

# DAKTRONICS TERMS & CONDITIONS OF ONLINE SALE

Daktronics online order website is currently for US customers only. For customers outside of the US, please call Daktronics Sales at +1-605-275-1040

PLEASE REVIEW THIS DOCUMENT IN ITS ENTIRETY BEFORE COMPLETING YOUR ONLINE PURCHASE TO CONFIRM YOUR ACCEPTANCE OF THESE TERMS. BY ORDERING OR OBTAINING PRODUCTS OR SERVICES FROM THIS WEBSITE, YOU WARRANT AND REPRESENT YOU: (A) AGREE TO THESE TERMS AND CONDITIONS WITHOUT MODIFICATION OR EXCEPTION; (B) HAVE THE LEGAL AUTHORITY TO BE BOUND OR TO BIND THE ORGANIZATION THAT YOU REPRESENT, IF ANY, TO THESE TERMS AND CONDITIONS. YOU, OR THE ENTITY FOR WHICH YOU ARE ACTING ON BEHALF OF, AS APPLICABLE, WILL BE REFERRED TO AS "PURCHASER."

1. Applicability of Terms and Conditions. These terms and conditions, along with the applicable documents listed in the Index of Documents below (collectively, the "Agreement") apply to the purchase of products and related services purchased through Daktronics website. The documents referenced in this section or elsewhere in the Terms are fully incorporated herein.

a. Index of Documents

- i. The online order transaction including the order confirmation email (the "Order Document")
- ii. Warranty and Limitation of Liability (the "Warranty") <https://www.daktronics.com/web-documents/Corporate-Documents/Terms-And-Conditions/SL-02374.pdf>
- iii. If the Order includes access to Daktronics web-hosted Software: Daktronics Software as a Service Agreement <http://www.daktronics.com/TermsConditions/DD2688225>
- iv. If the Order includes Daktronics Software installed locally, including firmware: the Software License Agreement [http://www.daktronics.com/terms\\_conditions/SL-07862.pdf](http://www.daktronics.com/terms_conditions/SL-07862.pdf)

2. Online Orders. When placing an order on the Daktronics website, Purchaser is effectively offering to purchase the products and services selected. Daktronics reserves the right to accept or reject any order in its discretion. Orders will either be accepted or rejected in its entirety. If Daktronics elects to accept the offer, Purchaser will receive a confirmation email at the email address provided at the time of order. Notwithstanding the foregoing, Daktronics reserves the right, in its sole discretion, to cancel any order at any time, whether before or after acceptance, and the Purchaser's sole and exclusive remedy will be refund of any amounts paid toward such order.

3. Scope of the Order. The scope of the obligations of Daktronics, consists of the product (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 (collectively, the "Order"). The obligations of Daktronics in this Agreement are subject to the express condition precedent that Purchaser perform its respective obligations.

4. Changes to the Order. The parties, without invalidating the Agreement, may modify the scope of the Order. The parties shall mutually agree in writing as to the cost or credit from a modification or deviation of the Order.

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 Order, including authorized adjustments. Unless otherwise stated in the Order Document, payment terms are "pay with order." 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. Delivery and Risk of Loss. No title shall pass to Purchaser with respect to Software, which is furnished solely on a license basis. If shipping is included in the Order, then the Equipment will be delivered FCA Delivery Address (as provided in the Order Document). If shipping is not included in the Order, then the Equipment will be delivered FCA Daktronics' facility (Incoterms® 2020). Title and risk of loss to the Equipment shall pass to Purchaser upon delivery. If, for any reason, Purchaser does not take delivery of the Equipment or the Equipment is returned to Daktronics (through no fault of Daktronics) without Daktronics written authorization, any fees or costs incurred by Daktronics will be payable by Purchaser. 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.

8. 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.

9. 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.

10. 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



# DAKTRONICS TERMS & CONDITIONS OF ONLINE SALE

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.

11. 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, equipment design, or documents provided to 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.

12. Privacy Policy. Daktronics will store the Purchaser's data provided by Purchaser at the time of the order. Provided, the Purchaser's credit card information will only be stored if such storage is authorized by the Purchaser during the order. Please review our Privacy Policy which can be found at <https://www.daktronics.com/en-us/about-us/privacy-notice>. Purchaser's full credit card details are (i) processed and (ii) provided Purchaser elects to have credit card information stored, stored by a third-party secure credit card processor. Daktronics may retain a truncated portion of the Purchaser's credit card number but does not retain the full credit card details.

13. Default. Daktronics reserves the right to terminate the Order 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. 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.

14. 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 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 DAKTRONICS BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES, REGARDLESS OF CAUSE, WHETHER SUCH LOSSES ARISE DIRECTLY OR INDIRECTLY FROM ITS ACTS, OMISSIONS, OR BREACH. 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. 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.

15. 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 Order, 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.

16. 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.

17. 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. Daktronics recognizes that government entities may not be permitted by law to agree to all of the terms and conditions of this Agreement. As such, if a court of competent jurisdiction determines that any provision or part thereof is unenforceable due to a constitutional and statutory prohibition, the Purchaser and Company agree and intend that the court shall enforce the provision to the maximum extent the court deems reasonable and that the court shall have the right to strike or change any provisions which contains prohibited language and substitute therefore different provisions to effect the intent to the maximum extent possible.

18. 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

# DAKTRONICS TERMS & CONDITIONS OF ONLINE SALE

Tax is due and payable. Purchaser must present an exemption certificate if it claims any exemption from Tax. Absent presentation of a valid exemption certificate, all applicable Taxes shall be added to the Purchase Price of the Equipment.

19. 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. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

20. 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 or as expressly provided herein. Each party agrees that an electronic signature or acceptance 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.