

Terms & Conditions of Quotation and Sale



These Terms and Conditions are also published on the following company website: <http://www.allaboutupromotions.com.au/> and are available upon request at each of our company's stores.

All About U Promotions (AAU) is not bound by any variation to its Terms unless expressly agreed upon in writing and signed by a duly authorised Representative of AAU and the Applicant. These Terms herein 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. AAU may at any time and from time to time alter these Terms and the Customer agrees that it will be deemed to have notice of any change to these Terms and to be bound by any subsequent versions of these Terms as they appear on AAU's website: <http://www.allaboutupromotions.com.au/> whether or not the Customer has actual notice or not.

A copy of the current version of the Terms and Conditions may also be obtained by request at AAU's principle place of business.

1. DEFINITIONS

- 1.1 "AAU" means Stephen Brian Hurley and Julie Anne Hurley trading as ALL ABOUT U PROMOTIONS BN98061425 and its subsidiary and related bodies, and its successors and assigns.
- 1.2 "Contract" means any contract for the sale of Goods between AAU and the Customer.
- 1.3 "Customer" means you the Applicant, Debtor, Customer and Purchaser of AAU's Goods.
- 1.4 "Goods" means any goods and or services provided to the Customer.
- 1.5 "Order" means any request to AAU by the Customer, or by their agent or representative, for the provision of Goods and includes (but is not limited to) any letters sent by post, facsimile or electronic means, signed purchase orders and verbal requests, acknowledged in writing by AAU.

2. PERSONAL PROPERTY SECURITIES ACT 2009 (PPSA)

- 2.1 If a term used in this clause has a particular meaning in the PPSA, it has the same meaning in this clause.
- 2.2 The Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the PPSA and creates a security interest in all Goods that have previously been supplied and that will be supplied in the future by AAU to the Customer. The Customer acknowledges and agrees that AAU may apply to register a security interest in the Goods at any time before or after delivery of the Goods. The Customer waives its rights under s157 of the PPSA to receive notice of any verification of the registration.
- 2.3 The Customer undertakes to -
 - (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which AAU may reasonably require to -
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 2.3(a)(i) or 2.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, AAU for all expenses incurred in registering a financing statement or financing change statement or security interest on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;
 - (c) not register a financing change statement in respect of a security interest between the parties without the prior written consent of AAU;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of AAU;
 - (e) immediately advise AAU of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 2.4 AAU and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 2.5 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4) 135, 142 and 143 of the PPSA.
- 2.6 The Customer waives their rights as a guarantor and/or a debtor under sections 142 and 143 of the PPSA.
- 2.7 The Customer must unconditionally ratify any actions taken by AAU under clauses 2.3 to 2.5.
- 2.8 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

3. QUOTATIONS, PRICES, SUPPLY

- 3.1 No quotation given by AAU shall constitute an offer and is to be treated as an estimate only.
- 3.2 At AAU's sole discretion the price shall be either:
 - (a) as indicated on invoices provided by AAU to the Customer in respect of Goods supplied; or
 - (b) AAU's quoted price (subject to clause 3.6) which shall be binding upon AAU provided that the quote was provided to the Customer in writing and the

Customer has accepted AAU's quotation in writing, identifying the Customer and the number of the quotation and an Order number, within 30 days of the date of the quote.

- 3.3 AAU is entitled to recover from the Customer as a debt due or owing, all costs, losses and expenses incurred by AAU as a result of, arising out of, or in connection with, any act, default or omission of the Customer, their agents, servants, contractors, subcontractors, consultants, representatives and others for whom they are responsible.
- 3.4 AAU will not be obliged to undertake any work additional to that which forms the subject matter of an accepted quote or Order without the prior written instruction from the Customer and such instructions, if accepted, will operate as a variation of the customers quote or Order, as applicable. AAU will not be required to undertake any work in relation to the variation prior to the Customer's acceptance of the price of any variation.
- 3.5 The Customer must not request any reduction in their account with AAU for any costs incurred on behalf of, or following from any act or omission of, AAU or its agents, servants, subcontractors or representatives.
- 3.6 AAU reserves the right to change the price of an Order in the event of any variation to the Customer's quotation or Order, including but not limited to increases in: duties, taxes, foreign or domestic exchange rates, import and delivery costs, and the costs of complying with all legislation, ordinances, regulations and by laws from the date of the Customer's quotation.
- 3.7 A Customer may only cancel an Order by giving notice to AAU and the cancellation becomes effective when AAU provides written confirmation of receipt of the notice of cancellation.
- 3.8 If a Customer cancels any Order for Goods after AAU has received an Order then AAU reserves the right to charge to the Customer the costs incurred in cancelling any Order or part Order (including loss of profit) together with the costs incurred to the date of such Order. At AAU's sole discretion, such cancellation costs may include (but are not limited to) artwork fees, set-up costs, freight costs, restocking fees, or full payment of the Order in circumstances where work has already commenced to produce the Goods at the time that notice of the cancellation is received.
- 3.9 Unless otherwise stated, prices quoted are in Australian dollars and are **exclusive of GST, sample charges, packing, freight, crating, artwork fees, labour in loading/unloading, storage, insurance, installation, and handling charges, where applicable**, which shall be added to the price of the Goods.
- 3.10 Prices shown in price lists are subject to change without notice.
- 3.11 AAU may sub-contract the performance of a Contract in whole or in part.
- 3.12 AAU reserves the right to decline any Order for Goods when the size of the Order or the requested delivery date inhibits or prejudices AAU's ability to fulfil its contractual commitments to its franchisees, licences or other Customers.
- 3.13 Any sample produced at the request of the Customer, will be at the Customer's expense along with costs associated with the provision of the sample (including but not limited to drawing fees, freight costs and restocking fees), which may be added to the final invoice. At AAU's sole discretion, samples may be provided free of charge if an Order proceeds and the sample is returned in its original packaging and condition.
- 3.14 Samples produced by AAU are indicative only of the general nature of the products supplied by AAU and unless otherwise agreed in writing AAU does not warrant or guarantee that the Goods will correspond with any colour, texture, design or material with the sample provided to the Customer or with any previous sample provided to the Customer.
- 3.15 Upon the placement of an Order, or the acceptance of a quote (in accordance with clause 3.2(b)), or as otherwise agreed in writing, the Customer must supply to AAU such particulars as are necessary for AAU to execute and supply the Goods, including but not limited to dimensions, drawings and specifications.
- 3.16 If print artwork supplied by the Customer is not suitable for use by AAU in preparing the Goods (as determined by AAU in their sole discretion), AAU may redraw the artwork.
- 3.17 The Customer agrees that any artwork redrawing required to complete the Goods will be charged out at \$60.00 per hour (plus GST), which will be added to the cost of the Goods (unless previously accounted for in a Quote accepted in accordance with clause 3.2(b)). Minor artwork redrawing may (at AAU's sole discretion) be provided at no additional cost.
- 3.18 AAU reserves the right to make alterations to the requests, details and specifications provided by the Customer without notice to the Customer, to allow AAU to use of their available standard size material and tooling, or if AAU determines in their sole discretion that the directions, requests, specifications, or instructions provided by the Customer would not give effect to their desired result and the costs of such alterations may be added to the cost of the Goods.
- 3.19 Unless otherwise agreed in writing (which will be treated as a variation and charged to the Customer accordingly), AAU is only bound to complete the Goods within reasonable and normal trade tolerances and finishes.
- 3.20 Unless expressly otherwise agreed in writing, the Customer accepts a defect rate of up to 5% and acknowledges this as the promotional products industry norm.
- 3.21 Unless expressly otherwise agreed in writing, the Customer accepts a delivery tolerance of 5% above or 5% below the Order quantity as full delivery of that Order and will be billed for the full value of the Order.
- 3.22 Unless otherwise agreed in writing (which will be treated as a variation and charged to the Customer accordingly) AAU is only required to perform work on, or complete the Goods, during AAU's normal working hours.

- 3.23 Irrespective of whether a time is specified for completion of the Goods, AAU reserves the right to extend the time for completion of the works if AAU, in its sole discretion, considers it reasonable due to some matter, event, cause or thing outside of its control, such as (but not limited to): instructions, variations or lack of instructions or information from the Customer, industrial disputes, delay by freight companies or import procedures, inclement weather, or failure to obtain access to or sufficient possession of any site.
- 3.24 The Customer warrants that any data device or electronic device (including but not limited to hard-drives and USB's) provided to AAU in the course of completing the Goods is free from any virus or other defect which may cause damage or loss to AAU.
- 3.25 The Customer accepts liability for any loss or damage (including direct, indirect, and consequential loss) caused by any data device or electronic device provided to AAU in the course of completing the Goods.

4. TERMS OF PAYMENT

- 4.1 The granting of credit to a Customer shall be at the absolute discretion of AAU and unless otherwise demanded by AAU, the Customer shall make payment within 14 days from the date of the invoice. Any credit facilities granted to a Customer may be withdrawn on overdue accounts at AAU's discretion without notice to the Customer.
- 4.2 Payment will be made by cash, cheque, direct bank deposit, or by credit card or by any other method as agreed between AAU and the Customer in writing. Payment by credit card will incur a Merchant Fee of 3% of the payment amount, per payment.
- 4.3 Unless otherwise agreed in writing payment is to be made in the following manner;
- On the Customer's first Order with AAU a deposit of 50% of the quotation price shall be due upon placing the Order for Goods and the balance of the Order price shall be due prior to the delivery of the Goods;
 - In all other Orders, unless otherwise agreed in writing, payment shall be due within 14 days from the date of the invoice provided by AAU with respect to the Goods.
- 4.4 If the Customer fails to make payment within 35 days from the date of the invoice, AAU shall be entitled to:
- Charge interest at the rate of fifteen per centum (15%) per annum on a cumulative basis on all overdue amounts (including late payment charges and amounts other than the prices) 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 Customer acknowledges that such interest is the legitimate reasonable loss sustained from non-payment and agrees that such charges shall be payable on demand.
 - Claim from the Customer all costs relating to any action taken by AAU 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
 - Cease any further deliveries to the Customer and treat any existing Orders or agreements in relation to Goods not then delivered as being cancelled by the Customer.
- 4.5 The Customer may not withhold any moneys due and payable as retention.
- 4.6 Where AAU is liable in accordance with these conditions in respect of only some or part of the Goods the Contract shall remain in full force and effect in respect of the other parts of the Goods and no set-off or other claim shall be made by the Customer in respect of such other, or other parts of the, Goods.

5. DELIVERY

- 5.1 At AAU's sole discretion delivery of the Goods shall take place when:
- The Customer takes possession of the Goods at AAU's address or AAU's nominated address;
 - The Goods are loaded for carriage (in the event that the Goods are delivered by AAU or AAU's nominated carrier);
 - The Customer's nominated carrier takes possession of the Goods in which event the carrier shall be deemed to be the Customer's agent; or
 - AAU makes the Goods available for the Customer's collection.
- 5.2 Any date or time quoted for delivery is an estimate only and AAU 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 by the Customer or render AAU liable for any loss or damages directly or indirectly or consequently sustained by the Customer as a result thereof.
- 5.3 The Customer shall not be relieved of any obligation to accept or pay for products by reason of any delay in delivery or any strike, lockout, unavailability of raw materials, accidents to machinery, differences with workmen, breakdowns, shortages of supplies or labour, fires, floods, storm or tempest, transport delays, acts of God, restrictions or interventions imposed by any laws, regulations, governments or agencies thereof and any other cause beyond the control of AAU or any other cause whatsoever.
- 5.4 The Customer acknowledges that no part of the price of the Goods is paid towards delivery on a quoted date.
- 5.5 AAU reserves the right to decide, and without notice vary, the means, route and procedure of delivery, transport and handling of the Goods to be delivered.
- 5.6 Where the Goods are to be delivered by third party carrier or transport company (irrespective of whether that carrier is nominated or engaged by AAU or the Customer), the Customer agrees that any potential claim for damaged or lost Goods lies against the third party carrier or transport company and not against AAU (whom the Customer agrees to indemnify and hold harmless in such circumstances).
- 5.7 Where AAU has agreed to transport the Goods then AAU's 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, and the Customer will be deemed to have taken possession of the Goods.

- 5.8 If the quote provided by AAU to the Customer includes delivery then the Goods will be delivered to the kerbside of the Customer's nominated address and unloading and handling of the Goods will be the responsibility of the Customer.
- 5.9 If the Customer is unable or unwilling to accept physical delivery of the Goods when the Goods are ready for delivery, AAU shall, at the risk and cost of the Customer, be entitled to:
- leave the Goods at the kerbside of the address of the nominated delivery destination or the address appearing on the invoice, at the risk of the Customer;
 - charge a fee for any delay experienced; or
 - arrange for the storage of the Goods and recover from the Customer all associated costs including but not limited to all transportation, storage and other consequential costs.
- 5.10 AAU may at its sole discretion make and invoice partial deliveries and each partial delivery shall be a separate delivery pursuant to these terms and conditions.
- 5.11 Where partial deliveries of the Goods is made no default or failure by AAU in respect of any one or more partial delivery shall vitiate the Contract in respect of the Goods previously delivered or undelivered Goods.

6. INSPECTION

- 6.1 The Customer must examine the Goods at AAU's factory premises prior to making the final payment unless the Goods are to be delivered.
- 6.2 If the Goods are to be delivered, the Customer shall examine the Goods immediately after delivery and will, within seven (7) days of the date of delivery, and allowing for trade and quantity tolerances disclosed herein, notify AAU in writing of any alleged defect, mis-delivery, shortage in quantity, damage or failure to comply with the description, quote or Order.
- 6.3 If the Customer believes the Goods are defective in any way the Customer must return the Goods to AAU (at the Customer's cost), securely packaged and within a reasonable time following delivery and notification in accordance with clause 6.2, for inspection of the Goods as delivered.
- 6.4 If the Customer fails to comply with these provisions, the Goods shall be presumed to be free from any defect or damage and AAU will be free from any liability with regard to any claim.
- 6.5 If the Customer returns Goods in accordance with clause 6.3 and AAU determines that the Goods are not defective AAU may add up to 10% of the price of the Goods and issue a new invoice for the Goods reflecting this addition.
- 6.6 No claim by the Customer for failure to supply Goods conforming to the Customer's Orders will be recognised by AAU unless made in accordance with this clause 6.
- 6.7 No claim involving labour charges or product replacement will be recognised by AAU unless AAU has agreed to the value of the claim and AAU has been given sufficient time to investigate and take such action it feels necessary to solve the problem.
- 6.8 No claims will be recognised by AAU for any loss or damage or injury of any kind whatsoever arising directly or indirectly from the Customer's failure to obtain independent professional and or tradesman advice in relation to the suitability of the Goods for any specific purpose. The Customer must rely on its own knowledge and expertise in selecting Goods for any purpose. AAU are not experts and any advice or assistance given by AAU is accepted by the Customer at the Customer's own risk.
- 6.9 AAU shall not be liable to the Customer for any loss of profits or consequential, indirect or special loss, damage or injury of any kind whatsoever, arising directly from any defect in the Goods or their use (regardless of any express or implied terms, or by reason of the Customer's negligent act or omission or otherwise at common law.)
- 6.10 For defective Goods, which AAU has agreed in writing that the Customer is entitled to reject, AAU's liability is limited to either (at AAU's sole discretion) replacing the Goods, repairing the Goods, or providing a partial refund (the quantum of which shall be determinable by AAU).
- 6.11 Goods will not be accepted for return other than in accordance with this clause 6.

7. TITLE AND RISK

- 7.1 It is the intention of AAU and agreed to by the Customer that ownership of the Goods shall not pass until:
- The Customer has paid all amounts owing in cleared funds for the particular Goods (including all applicable sales, taxes and other taxes, levies and duties); and
 - The Customer has met all other obligations due by the Customer to AAU in respect of all Contracts between AAU and the Customer.
- 7.2 Any payment made by or on behalf of the 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.
- 7.3 Notwithstanding that AAU may retain ownership of the Goods, all risk for the Goods remains with the Customer for the duration of the Contract.
- 7.4 The Customer must insure the Goods for their full replacement value against loss or damage by fire, theft, or otherwise, until title passes to the Customer and such insurance must note AAU's interest.
- 7.5 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, AAU is entitled to receive all insurance proceeds payable for the Goods. The production of these Terms and Conditions by AAU is sufficient evidence of AAU's rights to receive the insurance proceeds without the need for any person dealing with AAU to make further enquiries.
- 7.6 The Customer acknowledges that it is in possession of the Goods solely as a bailee for AAU until payment has been made in full to AAU and until such payment the Customer

shall store the products separately from its own goods and those of any other party and in a manner which clearly identifies the Goods, whether as separate chattels, or as components, as the property of AAU, and must return the Goods to AAU (at the Customers cost) in good order and "as new" condition upon default of any payment as it falls due.

- 7.7 The Customer hereby irrevocably grants to AAU, its agents and servants, an unrestricted right and licence, without notice, to enter premises occupied by the Customer to identify and remove any of the Goods the property of AAU (at the Customers cost) in accordance with these terms without in any way being liable to the Customer or any person claiming through the Customer. AAU shall have the right to sell or dispose of any such Goods removed or otherwise in its sole discretion and shall not be liable for any loss occasioned thereby.
- 7.8 AAU licenses the Customer to sell products manufactured using Goods of AAU. If the Goods are affixed to other material, the totality thereof shall be the sole and exclusive property of AAU until payment has been made in full to AAU, unless the other material or part thereof are, or is, the property of a party or parties other than the Customer on which case the totality thereof shall be deemed to be owned as tenants in common with such other party or parties 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.
- 7.9 The Customer shall be at liberty to agree to sell the Goods (independently or affixed to other materials) subject to the condition that until payment has been made, the Customer shall sell as an agent and bailee for AAU and that the entire proceeds from the sale thereof shall be held in a separate account on trust for AAU.
- 7.10 If the Goods are sold pursuant to clause 7.9 and the proceeds fail to satisfy the debt payable under the relevant Contract, the Customer is liable for, and must pay to AAU, the balance of the value of the Contract as a liquidated debt immediately payable.
- 7.11 The right to on-sell or otherwise dispose of the Goods in the normal course of trade may be revoked at any time by AAU and 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 arrangement or composition with creditors or commits any act of bankruptcy or where the Customer is in default of any of its obligations to AAU.

8. WARRANTY

- 8.1 Subject to payment in full being made as defined in Clause 4, AAU shall use its best endeavours to pass on to the Customer the benefit of any warranties or guarantees it receives in respect of products thereof supplied to the Customer which are not of AAU's production.

9. LIMITATION OF LIABILITY

- 9.1 Any descriptions, illustrations, drawings, colours, photographs, computer generated images, specifications, figures as to performance, and representations as to dimensions and weights, provided by AAU and contained in AAU's catalogues, website, emails, price lists, or elsewhere, are intended solely to represent a general idea as to the works provided by AAU and do not form part of any Contract, and may not be treated as a representation, inducement, or portfolio of AAU's Goods.
- 9.2 Unless it is specified in writing by AAU in response to a written request from the Customer before an Order or Contract is made, the Customer may not rely on any technical information, recommendations, statements or advice given by AAU or its agents, servants, employees, representatives, or the like.
- 9.3 It is the Customer's responsibility to ensure that Goods Ordered are suitable for their intended use prior to placing an Order.
- 9.4 The Customer warrants that no part of their Order infringes on any third party intellectual property rights and acknowledges that AAU relies on that warranty in accepting an Order for the provision of Goods.
- 9.5 The Customer shall indemnify and hold harmless AAU and its officers, employees, and agents against any claim, suit, proceedings or demand made by a third party for loss or damage suffered whether directly or indirectly by infringement of its intellectual property rights.
- 9.6 These terms do not exclude, restrict or modify the application of any provisions of any Commonwealth, State or Territorial Law which by law cannot be excluded, restricted or modified.
- 9.7 In the case of Goods supplied by AAU to a Customer who is a consumer as defined by the Australian Consumer Law, to the extent that the Goods are not consumer products or goods, the liability of AAU to the Customer for breach of any warranty or condition or the breach of any duty of care shall in all cases be limited to an amount not exceeding 10% of the Order and the Customer releases AAU from any claim, suit, proceedings or demand on account of any liability exceeding that amount.
- 9.8 Except for those conditions and warranties implied by the Australian Consumer Law or consumer protection legislation which may be excluded, the Customer agrees that:
- (a) It has not relied on any inducement, representation or statement made by or on behalf of AAU in purchasing the Goods 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 AAU).
- 9.9 Except as prohibited by law, the Customer must within 14 days of the occurrence of the first event of circumstances giving rise to a claim, suit, proceedings or demand serve written notice on AAU of those circumstances with detailed particulars.

- 9.10 Subject to clause 19.4 the Customer agrees that these terms and conditions may be produced or pleaded, as applicable, as a bar to any claim, suit, proceedings or demand, or to any entitlement to the same, if the conditions in clause 10.5 are not met.
- 9.11 In no circumstances shall AAU be liable for the acts, omissions, or negligence of any third parties to the Contract.
- 9.12 With regards to USB drives and electronic devices AAU does not provide a warranty with respect to the functionality of the drives and devices and will not be responsible for any loss of data or damage to other devices used in conjunction with any USB drive or electronic device which form a part of the Goods.
- 9.13 This clause 9 sets out the entire liability of AAU in respect of its liability under the Australian Consumer Law or otherwise in respect of liabilities to the consumer for a breach of a condition or warranty with respect to the sale of Goods. In no circumstances will AAU incur any liability in respect of, arising out of, or in connection with, any special, consequential, direct or indirect loss, damage, harm or injury suffered or incurred by the consumer and/or Customer.
- 9.14 AAU is not liable for any defects resulting from wear and tear, accident, improper use by the Customer or use by the Customer except in accordance with instructions provided by AAU with respect to the preservation or care of the Goods.

10. FORCE MAJUERE

- 10.1 AAU shall not be liable for any failure or delay to supply or deliver the Goods where such failure or delay is wholly or partly due to any cause or circumstance whatsoever outside the reasonable control of AAU 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.

11. TERMINATION

- 11.1 If the Customer fails to comply with any of these terms and conditions, AAU may, in addition to exercising all or any of its rights against the Customer, suspend any further deliveries and immediately recover possession of any Goods not paid for in accordance with these terms and conditions.
- 11.2 In addition to exercising all or any of its rights against the Customer, AAU may suspend any further deliveries and immediately recover possession of any Goods not paid for in accordance with these terms and conditions and by notice in writing, terminate any Order or agreement with the Customer if the Customer:
- (a) is in breach of any Order or agreement and fails to remedy the breach within 14 days of notice in writing specifying the breach and requesting its remedy;
- (b) fails or refuses to take delivery of Goods to be supplied pursuant to an Order;
- (c) commits an act of bankruptcy, or 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 for any property or assets of the Customer or becomes liable to be wound up by reason of insolvency or if any petition is presented for its winding up, or if a liquidator or provisional liquidator is appointed; or
- (d) is insolvent.

12. RETURNS

- 12.1 Due to their bespoke character, subject to clause 6, Goods are non returnable.

13. ADVERTISING

- 13.1 The Customer shall not advertise in any media the sale or disposal of Goods purchased from AAU, without the written consent of a duly authorised Representative of AAU. The Customer shall indemnify and hold indemnified AAU 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 name similar to those used or owned by AAU without the written consent of a duly authorised Representative of AAU.

14. CONFIDENTIAL INFORMATION

- 14.1 The Customer warrants that it will not disclose to any person confidential information of AAU that the Customer may be shown or comes into contact with in the course of purchasing Goods from AAU or from any other source including but not limited to AAU's materials, procedures, tests, reports and equipment, without the written consent of a duly authorised Representative of AAU.

15. GOVERNING LAW

- 15.1 The Customer agrees that these terms shall be construed according to the laws of New South Wales.
- 15.2 The Customer submits to the exclusive jurisdiction of the Courts of New South Wales and the Commonwealth of Australia.

16. SERVICE OF DOCUMENTS

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

17. STATEMENT OF DEBT

- 17.1 A written Statement of Debt duly signed by an authorised representative of AAU shall be prima facie evidence and proof of the amount of indebtedness by the Customer to AAU at that time.

18. MISCELLANEOUS

- 18.1 These terms and conditions bind any Guarantor to the agreement as though the Guarantor were the original contracting party.
- 18.2 The Customer must use its best endeavours to perform all cooperative acts to bring about the contractual result.
- 18.3 Printed Logos, marks or messages are for demonstration purposes only. AAU does not claim to have supplied any of the articles depicted on the website disclosed herein to any of the owners of the marks or logos shown or be endorsed by any way of them. All logos used in electronic brochures are the property of their respective trade mark owners and are used for decoration and illustrative purposes only.
- 18.4 AAU cannot guarantee that this site is free from viruses or other software conditions. Users accept this risk.
- 18.5 This site may contain links to third party sites. AAU is not responsible for the condition or content of those sites. Access to these sites is your own risk. The links are provided solely for your convenience and amusement and are not an endorsement by AAU.

19. PERSONAL INFORMATION DISCLOSURE

- 19.1 AAU will not give or sell any information provided by the Customer to any third parties for use in marketing or solicitation without the Customer's consent.
- 19.2 Protected information includes any information about the Customer, the Customer's Order, and the Customer's purchase history.
- 19.3 AAU may share the Customer's information with contractors of AAU for the purpose of performing works related to the Goods under an Order or sample request.
- 19.4 AAU may release personal identifiable information when required by law.
- 19.5 AAU does not guarantee the security of any information or data in transmission AAU and the Customer is solely responsible for maintaining the secrecy of any passwords or other account information.