

## Terms & Conditions

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# ICARUS®

Client/Company	Fax No
To	Date
From	Job No
Ref	

Icarus Industrial  
Design Pty Ltd  
ABN 23 008 152 065  
10 Martha Street  
Melrose Park 5039  
South Australia  
Tel (08) 8357 6400  
Fax (08) 8357 6411  
design@icarus.com.au

Terms &  
Conditions  
Page 1 of 2

This two page document contains our standard trading Terms and Conditions.

All services and goods are provided by Icarus Industrial Design Pty Ltd (referred to as Icarus) strictly on the basis of these Terms and Conditions and these conditions alone constitute the terms of any contract between Icarus and our Clients. By requesting or ordering any services or goods to be provided by Icarus you are regarded as having accepted our Terms and Conditions as the sole terms of the contract between you, the Client, and Icarus as Icarus offers to provide services only on the basis of these Terms and Conditions.

Although it is not possible to reproduce our standard Terms and Conditions on all of our documents such as letter heads, invoices, facsimiles and other company forms the Terms and Conditions nevertheless have the same binding status between Icarus and our Clients as if they were reproduced in full on each document. Company documents that relate to the provision of services and goods will state (wherever possible) that our services and goods are provided on the basis of these Terms and Conditions and that they are available on request.

### 1 Acceptance & Commencement

Icarus has accepted your request for services and goods on the understanding that all costs and trading terms covered in this document are accepted.

These terms and conditions supersede any terms, conditions, waivers or provisos appearing on the Client's purchase order, project instructions or other documentation.

### 2 Quotations & Estimates

Quotations and estimates are based on the description of the project as detailed in the Project Brief, letter of agreement or Project Instruction written by Icarus. Quotations and estimates provided by Icarus remain current for 60 days.

Requesting services and goods from Icarus signifies that the Client accepts that this Project Brief, letter of agreement or Project Instruction represents the Client's instructions whether written or verbal.

### 3 Variations

Any extra work caused by any variation to the project description in the letter of agreement, Project Brief or Project Instruction will be charged to the client whether it is identified as a variation at the time of change or subsequently identified.

Alterations to the project schedule by the Client or any situation outside the control

of Icarus that prevents the original schedule being adhered to or that requires overtime or out of normal hours work to meet the schedule will constitute grounds for renegotiation of project fees.

### 4 Terms of Payment

Credit terms are 14 days from date of invoice. Credit may be stopped and supply of services and goods withheld if any account is overdue.

The Client will pay interest equivalent to the current bank overdraft percentage rate as charged to Icarus by its bank plus an additional 2% handling fee on accounts that exceed these terms. All collection charges including all debt collector's expenses and all legal fees incurred in collecting any overdue accounts will be payable by the Client.

Invoices will be forwarded to the Client each 14 days or at the conclusion of a project stage. Selection of the appropriate frequency is at the discretion of Icarus.

If a project is suspended or cancelled the Client will be responsible for payment of all recorded work in progress and out of pocket expenses for all authorised project stages regardless of whether the work relates to the stage current at the time of suspension or cancellation.

Payment for work in progress recorded by Icarus for the Client shall become due

immediately on commencement of any act or proceeding concerning the solvency of the Client.

A 10% handling fee will be charged for any goods or services purchased on behalf of the Client for this project.

The person or entity requesting supply of goods or services from Icarus will be liable for payment even if such a request is made on behalf of another person or entity.

Claims for credit for the return or refusal of goods or services for any reason will only be accepted if made within seven days of receipt of goods by the Client or Client's agent.

### 5 Goods, Services & Sales Taxes

The Client will pay to Icarus any goods, service or sales taxes applicable to the goods and services provided or goods purchased for the Client whether it falls due during the course of the project or becomes payable at a later date. The Client shall notify Icarus in writing of their eligibility for tax exemption in the manner required for the specific tax act at the commencement of the project if an exemption is to be claimed on their behalf.

### 6 Ownership of Goods

Icarus retains the title to any goods, designs, materials or results (the items)

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from projects or other activities until payment has been made in accordance with these terms and conditions and the Client shall store all items which have not been paid for separately. The Client shall keep separate records of the proceeds of sale of any items which have not been paid for, bank the proceeds of sale into a separate account, hold the funds on trust for Icarus and immediately remit the funds to Icarus.

Where payment for any items is overdue, the Client irrevocably authorises Icarus to enter the Client's premises (or any premises under the control of the Client) and use reasonable force to recover such items without liability to Icarus for loss and the Client will be liable for the costs associated with recovery. Risk in any goods shall pass to the Client from the date of delivery to the Client or the Client's agent.

## 7 Schedules

Icarus will use its best endeavour to meet development schedules. Icarus will not be liable for any losses, damages or expenses incurred by the Client, Client's agents or other parties as a result of any delay.

## 8 Information

The Client assumes full responsibility for the accuracy of all information provided to Icarus as detailed in the Project Brief, letter of agreement or Project Instruction and as supplied during the project.

## 9 Confidentiality

Icarus will endeavour to keep confidential all data, reports, recommendations, conclusions or other materials developed as a result of its services on the project, except where such information is required to communicate with other businesses or individuals necessary for the continuance of the project, until the project or products resulting from the project have been made public by the Client.

Icarus reserves the right to publish images and information of all work it has been involved in for promotional purposes.

## 10 Copyright

As provided for in Australian Law Icarus retains ownership of and copyright in all designs, intellectual property and original documentation created by Icarus whether held by the Client or any third party.

Such designs may not be used for any purpose other than that for which Icarus was contracted without the permission of Icarus. Icarus may assign copyright to the Client on mutually agreed terms.

Designs, inventions and materials resulting from work performed by Icarus which do not constitute part of the project solution accepted by the Client remain the property of Icarus.

Transfer of copyright, ownership or payment for use of photographs, illustrations and other materials where the copyright or legal title is held by others must be negotiated by the Client with the respective owner or supplier directly. It is

the Client's responsibility to ensure that all such fees and matters have been negotiated for current and future uses.

## 11 Originality

Icarus will not knowingly provide designs that infringe the commercial or intellectual rights and properties of others. However it is the responsibility of the Client to ensure all designs and goods provided by Icarus do not infringe any existing rights or protection.

The Client will indemnify and hold blameless Icarus from any damages, costs, or losses arising from commercial or intellectual infringement regardless of how it is held to have arisen.

## 12 Protection

The Client will assume responsibility for registering and protecting at its expense any patents, designs, trademarks or other commercial or intellectual property that may result from services supplied by Icarus. Icarus will provide any reasonable information necessary to assist in this procedure. Additional services required to fulfil such requests for information will be charged to the Client.

## 13 Client's Property

All Client's property supplied to Icarus by or on behalf of the Client (including goods in transit and materials originating at Icarus) will be held at the Client's risk. Icarus accepts no liability for loss or damage to such property.

The Client will indemnify and hold Icarus blameless for any damages, costs, or losses by others to the Client's property or to property, materials and goods obtained temporarily or permanently for the Client or the execution of the Client's project.

## 14 Indemnity

The Client will indemnify and hold blameless Icarus from any damages, costs, or losses that may be suffered as a result of any claim arising directly or indirectly out of the services performed or goods supplied by Icarus in connection with this project.

The Client will assume full responsibility for testing and certification of any or all designs to ensure product safety, reliability and fitness for purpose.

## 15 Records

Icarus maintains extensive job records, drawing and artwork archives and electronic document libraries. Whilst Icarus has a policy of perpetual storage of such items Icarus will not be held liable for the degradation, destruction or disposal of such items. Icarus reserves the right to discard electronic or physical job records, artworks, drawings and documents with no requirement to notify the Client after three years have elapsed from the last recorded date in our job time records.

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**Terms & Conditions**  
**Page 2 of 2**

## 16 Printing

The production of printed materials involves many subjective decisions of matters including but not limited to colour, density, fit and finish. Where the client does not personally attend and review all proof and print production stages the decisions that Icarus makes will be held to be the Client's decisions. The Client will indemnify and hold Icarus blameless should any aspect of the printed material be considered cause for rejection of the material by the Client, the Client's agents or any other party.

While Icarus will endeavour to ensure information included in printed materials is correct the Client has the final responsibility for proofreading all materials and ensuring that there are no errors or omissions.

Where estimates refer to delivered quantities of items such as but not limited to printed matter an acceptable variation of  $\pm 10\%$  will apply.

## 17 Disputes

Any dispute shall be determined according to the laws of the State of South Australia and all proceedings arising there from shall be heard and determined in the Courts of South Australia.

## 18 Cancellation

This project or agreement may be cancelled by the Client or Icarus with 14 days written notice. The Client will remain liable after cancellation for payment of the full debt incurred during the life of this agreement and for legal, accounting and collection fees associated with the collection of outstanding amounts as provided for in this agreement until all amounts are paid.

## 19 Death of Client

The death of the Client does not end this agreement. The rights and obligations of the Client shall be considered to have passed onto the Client's personal representatives.

## 20 Validity

If any of these terms and conditions is or becomes wholly or partly invalid that term or condition shall to the extent of the invalidity be removed without prejudice to the continuing validity of the remaining terms and conditions.