

Terms and Conditions of Sale

1. No quotation, proposal or estimate given by us (Arjo Australia Pty Ltd or the “Company”) gives rise to a binding contract unless an order is placed by you (the “Customer”) and accepted by us. Quotations, proposals or estimates are valid for 30 days as specified on the quote. These conditions incorporate all the terms agreed between you and us and cannot be varied except by a document signed by you and us on or after the date of this contract. We exclude all prior agreements, understandings and representations made before entry into this contract.
2. Unless expressly included in the invoice, quoted prices do not include freight, packing or insurance and are exclusive of GST.
3. A handling fee may be applied for invoiced orders.
4. Delivery shall be made at the place specified in the relevant order or as agreed between us. We do not accept responsibility for delay in delivery, but we will use our best endeavours to comply with any agreed delivery date. Irrespective of whether title has passed, the risk of loss or damage to, or theft of the goods, will pass to you upon delivery of the goods at the point of delivery.
5. You acknowledge that title of the goods does not pass to you until the invoiced price for the goods has been paid in accordance with clause 8. You agree that if you sell or otherwise dispose of the goods before the invoiced price has been paid in accordance with clause 8, you do so as our fiduciary agent and the proceeds of such sale or disposal are our property and are to be held on trust for us. At our written request, you must use your reasonable endeavours to assist us to register this contract as a “security interest” under the *Personal Property Securities Act 2009* (Cth) and the *Personal Property Securities Regulations 2010* (Cth).
6. You will be deemed to have accepted the goods unless written notice of rejection is received by us within 7 days of delivery. Shortages or non-delivery of goods must be notified to us within 7 days of delivery.
7. We reserve the right to charge a 25% restocking fee (calculated on the invoiced amount of the goods returned) for any returned parts and/or products (at our discretion) due to customer ordering error. Any outstanding freight/delivery charges associated with a returned product is to be paid by the Customer
8. The invoiced price for the goods and any associated services must be paid not later than 30 days after the date of the invoice.
9. Prompt payment is a condition of this contract, and you agree that we shall be entitled to charge interest at 2% per month on any outstanding monies, such interest to accrue from day to day. If payment is agreed to be by letter of credit, such a letter must be irrevocable and unconditional and in terms and with a bank approved by us.
10. We will repair, service or adjust goods which are proved, within the relevant warranty period stated in the applicable company/product literature, information, quotations or price lists, to our

reasonable satisfaction to be defective due to defects in material or workmanship, so long as the goods have been used in accordance with our Instructions for Use for those goods and have not been altered or dismantled unless done so by the Company or an authorised service provider, and goods have been serviced in accordance with manufactures recommendations by the Company or an authorised service provider.

11. We reserve the right to deny any request for refunds or credit claims for goods supplied under this contract which are not in their original sealed packaging and/or original integrity. A restocking or repackaging fee may be charged the discretion of the Company.
12. You must not assign any right under this contract without the prior written consent of the Company.
13. You indemnify us against any and all loss (including any special, indirect or consequential loss), claim, action, liability or damage ("Loss") or any injury (including death) to any person, arising directly or indirectly from the goods or their use, except for death or injury caused by our gross negligence, and you indemnify us for any and all loss we incur or sustain arising out of or in connection with any third party claim arising out of or in connection with your use of the goods. You will promptly provide us with details of any such incident. We will not be responsible for any loss of business or profit or for any other consequential loss suffered by you howsoever arising, including our delay in or failure to deliver the goods.
14. You indemnify us against any and all loss arising from the incorrect installation of our products where we are not responsible for the products installation. Where you have incorrectly installed the goods or in any way damaged them during installation, Arjo retains the right to fix the issue on behalf of the end user and on-charge any costs back to you. Where the Customer is a 3rd party, who on-sells or installs the product, you should state in the contract with your client, that Arjo is not in any way responsible for installation.
15. Until title to the goods passes from us to you, you agree to maintain such comprehensive property damage liability insurance for the goods in an amount not less than the value of the goods and such other insurances as we reasonably direct you to protect, directly or indirectly, the right, title and interest of us in the goods. You will use the goods only in accordance with the included Instructions for Use for those goods and, unless authorised by us, will not permit any alterations to the goods or the name plates. All ownership of intellectual property rights in the goods remains with us. You may not exhibit goods supplied by us under this contract in any public exhibition without first obtaining our consent in writing.
16. Purchased goods under this contract will be for Customer's own use and must not be resold without the prior consent of Arjo Australia Pty Ltd.
17. In the event that you are not able to pay your debts as they fall due or have a receiver, administrator or similar officer appointed over all or any of your assets, any outstanding monies due to us will become payable immediately and you will if requested, immediately deliver up the goods to us. We will be entitled to enter your premises at all reasonable times to repossess the goods and you must get the written consent of any landlord or tenant of the premises where the goods are kept or stored to allow us to do so.

18. Where the Customer is a 3rd party, who on-sells the product, the 3rd party shall maintain all product traceability as required by the Company and the relevant state and federal authorities.
19. If any provision of this contract is deemed to be illegal or unenforceable under any applicable law or, if any court or tribunal of competent jurisdiction in a final decision so determines, this contract shall continue in force without such provision with effect from the date of such decision or such other date as the parties agree.
20. These terms and conditions are governed by and construed in accordance with the laws applicable in New South Wales and the parties agree to submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales and any courts which have jurisdiction to hear appeals from any of those courts. However, proceedings may brought in the courts of other jurisdictions for the purposes of enforcing a judgment or order of any such court.

Warranties and Disclaimers

Subject to the following provisions, all goods sold are warranted for the periods specified in company/product literature, information, quotations and price lists, from the date of purchase or, if agreed, the period agreed in writing between the Company and the Customer from the date of delivery:

- A. Product data design details and performance figures contained in the Company's published literature and advice given by the Company is provided only as a guide to available information, and the Company does not accept any liability whatsoever (including any liability arising from negligence) for its accuracy or for any Loss or for the results obtained by the Customer. If the Customer relies on such information or advice, it is entirely at the Customer's own risk. All orders are accepted on the understanding that the Customer will be responsible for determining that the items sold or manufactured by the Company are suitable for a particular application.
- B. The Customer's goods are accepted for processing by the Company or by the supplier the Company represents at the Customer's own risk. Whilst the Company will use its endeavours to carry out the instructions of the Customer, all goods provided by the Customer are accepted, treated, processed and stored entirely at the risk of the Customer and no liability whatsoever (including any liability arising from negligence) is accepted by the Company.
- C. To the maximum extent permitted by law, the Company shall not be responsible for goods that are not manufactured by the Company.
- D. If any defect or failure in the goods supplied by the Company become apparent under proper use within the warranty periods specified from the date of delivery and the Company is notified of the required details relating to the defect or failure, the Company will either replace the goods or, at its option, arrange repair of the goods free of charge, provided the Company is satisfied that the defect or failure is due solely to faulty workmanship or the use of faulty materials.

- E. Any repair for a defect or failure during warranty and post-warranty periods shall be provided by the Company at the Arjo service centre. The Customer shall return the product to the Company or an authorised service centre, whereby the delivery to and collection of the product is the responsibility of the Customer.

- F. Where the original purchaser is a 3rd party, who then sells the product onto the end customer, the 3rd party is responsible for any labour costs associated with the repair, the Company will remain responsible for supplying spare parts that have failed during the manufacturer's warranty period. In this situation, the 3rd party must seek the Company's approval by providing written and photographic verification of the warranty repairs, including the original invoice number, date of purchase, description of the repair, name of the end customer and date of the final sale.