



Standard Terms and Conditions

Interpretation: In these Terms and Conditions: 'Agreement' means the agreement constituted by this document in its entirety; 'Company' means DAKEE AUSTRALIA PTY LTD TRADING as TSAR; 'Customer' means the customer specified on the face hereof; 'Delivery Date' means the delivery date specified on the face hereof; 'Goods' means the product and, if any the services specified on the face hereof.

General: These Terms and Conditions apply without amendment to all goods to be supplied or services to be performed by the Company and shall be deemed included in all estimates, quotations, orders, contracts, invoices or other agreements, documents or arrangements whatsoever unless specifically agreed by the Company in writing signed by a director of the Company. Any terms, conditions or provisions on any quotation, order form offer or other document provided by a Customer to the Company shall not be deemed to have amended, varied or in any way affected these terms and conditions by receipt of the customers document. The Company will only supply goods and services upon the terms and conditions contained herein.

Terms of Sale: The Customer shall be deemed to have accepted these Terms and Conditions and accordingly the Agreement between the Company and the Customer shall be deemed complete and binding in any of the following circumstances:

If the Customer accepts or requests the delivery of Goods verbally or in writing;

If the Customer forwards to the Company a purchase order, notice, letter or other document indicating acceptance of the Company's offer or otherwise agreeing to purchase the Goods (notwithstanding that such purchase order may contain terms and conditions at variance with those contained herein, as such terms and conditions on the purchase order, notice, letter or other document shall be void and of no effect by virtue of Clause 2 hereof);

If the Customer by its actions or otherwise communicates to the Company its acceptance of these Terms and Conditions.

Given that the Terms and Conditions herein contained apply generally and exclusively to the supply of goods and services by the Company it shall not be necessary to include these Terms and Conditions in writing on any Company orders, invoices or other documentation, as such Terms and Conditions shall be deemed included therein.

Payment: The terms of trade and price for Goods and services of the Company shall be as specified on the face hereof or any Company invoice or other relevant document, unless otherwise specified the following shall apply: All monies paid in accordance with this Agreement are non-refundable.

The price shall be exclusive of all taxes, stamp duty, delivery costs and insurance. These additional items shall be added by the Company to the price and borne by the Customer unless otherwise specified by the company. All Goods are shipped Exworks the Company's premises or its nominated alternative location in the State appearing on the front hereof unless otherwise agreed in writing.

The Customer shall pay the whole of the price on the dates and in the manner described on the face hereof. Subject to subparagraph (d) below, all charges, excluding extra charges will be made by monthly invoices on the basis of work completed. Any additional or extra charges will be levied by invoice at such times as are convenient to the Company;

All invoices shall unless otherwise agreed be payable fourteen (14) days from the date of invoice. The Company however reserves the right, which the Customer acknowledges, to require a deposit and instalments or other payments in advance and to account to the Customer by interim invoices;

If at any time in the opinion of the Company the financial condition or circumstances of the Customer are such that the Company believes it is appropriate to vary the existing terms of payment, production or delivery the Company may amend such terms of payment, production or delivery in such a manner as it considers appropriate by written notice effective immediately;

The Company shall be paid in Australian dollars in cash, cheque, bank draft, irrevocable Letter of Credit, telegraphic transfer, any agreed combination thereof, or in such other manner or currency as is approved by the Company in writing;

The Customer shall be responsible for all costs of insuring the Goods in transit to the Customer and any transportation, freight or delivery costs in relation to sales inside and outside Australia;

Any delivery and/or installation date given by the Company is an estimate only. The Company shall not be responsible in any manner whatsoever for any failure to deliver and/or install the Goods by the estimated date, whether due to circumstances beyond its control or otherwise. In the event that the Company has failed to deliver and/or install the Goods by the estimated date and such failure is due to circumstances within the Company's control, the Customer may give the Company thirty (30) days written notice of a new required delivery and/or installation date. If the Company fails for reasons within its control (but not otherwise) to deliver and/or install the goods by such new estimated date, the Customer may cancel the particular order, but the Customer shall have no other claim whatsoever against the Company whether for loss or damage or otherwise as a result of the Company's failure to achieve the new estimated date;

Should the Customer be a company, the Company may require the written personal guarantees of the directors of the Customer.

Purchase Price: Notwithstanding the generality of the foregoing the Company reserves the right to vary the purchase price by written notice effective immediately without in any way prejudicing or invalidating the Agreement between the parties or enabling the Customer to cancel or vary the Agreement in any of the following situations: The Company reserve the right after placement of an order to vary the price to take into account any increase in the cost to the Company of any components or raw materials or any exchange rate variation provided such increase shall only be such as is necessary to compensate the Company for any increased cost to it of such items. Any increase in purchase price shall not invalidate the Agreement between the Company and the Customer or enable the Customer to avoid the Agreement; If the Customer changes, advances or delays the time frame for the works; If the Customer requests any variation or addition to the Goods whatsoever; If the Customer requires to use the Goods for any additional or alternate purpose other than the purpose as defined on the face hereof or otherwise agreed between the parties; If the Company has inserted the words "Subject to price variation" on the face hereto, provided that in such circumstances the Company shall give notice in writing of the varied price and the Customer shall have the option within 48 hours of receipt of thereof to cancel the contract; If any alterations, variations, delays or costs are incurred as a result of any errors, omissions or lack of detail in the specifications or information supplied by the Customer or the failure of the Customer to properly co-operate or assist or as a result of any restrictions or conditions imposed by any third party or government or council or regulatory body.

TSAR Melbourne 3 Wellington Street, St Kilda, VIC 3182, Australia **Tel: 03 95250488** Fax: 03 95341633

TSAR Sydney Suite 31/69 O'Riordan St, Alexandria, NSW 2015, Australia **Tel: 02 93314244**

Dakee Australia P/L trading as Tsar ACN 070 092 312 Dakee Unit Trust ABN 89 355 240 035 www.tsar.com.au



Material Variations: In relation to any material variation requested by the Customer to the Goods as specified on the face hereof the Company reserves the right to approve or reject such variation. Any request for a material variation by the Customer shall be made in writing to the Company who may accept or reject such variation. In the event of the rejection by the Company of the variation the Company may after seven (7) days terminate the contract and receive payment from the Customer for all services performed and work supplied to that date, including the normal profit component.

Colour Variation: The Customer acknowledges and agrees that the Goods as specified on the face hereof are subject to colour variations of up to 5%. Any colour variation of up to 5% is expressly agreed to by the Customer and bestows no right to cancel the Agreement.

Whole Agreement: The Company will not be responsible for any promises, conditions, warranties or representations made by any of its representatives, employees, servants or agents unless the same are expressly set out herein or given by the Company in writing signed by a director, and the Company acknowledges that the terms and conditions herein contained and such writings signed by the Company will represent the whole Agreement between the parties to the exclusion of any other agreement or understanding whatsoever.

Remedies: In the event of failure to pay by any due date, in addition to any other right or remedy the Company may have, the Company shall be entitled to: **Charge interest** at the rate of two (2) percent per month compounded and calculated monthly from the due date for payment until payment is made in full; Suspend performance of any of the supply of the Goods, or part thereof, in the manner described in paragraph 10 hereof;
Recover from the Customer all costs and expenses (including solicitor/own client costs) incurred by the Company as a result of any such failure.

Suspension of performance: The Company may suspend the production, delivery or installation of the Goods to the Customer until receipt of all or any monies outstanding pursuant to any clause of this Agreement. Any such suspension will be notified to the Customer by the Company and will be effective immediately;
In the event of any suspension lasting more than seven (7) days the Company may invoice the Customer for work whether in a state of partial or total completion up to the date of the suspension.

Intellectual property and Industrial property rights: All intellectual and industrial property rights of whatsoever nature in all original and copy drawings, concepts, research, notes, artwork and any documentation relating to the Goods (including any such items produced jointly by the Company and the Customer) will be and at all times remain the sole property of the Company with the Customer being granted a license to use such property solely for the purpose and in connection with the Project and for no other purpose, Project or application whatsoever; The Customer will not use the Goods, artwork or other documentation for any purpose other than that specified as the use on the face hereof. Such prohibition extends to any reproduction, duplication or copying whether in whole or in part, including but not limited to Tran dimensional reproduction, duplication or copying;

Subject to clause 11(a) above in relation to the license granted the Company does not sell, assign or transfer in any manner whatsoever any rights in its intellectual or industrial rights to the Customer either subsequent to, on or prior to the Delivery date;

In respect to any information, specifications, design details or details supplied by the Customer or any possible infringement of copyright, trademark or design resulting directly or indirectly from the Goods the Customer acknowledges that it shall not be any responsibility of the Company to guard against same and further the Customer has verified that no breach will occur. Accordingly the Customer agrees to indemnify and hold the Company, its servants, agents and representatives absolutely harmless against any such claim, action, demand or expense whatsoever concerning any alleged infringement or breach.

Delivery, Installation and Storage

The Customer shall ensure that as and when required the Company is given any access to the premises to enable it to properly deliver and/or install the Goods pursuant to the Agreement, and shall properly co-ordinate the activities of any parties involved in or affected by the Project to ensure minimal disruption and maximum assistance to the Company;
The Customer acknowledges that the Company will rely upon any information, details or specifications supplied by the Customer and will not seek verification or make further enquires in relation to any such items and warrants that it will use its best endeavours to ensure such information, details and specifications are true, accurate and complete and not misleading in any way;
The Customer hereby releases and indemnifies the Company against any liability howsoever arising in the use of the Goods in whatsoever manner or in connection with the Goods, including but not limited to any liability for any loss that may not have been foreseen;
Where the Company agrees to provide storage in respect of any Goods or portion thereof, such storage is arranged on behalf of the Customer and the Customer releases the Company from liability for any loss or damage incurred by such storage or arrangements as to storage howsoever caused. The Company reserves the right to make reasonable charge for storage if delivery instructions are not provided within fourteen (14) days of a request for such instructions.



Material Variations: In relation to any material variation requested by the Customer to the Goods as specified on the face hereof the Company reserves the right to approve or reject such variation. Any request for a material variation by the Customer shall be made in writing to the Company who may accept or reject such variation. In the event of the rejection by the Company of the variation the Company may after seven (7) days terminate the contract and receive payment from the Customer for all services performed and work supplied to that date, including the normal profit component.

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Subject to clause 11(a) above in relation to the license granted the Company does not sell, assign or transfer in any manner whatsoever any rights in its intellectual or industrial rights to the Customer either subsequent to, on or prior to the Delivery date;

In respect to any information, specifications, design details or details supplied by the Customer or any possible infringement of copyright, trademark or design resulting directly or indirectly from the Goods the Customer acknowledges that it shall not be any responsibility of the Company to guard against same and further the Customer has verified that no breach will occur. Accordingly the Customer agrees to indemnify and hold the Company, its servants, agents and representatives absolutely harmless against any such claim, action, demand or expense whatsoever concerning any alleged infringement or breach.

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The Customer shall ensure that as and when required the Company is given any access to the premises to enable it to properly deliver and/or install the Goods pursuant to the Agreement, and shall properly co-ordinate the activities of any parties involved in or affected by the Project to ensure minimal disruption and maximum assistance to the Company;

The Customer acknowledges that the Company will rely upon any information, details or specifications supplied by the Customer and will not seek verification or make further enquires in relation to any such items and warrants that it will use its best endeavours to ensure such information, details and specifications are true, accurate and complete and not misleading in any way;

The Customer hereby releases and indemnifies the Company against any liability howsoever arising in the use of the Goods in whatsoever manner or in connection with the Goods, including but not limited to any liability for any loss that may not have been foreseen;

Where the Company agrees to provide storage in respect of any Goods or portion thereof, such storage is arranged on behalf of the Customer and the Customer releases the Company from liability for any loss or damage incurred by such storage or arrangements as to storage howsoever caused. The Company reserves the right to make reasonable charge for storage if delivery instructions are not provided within fourteen (14) days of a request for such instructions.

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