

Terms and Conditions - Kattsafe Builda

1. Introduction

- 1.1. The <https://kattsafe.com.au/resources/builda-configurator> website ("this website", "the website" or "Kattsafe Builda") is owned and operated by Sayfa Systems Pty Ltd (ABN 69 135 681 113) ("Kattsafe").
- 1.2. By accessing and viewing this website, you agree to be bound by these Website Terms and Conditions. Access to this website is subject to these Terms and Conditions, our Privacy & Credit Reporting Policy as well as any disclaimers and acknowledgements on this website ("Terms of Use"). By accessing, viewing or otherwise using this website, you agree to be bound by and comply with these Terms of Use.
- 1.3. You must not access or use this website if you do not agree to these Terms of Use.
- 1.4. Kattsafe reserves the right to vary or modify the Terms of Use from time to time. We will publish the amended Terms of Use on this website and we recommend that you periodically review the Terms of Use. Any changes to the Terms of Use that may have a material detrimental impact on you will be highlighted to you on the relevant pages within the website, on the bulletin board page and/or by email. If you do not agree with any of the changes, you must cease using or accessing this website. By continuing to use this website, you will be deemed to have accepted the changes to the Terms of Use.
- 1.5. In these Terms and Conditions, "you" or "your" means the person accessing and using this website.
- 1.6. You can contact the Kattsafe helpdesk by email at info@kattsafe.com.au if you:
 - (a) wish to notify us of an outage, defect or other problem with this website;
 - (b) wish to notify of us of any security incident or other actual or suspected unauthorised access or use of this website; or
 - (c) wish to notify us of any other matter in connection with the website or these Terms of Use.

2. Use restricted to Australia

Unless otherwise expressly stated, this website is available for use only within Australia.

3. Use of Kattsafe Builda

- 3.1. Kattsafe Builda is an online design tool which you can access to create layout ideas for various Kattsafe products.
- 3.2. When creating a Kattsafe Builda account, you must ensure that you provide accurate and complete information and set a password for your account. You must:
 - (a) maintain the confidentiality of your password;
 - (b) not allow another person to access or use this website using your user account;
 - (c) notify Kattsafe as soon as you become aware of any actual or suspected unauthorised use of your password or any unauthorised person accessing this website, and immediately change your password if it has been compromised; and

- (d) promptly update your user account details (using the self-service functionality of this website) if any of your contact details change.

You acknowledge and agree that you remain fully responsible for all activities that occur through your account, including any unauthorised access or use of your account that results from your failure or delay to comply with the requirements of this clause 3.2.

- 3.3. If you are creating an account on behalf of someone else (including for example a company, organisation, agency or other party), you represent and warrant that you have obtained authorisation from that party to accept the Terms of Use on their behalf (and to bind them to the Terms of Use) and to grant all permissions and licenses under these Terms.
- 3.4. All information, photos, illustrations, diagrams, layouts, pictures and quotations (including any bill of materials) generated by or created through Kattsafe Builda are indicative only. You acknowledge and agree that the design and quote you create through our program may not be achievable, that the ultimate pricing for the design you have generated through use of the website is subject to change once assessed by Kattsafe with your specific design specifications, and that this can only be verified once you speak to a Kattsafe team member after the indicative quotation has been generated through Kattsafe Builda.
- 3.5. While every reasonable effort is made to ensure current and accurate information is presented, Kattsafe does not:
 - (a) guarantee or warrant or represent the accuracy, reliability, completeness or currency of the information or its usefulness in achieving any purpose via this website;
 - (b) represent or warrant that any layout or design created through the use of Kattsafe Builda will meet any applicable laws, standards, codes, regulations or requirements (including in respect of occupational health & safety or building codes or regulations).
- 3.6. In addition, Kattsafe has no control over the accuracy, reliability or applicability of the measurements or information you input into Kattsafe Builda when creating your design. Kattsafe Builda is only intended to provide an indication and does not replace the need for manual confirmation (including engineering confirmation) of any design or quote generated through use of the website.
- 3.7. Kattsafe Builda is a three-dimensional visualization tool and does not account for engineering. All designs generated by Kattsafe Builda are strictly generic in nature and may not be suitable for the situation/location intended by the user. All designs are to be reviewed and certified by a qualified structural engineer prior to commencing manufacture/installation. Kattsafe is not responsible for your reliance on a design or quote generated through Kattsafe Builda including any engineering costs and/or additional construction costs resulting from design changes at the engineering stage.
- 3.8. You should make your own enquiries and seek professional advice to verify the information contained in the system-generated quote before acting on it. Should you use a design or quote generated through use of the website for the purposes of tendering or otherwise, you do so at your own risk and we accept no liability for the same.
- 3.9. For the avoidance of doubt, a Kattsafe Builda system generated quote does not constitute an offer or inducement to enter into a legal contract. Kattsafe will not be liable for any loss, damage, cost or expense incurred or arising by reason of any person using or relying on the information contained on or generated by Kattsafe Builda.

4. Your conduct

4.1. You must not:

- (a) use this website in breach of any applicable laws or regulations;
- (b) use this website or any content on it in a manner that places Kattsafe at a competitive disadvantage;
- (c) use this website to harm, abuse, harass, stalk, threaten or otherwise offend others;
- (d) interfere with, disrupt, or create an undue burden on this website;
- (e) allow another person to access or use the website using your user name and password;
- (f) register multiple user accounts (as an individual is only permitted to have a single user account);
- (g) frame or mirror any part of the website without Kattsafe's written authorisation;
- (h) upload, post, transmit or otherwise make available any material that:
 - (i) is not your original work, or may infringe the intellectual property or other rights of another person;
 - (ii) is, or could reasonably be expected to be, defamatory, obscene, offensive, threatening, abusive, pornographic, vulgar, profane, indecent or otherwise unlawful, including material that racially or religiously vilifies, incites violence or hatred, or is likely to offend, insult or humiliate others based on race, religion, ethnicity, gender, age, sexual orientation or any physical or mental disability;
 - (iii) includes an image or personal information of another person unless you have their consent;
 - (iv) you know or suspect, or should reasonably know or suspect, to be false, misleading or deceptive;
 - (v) contains large amounts of untargeted, unwanted or repetitive content; or
 - (vi) contains financial, legal, medical or other professional advice.

Without limiting the above, you will not and will not permit a third party to:

- (i) misuse this website by knowingly introducing viruses, trojans, worms, logic bombs or other material that is malicious or technically harmful. You must not attempt to gain unauthorised access to this website, the server on which this website is stored or any server, computer or database connected to this website. You must not attack the website via a denial-of-service attack or a distributed denial-of-service attack;
- (j) use any method or process (including data scraping, web-bots, collection or accumulation tools, robot, spider or scripted responses) for the purpose of obtaining, processing, copying, replicating, distributing, reconfiguring, republishing, viewing, assessing, analysing, modifying or repacking the content;

- (k) use, obtain, or attempt to obtain from the website, information in order to identify or discover pricing, underwriting, rating and related business methodology or systems; and
- (l) do anything which will or may damage, disrupt access to or interfere with the proper operation of the website.

If you believe that any other user has breached any of the above conditions, please contact us using the details at clause 1.6.

- 4.2. Kattsafe may conduct routine monitoring and auditing of the website (and your use of the website) to confirm your compliance with these Terms of Use and to identify security risks (including unauthorised access, accessing inappropriate material, misuse, viruses and other prohibited or otherwise inappropriate activity). Kattsafe is under no obligation to further notify you before conducting such monitoring, auditing or reporting.
- 4.3. All usage of the website, including details about logging in (both successful and unsuccessful login attempts), may be recorded by Kattsafe on a continual and ongoing basis and routinely subject to monitoring and auditing.
- 4.4. We may, at any time and at our discretion, investigate any reported or suspected breach of these Terms of Use (or other unauthorised or unlawful use of the website) by you or any other user. In conducting any investigation, Kattsafe (and/or its authorised representative) may access and review account registration information and other data that has been logged in relation to your (or any other relevant user's) use of the website.
- 4.5. Following an investigation, we reserve the right to take such actions as we deem necessary to preserve the security and integrity of the website, prevent or address any actual or suspected breach of applicable laws or regulations, and mitigate any actual or potential damage to our reputation. These actions may include (but are not limited to):
 - (a) exercising Kattsafe's suspension and termination rights under clause 8;
 - (b) reporting any unlawful conduct to the appropriate authorities; and
 - (c) otherwise taking appropriate legal action.

5. Intellectual property

- 5.1. "KATTSAFE", "KATTCARE" and the KATTSAFE logo are trade marks of the Kattsafe group ("**Kattsafe Trade Marks**").
- 5.2. Any trade marks used on this website or in manuals or brochures relating to third party suppliers are trade marks of those third parties ("**Third Party Trade Marks**").
- 5.3. You must not, and must not authorise any third person to use, copy, reproduce or modify:
 - (a) Kattsafe Trade Marks or any of our other branding for any purpose, other than with the prior written consent of Kattsafe; or
 - (a) the Third Party Trade Marks for any purpose, other than with the permission of the relevant third party or as permitted by law.

- 5.4. Unless otherwise indicated, the intellectual property rights in the website, the resources and all materials (including all text, data, graphics, logos, software and any other multimedia) made available via the website (**Website Content**) are either owned by us, or licensed to us, and all rights in the Website Content are reserved.
- 5.5. We grant you a limited right to access the website and view the Website Content to the extent required for you to use the website in accordance with these Terms of Use. You must not otherwise copy, modify, adapt, publish, transmit, commercially exploit, reproduce or distribute any Website Content without the permission of the owner of that Website Content. We reserve the right to review, edit, move or delete any Website Content from the website at any time without notice.
- 5.6. We reserve the right to aggregate and analyse data that we collect through the operation of the website. This may include data that is uploaded, transmitted, posted, and otherwise generated by Users of the website in the course of using the website and our services.
- 5.7. You retain ownership of any materials, data, photographs, works and information you upload to the website (**Uploaded Materials**), including all intellectual property rights in the Uploaded Materials.
- 5.8. You grant Kattsafe a non-exclusive, perpetual, irrevocable, world-wide and royalty-free licence to use the Uploaded Materials for its internal business purposes, including operating the website, complying with applicable law, providing services to Kattsafe's customers in respect of their sites and premises where you have performed installations and other services, and you acknowledge and agree that we may permit our third-party service providers to use the Uploaded Materials for those purposes on our behalf.
- 5.9. If you decide to provide us with any feedback, ideas or suggestions about the website (**Feedback**) you agree that we may use that Feedback for our business purposes and without restriction, compensation or further obligation to you.
- 5.10. You acknowledge that by using the website, you may receive or become aware of confidential information of Kattsafe ("**Kattsafe Confidential Information**"). You must keep Kattsafe Confidential Information confidential, and not use or disclose it, except to the extent required for you to exercise your rights and perform your obligations under these Terms of Use. This does not prevent you from disclosing Kattsafe Confidential Information to the extent required by you to comply with any applicable law.
- 5.11. You acknowledge and agree that Kattsafe enters these Terms of Use, and in particular this clause 5, on its own behalf and on behalf of each member of the Kattsafe group nominated by Kattsafe who may enjoy the benefit of these Terms of Use from time to time (**Kattsafe Entity**). Each Kattsafe Entity is intended to have the benefit of, and may enforce, any provision of these Terms of Use that confers a right or benefit on Kattsafe. Any Kattsafe Entity may enforce the terms of these Terms of Use in its own name as if it were a party to these Terms of Use.

6. Client Login

Kattsafe reserves the right at its sole discretion to accept or limit or refuse or rescind 'Client Login' registration and/or access. All mandatory fields of the 'Client Login' application for registration must be completed, before being considered and enabled.

7. Access

7.1. To the maximum extent permitted by law (but subject to clause 10.2), this website (and your use of the website) is on an "as is" and "as available" basis. We may:

- (a) change, add to, or remove content or functionality of the website from time to time and without notice; and
- (b) permanently cease operating, or temporarily interrupt or withdraw access to, the website at any time and without cause.

7.2. You acknowledge that the website will be unavailable when Kattsafe performs scheduled maintenance. Minor scheduled maintenance will generally result in downtime of only a few minutes and will be conducted on an as-needed basis. We will use reasonable endeavours to undertake such maintenance during low-usage periods (e.g., before 8:00 am or after 4:30 pm). No prior notification will be provided for such minor maintenance. In the rare event of major updates, we will use reasonable endeavours to provide advance notice at least one (1) day prior, including estimated outage times, via notifications displayed on all pages of the website.

7.3. You are responsible for:

- (a) providing your own Internet connection, telecommunications and data costs when accessing and using the website; and
- (b) implementing reasonable security and anti-virus software to prevent the introduction of viruses and malicious code into your computer systems and devices which you use to access the website.

7.4. In the event of any issues or queries with accessing the website, you may contact Kattsafe using the contact details in clause 1.6 and Kattsafe will use reasonable endeavours to resolve the issue or query in a timely manner.

8. Termination and suspension

8.1. Kattsafe may suspend your access to the website or certain functionality of the website where:

- (a) Kattsafe reasonably believes it is necessary to comply with any law, regulation, industry standard or requirement, or to comply with any directive from an authority with jurisdiction over Kattsafe;
- (b) Kattsafe reasonably believes that there is a risk of fraud or security breach;
- (c) you are in breach of these Terms of Use; or
- (d) Kattsafe otherwise reasonably believes that it is necessary to protect the website, other users or Kattsafe's rights or legitimate business interests.

8.2. Kattsafe may terminate your user account and revoke your rights to access and use the website under these Terms of Use by giving notice to you if:

- (a) you are in breach of any term of these Terms of Use and do not rectify the breach within 7 days of receiving written notice to do so from Kattsafe;

- (b) your access was initially suspended for one or more of the reasons in clause 8.1 and the circumstances reasonably suggest that your access should be terminated; or
- (c) you become bankrupt, insolvent, are wound up or become subject to administration or receivership or any similar process under any applicable law.

8.3. You may terminate your user account and cancel your rights to access and use the website under these Terms of Use by giving notice to Kattsafe if:

- (a) we are in breach of any term of these Terms of Use and do not rectify the breach within 7 days of receiving written notice to do so from you; or
- (b) we become bankrupt, insolvent, are wound up or become subject to administration or receivership or any similar process under any applicable law.

8.4. If your user account is terminated and your rights to access and use the website are revoked pursuant to clauses 8.2 or 8.3:

- (a) we are no longer required to provide you with access to and use of the website;
- (b) your rights under these Terms of Use to access and use the website terminate immediately and you must immediately cease all use of the website; and
- (c) our termination of your user account will not affect any rights or remedies which you or Kattsafe may have under these Terms of Use or otherwise at law.

8.5. Without limiting the continued operation of any clause intended to survive the termination of these Terms of Use, you acknowledge and agree that this clause 8.5 and clauses 4 (Your conduct), 5 (Intellectual Property), 10 (Product disclaimer and limitation of liability) and 11 (Your Personal Information) will survive termination.

9. Terms and conditions of trade

- 9.1. The supply of all products and systems or provision of associated services, are strictly subject to Kattsafe's Terms and Conditions of Trade, which can be found at <https://a-us.storyblok.com/f/1017186/x/33452afa47/kattsafe-terms-and-conditions-of-trade.pdf>
- 9.2. Different limitations and exclusions of liability will apply to liability arising as a result of the supply of any products or services to you, which will be set out in Kattsafe Terms and Conditions of Trade.

10. Product disclaimer and limitation of liability

- 10.1. In this clause, "Australian Consumer Law" means Schedule 2 of the Competition and Consumer Act 2010 (Cth) and the corresponding provisions of state and territory fair trading legislation and the terms "Consumer" and "Consumer Guarantees" have the meaning given to them in the Australian Consumer Law.
- 10.2. The Australian Consumer Law provides Consumers with a number of protections including the Consumer Guarantees that cannot be excluded, restricted or modified. **NOTHING IN THESE TERMS OF USE IS INTENDED TO HAVE THE EFFECT OF EXCLUDING, RESTRICTING OR MODIFYING A CONSUMER'S RIGHTS UNDER THE AUSTRALIAN CONSUMER LAW OR ANY OTHER APPLICABLE STATUTORY RIGHTS THAT CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED.**

10.3. To the maximum extent permitted by law (but subject to clause 10.2), you agree that:

- (a) where the Australian Consumer Law permits a supplier to limit its liability for a failure to comply with a Consumer Guarantee and we breach such Consumer Guarantee insofar as it relates to the website/use of the website, or if we otherwise breach the website Terms of Use, we limit our liability for any such breach to supplying the services again;
- (b) the website and the Website Content is provided "as is" and may not be accurate, complete or up-to-date;
- (c) by accessing the website, you assume all risks associated with its use, including the risk that:
 - (i) your computer, software or data may be damaged by any virus transmitted by the website or by any Third Party Content or Third Party Website (unless the cause of such damage can be attributed to our negligent or unlawful act or omission); and
 - (ii) data and records entered by you and stored in the website may be lost or corrupted by events outside of our control;
- (d) with the exception of any Consumer Guarantees (or other rights or remedies that cannot be lawfully excluded by agreement of the parties) that might apply, we exclude:
 - (i) any term, condition or warranty that may otherwise be implied into these Terms of Use, including (but not limited to) any term, condition or warranty that:
 - (A) the website or any of its functions will be uninterrupted or error-free or that defects will be corrected; or
 - (B) the website or any server that makes it available is free of errors, viruses or malicious code;
 - (ii) liability for any special, indirect or consequential loss you may suffer or incur, however caused (including negligence), arising out of or in connection with the Website Content or the use or performance of the website.

10.4. All product specifications and technical descriptions, engineering, recommendations and other information provided on the website are given as general guidance and advice and are to be viewed in conjunction with Kattsafe installation instructions and any other data available and applicable to each particular standard product or system.

10.5. Use of such data is the user's sole responsibility, taking into account the intended application and actual conditions existing on the particular worksite. Consequent selection of the right product for any particular use remains the user's ultimate responsibility.

10.6. Kattsafe is therefore not obligated or liable for any direct or indirect, incidental or consequential damages, losses or expenses in connection with, or by reason of the suitability, use, or otherwise of any product or system for any purpose. To the extent permitted by law, statutory warranties of merchantability, or fitness for any particular purpose, are specifically excluded.

10.7. Kattsafe maintains a policy of continuous improvement and development, and therefore reserves the right to modify, amend or otherwise alter product and system designs and specifications, models and part numbers, colours and pricing and other specifications without prior notice. Kattsafe accepts no liability for incorrect information, errors or omissions.

11. Your Personal Information

11.1. By using the website, you agree that we may collect, hold, use and disclose your Personal Information (as defined in clause 11.2 below) as described in our Privacy & Credit Reporting Policy (see clause 11.7) and any other privacy notices that we provide you in connection with your use of the website.

11.2. The website collects certain personal information about you when your user account is created, and when you subsequently access and use the website. This includes:

- (a) your account details (such as your name and contact details);
- (b) details of designs and tools used in the website;
- (c) audit logs of your activities within the website,

(together, **Your Personal Information**).

11.3. Your Personal Information is used to:

- (a) provide you with access to and use of the website;
- (b) contact and communicate with you, including via electronic messaging, in relation to your use of the website;
- (c) monitor your access to and use of the website (and the resources you choose to view, access or download) for security purposes and to help us improve the website and our other products and services; and
- (d) for the other purposes described in Kattsafe's Privacy & Credit Reporting Policy (see clause 11.7).

11.4. If you choose not to provide information when requested by the website, you may not be able to register an account or use certain functionality and features of the website that require that information.

11.5. We may disclose Your Personal Information to our service providers and suppliers who provide us with (or help us to provide) the website and our products and services.

11.6. Some of our service providers operate in overseas locations (predominantly the Philippines, the US, Canada, United Kingdom and New Zealand) and we may therefore need to transfer your information overseas in order to provide our website functionality, services and products. Where we share your personal information with such entities, we will do so in compliance with privacy laws and will take steps to ensure that such entities agree to similarly protect that information.

11.7. Our Privacy & Credit Reporting Policy is available at <https://a-us.storyblok.com/f/1017186/x/145e4ac511/kattsafe-privacy-and-credit-reporting-policy.pdf> and explains:

- (a) how Kattsafe collects, holds, uses and discloses personal information;
- (b) how you can request to access or correct any personal information Kattsafe holds about you; and
- (c) how you can complain about a privacy breach and how Kattsafe will deal with a privacy complaint.

12. General

12.1. These Terms of Use are governed by the laws of Victoria, Australia. If a dispute arises from these Terms, you agree to submit to the non-exclusive jurisdiction of the courts of Victoria, Australia.

12.2. You must not assign or otherwise transfer any of your rights under these Terms of Use without Kattsafe's prior written consent (which Kattsafe may withhold if we reasonably consider that it is against our legitimate business interests). An assignment in breach of this clause is void and of no force and effect.

12.3. Kattsafe may assign or otherwise transfer any of its rights under these Terms of Use to:

- (a) a related body corporate of Kattsafe; or
- (b) the purchaser of part or whole of our business assets or operations relating to the website.

12.4. Kattsafe may subcontract the performance of our obligations under these Terms of Use to any person and without notice to you, but we will remain liable to you for the performance of our obligations notwithstanding any such sub-contracting.

12.5. A party's rights or remedies under these Terms of Use are not waived by it unless such waiver is in writing and signed by the party granting the waiver. No delay or omission of a party in exercising any rights or remedies shall operate as a waiver of such rights or remedies.

12.6. If a provision in these Terms of Use is wholly or partly void, illegal or unenforceable in any relevant jurisdiction, that provision or part must, to that extent, be treated as deleted from these Terms of Use for the purposes of that jurisdiction. This does not affect the validity or enforceability of the remainder of the provision or any other provision of these Terms of Use.

12.7. These Terms of Use constitute the entire agreement between you and Kattsafe regarding your access and use of the website and supersedes all prior written agreements in respect of its subject matter.

12.8. Any notice required to be given to you under these Terms of Use may be given by us to you by any legal means, including notification via any contact details you have provided for your user account. Any notices given by you to us under these Terms of Use must be sent by email to the contact details set out in clause 1.6.

12.9. In these Terms of Use unless a contrary intention is expressed:

- (a) a reference to a 'person' includes any individual, firm, company, partnership, joint venture, an unincorporated body or association, trust, corporation or other body

corporate and any government agency (whether or not having a separate legal personality);

- (b) other parts of speech and grammatical forms of a word or phrase defined in these Terms of Use have a corresponding meaning;
- (c) a reference to a party to any document includes that party's successors and permitted assigns;
- (d) a provision of these Terms of Use may not be construed adversely to a party solely on the ground that the party (or that party's representative) was responsible for the preparation of these Terms of Use or the preparation or proposal of that provision; and
- (e) the words 'include', 'including', 'for example', 'such as' or any form of those words or similar expressions in these Terms of Use do not limit what else is included and must be construed as if they are followed by the words 'without limitation', unless there is express wording to the contrary.

13. Contact

If you have any queries regarding these Terms and Conditions, please contact the Kattsafe helpdesk by email at info@kattsafe.com.au.