

35-YEAR PRODUCT WARRANTY OUTBACK SLEEPERS AUSTRALIA

CONCRETE RETAINING WALL SLEEPERS (WHEN USED IN AUSTRALIA)

PURPOSE OF THIS DOCUMENT

1. **OUTBACK SLEEPERS AUSTRALIA PTY LTD** (ABN 68 105 671 029) ("**Outback Sleepers Australia**") has manufactured concrete retaining wall sleepers ("**Sleepers**") to be supplied to customers for use in Australia ("**Customer**").
2. Outback Sleepers Australia has for many years conducted research and engineering concerning its Sleepers, such that a Customer can be confident that the Sleepers are suitable and fit for the purpose of a Lawfully Constructed Retaining Wall (note – for the purposes of this Warranty "**Lawfully Constructed Retaining Wall**" means a retaining wall constructed in accordance with all applicable regulatory, engineering and council requirements).
3. Outback Sleepers Australia is proud of the quality of its Sleepers and pleased to provide a Customer with this Warranty.
4. This Warranty offers a Customer rights and protection in respect of Outback Sleepers Australia's Sleepers, when used in Australia.

RIGHTS AND PROTECTION (subject to limitations and qualifications, set out below)

5. Outback Sleepers Australia warrants that the Sleepers that Outback Sleepers Australia has provided for a Customer's use will have a life in the natural elements of 50 years

from the date that a Customer commences installing Sleepers for the Customer's Lawfully Constructed Retaining Wall.

6. Outback Sleepers Australia warrants that all Sleepers supplied to a Customer comply with Australian Standard AS 3600 – Concrete Structures (2018).
7. Outback Sleepers Australia warrants that all Sleepers supplied to a Customer will use concrete with a compressive strength of at least 60MPa (that is, 60 million pascals).
8. Outback Sleepers Australia warrants that all Sleepers supplied to a Customer are engineered for use in, and fit for the purpose of, the installation of a Lawfully Constructed Retaining Wall.
9. Please note that:
 - 9.1 this Warranty is subject to the limitations and qualifications set out below (and a Customer should read those limitations and qualifications carefully. If a Customer has any query about those limitations and qualifications, or this Warranty generally, we invite that Customer to contact Outback Sleepers Australia); and
 - 9.2 the period of this Warranty has been determined on the basis of the Sleepers being used as intended (that is, to be installed as part of a Lawfully Constructed Retaining Wall).

RIGHTS OF CONSUMERS UNDER THE AUSTRALIAN CONSUMER LAW

10. Clause 11 applies to a Customer if:
 - 10.1 the amount paid or payable for the Sleepers does not exceed \$40,000 (except where the Sleepers are not of a kind ordinarily acquired for personal, domestic or household use or consumption, and Outback Sleepers Australia has limited its liability in a manner permitted by the Australian Consumer Law, in which case a Customer's rights are limited to that extent); or

10.2 the Sleepers are of a kind ordinarily acquired for personal, domestic or household use or consumption,

unless a Customer acquired the Sleepers for the purpose of re-supply or the purpose of using them or transforming them in trade or commerce.

11. Outback Sleepers Australia's Sleepers come with guarantees that cannot be excluded under the Australian Consumer Law. A Customer is entitled to a replacement or refund, should a major failure occur, and compensation for any other reasonably foreseeable loss or damage. A Customer is also entitled to have the Sleepers replaced if they fail to be of acceptable quality and the failure does not amount to a major failure.
12. The benefits given to a Customer by this Warranty are in addition to other rights and remedies a Customer may have under Australian law in relation to the Sleepers.

LIMITATIONS AND QUALIFICATIONS

13. Subject to Outback Sleepers Australia's obligations under applicable laws which cannot be excluded, modified or restricted under law, including as described in clauses 11 and 12 above:

13.1 Outback Sleepers Australia's liability to a Customer:

13.1.1 shall be limited to Concrete Sleeper product(s) only and excludes the following product ranges; Cribs, Under Fence Plinths, Step Kits, Retaining Wall Steel, Sleeper Lifters, Chemical Anchor; and

13.1.2 shall be limited to Outback Sleepers Australia providing replacement Sleeper(s) in a quantity sufficient to replace the defective Sleeper(s); and

13.1.3 shall not include or extend to:

- 13.1.3(a) labour costs associated with the removal of the defective Sleeper(s) or installation of the replacement Sleeper(s); or
- 13.1.3(b) injury to persons, damage to property, loss of income, profit or business, or any other indirect loss arising from or caused in any way by the defective Sleeper(s).

13.2 This Warranty does not cover any defect in any or all of the Sleepers wholly or partly due to an event or cause beyond the reasonable control of Outback Sleepers Australia, including without limitation each of the following:

- 13.2.1 defects attributed to installation of the Sleepers;
- 13.2.2 any damage sustained during transport, handling, storage and/or installation of the Sleepers (including for example, but not limited to, chipping);
- 13.2.3 attack from chemical agents, fumes, liquids or solids other than direct rain or run-off falling onto the Sleepers;
- 13.2.4 contact with soil, ash, other concrete, mortar, bitumen, fertiliser and moisture retaining substances;
- 13.2.5 failure to remove debris and/or allow free drainage of water, from the vicinity of the Sleepers as installed by or at the direction of a Customer;
- 13.2.6 installation subject to severe or unusually corrosive environments at any time in the future;
- 13.2.7 accidental or intentional damage by a person or animal; and

13.2.8 earthquakes, hurricanes, tornadoes, cyclones, typhoons, gales, lightning, hail, fires, flood and other similar “acts of God”.

13.3 This Warranty does not cover nor extend to normal weathering, including (but not limited to) a natural change in texture and/or colour of the Sleepers.

13.4 This Warranty does not cover nor extend to any change to the aesthetic condition or appearance of the Sleepers wholly or partly due to water ingress to and/or egress of salt from, the Sleepers.

13.5 This Warranty does not cover nor extend to any further change to the aesthetic condition or appearance of the Sleepers after they are supplied to a Customer.

13.6 For this Warranty to be and remain effective the following must occur:

13.6.1 the Sleepers be used in installation of a Lawfully Constructed Retaining Wall;

13.6.2 the Sleepers be installed, used and maintained in accordance with Outback Sleepers Australia guidelines, including (but not necessarily limited to) Outback Sleepers Australia’s ‘Sleeper Installation Guide’ and all notes on and/or accompanying that Guide, any applicable industry standards and the Building Code of Australia, current at the date of installation of the Sleepers;

13.6.3 the Sleepers be installed greater than 500 metres from marine or industrial influence;

13.6.4 the Sleepers as supplied to a Customer, not at any time come into contact with an incompatible material;

13.6.5 no surcharge load (including, for example, but not limited to an existing (further) retaining wall, structure or building) being located within a

distance twice the height of the retaining wall created by installation of the Sleepers;

13.6.6 the retaining wall created by installation of the Sleepers being a height of less than four metres; and

13.6.7 a Customer providing to Outback Sleepers Australia upon request, a copy of a Valid Proof of Purchase which shows that Customer purchased the Sleepers subject this Warranty (note – for the purposes of this Warranty a “**Valid Proof of Purchase**” is a document that shows the name and ABN or ACN, of the business that supplied the Sleepers to the Customer, the date of supply, details of the Sleepers provided, and the price paid by the Customer for the Sleepers).

13.7 This Warranty excludes all other warranties, conditions, offers, promises or assurances, whether express or implied, except to the extent that such warranties, conditions, offers, promises or assurances, cannot by virtue of Australian law be so excluded.

13.8 If Outback Sleepers Australia provides a Customer with new Sleeper(s) to replace the defective Sleeper(s) covered by this Warranty, the new Sleeper(s) will be covered by this Warranty for the remainder of its term as if the new Sleeper(s) were the original Sleeper(s). Outback Sleepers Australia will not provide a Customer with a new Warranty in relation to the new Sleeper(s) provided to a Customer in accordance with this Warranty.

13.9 Outback Sleepers Australia reserves its right to inspect the premises at which the Sleeper(s) will be used by a Customer, prior to agreeing to confer the benefits of this Warranty upon that Customer.

13.10 Outback Sleepers Australia reserves the right to undertake any inspection and/or or conduct any test or investigation, that Outback Sleepers Australia in its sole discretion considers necessary or desirable, at any time after a claim is made under this Warranty.

13.11 This Warranty only applies to Sleepers manufactured in Australia by Outback Sleepers Australia (note – at the time that this Warranty is given by Outback Sleepers Australia, Outback Sleepers Australia manufactures all of its Sleepers in Australia and does not intend that to change).

ENQUIRIES OR NOTIFICATION

14. Any claim under this Warranty must be notified to Outback Sleepers Australia within 30 days after a Customer first noticed or ought reasonably to have noticed, the potential issue/defect with the Sleeper(s) supplied to that Customer.
15. If Outback Sleepers Australia is not notified of any claim under this Warranty within the period referred to at paragraph 14 above, Outback Sleepers Australia may in its sole discretion deny the claim and shall have no liability under this Warranty.
16. A Customer will bear any costs and expenses incurred or payable by that Customer in relation to any claim by them under this Warranty.

INITIATING A CLAIM

17. To initiate a claim under this Warranty, contact Outback Sleepers Australia via:

17.1 telephone ((08 8387 9227);

17.2 email (sales@outbacksleepers.com.au); or

17.3 post (17 Lindsay Road, Lonsdale, South Australia, 5160).