

Standard Conditions of Sale

1. In these conditions:
 - a. "Customer" means the purchaser of the Goods from DEKS.
 - b. "DEKS" means DEKS Industries Pty. Ltd. of 5/ 841 Mountain Highway, Bayswater, Victoria, 3153 Australia.
 - c. "Goods" means all products and, if any, services to be supplied by DEKS to the Customer.
 - d. Nothing in these conditions shall be interpreted to have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law and which by law cannot be excluded, restricted or modified.
2. The Goods are sold strictly on these terms and conditions, which shall prevail over all other conditions to the extent of any inconsistency.
3. Unless otherwise stated all prices quoted by DEKS are net, exclusive of Goods and Services Tax (GST), freight, insurance and duties. Prices given in any quotation by DEKS to the Customer are applicable to that quotation only and valid for 30 days unless specifically agreed in writing by DEKS.
4. The purchase price in relation to Goods sold by DEKS to the Customer is payable net thirty (30) days and payment plus applicable GST must be made on or before the thirtieth day of the month following the delivery of the Goods unless alternate terms are agreed in writing.
5. The Customer waives any claim for shortage of or defect in any Goods delivered if a claim in respect of short or defective delivery has not been lodged with DEKS 24 hours from the date of receipt of the Goods by the Customer.
6. All Goods are as described on the purchase order agreed by DEKS and the Customer and the description on such purchase order as so agreed prevails over all other descriptions including any specification or enquiry of the Customer.
7. Terms of delivery:
 - a. The delivery dates made known to the Customer are estimates only and DEKS is not liable for late delivery or non-delivery.
 - b. DEKS may at its absolute discretion delay or refuse to deliver Goods and terminate the order without penalty if DEKS believes it would be unsafe, unlawful or unreasonably difficult to complete the delivery or if DEKS is unable to complete the delivery for any reason.
 - c. In the event a delivery is delayed for any reason beyond DEKS' control, DEKS may store and insure the Goods at the Customer's expense pending delivery.
 - d. DEKS is deemed to have delivered the Goods and all risk in the goods passes to the Customer when they are made available for unloading at the Customer's nominated delivery address, or upon the Customer or its equal collecting them from DEKS' premises.
 - e. DEKS is not liable for any loss, damage or delay occasioned to the Customer arising from late or non-delivery of the Goods.
 - f. If there is a variation of no more than 10% in the quantity or weight of Goods delivered from the quantity or weight of Goods ordered, the price for the Goods shall be varied by credit note to reflect the quantity or weight of Goods actually delivered.
 - g. If a shipment of Goods or part thereof is defective for any reason, it is not a repudiation of the contract of sale formed by these conditions and the defective shipment is a severable breach that gives rise only to a claim for compensation.
8. Subject to condition 9, DEKS' liability to the Customer for Goods is limited to replacement of defective Goods, and DEKS disclaims all liability whatsoever in relation to defects in the Goods unless:
 - a. defects have arisen solely from negligence by DEKS; and
 - b. the Goods have not received maltreatment, inattention or interference by either the Customer or a third party.
9. DEKS' liability for a breach of a condition or warranty implied by the *Competition and Consumer Act 2010* is limited to one of the following at DEKS' discretion:
 - a. the replacement of the Goods or the supply of equivalent Goods; or
 - b. the payment of the cost of replacing the Goods or of acquiring equivalent Goods.
10. Except as provided in these conditions, all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, quality, suitability or fitness of Goods or any other products sold by DEKS for any purpose or otherwise are expressly excluded. DEKS is not liable for loss or damage or for consequential loss or damage of any kind arising out of the supply of the Goods or any other products, or arising out of DEKS' negligence or in any way whatsoever.
11. DEKS will not be deemed to be in breach of contract, or otherwise liable in any way to the Customer, by reason of delay or prevention of performance beyond the control of DEKS including but not limited to war, riot, industrial disturbances, fire, flood and other natural disasters, and shortage of raw materials.
12. Until all accounts owed by the Customer to DEKS are fully paid, DEKS retains:
 - a. ownership of the Goods and the right to retain or resell any Goods; and
 - b. a license to enter the Customer's premises, without liability for trespass or any resulting damage, and retake possession of Goods which are in the Customer's possession but for which no payment has been received.
13. While Goods remain the property of DEKS, the Customer agrees that:
 - a. It cannot claim any lien over those Goods, transfer or deliver possession of said Goods to a third person outside the ordinary course of business, or allow any person to have or acquire any security interest in those Goods;
 - b. it is in possession of the Goods as a bailee and owes DEKS the duties and liabilities of a bailee;
 - c. the property in the Goods remains with DEKS until DEKS has been paid in full for the Goods under all individual contracts for the supply of the Goods between DEKS and the Customer; and
 - d. If the Customer supplies any of the Goods or products thereof to any person before all moneys payable by the Customer have been paid to DEKS, the Customer agrees that it holds the proceeds on trust for and as agent for DEKS immediately upon receipt until such time as all accounts owed by the Customer to DEKS are fully paid.
14. Any property of the Customer under DEKS' possession, custody or control is completely at the Customer's risk as regards loss or damage caused to or by the property.
15. The Customer acknowledges that all intellectual property in the Goods and marketing thereof is the property of DEKS and that no intellectual property rights are assigned or licensed to the Customer as part of any purchase of Goods.
16. Subject to condition 8, DEKS is not under any duty to accept Goods returned by the Customer and will do so only on terms to be agreed in writing in each individual case via a DEKS Goods Return Advice (GRA).
17. Once made, no order may be cancelled except with DEKS' consent in writing on terms at the absolute discretion of DEKS.
18. The contract for sale of the Goods is made in the State of Victoria, Australia. The parties submit all disputes arising between them to the courts of Victoria and any court competent to hear appeals from those courts.