

# Product and Website Terms and Conditions

Effective from

2019

## 1. Introduction

- a) Accessing the Website of STAH Group and/or the purchase of a Product from STAH Group is subject to these terms and conditions.
- b) By accessing the Website and/or purchasing a Product from STAH Group, the Customer agrees to be bound by these terms and conditions.
- c) STAH Group reserves the right to amend these terms and conditions at any time without notice. Continued access to the Website is deemed to constitute the acceptance of any amendments to these terms and conditions.

## 2. Access to the Website and the Purchase Products

- a) Access to the website is at the sole risk of the Website User.
- b) The Website User in accessing the Website accepts the condition including any errors and/or omissions of the Website at the time of access.
- c) STAH Group accepts no liability for any Loss, both direct and indirect, arising out of the use and/or application of the Products on the Website including Content contained in third party links to external websites. STAH Group does not warrant that any Content contained in external websites accessed via a link on the Website is accurate and current.
- d) All Content provided on the Website is not to be taken as a substitute for advice given by a licenced medical practitioner or healthcare provider.
- e) STAH Group does not warrant that any Content on the Website is free from any malicious software such as but not limited to viruses, worms and other cyber defects. STAH Group accepts not liability for any Loss caused by malicious software on the Website.
- f) STAH Group is the owner of all intellectual property including trademarks and logos on the Website except as where attributed otherwise. Website Users must not reproduce or distribute any content including intellectual property obtained from or derived from the Website without the express written permission of STAH Group.
- g) STAH Group reserves the right to correct any errors and/or omissions in relation to the Website when and as necessary.
- h) STAH Group reserves the right to restrict and/or prevent access to the Website or any part of the Website to perform maintenance and other functions when and as necessary.
- i) STAH Group reserves the right to modify the Sale Price of the Products at any time without notice to the Customer. The modification of the Sale Price of the Products will not affect any purchase made by a Customer where payment of the Sale Price, any GST payable and the Delivery Fee has been paid by the Customer in accordance with clause 4(a).

- j) STAH Group reserves the right to discontinue selling the Product through its website at any time without notice.
- k) STAH Group reserves the right to limit the quantity of the Product that may be purchased by any one person, entity or organisation within a given period of time.

### **3. Obligations of the Parties When Purchasing a Product**

- a) STAH Group will:
  - i. supply the Product; and
  - ii. comply with all relevant state and federal legislation and law in relation to the supply.
- b) The Customer will:
  - i. pay STAH Group the Sale Price in accordance with clause 4(a);
  - ii. provide accurate and truthful information in order to allow STAH Group to effect its obligations under this Agreement;
  - iii. read and abide by all labels, instructions and warnings provided by STAH Group and/or the manufacturer or regulatory bodies before using the Product;
  - iv. not cause the Product to be resold; and
  - v. not use the Product or cause anyone else to use the Product for any unlawful purpose.

### **4. Payment**

- a) The Customer agrees to pay STAH Group in the manner outlined below:
  - i. Cleared payment of the Sale Price is to be made by the Customer and received by STAH Group prior to STAH Group despatching the Product from its storage location.
- b) Payment of the Sale Price may be made via the Website using the methods available at the time of purchase.
- c) STAH Group will provide to the Customer a receipt once the Sale Price has been received by STAH Group.
- d) Payment is taken to have occurred on the date that the payment amount is accessible to STAH Group.
- e) Failure to pay the Sale Price at clause 4(a)(i) will cause the Agreement between the parties to be voided unless the parties reach a mutually agreed alternative arrangement.
- f) The Customer will be liable for all and any charges or costs incurred by STAH Group in relation to the recovery of any outstanding and unpaid amount of the Sale Price or any other amount due in connection this with Agreement including, but not limited to third party debt recovery charges, legal costs and interest.

## 5. GST

- a) The Sale Price excludes GST.
- b) In addition to the Sale Price or any other consideration due under this Agreement, the Customer will pay to STAH Group an amount equal to any GST which STAH Group is or becomes liable to pay for any supply made under or in connection with this Agreement.
- c) The amount of GST payable will be specified on the Website when purchasing the Product.
- d) Any amount payable under clause 5(a) will be paid at the same time as payment for the supply giving rise to the obligation to pay GST, or if no amount is payable for the supply, or if a valid Tax Invoice has not been given to the other party prior to that time, within seven (7) days of the issue of a valid Tax Invoice by STAH Group to the Customer.
- e) In this clause, “**GST**” and “**Tax Invoice**” have the meaning set out in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

## 6. Refunds

Subject to **Australian Consumer Law**, the Customer is not entitled to request a refund in full of monies paid under this Agreement unless the Product does not meet the consumer guarantees and/or warranties as outlined in **Australian Consumer Law**.

## 7. Delivery

- a) The Customer is responsible for payment to deliver the Product in addition to the Sale Price (“the Delivery Fee”).
- b) Methods of delivery will be as advised on the Website at the time of purchase.
- c) STAH Group accepts no liability for damage or loss to the Product during transit.
- d) The Customer acknowledges and agrees that any person at the Delivery Address who receives the Product is authorised by you to receive the Product and, where relevant, make payment for that Product.
- e) In accordance with clause 10, STAH Group does not accept any liability for the Product once it has been delivered to the Customer.

## 8. Use of the Product and Reliance on Results

- a) The Product is only to be used in a private domestic setting and is not to be used for commercial or public purposes including, but not limited to, the screening of employees and/or contractors by an employer, an agent of the employer or contractor.
- b) Results produced by the Product are to be used as a guide only and are not to be relied upon as a definitive result.
- c) STAH Group accepts no responsibility whatsoever for the results obtained by use of the Product by the Customer or anyone else.

## 9. Warranty applicable to the Product

- a) Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure’.
- b) If STAH Group has determined that the Product has failed and is required to repair or replace the Product, STAH Group will be responsible for the reasonable cost of transporting the Product to and from the Customer’s nominated address.
- c) Except as provided in this Agreement, all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, quality, suitability or fitness of the Product for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are expressly excluded to the extent permitted by law. Without limitation, STAH Group will not be liable under any circumstances for:
  - i. any special, indirect or consequential Loss, that is, Loss beyond a normal measure of Loss;
  - ii. any Loss of profits, anticipate or otherwise;
  - iii. any Loss in revenue, gain or benefit, including that available under a feed-in tariff or equivalent scheme;
  - iv. any Loss of business opportunity;
  - v. any Loss arising from failure of the Product;
  - vi. any damage, direct or indirect, to equipment or data, and the like, arising from the operation of the Product;
  - vii. any structural damage arising from the operation of the Product; or
  - viii. any damage to business goodwill arising from the operation of the Product; or
  - ix. any result produced by the Product that the Customer is dissatisfied with.
- d) The parties acknowledge and agree that if a court determines that the liability exclusions described in clauses 9(c)(i) to (ix) (inclusive) are invalid for any reason, that STAH Group’s total liability for the circumstances described in clauses 9(c)(i) to (ix) (inclusive) will not exceed the Sale Price.
- e) The Customer acknowledges that any undertaking, representation or claim in this Agreement or otherwise regarding the operation, fitness for purpose or merchantable quality of the Product only applies when the Product is operating under ideal conditions as defined by the manufacturer of the Product.
- f) The warranties provided in clause 9(a) will not apply to any Product that has been subject to:
  - i. improper or incorrect usage by the Customer;
  - ii. misuse, abuse, neglect or accident;

- iii. alteration, improper alteration, or reinstallation by the Customer or any person;
  - iv. non-observance with instructions for use;
  - v. repair, modification by anyone other than someone approved by STAH Group in writing; or
  - vi. lightning, flood, fire accidental breakage or other events outside of STAH Group's control.
- g) STAH Group accepts no responsibility for dissatisfaction with the appearance of the Product due to variation caused by the Customer's hardware such as their computer screen.

**10. Risk title and insurance**

- a) Risk in the Product passes to the Customer by reason of and at the time of delivery of the Product to the Customer at the Delivery Address.
- b) Title to the Product passes to the Customer once the following has been carried out:
  - i. payment in full for the balance owing of the Sale Price to STAH Group is received; and
  - ii. the Product has been received by the Customer at the Delivery Address.

**11. Indemnity and Liability**

- a) The Customer must indemnify and keep STAH Group indemnified from and against all Loss suffered or incurred directly and indirectly by STAH Group in respect of any:
  - iii. loss of or damage to any real or personal property; or
  - iv. personal injury or death;

that arises out of or as a consequence of the performance or non-performance of this Agreement by the Customer, except to the extent that such Loss is attributable to the gross negligence or wilful misconduct of STAH Group.
- b) The Customer must indemnify and keep STAH Group indemnified from and against all Loss arising out of or in connection with any act or omission of the Customer which gives rise to a liability of STAH Group to a third party.
- c) The indemnity provided in this clause 11 extends to any Loss suffered or incurred by STAH Group caused by the Customer failing to make full payment of the Sale Price, any GST payable and the Delivery Fee.
- d) The Customer acknowledges and accepts that STAH Group's total aggregate liability for all claims relating to this Agreement is limited to the Sale Price.
- e) STAH Group accepts no liability for Loss whatsoever suffered or incurred by the Customer, directly or indirectly, by the Customer's or anyone else's use of the Product under this Agreement.

## **12. Dispute Resolution**

- a) If a dispute arises between STAH Group and the Customer under or in connection with this Agreement, the Product or otherwise, the parties must meet and use their reasonable endeavours to resolve that dispute by negotiation or otherwise before commencing legal proceedings.
- b) The parties will be deemed to have used their reasonable endeavours to resolve a dispute if they have met to discuss the dispute and have failed to resolve it within thirty (30) days of that meeting.
- c) Nothing in this clause 12 will preclude either party from seeking an urgent interim interlocutory injunction in cases of genuine urgency.

## **13. Governing Law**

This Agreement is governed by the laws in force in South Australia and the parties submit to the non-exclusive jurisdiction of the courts of South Australia and any courts which may hear appeals from those courts in respect of any proceedings in connection with this Agreement.

## **14. Entire Agreement**

This Agreement embodies the entire understanding of the parties as to the Agreement and supersedes all prior agreements, understandings, arrangements and undertakings between the parties.

## **15. Variation**

No variation to this Agreement will be of any force or effect unless reduced to writing and signed by both parties.

## **16. Severability**

Each clause in this Agreement is severable from the others and if one or more is found to be unenforceable this will not affect the validity of the others or any of them.

## **17. Waiver**

The fact that either party does not, on a default by the other party or any authorised person in respect of any of the terms of this Agreement, exercise any rights or remedies to which it is entitled, will not be constricted or operate in any way as a waiver of any such rights or remedies.

## **18. Force Majeure Event**

- a) A party will not be responsible for a failure to comply with its obligations under this Agreement to the extent that failure is caused by a Force Majeure Event, provided that the party keeps the other closely informed in such circumstances and uses reasonable endeavours to rectify the situation.
- b) Without limiting any other right to terminate under this Agreement, if a Force Majeure Event affects a party's performance under this Agreement for more than thirty (30) consecutive days, the other party may immediately terminate this Agreement by written notice.

## 19. Privacy

- a) STAH Group will act in accordance with the *Privacy Act 1988 (Cth)* and the *Spam Act 2003 (Cth)* and other applicable Australian legislation in relation to Personal Information.
- b) STAH Group will collect Personal Information from the Customer in order to:
  - i. effect the Agreement; or
  - ii. perform future marketing of its products and services.
- c) STAH Group will not use the Customer's Personal Information collected for any other purpose than listed above without the Customer's prior consent unless required by law.
- d) Customers may request that STAH Group cease the communication of marketing materials by providing written notice to STAH Group by post or email as set out in clause 20.
- e) STAH Group accepts no liability for the privacy practices of third party and/or external websites and service providers connected with the purchase of the Product or access to the Website.
- f) Data files known as 'cookies' may be saved by your internet browser on your computer or device. Cookies are used to determine how Website Users use the internet. Cookies do not contain any Personal Information.
- g) Customers may contact STAH Group by email in accordance with clause 20 with any queries in relation to this clause.

## 20. Contact Us

- a) STAH Group can be contacted via our Website by visiting the About Us section of our Website.

## 21. Interpretation

Unless the context otherwise requires or admits the following expressions shall have the following meanings respectively:

**"Agreement"** means the terms and conditions contained in this document;

**"Australian Consumer Law"** means the warranties and guarantees provided in the *Competition and Consumer Act 2010 (Cth)* as amended from time to time;

**"Content"** means all content on the Website;

**"Customer"** means the party entering into this Agreement for the purchase of the Product from STAH Group or the person who receives delivery of the Product at the Delivery Address;

**"Delivery Address"** means the address provided by the Customer at the point of purchasing the Product through the Website.

**"Force Majeure Event"** means any event beyond the control of the relevant party;

**“Loss”** means all liabilities, damages, remedies, losses, penalties, fines, costs, expenses (including reasonable legal fees and expenses), demands, claims and proceedings of any nature;

**“Personal Information”** means any information recorded in any format collected that identifies a person or may reasonably identify a person or as defined in the *Privacy Act 1988 (Cth)* as amended from time to time;

**“Product”** means the goods purchased by the Customer on the Website;

**“Sale Price”** means the cost to the Customer for the Product supplied by STAH Group and excludes any GST payable and the Delivery Fee;

**“STAH Group”** means STAH Group Pty Ltd trading as STAH Group, STAH Program, STAH Education, STAH and Screening On Site (ACN 633 985 289);

**“Website”** means the website and/or online platform of STAH Group being [www.stahGroup.com.au](http://www.stahGroup.com.au) as amended from time to time; and

**“Website User”** means any person who accesses STAH Group’s website and/or external websites through third party links.