



TERMS AND CONDITIONS OF SALE TO AN APPROVED APPLICANT (herein called the Customer) BY ADVANCE METAL PRODUCTS (AUST) PTY LIMITED (herein called the Company)

1. INTERPRETATION

In this document the Customer shall mean the person, persons, firm or company to whom the quotation is addressed or the offer of sale is made and shall include their legal representatives, administrators, successors and permitted assigns. 'Parts', 'Items' or 'Goods' shall mean the goods or services sold and described on the quotation. Headings are included for ease of reference only and do not form part of these Terms & Conditions.

2. GENERAL

Subject to any Special Conditions agreed to in writing between the Company and the Customer, these Terms and Conditions shall apply to the exclusion of all others. Any contractual terms and conditions of the Customer (whether on the Customer's order form or otherwise) are expressly excluded. The Customer acknowledges these terms and conditions embody the whole agreement between the parties and agrees to be bound by them. The Customer is at liberty, and encouraged, to obtain independent legal advice before entering into this agreement.

3. QUOTATIONS

The Company's quotations are valid for a period of thirty (30) days from the date of the quotation, unless another validity term is stated in the quotation. The Company's offer is subject to review, amendment or withdrawal at any time prior to acceptance of a purchase order or like instrument issued by the Customer or the expiry of thirty days (or other quoted validity term stated in the quotation), whichever is the earlier. Quotations will automatically lapse at the expiration of the thirty days or other quoted term, unless the validity period is extended in writing by the Company and notice of the extension forwarded to the Customer.

4. COMPANY DOCUMENTS

Clerical errors and misprints in computations, typing or otherwise in any Company document are subject to correction by the Company by either re-issuing of the document or adjustment to the document, as the case requires. The Company shall not be liable for any cost, expense or damage incurred by the Customer as a result of any correction of any document by the Company.

5. ALTERATIONS & OTHER AGREEMENTS

These Terms and Conditions and any other terms and conditions of any contract entered into between the Company and the Customer may only be varied, altered or waived by written agreement between the Company and the Customer. The Customer acknowledges and agrees that no verbal agreement between it and any employee, servant or agent of the Company will be binding on the Company. These Terms & Conditions may be varied to include the Terms & Conditions of any supplier to the Company provided those terms and conditions are agreed to in writing between the Company and the Customer.

6. TECHNICAL INFORMATION

The Customer acknowledges and agrees that copyright in all drawings, illustrations, designs, specifications, and other information provided by the Company in connection with any quotation, contract or otherwise remains with the Company. The Customer further acknowledges and agrees the details and contents of the drawings, illustrations, designs, specifications and other information shall remain confidential between the Company and the Customer.

7. TERMS OF PAYMENT

Payment shall be made by the Customer to the Company for all goods supplied, work and labour done and services rendered within 30 days from the end of the month of the date on invoice without deduction. The Customer acknowledges that time is crucial with regard to payment and that any breach of this term will enable the Company to exercise all of its rights contained herein, including (but without in any way limiting its rights) to cancel credit and take legal action for the recovery of all sums outstanding. Interest at the current commercial overdraft rate may be applied to overdue account balances.

If there is a change of the name, legal entity, structure or management and control of the Customer's business, the Company will only continue to provide credit facilities if it receives from the Customer written advice of the changes and has provided to the Customer written consent to the changes and to the continuation of credit facilities.

8. COSTS

Should payment remain outstanding beyond the Company's payment terms, as outlined above, the Customer is liable for all costs, including legal costs (on a Solicitors / own client basis), court fees and mercantile agents' fees incurred by the Company in recovering the amount outstanding.

9. PRICES AND CHARGES

- a) Unless the invoice otherwise states, all prices are strictly nett and are current at the date of offer as stated in the quotation.
- b) All prices are subject only to any variation clauses contained in the quotation and to paragraph c) hereof;
- c) All prices are subject to variation where there is a variation of import prices or exchange rates payable by the Company with respect to the item purchased, the supply of the materials, hardware, parts or equipment required for the item or any matter relating to the item.

10. GST

- a) For the purpose of this Clause 9.:
'GST' means GST within the meaning of the GST Act. 'GST Act' means a New Tax System (Goods and Services Tax) Act 1999 (as amended).
Expressions set out in italics in this clause bear the same meaning as those expressions in the GST Act.
- b) The Company and the Customer warrant they are registered or required to be registered.
- c) To the extent that a party makes a taxable supply except where express provision is made to the contrary, and subject to this clause 9, the consideration payable by a party represents the value of the taxable supply for which payment is to be made.
- d) If a party makes a taxable supply for a consideration which, under this clause represents its value, then the party liable to pay for the taxable supply must also pay, at the same time and in the same manner as the value is otherwise payable, the amount of any GST payable in respect of the taxable supply.
- e) A party's right to payment under this clause is subject to a valid tax invoice being delivered to the party liable for the taxable supply.

11. DELIVERY

Goods shall be delivered to the address specified in the credit application as the address for delivery, unless otherwise agreed in writing between the two parties. The method and date of delivery of all items purchased shall be on the terms stated in the Company's quotation, unless the Customer nominates an alternative arrangement of delivery, in which case, the Company shall use its best endeavours to comply with the customer's requests. The delivery dates contained in the quotation are an estimate only and may be varied at any time by the Company depending on the Company's production commitments, the availability of materials, labour and transport and any other contingencies.

SECTION 2 - (continued)

In no circumstances will the Company be liable for any loss or damage of any kind whatsoever in the event it is unable to comply with the Customer's request for delivery at a certain time. The Customer acknowledges and agrees that he will not make any claim against the Company for any loss or damage incurred as a result of early or late delivery. The Company reserves the right to stop, halt or defer the supply of goods at its discretion.

12. CLAIMS

The Customer will be deemed to have inspected and accepted the goods as being in accordance with his order unless he notifies the Company in writing of his claims within fourteen (14) days of receipt of the goods (receipt being the date of delivery or the date of collection, as the case requires). The Company will not accept return of allegedly defective goods unless it has given prior written authorisation for the return.

The Company will not accept items returned by the Customer if the parts are, in any way, damaged or imperfect. If the Company makes items to a specified order of the Customer or according to the Customer's specifications or design, the Company will not accept return of those parts or allow credit to the Customer. The Company's acceptance of return of the items is not an acceptance of or granting of credit to the Customer by the Company. Delivery of all items by the Customer is at the Customer's expense and risk.

13. TITLES

Until the Company has been paid in full for all Goods supplied by it to the Customer under any Contract whatsoever between the Customer and the Company:

- a) Property in the Goods shall remain in the Company.
- b) Should any of the Goods be affixed or added to any other item, such affixation shall in no way affect the right of the Company to ownership of the parts, or its right to detach them from any item to which they have been affixed.
- c) The Customer shall store the Goods separately and in such a way that they can be readily identified as being the property of the Company, should the Company so require.
- d) The Customer shall be at liberty to sell the Goods in the ordinary course of business on the basis that the Customer shall be under fiduciary duty to the Company to account to the company for the proceeds of such sale but may deduct from such proceeds the amount by which the proceeds exceed the total amount due from the Customer to the Company under any contract whatsoever, provided the Customer has no authority to enter into any contract of sale on behalf of the Company. Any contract of sale shall be accordingly concluded in the name of the Customer.
- e) Where payment is made by means of a bill of exchange, cheque or other negotiable instrument, the Company shall not be deemed to have received payment for the purpose of title to the goods until the bill of exchange, cheque or other negotiable instrument has been offered on presentation for payment and the Company has received value for it.
- f) All risks with respect to the Goods purchased by the Customer will be borne by the Customer from the time the Goods cease to be within the actual possession of the Company or its agents.

14. LIEN

The Customer hereby acknowledges the Company has a lien over all goods in its possession belonging to the Company to secure payment of any or all amounts outstanding from time to time.

15. DEFAULT

If the Customer defaults in or commits a breach of its observance and performance of its obligations to the Company, or if the Customer being a natural person commits an act of bankruptcy, or if the Customer being a company any resolution or petition to wind-up the Customer's business is passed or presented or a receiver or a receiver and manager or an official manager of the Customer's undertaking, property or assets is appointed, the Company may, without prejudice to any other remedy open to it:

- a) Determine the Contract and cease manufacture and delivery of all outstanding orders;
- b) Pursuant to a general lien held by the Company in respect to all items purchased by the Customer in the Company's possession forfeit such parts and deal with them as the Company sees fit; and
- c) Repossess Parts held by the Customer for which payment has not been received and deal with such parts as the Company sees fit.

If the Company elects not to determine the Contract with the Customer the Company may by notice in writing to the Customer cancel or vary any credit facilities, concessions or discounts available to the Customer.

16. WARRANTY

All products manufactured by Advance Metal Products (Aust) Pty Ltd and sold under the brand name Bosco Storage Solutions have a 5 year manufacturers warranty on all materials and workmanship subject to the following conditions: Acceptance of goods is evidence they were received in good order and condition. Any claims made under warranty must include a copy of the original purchase invoice to evidence the date of purchase and apply to original purchases only. The warranty is not transferable and does not apply to second-hand or refurbished goods.

Warranty applies to the operation of the product and does not cover panel damage or deterioration of finish incurred after delivery. Warranty does not apply to locks, lost keys and mechanisms used in products. This warranty does not apply if a defect occurs as a result of the product being used for a purpose other than that for which it's suited, accidental damage, neglect and/or wear and tear. Defective operation caused by abuse, misuse, excessive or uneven loading or inappropriate use of the goods, including unauthorised attempts at repair, are also not covered under this warranty.

Advance Metal Products (Aust) Pty Ltd reserve the right to inspect all warranty claims prior to commencement of any repairs. All warranty inspections and claims are to the discretion of Advance Metal Products (Aust) Pty Ltd. Equipment requiring repairs under warranty where the repair cannot be carried out on site, are to be returned to our premises, repaired and returned to the site. All repairs will be completed, wherever practical and with availability of replacement components, within 10 working days of receipt into our factory.

Should replacement parts be unavailable for reasons beyond the reasonable control of Advance Metal Products (Aust) Pty Ltd, the company reserves the right to replace products under warranty with products of similar specification. The freight cost incurred on all goods covered under warranty is the responsibility of Advance Metal Products (Aust) Pty Ltd. Accordingly, Advance Metal Products (Aust) Pty Ltd reserve the right to nominate methods of transport and carriers. This warranty is limited to the replacement cost of the product and no responsibility is accepted for consequential damages.

17. LIABILITY

The Company shall be under no liability whatsoever in regard to the parts or the services provided under the Contract. The provision of this condition shall exclude any warranty or condition that might but for this condition be implied by the statute, common law, custom or otherwise. The Company shall be under no further or other liability whatsoever in respect of loss or damage directly or indirectly by any failure or defect in the design, performance, quality or condition of the parts even if the same frustrates further performance of the Contract. In the event of the parts or the services provided by the Company under the contract proving defective the Company's liability in respect of the parts or the services shall be limited to the cost replacement, repair or rectification, unless the same shall relate to personal injury or death, and only then and if to the extent that the same shall arise out of the Company's negligence.

In any proven claim the faulty part(s) must be returned to the place of original manufacture. The Company will not be held responsible for the costs of any damage repairs or replacement to other building plant or equipment (whether consequential or otherwise) which may have occurred due to the failure to any of the said faulty component(s). Costs involved for the removal and or re-installation of any faulty components, or freight and transport costs for Parts returned and re-supplied, would be at the expense of the Customer with no claim to the Company.

No consideration will be given to any claim if:

- a) The Parts sold are abused or in any respect whatsoever installed or operated outside the limits of the specifications and design.
- b) Any defects complained of are caused by fair wear and tear, wilful damage, negligence or untrained or unskilled use in the operation or storage of the parts.
- c) The Customer in any respect alters the parts purchased by it or adds to it or removes any materials from such Parts.
- d) The Customer fails to immediately notify the Company in writing of any defect or fault in the parts purchased or fails to provide full details of any such failure or fault prior to returning the parts to the Company.

18. INDEMNITY

The Customer shall indemnify the Company in respect of any loss, injury, expense or claim of whatsoever nature and however arising out of the Contract or the parts, or their storage, installation, use, operation or maintenance save to the extent that the same is caused by the negligence of the Company, its servants or agents, including the Company's subcontractors.

19. LOSS

The Company shall not be liable in any circumstances whatsoever to the Customer for:

- a) Any loss of profits or contracts suffered by the Customer
- b) Any loss or damage in circumstances over which the Company has no control.
- c) Any lost production time or any expense or penalties incurred with production losses.

SECTION 2 - (continued)

20. CANCELLATION

Orders placed with the Company cannot be cancelled without the written approval of the Company.

- a) In the event that the Company accepts the cancellation of any order placed with it, the Company shall be entitled to charge a reasonable fee for any work done on behalf of the Customer to the date of the cancellation, including a fee for the processing and acceptance of the Customer's order and request for cancellation.
- b) Where work has commenced, whether it is design or fabrication, cancellation charges would include all labour performed, materials purchased, engineering and administrative charges pertaining to the cancelled order. Where appropriate payment is made, the partially processed materials or completed parts become the property of the Customer.
- c) Freight and transport costs for goods returned to and from the Company shall be at the Customer's expense.

21. FORCE MAJEURE

If the Company is prevented or delayed from, or performing any of its obligations under the Contract by force majeure, which shall include but not be limited to acts of war, industrial action, whether or not by, or involving employees of the Company, acts of God, government action, riot, civil commotion, failure by the Customer to fulfil its commitments in due time, inability to obtain materials, or any other occurrence (whether of the same or different in kind or nature) which was unavoidable or beyond the control of the Company, the Company may give notice in writing to the Customer of the circumstances constituting force majeure and of the obligation or performance of which is delayed or prevented, and shall be excused from compliance with such obligations for as long as such circumstances may continue. If by virtue of this clause either party is excused from compliance with any obligation for a continuous period of four calendar months, then without prejudice to any other right or remedy either party may forthwith terminate the Contract by giving notice in writing to the other.

22. DEFINITIONS

Where appropriate the singular shall include the plural, the plural the singular and where there are two or more persons comprised in the definition of the Customer, then the obligations imposed herein on the Customer shall be deemed to be joint and several.

23. MINIMUM ORDER VALUE

A minimum order value of \$500.00 may be applied.

24. VARIATIONS

The Company reserves the right to vary these Terms and Conditions of Sale from time to time at its discretion.

25. APPLICABLE LAW

Unless otherwise agreed in writing by the Company, the applicable laws of the State of New South Wales shall govern all contracts arising between the Company and the Customer and the parties agree to the jurisdiction of the Courts of that State.

