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The future way of flooring

01.03.2016

iRubber P/L

## Standard International Terms and Conditions of Sale

### 1. INTERPRETATION

1.1 In these conditions:

"iRubber Pty Ltd" means The Dalsouple Trust and any other subsidiary or associated company thereof (Dalsouple and its products, Burke Industries and its products, Roppe Inc and its products (Tuflex), REMP and its products, Staticworx and its products, DalHaus and its products, Reef Industries and its products (Permalon, Griffolyn, Tansguard), which may adopt these conditions, as the case may be; and

"Customer" means the buyer or person for whom any service is performed by Dalsouple Trust or with whom any contract for the sale of goods by Dalsouple Trust is made.

1.2 These conditions shall form part of every contract entered into by The Dalsouple Trust, unless expressly excluded or varied in writing and signed by a duly authorised representative of Dalsouple Trust.

Read and agreed to

### 2. QUOTATIONS

All quotations provided by The Dalsouple Trust are exclusive of charges for packing, freight, postage, insurance, port charges and other costs unless otherwise advised, and are provided subject to The Dalsouple Trust right to amend any accidental errors or omissions in quotations. Prices quoted in writing shall be based on the exchange rate on the day of quotation. If the exchange rate falls, The Dalsouple Trust reserves the right to adjust the quotation accordingly. This estimate is valid for 30 days from today's date with respect to the above project.

Read and agreed to

### 3. ORDERS

The Customer shall supply all relevant information regarding delivery address, import licences (if applicable), shipping marks, instructions as to route and method of despatch. No orders shall be binding on The Dalsouple Trust, whether or not based upon a quotation, unless and until the order has been accepted and confirmed by The Dalsouple Trust in writing. **Once an order is made it cannot be cancelled nor the deposit or payment refunded as the order has entered production.** All orders placed must be double checked for specification details (and area/environment suitability for product selection to include extra qualities to be allowed for prior to manufacture), compliance to relevant Australian codes and confirmed/acknowledged by the architect or specifier in writing. We accept no liability whatsoever, if goods that are supplied have been based on any inaccurate information howsoever caused.

Order placement is via direct BANKWIRE TO THE SPECIFIED BANK

(ANZ Chelsea, Melbourne 3196, Victoria, Australia) account number : Swift code: ANZBAU3M

**BSB 013264 Acc# 278197119** IN FAVOUR OF iRubber Pty Ltd ATF DALSOUPLE Trust ON THE DAY OF ORDER PLACEMENT. No order will be placed until all monies as stipulated have been received. When the monies are confirmed by our bank AS HAVING BEEN RECEIVED, your order will be sent so that production can be scheduled.

Read and agreed to

4. PRICES AND PAYMENTS

4.1 Prices: Prices of goods are Cost & Freight only to customs store. Insurance is now included.

**4.2 Payments: If the value of the C & F goods are below AUD\$10,000.00 or are to be air shipped.**

**The customer shall pay The Dalsouple Trust in full.** Any amount above this for air and sea freight, the payment schedule is as follows:

For shipments ex France, 50% initially on the full tax inclusive price is requested on order placement (and presentation of The Dalsouple Trust proforma invoice) via direct bank wire to the account number as specified by Dalsouple Trust.

The 50% remaining is to be paid before the product leaves the French/United States or other overseas factory. This is called "Gate release".

A tracking number will be provided on advice from our shippers confirming the goods are ready for transit (vessel name and voyage number will be provided) to the Port of Sydney/Melbourne/Brisbane/Perth/Hobart/Auckland/Wellington/Christchurch or to the Port nominated by the Customer. This is estimated to be 6 weeks from order placement and an additional 6 weeks for sea freight to Port.

For air freight consignments, total payment is required on order placement inclusive of all taxes tariffs, customs and sundries so that the goods clear immediately on arrival at the destined Port.

BANK DETAILS: (ANZ Chelsea, Melbourne 3196, Victoria, Australia) account number :

**BSB 013526 Acc# 278197119** IN FAVOUR OF iRubber Pty Ltd ATF DALSOUPLE Trust

4.3 Payment will constitute the fact that the customer has fully read, understood, and will comply to the terms and conditions stated, notwithstanding whatsoever.

Read and agreed to

5. DELIVERY

5.1 Best Endeavours: The Dalsouple Trust shall deliver the goods on an C & F basis, and shall use its best endeavours to adhere to delivery dates agreed with the customer. If sea freight was selected, and delays in manufacture/supply or availability of vessels, there will be the option- at extra cost and prior notice - to air freight. Excess costs are payable in advance by the client prior to release and customs despatch. Insurance on the goods is the customers concern from goods arrival at the country's landing Port.

5.2 Delays/Non-Delivery: The Dalsouple Trust shall have no liability whatsoever for delay in deliveries, howsoever caused, or for non-delivery, unless such delay or non-delivery is proved to have been caused by negligence on the part of The Dalsouple Trust.

5.3 Errors: No claims for errors in goods delivered shall be considered unless the customer notifies The Dalsouple Trust in writing within five days of receipt of the goods.

5.4 Incorrect data: In no circumstances shall The Dalsouple Trust accept any liability whatsoever for material shortages or labour miscalculation where the data on such amounts or calculations were provided by the installer or customer, are based or has been provided by a registered surveyor, or is inaccurate in any way.

5.5 All demurrage costs (if any) are payable by the customer before any release is authorised

Read and agreed to

6. RISK AND TITLE

6.1 Title: Title to the goods shall not pass to the customer, and the customer shall hold the goods as bailee on trust for The Dalsouple Trust, until The Dalsouple Trust has been paid in full for the goods and any other monies owed to it by the customer.

6.2 Lien: The Dalsouple Trust shall have a general lien on all goods, or documents relating to goods in its possession for all sums due at any time from the customer, and The Dalsouple Trust shall be entitled to sell or dispose of such goods or documents without liability to account, at the expense of the customer and to apply the proceeds in or towards the payment of such sums.

6.3 Risk: Risk to the goods shall pass to the customer at the time the goods are loaded onto transport ex Country of Manufacture or The Dalsouple Trust preferred holding depot. It is the sole responsibility of the customer to adequately insure the goods from that time.

Read and agreed to

7. LIABILITY

Dalsouple Trust shall not be liable to the customer:

7.1 Failure: for loss or damage caused by any failure to carry out, or negligence in carrying out, the Customer's instructions, or by any failure to perform or negligence in performing, The Dalsouple Trust's obligations under any contract to which these conditions apply, unless such loss or damage is due to wilful negligence or default of The Dalsouple Trust or its employees;

7.2 Consequential Loss: under any circumstances whatsoever for any loss or damage caused by delay, or for consequential or indirect loss or damage howsoever caused;

Read and agreed to

8. DISCLAIMERS AND CAVEATS: iRubber rubber flooring products will conform to the Customer's expectations given such reasonable variations as generally acceptable in the trade. Product variations include, but are not limited to, pattern registration, colour variation, fleck dispersion and other product attributes not specifically covered by specifications indicated in any of iRubber's manufacturer's literature.

Exclusions: The iRubber rubber flooring products warranty excludes:

- a. The exact matching of shade, colour or mottling. Fading is not covered.
- b. Any expressed or implied promise made by any salesman or representative.
- c. Tears, burns, cuts or damage due to improper installation, improper use or improper cleaning agents or maintenance methods.
- d. Labour costs for installation of original or replacement material.
- e. Sale of "Seconds", "Off Goods" or other irregular (non-first quality) flooring materials. With respect to "Seconds" or "Off Goods", such are sold "as is", and iRubber P/L makes no warranties whatsoever, expressed or implied, with respect thereto, including warranties of merchantability or fitness for a particular purpose.
- f. Problems caused by moisture, hydrostatic pressure or alkali in the subfloor that may cause "bubbling" etc...
- g. Problems caused by uses, maintenance and installation that are contrary to iRubber's specifications, recommendations or instructions.
- h. Material installed with obvious defects.
- i. Damage to flooring products from high heels or spike heels.
- j. Installation of iRubber's products with adhesives other than those recommended by iRubber.
- k. Material that is not installed and maintained as recommended by iRubber.
- l. Tiles may have slight colour variations not detected at the factory. **All tiles must be dry laid and examined under standard lighting conditions for colour acceptance before being installed.**
- m. Certain chemicals and various substances normally attack rubber formulations. iRubber's Rubber Tile and Stair Treads should not be used in commercial kitchens and/or areas where impregnation from cooking oils, vegetable fats, etc., is likely to occur. If any particular chemicals or substances are going to be present in the environment, adequate testing should be done in advance to ensure suitability for the application.
- n. Warranty on materials are voided if the recommended manufacturers adhesive is not used or has been replaced by the end client/installer.

Read and agreed to

## 9. iRubber Guarantee

IRUBBER P/L MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

We guarantee Dalsouple, Endura, Roppe & REMP rubber floors will last for a period of at least 10 years from date of purchase subject to the following conditions:

- a. The correct adhesive (recommended by the factory) and sealer/polish and laying (Ashlar- always) must be used and applied, and the sub floor must be prepared to the correct specification. Sub-base must be smooth dry and clean in all cases. 6mm marine grade ply is advisable.
- b. Once the floor has been installed (after brushing the back of the tiles to make them factory dust free) it must be maintained in accordance with manufacturer's recommended cleaning and maintenance guide, and using the recommended products. Maintenance guidelines can be downloaded from the internet by looking up manufacturer's name and description of product.
- c. If it is proved that there is a manufacturing defect, or the floor has worn out through normal wear and tear within the 10-year guarantee period, we will replace the material only.
- d. Further Exclusions: Tears, burns, cuts or damage due to improper installation, improper use or improper cleaning agents or maintenance methods. Fading is not covered. Damage to the floor from high heels or spike heels.

**This guarantee does not include resistance to colour fade.**

- f. When DalNaturel product is used, please note that it is an organic material that may contain some small variations of appearance and uniformity and thickness compared to its synthetic (SBR) counterpart. This is a natural result of the manufacturing process. If an even butt joint on a smooth surface is needed it may not be achieved. Dry lay before install in all cases.

### **Specifically for Burke Endura Products**

Warranties are void if:

1. Burke Adhesives are not used.
2. Products are not installed and maintained according to Burke instructions.
3. Products are not first quality (i.e. seconds, imperfects, and discounted obsolete products).
4. Products were abused or stored abnormally.
5. Flooring is installed in areas exposed to animal fat, petroleum byproducts, or outdoors.
6. Problems caused by excessive moisture, hydrostatic pressure, or alkali.
7. Exact color or pattern matches. Shading should conform, within reasonable variations allowable for this industry to the description (size, color, pattern) on each sales order.

- 8. Tile, which will be laid in the same area, should be from the same production batch. Customer Service is responsible for notifying customers if the tile is not from the same batch. Customers accepting tile from more than one batch may not file a claim for color or shade variance.
- 9. Products are installed outdoors, in freezing temperatures, or in moist conditions.

Read and agreed to

**10. \_\_\_\_\_ MAXIMUM LIABILITY**

Notwithstanding the provisions of clause 7, if The Dalsouple Trust shall be found liable to the customer under this agreement, The Dalsouple Trust's liability shall in no circumstances exceed the greater of:

10.1 Manufacture Value of Goods Only (exclusive of freight)

Read and agreed to

**11. \_\_\_\_\_ CLAIMS**

Any claim by the customer against The Dalsouple Trust shall be made in writing and notified to The Dalsouple Trust:

- 11.1 Damage to Goods: in the case of damage to the goods, within 5 (five) days of the delivery thereof;
  - 11.2 Incorrect colour supply/variance to order placement by the customer within 5 (five) days of the delivery thereof
  - 11.3 Delay in Delivery: in the case of delay in delivery or non-delivery, within fifteen (15) days of the date when the goods should have been delivered; and
  - 11.4 Other: In any case, within five (5) days of the event giving rise to the claim.
- [To the extent permitted by Australian law] any claim not made and notified in accordance with this clause shall be deemed to be waived and absolutely barred. No claim of any kind shall be against any servant or agent of the Dalsouple Trust on any ground whatsoever.
- 11.5 If goods are found to be faulty by mutual agreement with the manufacturer and client, the goods only will be replaced exclusive of freight duties and taxes that may apply. As the product is tile or sheet form and edges could be damaged in transit, extra cutting wastage to achieve a straight edge should be allowed for. The goods must be inspected well and acimatized before laying. Where surface textures occur, alignment will take priority over Ashlar laying method, if the latter compromises visual appearance. If faulty material is installed, claims for uplifting and replacement will not be accepted by the company or its agents. Faulty material or off-spec flooring/walling must not be installed.

Read and agreed to

**12 \_\_\_\_\_ LAW**

These conditions of sale shall be governed in all respects by Australian law, including recent upgrades in 2011. We comply with Fair Trading Laws.

Read and agreed to

**SOLEMN DECLARATION**

I .....

(full name)

of .....

(Company)

Your position.....

Have read and agreed to all the terms and conditions that will apply to the placement of this order.

Date.....

Signed by.....