation in the normal course of business; (c) either party becomes insolvent or files for bankruptcy or has a bankruptcy proceeding filed against it; (d) either party makes an assignment for the benefit of credits, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of all or part of either party's property; or (e) Buyer fails to perform or observe any of its obligations to Seller under existing or future contracts between the parties or otherwise, including payment of any purchase price, fees or changes as and when due.
14. **Indemnity.** Buyer agrees to indemnify, defend and hold harmless Seller, its affiliates, respective officers, directors, employees and agents from any and all claims, actions, suits, damages, liabilities, costs, obligations, and expenses (including, without limitation, attorneys' fees) arising from or relating to (i) selection or use of Products, (ii) any modification of Products in any manner by Buyer, its employees, agents or customers, (iii) use exceeding Seller's Product specifications, and (iv) any breach of warranty or misrepresentation (express or implied) made by Buyer, its employees or agents.
15. **Force Majeure.** With the exception of payment requirements, neither party shall be liable, and performance shall be deemed extended, for delays or failure to perform directly or indirectly resulting from events and causes beyond its reasonable control, including but not limited to accidents, acts of God, acts and omissions of any governmental authority, declared or undeclared wars, terrorism, explosions, strikes or other labor disputes, fires and natural calamities (including floods, earthquakes, storms, epidemics or pandemics), changes in the law, and delays in obtaining (or the inability to obtain) labor, shipping, materials or services through usual sources at normal prices. If Products, or labor, materials or services for producing Products, are not available through Seller's usual sources at normal prices, then (a) Seller may allocate its supplies among its customers, including those not under contract, in any reasonable manner without liability, and (b) Seller will not be held to the price set forth in the Sales Documents and Seller and Buyer agree to re-negotiate the price based on those actual cost increases to Seller. Seller shall have no obligation to purchase supplies to enable it to fulfill any order.
16. **Notices.** Any notice permitted or required under these Terms will be deemed given if in writing and delivered personally, deposited with Fed Ex or another reputable overnight carrier, or sent by facsimile, to the respective address of Seller and Buyer.
17. **Confidential Information.** All confidential or proprietary information ("Confidential Information") provided by either party, including any pricing and drawings provided by Seller hereunder, shall not be disclosed by the other party to any person without the written prior authorization of the disclosing party.
18. **No License.** Buyer agrees and confirms that it has no, and Seller's sale of the Products shall not be construed as granting to Buyer any, license or intellectual property or similar right applicable to or in the Products, or any estimates, drawings, illustrations, calculations, installation instructions or other document Seller provides to Buyer even if developed jointly by Buyer and Seller. Seller retains ownership and control over all intellectual property including patents, trademarks, and copyrights applicable to or arising out of the Products or Services, whether developed by Seller or jointly, as well as the exclusive right to manufacture the Products. Buyer shall not name or designate any Seller product information or Products in any process patent application. Buyer may not alter or remove, and shall abide by, any patent, trademark, copyright, trade secrets, proprietary or other notices contained on or in the Products.
19. **Insurance.** Both parties shall maintain commercial general liability, personal injury, property damage insurance policies, and workers compensation insurance policies including wrongful death coverage, in amounts standard to the industry, with a nationally recognized insurance company.
20. **Relationship.** Seller is an independent contractor. Nothing in this Contract shall be construed as creating a partnership, association, or joint venture between the parties. Buyer shall have no power or authority to enter into any commitment on behalf of or otherwise bind Buyer on any matter including making any representation or warranty on behalf of Buyer. No employee of either party shall be deemed to be an employee of the other party.
21. **No Waiver; Severability.**
(a) Any failure by Seller to exercise any of its rights under these Terms or any Sales Documents shall not be construed as a waiver of such rights. In the event any of the provisions of these Terms of any Sales Documents are held to be invalid by any court of competent jurisdiction, such provision(s) shall be deemed to be severable, and these Terms and any Sales Documents shall then be construed and enforced in accordance with the remaining provisions.
22. **WAIVER OF JURY TRIAL.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE BUYER AND SELLER, BY ACCEPTANCE HEREOF, KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT EACH MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE TRANSACTIONS GOVERNED BY THESE TERMS, THE PRODUCTS OR THE SERVICES.
23. **Choice of Law; Venue.** This transaction and any controversy arising from or relating to the transaction, or the Products or the Services shall be governed by the laws of the State of Maryland, excluding its conflicts of law principles and this Contract shall not be governed by the provisions of the 1980 United Nations Convention on the International Sale of Goods which is expressly excluded. The parties agree that the Maryland State Courts and the United States District Court for Maryland, shall constitute the sole and exclusive judicial forum(s) and venue and, therefore, shall have sole and exclusive jurisdiction over the adjudication and resolution of any and all disputes or controversies arising out of or relating to this Contract or the purchase and sale of Products or Services. Buyer and Seller hereby consent and submit to the exercise of personal jurisdiction over them by the Maryland State Courts and United States District Court for Maryland. The prevailing party in any action to interpret or enforce this Contract shall be entitled to an additional award for all costs, expenses, including attorneys' fees and expert witness fees reasonably incurred.
24. **Non-Assignment; Entire Agreement.** Buyer may not assign all or any portion of its rights or obligations under the Contract without Seller's prior written consent, and any attempted assignment without that consent shall be void. The Contract contains the entire agreement of the parties relating to the subject matter and supersedes all previous and contemporaneous agreements, understandings, usages of trade and courses of dealing, whether written or oral.
25. Each Party shall perform all of its obligations under this Contract in compliance at all times with all foreign, federal, state and local statutes, orders and regulations, including those relating to privacy and data protection. The Parties specifically agree to comply with all applicable laws, including the Foreign Corrupt Practices Act of 1977 (FCPA), USA Patriot Act, Canadian Proceeds of Crime (Money Laundering) and Terrorist Financing Act, and Canadian Corruption of Foreign Public Officials Act. Buyer agrees to avoid, eliminate, and prevent any and all conduct or behavior that under any Antitrust Law or trade regulation law that may be viewed as a violation of such laws or be asserted by any Governmental Authority or any other Person as a violation. The Seller also may take any action necessary to enforce this Contract and/or execute policies and procedures to enforce the Seller's compliance initiatives. The Seller shall be entitled to take any action it deems necessary to mitigate or reduce risks associated with the Buyer's breach of this Contract.

