



SAFECOMS TERMS & CONDITIONS – 2019

These Terms and Conditions govern transactions by which Customer acquires Products and Services (including, without limitation, customized development and support, business consulting, and maintenance Services) from SafeComs Network Security Consulting Co., Ltd. 36/31 P.S. Tower, 11th Floor, Sukhumvit 21 Road, Klongtoey Nua, Wattana, Bangkok 10110 Thailand - Business Registration (TAX) ID: 0-1055-48028-21-8

TERRITORY

To the extent permitted by law, these terms and conditions will apply to any customer contracting with SafeComs headquartered in Thailand or SafeComs Myanmar Ltd, or any other offices via its agents without any territorial restrictions, including South East Asia, Australia, Europe and the USA.

APPLICABILITY

The client explicitly waives its own standard terms and conditions, even if these were drawn up after these standard terms and conditions of sale. In order to be valid, any derogation must be expressly agreed to in advance in writing.

PRIVACY STATEMENT

SafeComs is committed to protecting your privacy. Authorized employees within the company on a need to know basis only use any information collected from individual Customers. We constantly review our systems and data to ensure the best possible service to our Customers.

CONFIDENTIALLY

We are registered under the Data Protection Act 1998 and as such, any information concerning the Customer and their respective Customer Records are regarded as confidential and therefore will not be divulged to any third party, other than if legally required to do so to the appropriate authorities. Customers have the right to request sight of, and copies of any and all Customer Records we keep, on the proviso that we are given reasonable notice of such a request. Customers are requested to retain copies of any literature issued in relation to the provision of our services.

Where appropriate, we shall issue Customers with appropriate written information, hand-outs or copies of records as part of an agreed contract, for the benefit of both parties.

We will not sell, share, or rent your personal information to any third party or use your e-mail address for unsolicited mail.



DEFINITIONS

“**SafeComs**” means SafeComs Network Security Solution Co., Ltd. selling products to the Customer as identified in SafeComs’ quotations or invoice.

“**Customer**” means the person or legal entity identified in SafeComs’ quotation or invoice.

“**Contract**” means a contract for sale by SafeComs to the Customer for the products and/or services incorporating the Terms and Conditions.

“**SafeComs-branded**” means computer hardware, software and service products that are marked with “SafeComs”, “Peppercan” or “Odo” brand, including all standard components thereof.

“**Order Confirmation**” means formal acknowledgement of Product ordered by Customer, sent by SafeComs.

“**Price**” means the price as per SafeComs Quotation and Order Confirmation and the latter shall have precedence.

“**Product**” means the product as described in Quotation, Order Confirmation and attached documents referred to and may include SafeComs-branded products, third party products and Service Offerings.

“**Service Offering**” means the different service options offered by SafeComs and described in Quotation, Order Confirmation and attached documents referred to.

“**Application Software Development**” means the code produced by SafeComs and delivered to the customer, as described in the Quotation, Order Confirmation and attached documents referred to.

“**Third Party Products**” means products other than SafeComs-branded.

FORMATION OF CONTRACT

No contract shall come into existence until the Customer’s order has been accepted by SafeComs and the required deposit paid by the Customer. The Customer warrants that the contracts purpose is for internal use only and not for re-sale.

NON SOLLICITATION

Each of the Service Provider and the Company agree not to employ or contract as a Service Provider with any person who was employed by or acting as a Service Provider to the other party during the term of the Appointment and for a period of 24 months after its termination. Penalty for failing on this clause will be calculated as 6 months of current salary of the employee or consultant.



ACCEPTANCE OF TERMS

Customer accepts the terms in Attachments and Transaction Documents by:

- signing them (by hand or electronically), or confirming by email
- beginning to use the Product or Service, or allowing others to do so, or
- making any payment for the Product or Service.

Product or Service becomes subject to these Terms & Conditions when SafeComs accepts the Customer's order by:

- sending Customer a Transaction Document,
- shipping hardware or making the Software available to Customer, or
- providing Customer access to the Service.

Any Attachment or Transaction Document will be signed by both parties if requested by either party. In entering into an Agreement, subject to these Terms and Conditions including the Transaction Document and each Attachment, neither party is relying on any representation that is not specified in the Agreement.

Additional or different terms in any written communication from Customer (such as a purchase order) are void. Customer accepts, on behalf of its Enterprise, the terms of these Terms and Conditions by accepting a Transaction Document or Attachment that incorporates these Terms and Conditions by reference.

Once accepted,

- I. any reproduction of these Terms and Conditions, an Attachment, or Transaction Document made by reliable means (for example, electronic image, photocopy or facsimile) is considered an original and
- II. all Products and Services ordered under the Agreement are subject to it.

ORDERS, PRICE AND PAYMENT

Unless credit terms have been expressly agreed by SafeComs, payment for the Products or services shall be made in full before physical and/or virtual (Cloud) delivery of Products or services.

Credit terms can be offered to regular customers for Services and Software application development, and Customers are required to strictly conform to these terms.

Hardware of Product purchase are subject to a 50% deposit on order confirmation and need to be paid in full before delivery. Product must be paid in full as soon as SafeComs confirms the delivery, delaying the last payment will incur financial charges or 1.5% per month for the overdue amount.

Customer shall pay for all shipping and handling charges.

Customer shall bear all country, provincial, government, state and local sales, use, goods and services, value added, excise, privilege and similar levies/taxes.

Time for payment is of the essence. SafeComs reserves the right to charge interest at the rate of 18% per annum on sums overdue. SafeComs will be authorised to suspend any provision of services without prior warning in the event of late payment. If a payment is still outstanding more than sixty (60) days after the due payment date, SafeComs reserves the right to call on the services of a debt recovery company. All legal expenses will be payable by the client.



WORK BEYOND SCOPE

Unless not defined otherwise SafeComs will present a concept to the Customer in order to define how SafeComs will provide the specified product or service. This concept may be revised on Customer request for a number of times limited to 4 iterations. SafeComs reserves the right to charge additionally for excess of the specified number of revisions of the concept. All requests will underlie the change management process as defined in this document.

CHANGE MANAGEMENT

Changes requested by any party will underlie a change management process. In this process SafeComs will analyze the feasibility of the requested change and the implications on the timeline and costs which can lead to additional charges presented in a quotation by SafeComs. After the new quotation is signed by the client or the new changes are accepted by client and SafeComs without quotation, the requested changes shall become part of the specification. The updated specification shall be provided to all parties.

COMPLETION OF SERVICE OR PRODUCT

The Customer has the responsibility to review all work delivered by SafeComs within 10 business days and to give either the final approval or a claim if the delivered product or service is not as agreed in the quotation and specification. The claim needs to be qualified with given reason and detail. If no final approval will be granted or, claim which prevents the Customer to use the product or service will be raised by the Customer within 10 days, the delivery by SafeComs will be considered as completed. The Customer shall not be entitled to withhold payment of all or part of the outstanding sum, whilst any claim is being investigated by SafeComs.

RECURRING FEES AND HOSTING

In the event that a service delivered includes hosting service and/or user monthly fees, the hosting and recurring fees are due from the day the client receives access to the cloud service for test purposes. Possible bugs or requirements for fine tuning the application do not authorize the Customer to withhold the hosting or user fees. A minimum charge for 5 users is applied by default.

If the CUSTOMER requires the fees to be collected and the invoice to be delivered by messenger, a collection fee of a reasonable amount based on the location of the CUSTOMER will be added to each collection. This collection fee will be indicated on the quotation

In order to cover the cost of business in Thailand, an annual increase of the fee will be automatically added to the current fee at the annual renewal of the contract.

ACTIVE USER

Customer commits to pay for the number of users who have used the service during the previous month and/or the agreed hosting fee. The count of active users is automated to happen at the last working day of the month at mid-day. Recorded number at that time will be invoiced to the customer who will be responsible for payment. Cancellation past the count time is not refundable.

TEMPORARY SUSPENSION OF PROJECT

In the event that the Customer request a suspension or temporization of project development, SafeComs will be entitled to the full payment of the completed part of the project, as well as the price of the current phase under development.

Annual license and hosting fee are entirely due and cannot be paused, and an additional fee of 20% of the total value of the project will be invoiced to compensate SafeComs for the reassignment of Software developers, project Managers and for the loss of revenue from other customers.

Project can only be restarted after the above fees have been fully paid and SafeComs is in a position to reallocate resources to this project.



CANCELLATION OF PROJECT

In the event the Customer cancels the contract prior to completion, the Customer shall pay SafeComs for

- all work performed up to the date of termination;
- all outside expenses and commitments with third parties that have been incurred and cannot be cancelled; and,
- a cancellation fee equal to 50% of the remaining fees that would have been paid in case of a successful project completion. The date of termination will be the day of notice if the notice was made on a business day between 8am and 6pm, otherwise the following working day.

LATE PAYMENT OF PROJECT PHASES OR RECURRENT FEES

If the Project payment are delayed passed the terms granted to the client, or if monthly fees for using the product are not paid at the end of each month or other contracted regular period, SafeComs, without incurring penalty, reserves the right to:

- Suspend the development/delivery of the next project phase until payment is cleared
- Suspend the access to the service or Server hosting the service, recurring fees continue to apply
- Enter a temporary suspension phase of the project and apply clause 9 without prejudice.
- Charge late fee penalty for the overdue invoices
- Enter a process of cancellation of the project as per clause 10 above

AUTORENEW AND CANCELLATION OF SERVICE CONTRACT

All annual contracts for monthly services by our Engineers and all recurrent monthly services are subscribed for a minimum of 12 months from the date of initial installation and will auto renew at the end of the period for the same duration unless cancelled 2 months before their renewal date.

Cancellation before the end of the contract can only be done after a 1 month notice period and will automatically incur a penalty of 2 months of service. Notice period starts after the end of the current running month.

TITLE AND RISK

Title to and risk in the Products shall pass to the Customer upon delivery of the Products to Customer. Title to those Products, which are software, shall remain with the applicable licensor(s) at all times.

DELIVERY

SafeComs shall deliver the Products to the place of delivery designated by Customer and agreed to by SafeComs ("Place of Delivery").

SafeComs may, at its discretion, deliver the products by instalments in any sequence. Where the Products are so delivered by instalments, each instalment shall be deemed to be the subject of a separate contract and no default or failure by SafeComs in respect of any one or more instalments shall vitiate the Contract in respect of Products previously delivered or undelivered Products.

Any dates quoted by SafeComs for the delivery of the Products are approximate only and shall not form part of the Contract. SafeComs shall not be liable for any delay in delivery of the Products and/or services, howsoever caused.

SafeComs may revise and/or discontinue products at any time without notice as part of SafeComs' policy of on-going product up-date and revision. Revised or updated products will have the functionality and performance of



the Products ordered. The Customer accepts that SafeComs' policy may result in differences between the specification of products delivered to the Customer and the specification of Products ordered.

SOFTWARE

All software provided is subject to the terms and conditions of the license agreement relating to that software. Customer acknowledges its obligations to abide by such license agreements. Customer acknowledges that SafeComs does not warrant any software under these Terms and Conditions. All software is warranted in accordance with the license agreement that governs its use.

All rights, title or interest in respect of the intellectual property rights in the software remain with SafeComs or the licensor of the software at all times.

WARRANTY

Unless specified otherwise, SafeComs warrants to the Customer that SafeComs branded Products will from invoice date be free from defects in materials and workmanship affecting normal use for a period of one year or such other period as may be set out in SafeComs' invoice. ("Standard Warranty" And "Relevant Warranty" period as appropriate).

This Standard Warranty does not cover damage, fault, failure or malfunction due to external causes, including accident, abuse, misuse, problems with electrical power, servicing not authorized by SafeComs, usage and/or storage and/or installation not in accordance with Product instructions, failure to perform required preventive maintenance, normal wear and tear, fire, flood, war, act of violence or any similar occurrence; Products with missing or altered Service Tags or serial numbers; any attempt by any person other than SafeComs personnel or any person authorised by SafeComs, to adjust, repair or support the Products and problems caused by use of parts and components not supplied by SafeComs. The Standard Warranty or Relevant Warranty does not cover any items that are in one or more of the following categories: software; external devices; accessories or parts added to the Product after the Product is shipped from SafeComs.

Subject to **Service and Technical Support** clause below, during the Standard Warranty or Relevant Warranty period as the case may be and beginning on the invoice date, SafeComs will repair or replace SafeComs-branded Products returned to SafeComs' facility. Customer must prepay shipping and transportation charges and insure the shipment or accept the risk of loss or damage during such shipment and transportation. SafeComs will ship the repaired or replacement Products to Customer freight prepaid.

SafeComs does not give any warranty that the Products are fit for any particular purpose and this Standard Warranty or Relevant Warranty is given in place of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, trade usage, course of dealing or otherwise including warranties or conditions of merchantability, fitness for purpose, satisfactory quality and/or compliance with description, all of which are hereby excluded to the fullest extent permitted by law.

The Customer agrees that, in relation to Third Party Products purchased through SafeComs, where such of the Products are covered by a relevant manufacturer's warranty, then the Standard Warranty shall not extend to such Products and such manufacturer's warranty shall be the sole warranty in respect of such Products. The Customer shall utilise that warranty for the support of such Products and in any event not look to SafeComs but shall look to the relevant manufacturer for such warranty support.



THIRD PARTY MODULE ACQUISITION

When a customer requires additional modules to implement features not included in Peppercan, Odoo or any of SafeComs standard solution, SafeComs will take ownership of researching for these modules and testing them for compliance to feature requirements, stability and security.

SafeComs will suggest performing a functionality test if available or review the description of features with the Client who will agree to the implementation of the module. This recommendation will be made on initial testing and consultation with the 3rd party provider and will be an estimation of the compliance to the requirements expected by the client.

SafeComs will not be responsible for modifying or adapting the added modules. If modifications are required, or if the module does not cover 100% of the customer's expectations. They will be requested to the provider who will directly quote and invoice the client.

The price charged by SafeComs to the client to install this module will include research time to identify the best module from the market, the time for testing the module in the test environment for the client, and the time to install on the production environment.

PAYMENT FOR THESE MODULES

The payment of 100% of the purchase of these module must be received by SafeComs before ordering from the third party. Payment of the work must be paid after completion of the installation of the modules.

SERVICE AND TECHNICAL SUPPORT

In respect of SafeComs-branded Products SafeComs will provide general service and technical support to Customer in accordance with the then-current service and technical support policies in effect. Service and support offerings may vary from product to product. If Customer purchases optional services and support as listed on SafeComs' invoice, SafeComs will provide the optional service and support to Customer in accordance with the then-current terms and conditions in the optional service contract between SafeComs and Customer in addition to the Standard Warranty or Relevant Warranty. SafeComs may, at its discretion, revise its general and optional service and support programs and the terms and conditions that govern them. SafeComs has no obligation to provide service or support until SafeComs has received full payment for the Product or service/support contract for which service or support is requested.

FORCE MAJEURE

Neither party shall be liable for any delay in performing any of its obligations under these Terms and Conditions if such delay is caused by circumstances beyond the reasonable control of the party so delaying, and such party shall be entitled to a reasonable extension of time for the performance of such obligations.



LIABILITY

SafeComs shall not be liable in contract or in tort for any loss or damage suffered and consumer rights are limited to those set out in these Terms and Conditions and under statute.

To the extent permitted by law, SafeComs' total liability herein in respect of each event or series of connected events shall not exceed the amount invoiced for the applicable Products and/or services under the Contract.

Where under any applicable law, implied conditions and warranties cannot be excluded, SafeComs' liability for breach of such conditions and warranties shall be limited, at SafeComs' option, to:

(a) in the case of Products, the replacement of the Products or the supply of equivalent Products; the repair of such Products; the payment of the cost of replacing the Products or of acquiring equivalent Products; or the payment of the cost of having the Products repaired; OR

(b) in the case of services, the supplying of services again; or the payment of the cost of having services supplied again.

The Customer shall indemnify SafeComs and keep SafeComs fully and effectively indemnified against any loss of or damage to any property or injury to or death of any persons caused by any negligent act or omission or willful misconduct of the Customer, its employees, agents or sub-contractors or by any breach of its contractual obligations arising out of these Terms and Conditions.

To the extent permitted by law, SafeComs and Customer agree that SafeComs will not be liable for Products not being available for use, or for data or software which is lost, corrupted, deleted or altered. Any service response times stated by SafeComs in service contracts are approximate only. SafeComs shall not be liable to the Customer for any a) incidental, indirect, special or consequential damages, b) loss of opportunity, c) loss of revenue, d) loss of profit or anticipated profit, e) loss of business f) loss of contracts, g) loss of goodwill, h) loss arising out of business interruption, i) loss arising out of or in connection with pollution or contamination, all arising out of or in connection with the purchase, use or performance of Products or services, even if SafeComs has been advised of their possibility.

To the extent permitted by law, any typographical, clerical or other error or omission in sales literature, quotation, price list, acceptance of offer, invoice or other documents or information issued by SafeComs shall be subject to correction without any liability on the part of SafeComs.

EXPORT RESTRICTIONS

Each party, at its own expense, will comply with all applicable laws, orders and regulations of any governmental authority with jurisdiction over its activities in connection with these Terms and Conditions and any Contract. Each party will furnish to the other party any information required to enable the other party to comply with applicable laws and regulations related to the Products. SafeComs and Customer acknowledge that Products licensed or sold under any Contract are subject to export control laws and regulations, including those of the countries from which they were supplied and in which they are used and agrees to abide by those laws and regulations. The Products purchased under any Contract may not be sold, leased or otherwise transferred to restricted end-users or to restricted countries. In addition, the Products may not be sold, leased or otherwise transferred to, or utilized by, an end-user engaged in activities related to weapons of mass destruction, including but not necessarily limited to, activities related to the design, development, production or use of nuclear materials, nuclear facilities, or nuclear weapons, missiles or support of missile projects, or chemical or biological weapons. The Customer and SafeComs agree to comply with all applicable export laws, regulations and orders. In addition, each party agrees to indemnify, defend and hold the other harmless from any claims, demands or causes of action against the other due to the indemnifying party's violation or alleged violation of the applicable export laws, regulations and orders.



GOVERNING LAW

These Terms and Conditions shall be governed by and construed in accordance with the laws of Thailand and shall be subject to the non-exclusive jurisdiction of the courts of Thailand.

GENERAL

The Customer shall not assign or otherwise transfer any Contracts or any of its rights and obligations hereunder whether in whole or in part without the prior written consent of SafeComs. Any such unauthorized assignment shall be deemed null and void.

If any provision of these Terms and Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Terms and Conditions and the remainder of the provisions in question shall not be affected thereby.

No Waiver. No failure or delay on SafeComs' part in exercising any power or right under this Agreement operates as a waiver, nor does any single or partial exercise of any power or right preclude any other or further exercise, or the exercise of any other power or right.

COPYRIGHT NOTICE

Copyright and other relevant intellectual property rights exist on all products and services provided by SafeComs or Third Party.

This Company's logo is a registered trademark of this Company. The brand names and specific services of this Company are trademarked.

COMMUNICATION

We have several different e-mail addresses for different queries. These, & other contact information can be found on our Contact Us link on our website or via Company literature or via the Company's stated telephone or mobile telephone numbers.

This company is registered in Thailand, registered office: 36/31 P.S. Tower, 11th Floor, Sukhumvit 21 (Asoke Road), Klongtoey Nua, Wattana, Bangkok 10110.

NOTIFICATION OF CHANGES

The Company reserves the right to change these conditions from time to time as it sees fit. Changes to these Terms and Conditions will be announced to Customers.