

**COMPETITION AND CONSUMER ACT 2010**

**Undertaking to the Australian Competition and Consumer Commission  
given under section 87B**

by

**Saipol Technologies Pty Ltd ACN 159 655 651**

**1. Person(s) giving the Undertaking**

- 1.1 This Undertaking is given to the Australian Competition and Consumer Commission (**ACCC**) by Saipol Technologies Pty Ltd ACN 159 655 651 (**Saipol**), for the purposes of section 87B of the *Competition and Consumer Act 2010* (**CCA**).

**2. Background**

*Saipol*

- 2.1 Saipol carries on business in Australia as an importer, seller and specialist manufacturer of replacement water filtration products, including water filter cartridges. It mainly markets to other businesses including hospitals and universities.
- 2.2 'WaterMark' refers to the WaterMark Certification Scheme, which is a mandatory certification scheme for plumbing and drainage products to ensure they are fit for purpose and appropriately authorised for use in plumbing and drainage installations.

*Relevant provisions*

- 2.2 The Australian Consumer Law (**ACL**) set out in Schedule 2 to the CCA contains prohibitions against misleading or deceptive conduct and unfair practices, including making false or misleading representations. Specific to this Undertaking:
- Section 18 of the ACL provides that a person must not, in trade or commerce, engage in conduct that is misleading or deceptive, or likely to mislead or deceive.
  - Section 29(1)(a) of the ACL provides that a person must not, in trade or commerce, in connection with the supply or possible supply of goods or services in connection with the promotion by any means of the supply or use of goods or services make a false or misleading representation that goods are of a particular standard, quality, value, grade, composition, style or model or have a particular history or particular previous use.

*Conduct of concern*

- 2.3 The ACCC considers that Saipol, in its advertising brochure/flyer from at least 1 January 2017 to 3 July 2018, stated that its 'C grade' water filter cartridges were 'fully compliant with Queensland Health Directive 1/2016' when the 'C grade' water filter cartridges did not meet the necessary filtration requirements.
- 2.4 The 'Queensland Health Directive', which was called the 'Patient Safety Alert 1/2016' and dated 3 February 2016, was issued to all relevant water filter providers, including Saipol. It required a filtration of '0.2 micron pore size'. Saipol's 'C grade' filter continued to be promoted during the said period as being compliant, though it had a non-compliant 1.0 (µm) micron rating or pore size. Pore size relates to the filter's ability to filter out particles of a certain size. The ACCC considers that, by reason of the conduct in Paragraphs 2.3 and 2.4, Saipol may have:
- (a) engaged in conduct that was misleading or deceptive conduct or likely to mislead or deceive in contravention of section 18 of the ACL; and
  - (b) made false or misleading representations that Saipol's 'C grade' cartridges were of a particular quality and grade in contravention of s 29(1)(a) of the ACL.

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*Response from Saipol*

- 2.5 In response to the ACCC's investigation, Saipol has cooperated with the ACCC and has

amended its advertising material.

2.6 Saipol:

- (a) acknowledges that its conduct was likely to have contravened sections 18 and 29(1)(a) of the ACL as outlined in Paragraphs, 2.3 and 2.4; and,
- (b) has offered this Undertaking to the ACCC.

3. Commencement of this Undertaking

3.1 This Undertaking comes into effect when:

- (a) this Undertaking is executed by Saipol, and,
- (b) this Undertaking so executed is accepted by the ACCC.

(Commencement Date)

3.2 This Undertaking has effect for 3 years from the Commencement Date (the **Term**)

3.3 Upon the commencement of this Undertaking, Saipol undertakes to assume the obligations set out in paragraphs 4 and 5 for the Term of the Undertaking for the purpose of section 87B of the CCA.

4. Undertaking

4.1 Saipol undertakes that it will not, whether by itself, its directors, officers, employees, representatives or agents, in trade or commerce:

- (a) engage in conduct that could mislead or deceive person(s) into believing that:
  - (i) its C grade water filter cartridges meet particular standards, grades or government requirements when that is not the case.

4.2 Saipol undertakes that it will:

- (i) review the representations in all its promotional correspondence and advertising material, including on its website and product packaging, to ensure that they do not contravene the ACL;
- (ii) establish and implement a Competition and Consumer Compliance Program (**Compliance Program**) in accordance with the requirements set out in **Annexure A**, being a program designed to minimise Saipol's risk of future breaches of the provisions set out in Chapters 2 and 3 of the ACL and to ensure its awareness of the responsibilities and obligations in relation to the requirements of Chapters 2 and 3 of the ACL within 6 months of the date of this Undertaking coming into effect;
- (iii) maintain and continue to implement the Compliance Program for the Term of 3 years; and,
- (iv) provide, at its own expense, a copy of any documents requested by the ACCC in accordance with **Annexure A**.

5. Acknowledgments

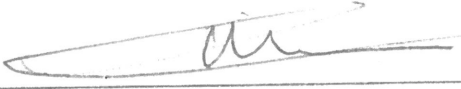

5.1 Saipol acknowledges that:

- (a) the ACCC will make this Undertaking publicly available including by publishing it on the ACCC's public register of section 87B undertakings on its website;
- (b) the ACCC may, from time to time, make public reference to this Undertaking including in news media statements and in ACCC publications; and,
- (c) this Undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

**Executed as an Undertaking**

Executed by Saipol Technologies Pty Ltd ACN 169 666 661 pursuant to section 127(1) of the *Corporations Act 2001* by:

\_\_\_\_\_

	
Signature of director	Signature of a director/company secretary (delete as appropriate, or entire column if sole director company)
	
Name of director (print)	Name of director/company secretary (print)
Date	Date 9/8/19

Accepted by the Australian Competition and Consumer Commission pursuant to section 87B of the *Competition and Consumer Act 2010* (Cth) on:

Date 13/8/19

and signed on behalf of the Commission:



Chair

Date 13/8/19  
Annexure A

## COMPETITION AND CONSUMER COMPLIANCE PROGRAM

### LEVEL 1

**Saipol Technologies Pty Ltd** and **Mr Peter Samios** will establish a Competition and Consumer Compliance Program that complies with each of the following requirements:

#### Training

1. Within 6 months of this Undertaking coming into effect, and thereafter at least once a year for 3 years, **Mr Peter Samios and all other directors, officers, employees and agents of Saipol Technologies Pty Ltd** will attend practical training focusing on the provisions of Chapters 2 and 3 of the Australian Consumer Law (ACL) including misleading or deceptive conduct and making false or misleading representations.
2. **Saipol Technologies Pty Ltd** will ensure that the training referred to in Paragraph 1 above is administered by a suitably qualified compliance professional or legal practitioner with expertise in the ACL. **(the Trainer)**.

#### Complaints handling

3. Within 6 months of this Undertaking coming into effect, **Saipol Technologies Pty Ltd** will develop procedures for recording, storing and responding to ACL complaints.

#### Provision of Compliance Program documents to the ACCC

4. **Saipol Technologies Pty Ltd** will maintain a record of and store all documents relating to and

constituting the Compliance Program for a period not less than 3 years.

5. If requested by the ACCC during the 3 year period following the commencement of this Undertaking, **Saipol Technologies Pty Ltd** will, at its own expense, cause to be produced and provided to the ACCC copies of all documents relating to and constituting the Compliance Program including:

5.1.1. a written statement or certificate from the Trainer who conducts the training referred to in paragraph 1 verifying that such training has occurred; and

5.1.2. an outline of the complaints handling system referred to in Paragraph 3.