

DAKTRONICS STANDARD TERMS & CONDITIONS OF SALE

1. The “Agreement” consists of the following documents. The terms “Agreement” and “Contract Documents” may be used interchangeably. Unless otherwise defined in this document, all defined terms within these Standard Terms and Conditions of Sale have the same meaning and definition as provided elsewhere in the Contract Documents. The documents referenced in this section or elsewhere in the Agreement are fully incorporated herein and are an integral part of the Contract Documents.

a. Index of Documents

- i. The Sales Agreement or the Quote, as applicable (the “Order Document”)
- ii. These Standard Terms and Conditions of Sale
- iii. The Warranty and Limitation of Liability (the “Warranty”)
- iv. If the Work includes access to Daktronics web-hosted Software: Daktronics Software as a Service Agreement <http://www.daktronics.com/TermsConditions/DD2688225>
- v. If the Work includes Daktronics Software installed locally, including firmware: the Software License Agreement http://www.daktronics.com/terms_conditions/SL-07862.pdf
- vi. If the Work includes a cellular data plan: the Wireless Services Addendum <https://www.daktronics.com/TermsConditions/DD3956286>

2. Scope of the Work. The scope of the obligations of Daktronics, defined herein as the “Work,” consists of the Equipment and any services (“Services”) set forth on the Order Document; any Software as defined below, and any Extended Services set forth on the Order Document. The obligations of Daktronics in this Agreement are subject to the express condition precedent that Purchaser perform its respective obligations.

3. Changes to the Work. The parties, without invalidating the Agreement, may modify the scope of the Work. The parties shall mutually agree in writing as to the cost or credit from a modification or deviation of the Work as well as any modifications in delivery time (a “Change Order”). Daktronics shall have no obligation to perform any modification or deviation of the Work without a mutually executed Change Order. However, if Daktronics proceeds with a modification or deviation of the Work at the request of the Purchaser without an executed Change Order, Daktronics reserves the right to receive payment or an extension of time for performance that is equitable. Daktronics shall be entitled to an equitable adjustment in the Purchase Price and time for performance as result of changes in the Work.

4. Software. “Software” means the original computer software program and all whole or partial copies of the software program in whatever form or media provided. The Software consists of, but is not limited to, machine-readable instructions, its components, manuals and other such documentation, data, audio-visual content, (such as images, text, recordings, or pictures), and all other related materials provided pursuant to the terms and conditions of this Agreement.

5. Payment Terms; Price. The “Purchase Price” is the amount payable by Purchaser to Daktronics for performance of the Work, including authorized adjustments. Unless otherwise stated in the Order Document, payment terms are “pay with order.” Purchaser understands and agrees that this Agreement is not contingent upon Purchaser obtaining financing. Purchaser shall be solely responsible for making Purchaser’s own financial arrangements to enable Purchaser to pay Daktronics for the Equipment and Services and acknowledges that the satisfaction of any condition imposed by a lender is solely at Purchaser’s risk. Any purchase order issued by Purchaser’s lender is for payment processing only and the terms and conditions of such purchase order do not supersede or otherwise modify the terms of this Agreement. Daktronics may include a monthly service charge of 1.5% per month on past-due amounts. Daktronics may accept partial payment in an amount less than the full amount of any invoice, but such acceptance does not constitute a waiver of Daktronics’ right to collect the remaining balance, notwithstanding Daktronics’ endorsement of a check or other negotiable instrument. Daktronics will not honor any back charges unless approved, in advance, in writing by Daktronics.

6. Cancellation. In the case of a cancellation at Purchaser’s convenience, Daktronics may, in its sole discretion, charge: (i) for custom Equipment, all costs Daktronics has incurred plus reasonable overhead and profit for work performed up to the effective date of termination; and (ii) for standard Equipment, a cancellation and restocking fee of up to 50% of the Purchase Price.

7. Bonds. Unless otherwise explicitly required elsewhere by the Contract Documents, no payment or performance bond will be provided. To the extent payment and performance bonds are required, such bonds will apply only to the first twelve (12) months of warranty, and not to any other warranties whether explicitly stated or implied and will not be extended to maintenance or support services that extend beyond the first twelve (12) months.

8. Delivery and Risk of Loss. Unless otherwise stated on the Order Document, all purchases shall be delivered FCA Daktronics’ facility (Incoterms® 2020). Daktronics shall coordinate the shipment of the Equipment and shall ship the Equipment in accordance with Purchaser’s instructions. Risk of loss to the Equipment shall pass to Purchaser upon Acceptance. Purchaser must give Daktronics a minimum of five business’ days written notice of any change in the expected delivery schedule. If, for any reason, such notice is given less than five business days in advance of the expected shipping date, then Purchaser will reimburse Daktronics for any fees and expenses that Daktronics incurs as a result; such fees and expenses may include without limitation: cancellation, expediting, re-routing, off-loading/reloading, or storage fees. If, for any reason, Purchaser does not take delivery of the Equipment, Daktronics may, at its sole discretion, store the Equipment. All costs of the storage, including taxes and insurance, shall be immediately payable by Purchaser upon demand by Daktronics. Notwithstanding the above, and unless otherwise specifically noted, Purchaser shall determine any export license requirements, obtain any export license or other official authorization, and carry out any customs formalities for the export of the Equipment. Purchaser shall comply with all export and import laws and regulations of the United States and will not directly or indirectly export, re-export, or transship any goods, technical data, software, or software services in violation of United States laws and regulations.

9. Installation. Subject to the terms and conditions of the Agreement, Purchaser shall perform its respective obligations, if any, as designated in the Contract Documents. Purchaser shall fully cooperate with Daktronics in connection with the installation of the Equipment. Daktronics is entitled to rely on the accuracy and completeness of plans, specifications, and reports of site conditions provided to Daktronics by or on behalf of Purchaser related to the installation. Daktronics obligation to examine any documents, the project site, and materials and work furnished by others is limited to notification to Purchaser of any defects or deficiencies discoverable by reasonable visual inspection. Purchaser agrees and acknowledges that Daktronics may subcontract any of the Services to third parties selected by Daktronics; provided, however (i) nothing herein shall create any contractual relationship between Purchaser and any subcontractor; and (ii) Daktronics shall be fully responsible hereunder for the performance, actions and omissions of Daktronics’ employees, all subcontractors and all other persons or entities performing any of the Services on the project described herein, as if such performance, actions and omissions were those of Daktronics.

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10. Acceptance; Substantial Completion. "Acceptance" shall occur: (i) in the case of the sale of Equipment without installation by Daktronics, upon delivery of the Equipment in accordance with the shipping terms specified in the Delivery and Risk of Loss section; or (ii) in the case of the sale of Equipment with installation by Daktronics Substantial Completion (as defined below).

"Substantial Completion" means the operational availability of the Equipment to Purchaser in material accordance with its specifications, without regard to punch-list items, or other non-substantial items which do not affect the operation of the Equipment.

11. Title. Title to the Equipment shall pass from Daktronics to Purchaser upon Acceptance. No transfer, renewal, extension, or assignment of this Agreement or of any interest therein shall operate as a payment or transfer of title to Purchaser or in any manner relieve Purchaser of its obligations. No title shall pass to Purchaser with respect to Software, which is furnished solely on a license basis.

12. Security Interest. As collateral security for the purchase of the Equipment, Purchaser hereby grants to Daktronics a lien on and a security interest in and to all the right, title, and interest of Purchaser in, to and under the Equipment. Where permitted by law, the parties acknowledge that the security interest granted under this provision constitutes a purchase money security interest. Purchaser agrees to promptly execute and deliver such further documents as reasonably requested by Daktronics to preserve and perfect such security interests.

13. Warranty. The Warranty is the complete and final warranty with regard to the Equipment. Purchaser acknowledges and agrees that the provisions of the Warranty constitute the sole and exclusive remedy available to it with regard to said defective Equipment.

14. Warranty Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, DAKTRONICS DISCLAIMS ANY AND ALL OTHER PROMISES, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION AND/OR DATA ACCURACY. Critical and unforeseeable factors beyond the control of Daktronics prevent it from eliminating all risks in connection with the use of the Equipment. Purchaser acknowledges and assumes all risks and liability resulting from the handling, storage, and use of the Equipment. The Warranty shall become null and void if Purchaser alters the Equipment or the Software in a manner inconsistent with the specifications of the Equipment or the Software. Further, the Warranty shall become null and void if Purchaser, its employees, representatives, or subcontractors (not Daktronics) improperly repairs or alters the Equipment in a manner inconsistent with the Equipment manufacturer's standards or recommendations.

15. Confidentiality. To the greatest extent permitted by law, Purchaser shall consider all non-public information, including the terms and conditions of this Agreement, furnished by Daktronics to be confidential ("Confidential Information"). This confidentiality requirement shall apply, but is not limited, to: drawings, specifications, or other documents prepared by Daktronics for Purchaser under this Agreement, source code, and any intellectual property and trade secrets used in the development and manufacture of the Equipment. Purchaser shall provide Confidential Information only to those of its agents, contractors and employees who have been informed of the requirements of this paragraph and have agreed to be bound by them. Purchaser agrees not to disclose, publish, disseminate, or otherwise permit any unauthorized use of, or access to, any of the Confidential Information in any way except with the written consent of Daktronics. Purchaser further agrees: (i) not to make any use whatsoever at any time of such Confidential Information other than for fulfillment of this Agreement, and (ii) not to copy or reverse engineer any such Confidential Information. The provisions of this paragraph shall survive termination of the Agreement.

16. Use of Image. Purchaser permits Daktronics to photograph, make reference to, or take video of the project site, including both the completed work and the work in progress, for purposes including, but not limited to, use in website and marketing materials, provided that Daktronics may not, without prior written consent, do so in a manner which implies endorsement by Purchaser.

17. Default. Daktronics reserves the right to terminate this contract and accelerate all amounts due and payable if Purchaser fails to make payment to Daktronics within ten days of the agreed payment dates or otherwise fails to comply with this Agreement, or if any proceeding is filed by or against Purchaser in bankruptcy. Daktronics reserves all its rights (both legal and equitable) under the contract, applicable statutes, or the common law. Selection of a remedy by Daktronics shall in no way be construed as a waiver of other remedies available to Daktronics. If Purchaser fails to perform any covenant or obligation under this Agreement or any other agreement that Purchaser has with Daktronics, including without limitation the failure to pay when due any amounts owed to Daktronics under this Agreement or any other agreement between the parties, Daktronics shall be excused from the performance of any of its obligations under this Agreement and any other Agreement it has with Purchaser until such time as said default is cured, if ever. Purchaser shall perform its payment obligations under this Agreement without setoff, deduction, recoupment or withholding of any kind for amounts owed or payable to Daktronics, whether under this Agreement or a separate agreement between the parties. Purchaser shall be liable for any and all costs and expenses (including attorney's fees) incurred by Daktronics in enforcing any provision of this Agreement.

18. Indemnity. Daktronics shall indemnify, defend and hold harmless Purchaser and its respective subsidiaries, officers, directors, shareholders, partners, employees, agents, insurers, successors and assigns from any and all third-party liability, losses, damages, costs or expenses (collectively, "Losses") arising out of: (i) bodily injury (including death) or property damages arising out of any act or omission by Daktronics or its personnel, agents, subcontractors, or others engaged by Daktronics or under Daktronics' control; or, (ii) any fine or assessment with respect to any violation or alleged violation of any applicable laws regarding safety or health.

To the greatest extent permitted by law, Purchaser shall indemnify, defend and hold harmless Daktronics and its subsidiaries, officers, directors, shareholders, partners, representatives, employees, agents, insurers, successors and assigns of each of the foregoing from any and all Losses arising out of: (i) any negligent act or omission by Purchaser or its personnel, agents, subcontractors, or others engaged by Purchaser or under their control (other than Daktronics or its personnel, agents, subcontractors, or others engaged by Daktronics or under Daktronics' control), or (ii) any claim against Daktronics by reason of or alleging any unauthorized or infringing use by Daktronics of any copyright, trademark, or other intellectual property right in any material, information, technology, process, or data provided by Purchaser and used by Daktronics at the direction of Purchaser.

19. Existing Structure. Except to the extent Daktronics is specifically responsible for any structural element per the Agreement, Purchaser represents and warrants that the existing structure, including without limitation any existing steel, walls, columns, trusses, footings, hoists attachment points, wiring, power

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supplies, or any other foundation or existing structural elements (the "Existing Structure") shall be adequate to support the weight, size, wind load, and all other technical specifications of the Equipment, and shall hold Daktronics harmless from any failure of any Existing Structure.

20. **Limitation of Liability.** Daktronics' liability shall be limited solely to the repair or replacement of the Equipment or giving credit for the Equipment under the warranty clause herein, if the applicable warranty period described in that clause has not expired. The parties agree that in no event whatsoever shall the liability of either party exceed the Purchase Price. The damage limitation provided in this Agreement and the remedies stated herein shall be exclusive and shall be Purchaser's sole remedies. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES, REGARDLESS OF CAUSE, WHETHER SUCH LOSSES ARISE DIRECTLY OR INDIRECTLY FROM THE OTHER PARTY'S ACTS, OMISSIONS, OR BREACH; REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE; WHETHER OR NOT A PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; WHETHER OR NOT THE REMEDIES AGREED HEREIN FAIL OF THEIR ESSENTIAL PURPOSE; AND REGARDLESS OF THE THEORY UPON WHICH A CLAIM IS BASED. For the purposes of this Agreement, "Consequential Damages" include, but are not limited to loss of use; loss of profit; loss of business opportunity; and loss of advertising revenue. Purchaser explicitly accepts the provisions of this paragraph in return for the prices granted under the Agreement. Purchaser understands and agrees that the prices granted herein would be higher in the absence of this limitation of liability. No action against Daktronics shall be commenced more than one year after the accrual of the cause of action. Daktronics shall have no liability with respect to claims relating to or arising from use of third-party products and services.

21. Force Majeure.

- a. A "Force Majeure Event" means any: natural disaster such as flood, fire, hurricane, earthquake, or other casualty; labor or material shortages or other types of industrial disturbance; quarantines or epidemics; national or regional emergencies; government actions; embargos or blockades; labor strikes, lock-outs, or other labor disturbance; war, invasion, hostilities, terrorist threats or acts, riot or other civil unrest; schedule changes, delays, suspensions, or out-of-sequence work caused by Purchaser; the discovery of subsurface or otherwise concealed physical conditions at the project site; or any other events or circumstances not within the reasonable control of Daktronics, whether foreseeable or not, and whether similar or dissimilar to any of the foregoing.
- b. Daktronics shall be excused from liability for any delay or nonperformance caused by a Force Majeure Event.
- c. If a Force Majeure Event causes a delay or disruption to the Work, Daktronics will be entitled to an extension in time for performance as reasonably necessitated by the delay. Further, if Daktronics costs of performance materially increases as a result of the Force Majeure Event, either directly, or as a result of a delay in performance warranted by the Force Majeure Event, then Daktronics will be entitled to an equitable adjustment in the Purchase Price. Such costs may include, by way of example, increased costs of labor, freight, supervision, remobilization, or materials.

22. **Assignment.** Unless otherwise stated, Purchaser may not assign this Agreement, or any portion thereof, without the written consent of Daktronics. Daktronics reserves the right to, without the consent of Purchaser, assign any of its rights and delegate any of its duties under this Agreement to a subsidiary or parent company of Daktronics. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors and permitted assigns.

23. **Arbitration.** Any dispute, controversy, or claim arising from or related to or in connection with this Agreement, including any question regarding its existence, validity, or termination, shall be settled through negotiations between the parties on the written request of either party. If no settlement is reached within 30 days after such written request has been received, then any dispute, controversy or claim arising out of, relating to or in connection with this contract, including the breach, termination, or validity thereof, shall be resolved by final and binding arbitration. The arbitrator shall have the sole power to rule on any challenge to its own jurisdiction and all issues regarding arbitrability shall be decided solely by the arbitrator. The place of arbitration shall be Sioux Falls, SD. The claimant shall commence the arbitration by delivering a notice of arbitration to the respondent setting out the nature of the claims and the relief requested. Within 30 days of the receipt of the notice of arbitration, the respondent shall deliver to the claimant its answer and any counterclaim(s), setting out the nature of such counterclaim(s) and the relief requested. A single arbitrator selected by the parties shall preside over the proceeding. If a single arbitrator cannot be agreed upon by the parties, each party shall select an arbitrator, and those arbitrators shall confer and agree on the appointed arbitrator to adjudicate the arbitration. By agreeing to arbitration, the parties do not intend to deprive any court of its jurisdiction to issue a pre-arbitral injunction, pre-arbitral attachment, or other order in aid of arbitration proceedings and the enforcement of any award. Without prejudice to such provisional remedies as may be available under the jurisdiction of a court, the Arbitrator shall have full authority to grant provisional remedies and to direct the parties to request that any court modify or vacate any temporary or preliminary relief issued by such court, and to award damages for the failure of any party to respect the arbitrator's orders to that effect.

24. **Acceptance of Terms.** Daktronics' acceptance of Purchaser's order is on the express condition that only the terms and conditions set forth in the Agreement shall apply to the sale. Any term, provision, or condition in conflict with, in addition to, or in modification of any of the terms and conditions of the Agreement shall not be binding upon Daktronics. Daktronics' failure to object to any term or condition contained in any communication from Purchaser shall not be deemed a waiver of the terms and conditions herein.

25. **Taxes.** Unless otherwise stated, the Purchase Price is exclusive of federal, state, and local taxes, including without limitation sales, use, excise, privilege, transactional, gross receipts, ad valorem or any other transactional tax or customs and duties ("Tax" or "Taxes") paid or payable by Daktronics, however designated, levied or based on amounts payable to Daktronics under or in connection with this Agreement. Purchaser shall immediately pay upon demand the full amount of any such applicable Tax and shall hold harmless and indemnify Daktronics from the claims of any governmental authority asserting that any such Tax is due and payable. Purchaser must present an exemption certificate if it claims any exemption from Tax. Absent presentation of an exemption certificate, all applicable Taxes shall be added to the Purchase Price of the Equipment.

26. **Anti-corruption.** The parties agree that neither party nor any of its respective subsidiaries nor, to that party's knowledge, any other person associated with or acting on behalf of that party, including, without limitation, any director, officer, agent, employee or affiliate of the party or any of its subsidiaries has (i) made any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity or to influence official action; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee; (iii) made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment; or (iv) violated or is in violation of any anti-bribery, anti-corruption or any other applicable statute including, without limitation, the U.S. Foreign Corrupt Practices Act of 1977, the U.K. Anti-Bribery Act, the anti-corruption provisions of the Chinese Criminal Law, or any other applicable anti-corruption act, as amended, and the rules and regulations thereunder. Purchaser represents that it has instituted and maintains policies and procedures designed to ensure compliance therewith. Purchaser grants to Daktronics the right to audit and review, upon reasonable notice, the books and records of Purchaser to ensure compliance with this provision. Any audit shall be performed at Daktronics sole cost and expense. Purchaser shall produce, reproduce, copy

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or transmit any record requested by Daktronics at no charge. Failure by Purchaser to comply with this section or any audit request by Daktronics shall constitute grounds for an immediate termination of this Agreement. Upon termination for a violation of this section, neither party shall owe the other party any further obligation (other than obligations as to payment) notwithstanding any other provision contained herein.

27. Governing Law. This Agreement shall be governed by the laws of the state of South Dakota without regard to its conflict of law principles, and the parties' consent to the jurisdiction and venue of the courts of South Dakota for any action, suit or proceeding. The parties agree that the United Nations Convention on the International Sale of Goods shall not apply to this Agreement.

28. Miscellaneous. This Agreement is the entire agreement of the parties and supersedes any previous understanding or agreement. This Agreement may not be amended or altered in any manner except in a writing signed by both parties. This Agreement may be executed in counterparts. Each party agrees that an electronic signature or faxed signature will have the same effect as an original signature. Except as otherwise explicitly set forth in this Agreement, each party shall pay its own expenses, including without limitation accounting and attorneys' fees, in connection with this Agreement. Purchaser and Daktronics are not partners or joint venturers. If any part of this Agreement is in any manner held to be invalid, illegal, void, or to be in conflict with any law, then the validity of the remaining portions or provisions of this Agreement shall not be affected, and such part, term, paragraph, or provision shall be construed and enforced in a manner designed to effectuate the intent expressed in this Agreement to the maximum extent permitted by law. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.