



ADVANCE TROLLEYS™

Advance Optimum Group Pty Ltd (AOG)
ABN 13 606 464 671

Terms and Conditions

The Terms and Conditions set out ("the Terms") shall apply to all products and services supplied by Advance Optimum Group Pty Ltd (referred to as AOG) to the Customer his employees or agents (referred to as "the Customer").

AOG is not bound by any variation to its Terms unless expressly agreed upon in writing and signed by a duly authorised Representative of AOG and the Customer. These terms shall apply notwithstanding any provision to the contrary which may appear on any order form or other document issued by the Customer or any other party.

General

1. No quotation given by AOG shall constitute an offer. AOG reserves the right to decline any order or to enter into any agreement for supply.
2. If a Customer cancels or alters any order for products after AOG has received the order then AOG reserves the right to charge to the Customer the additional costs incurred in cancelling or altering any order or part order together with the costs of any labour and handling to the date of such cancellation or alteration.

Prices

3. Unless otherwise stated prices quoted are strictly net exclusive of duty payable, sales tax and GST.
4. Unless otherwise stated on the quote, the invoice and/or statement, prices are ex works – 51-53 Narrandera St, Lake Cargelligo, NSW 2672.

Terms of Payment

5. AOG may submit an invoice for goods delivered at any time subsequent to delivery of those goods.
6. New Buyers and Non Account Buyers – Ex stock purchases are supplied cash prior to despatch. Ordered Custom purchases are supplied with a 40% deposit, payable with order, with balance to be paid prior to despatch.
7. The Customer shall make payment within fourteen (14) days of the date of invoice, unless other payment terms have been agreed upon by AOG, provided in the reasonable opinion of the customer.
 - (a) The goods comply with the order/schedule supplied to AOG in respect of the goods; and
 - (b) The goods are in accordance with all applicable laws and all relevant authorities.

In the event that the Customer asserts any default in connection with the matters referred to in sub-paragraphs (a) and (b), it must notify the Supplier immediately and, in any event, within seven (7) days of delivery.

8. If the Customer fails to make payment in accordance with Clause 5, AOG shall be entitled to:
 - (a) Require payment in advance of delivery for any further products or services;
 - (b) Charge default interest at the rate of one and a half percentum (1.5%) per month on a cumulative and compounding basis on all overdue amounts (including late payment charges and amounts other than the price) calculated on a day to day basis on any monies due but unpaid, such interest to be computed from the due date for payment AND the parties agree that such default interest is not a penalty, but is a true measure of damages incurred by AOG. Payments received from the Customer will be credited first against any default interest and all such charges shall be payable on demand;
 - (c) Claim from the Customer all costs relating to any action taken by AOG to recover monies or goods due from the Customer including any mercantile agents, costs and legal costs and disbursements on a solicitor-client basis; and
 - (d) Cease any further deliveries until payment of all outstanding amounts has been made.

Delivery

9. Any date or time quoted for delivery is an estimate only and AOG shall endeavour to effect delivery at the time or times requested by the Customer, but failure to do so shall not confer any right of cancellation or refusal of delivery on the Customer.
10. The Customer shall not be relieved of any obligation to accept or pay for products by reason of any delay in delivery of any strike, lockout, unavailability of raw materials, accidents to machinery, differences with workmen, breakdowns, shortages of supplies or labour, fires, floods or tempest, transport delays, acts of God, restriction or interventions imposed by any laws, regulations, governments or agencies thereof and any other cause beyond the control of AOG or any other cause whatsoever.
11. AOG' obligation to deliver shall be discharged on arrival of the products at the Customer's nominated delivery destination, nominated transport company, nominated agent or the address appearing on the invoice. The Customer shall unload the products upon delivery. If the Customer is unable or unwilling to accept physical delivery of the products when the products are ready for delivery AOG shall be entitled to payment for the goods and to charge a fee for any delay experienced or arrange for the storage of the products at the risk and cost of the Customer including all transportation, storage and other consequential costs.

Inspection

12. The Customer shall examine the products immediately after delivery and AOG shall not be liable for any misdelivery, shortage, defect unless AOG receives details in writing within fourteen (14) days of the date of delivery of the products and services.

Property & Risk

13. Notwithstanding delivery of the products or their installation, property in any given products shall remain with AOG until the Customer has paid and discharged any and all other indebtedness to AOG on any account whatsoever (including all applicable sale taxes, GST and other taxes, levies and duties). Any payment made by or on behalf of a Customer which is later avoided by the application of any Statutory Provision shall be deemed not to discharge the Customer's indebtedness and, in such an event, the parties are to be restored to the rights which each respectively would have had if the payment had not been made.
14. The risk in the products shall pass to the Customer upon delivery to the Customer or his agent or to a transport company nominated by the Customer.
15. The Customer acknowledges that it is in possession of the products solely as a bailee for AOG until payment has been made in full to AOG and until such payment the Customer shall be fully responsible for any loss or damage to the products whatsoever and howsoever caused following delivery.
16. AOG licenses the Customer to sell products manufactured using products of AOG. If the product is affixed to other material, the totality thereof shall be the sole and exclusive property of AOG until payment has been made in full to AOG, unless the other material part thereof are or is the property of a party or parties other than the Customer in which case the totality thereof shall be deemed to be owned as tenants in common with such other party other than the Customer in shares corresponding to the respective amounts paid or payable by the Customer in respect of such other party or parties.
17. The Customer shall be at liberty to agree to sell the products subject to the condition that until payment has been made, the Customer shall sell as an agent and bailee for AOG and the entire proceeds from the sale thereof shall be held in a separate account on trust for AOG.
18. The right to on-sell, deal or otherwise dispose of AOG' products or manufactured products in the normal course of trade shall automatically cease if a Receiver is appointed over any of the assets or the undertaking of the Customer or if a winding up order is made against the Customer or if the Customer goes into Voluntary Administration or Liquidation (otherwise than for the purpose of reconstruction or amalgamation) or calls a meeting of or makes any arrangements or composition or commits any act of bankruptcy or where the Customer is in default of any of its obligations to AOG.

Limitation of Liability

19. Sale to Non-Consumers:
 - (a) In the case of products supplied by AOG to a Customer who is not a "consumer" (as defined in the Trade Practices Act, 1974 as amended from time ("the Act"), if the products do not correspond with the description of them on the invoices or are defective, then, provided that the products are preserved intact and made available for inspection by a representative of AOG and are returned to AOG in the same order and condition as that in which they were delivered, AOG shall at its option replace those products or reimburse the Customer for the amount of the purchase price paid for them, but any claim in this respect must be made in writing within fourteen (14) days of the date of delivery of those products; and
 - (b) Should the Customer seek indemnity from AOG in respect of any claim by a consumer on the warranty implied by the Act in a contract for the supply of products by the Customer to that consumer, sub-paragraph (i) will not apply and in respect of products that are of a kind ordinarily acquired for personal, domestic or household use or consumption ("consumer goods"), AOG liability is limited to indemnifying the Customer in accordance with the Act, limited to a liability to pay to the Customer an

amount equal to the cost of replacing the products or the cost of obtaining equivalent products or the cost of having the products repaired, whichever is the lesser amount.

20. Sale to Customers:

- (a) In the case of products supplied by AOG to a Customer who is a consumer, to the extent that the products are not consumer products or goods, the liability of AOG to the Customer for breach of any warranty or condition (other than a warranty or condition implied by section 69 of the Act) or for breach of any duty of care shall in all cases be limited to:
 - (i) Replacement of the products or the supply of equivalent products;
 - (ii) The repair of the products;
 - (iii) The payment of the cost of replacing the products or acquiring equivalent products; or
 - (iv) The payment of the cost of having the product repaired, at the option of AOG
 - (b) Except for those conditions and warranties implied by the Act or other sale of products or consumer protection legislation which may not be excluded, the Customer agrees that:
 - (i) It has not relied on any inducement, representation or statement made by or on behalf of AOG in purchasing the products and there are no implied conditions or warranties herein and no collateral contracts in connection herewith (except such as may be in writing and signed by a duly authorised representative of AOG); and
 - (ii) This clause sets out the entire liability of AOG in respect of its liability under the Act or otherwise in respect of liabilities to the consumer for a breach of a condition or warranty with respect to the sale of products or goods. In no circumstances will AOG incur any liability or be liable in respect of or arising out of or in connection with any special, consequential, direct or indirect loss, damage, harm or injury suffered or incurred by the Customer.
21. The Supplier shall not be liable for any cost, damage, loss or expense in connection with any delay which the Customer may incur in connection with late delivery or non-performance of the product supplied in circumstances where:
- (a) Such delay or non-performance is caused by the Customer; and
 - (b) The delay or non-performance is attributable to causes beyond the control of AOG, including (without limitation), industrial action, unavailability of raw materials, accidents to machinery, breakdowns, shortages of supplies or labour, fires, floods or tempest, transport delays, acts of God, restrictions or interventions imposed by any laws, regulations, governments or agencies thereof.
22. The Applicant, or Customer as the case may be, releases and discharges AOG from any claim arising out of or in connection with the installation and/or finishing of any product supplied by AOG and indemnifies and holds harmless AOG in respect of any such claim.
23. Any claim in connection with any act, default or omission (including any breach of contract or breach of duty including, but not limited to, negligence) on the part of AOG shall be notified by the applicant or the Customer, as the case may be, to AOG within twenty-eight (28) days of the date upon which the Customer reasonably should have first become aware of the event giving rise to the claim. Should the Customer or Applicant, as the case may be, fail to give notice in accordance with this clause then:
- (a) AOG shall not be liable on the claim; and
 - (b) The Customer or applicant, as the case may be, hereby releases and indemnifies AOG in respect of any such claim.
24. The liability of AOG in respect of any claim notified under the preceding clause shall be limited to the cost of the product supplied by AOG.
25. AOG shall not be liable on any claim made or notified after the expiry of twelve (12) months from the date of delivery of any product supplied by AOG.
26. These terms do not exclude, restrict or modify the application of any provision of any Commonwealth, State or Territorial law which, by law, cannot be excluded, restricted or modified.

Force Majeure

27. AOG shall not be liable for any failure or delay to supply or deliver the products where such failure or delay is wholly or partly due to causes or circumstances outside the reasonable control of AOG including, but not limited to, war, strikes, lockouts, industrial disputes or unrest, government restrictions or intervention, transport delays, fire, act of God, breakdown of plant, shortage of supplies or labour, storm or tempest, theft, vandalism, riots, civil commotions or accidents of any kind.

Termination

28. If the Customer fails to comply with any of these Terms or being a natural person or persons commits any act of bankruptcy, or being a corporation passes a resolution for Voluntary Administration or winding up or liquidation (other than for the purposes of reorganisation or reconstruction) or enters into any composition or arrangement with creditors or if a receiver or manager is appointed AOG may, in addition to exercising all or any of its rights against the Customer, suspend any further deliveries and immediately recover possession of any products not paid for in accordance with these Terms.

Returns

29. Other than in respect of AOG' obligations pursuant to clause 18 hereof, AOG shall not be liable to accept any returned products but may in its absolute discretion accept the return of products provided that such products shall only be accepted for credit and with the prior written approval of a duly authorised representative of AOG. Products returned for credit pursuant to this clause must be returned with packing slip and invoice and will be subject to

a handling and administration charge equivalent to fifteen percent (15%) of the invoiced value of the returned products. Return freight and other expenses will be paid for by the Customer and no returns of non-standard products will be accepted.

Cancellations

30. If it becomes necessary for Buyer to cancel this order wholly or in part, they shall at once so advise AOG in writing. Oral cancellation of an order shall not be accepted by AOG. Upon receipt of such written notice all work will stop immediately. If the order entails only stock items, a flat restocking charge of 25% of the purchase price will become due and payable by Buyer to AOG. Items purchased for the cancelled order shall include the cancellation charges of AOG suppliers plus 25% for handling. The cost of material and/or labour expended in general fabrication for the order shall be charged for on the basis of total costs to AOG up to the time of cancellation plus 25%.

Advertising

31. The Customer shall not advertise in any media the sale or disposal of products and services purchased from AOG, without the written consent of a duly authorised representative of AOG. The Customer shall indemnify and hold indemnified AOG against any liability in respect of or in connection with any special, consequential, direct or indirect loss, damage, harm or injury suffered as a result of false, misleading or deceptive advertising and untrue representation or statements made to any person by the Customer in the course of advertising. The Customer further warrants and acknowledges that it will not use any existing logo or brand name or that similar to, or attempt to register a trade mark or trade name or that similar to, or attempt to register a trade mark or trade name or that similar to, of AOG without the written consent of a duly authorised representative of AOG.

Confidential Information

32. The Customer warrants that it will not disclose to any person confidential information of AOG that the Customer may be shown or comes into contact with in the course of purchasing products and services or from any other source including but not limited to AOG materials, procedures, tests, reports and equipment, without the written consent of a duly authorised representative of AOG.

Pallets

33. Unless otherwise stated, pallets and containers used to deliver products to the Customer will remain the exclusive property of AOG and shall be returned to AOG at the Customer's expense within thirty (30) days of the date of delivery. AOG reserves the right to invoice the Customer for any pallet or container not returned by the due date.

Samples

34. Any sample produced at the request of the Customer will be at the Customer's expense. Such sample produced is to be indicative of the general nature of the product and AOG will not warrant or guarantee that the sample product will correspond with any colour, texture or blend with the sample provided by the Customer or with any previous sample provided.

Governing Law

35. The Customer agrees that these Terms shall be construed according to the laws of the Australian State or Territory as AOG may in its sole discretion determine. Proceedings may be instituted in such Australian State or Territory as AOG may in its sole discretion determine. Failing such determination the Customer consents to any proceedings being instituted and heard by any appropriate Court sitting in the State of New South Wales applying the laws of the State of New South Wales.

Service of Documents

36. The Customer agrees that service of any notices or Court documents may be effected by forwarding same by pre-paid post or facsimile to the last known address of the Customer to AOG at that time.