

Altro APAC Pty Ltd – Terms and conditions for the supply and/or installation of products

Altro will supply and, where applicable, install or procure the installation of the Products on and subject to the following terms and conditions (Conditions). Unless otherwise expressly agreed in writing by Altro, these Conditions will prevail over any other terms or conditions of sale or supply, including any terms and conditions referred to in any Customer purchase order or similar document.

1 Contract formation

A contract for the supply and, where applicable, the installation of the Products will arise only where the Customer places an order with Altro which order is accepted by Altro in writing. Any variation to a Customer order will be effective only if made in writing and confirmed by Altro in writing. If the Customer cancels an order, the Customer must reimburse Altro for all reasonable costs incurred by it (or by any third party on its behalf) in connection with the supply and/or installation of the ordered Products prior to the date of cancellation.

2 Price

Unless otherwise agreed in writing by Altro and the Customer, the price for the Products (and, where applicable, the installation of the Products) will be the price agreed in writing by Altro and the Customer as at the date of purchase. All prices for the Products are ex-warehouse and exclude GST, packaging and freight costs unless otherwise agreed in writing between Altro and the Customer.

3 Delivery

- (a) Altro will endeavour to deliver the Products to the Customer on the date for delivery at the location for delivery (as agreed by the Customer and Altro in writing). The Customer acknowledges that the date for delivery is an estimate only and failure to deliver the Products on that date will not constitute a breach of these Conditions. Altro will not be liable to the Customer in any manner whatsoever for any failure to deliver the Products on the date for delivery.
- (b) The Customer will assume all risk in the Products (including, for the avoidance of doubt, all risk of loss or damage to the Products in transit) upon those Products being loaded for despatch from Altro's premises (where the Customer has agreed to organise carriage of the Products) or upon delivery of the Products to Altro's nominated premises (where Altro is responsible for organising carriage of the Products). The Customer will, where applicable, be responsible for ensuring adequate labour and facilities at delivery points for unloading ordered Products, and will indemnify Altro in respect of any claims arising in connection with the unloading of the Products.
- (c) Without limitation to clause 3(c), the Customer must notify Altro in writing of any claim for loss of or damage to Products in transit within 14 days of the date of despatch (in the case of non-delivery of the Products) and within 3 days of delivery (in the case of damage to the Products).

4 Installation

Altro will attend at the Customer's premises to install the Products as agreed by the Customer and Altro in writing.

5 Invoicing and payment

- (a) Altro will invoice the Customer:
 - (i) upon receipt of the Products;
 - (ii) where the Products are to be installed by Altro, upon completion of the installation of the Products; or
 - (iii) periodically between the date of purchase and completion of the delivery or installation of the Products,
- (b) as agreed in writing by Altro and the customer. In the latter case, payment will be due to Altro in respect of each invoice as though the Products comprising that invoice were the subject of a separate order.
- (c) The Customer must pay the invoiced amount to Altro in full within 30 days of the date of the invoice (or as otherwise agreed in writing) without set off, claim or deduction. Time for payment shall be of the essence under these Conditions.
- (d) Interest will be charged on overdue invoices from the due date of payment until that sum is paid in full at the rate for the time being fixed under the Penalty Rates Interest Act 1983 (Vic).
- (e) If Altro agrees in writing that the Customer may pay by instalments then the Customer will be deemed to be in default of these Conditions in the event of non-payment of an instalment by the due date and the outstanding balance of the invoiced sum will immediately become due and payable by the Customer.

6 Title

- (a) Title and property in the Products does not pass to the Customer until the Customer has paid the price for the Product and, where applicable, the installation of the Products in full and there is no Customer Debt (being any and all monies which the Customer owes to Altro in respect of the supply of the Products or on any other account or for any other reason whatsoever) outstanding.
- (b) Until property in the Products passes to the Customer, the Customer must, as bailee of the Products keep the Product separate from other assets and clearly marked as Altro's property and maintain the Product in a satisfactory condition.
- (c) If:
 - (i) the Customer fails to pay the Customer Debt to Altro as and when due and payable or otherwise fails to comply with these Conditions;
 - (ii) a receiver, receiver and manager, liquidator, provisional liquidator or official manager, administrator, controller or trustee in bankruptcy is appointed over all or any of the assets of the Customer or a scheme of arrangement is proposed or approved in respect of the Customer; or
 - (iii) a petition is presented for the winding up or bankruptcy of the Customer,Altro may, at its option, exercise all or any of the following rights (notwithstanding any prior failure to do so):
 - (iv) demand payment of the whole of the Customer Debt then outstanding (and the Customer hereby agrees to pay the same immediately);
 - (v) require the Customer by not less than 7 days notice in writing to deliver up to Altro (at the Customer's cost) any and all Products in the Customer's possession which are the property of Altro;
 - (vi) take possession of all Products title to which has not passed to the Customer (and for that purpose, the Customer authorises Altro to enter any premises where the Products may be situated and to take possession of them); and/or
 - (vii) with or without taking possession of the Products, sell the Products by public auction or by private treaty by retail or wholesale for cash or on terms and generally as Altro thinks fit and apply the proceeds actually received by Altro after defraying expenses of sale and enforcement towards reduction of the Customer Debt.
- (d) The Customer must pay on demand to Altro all legal and other costs incurred or paid by Altro in respect of any recovery or attempted recovery of the Customer Debt (including in connection with seeking to regain possession of Products which were in the power, custody or possession of the Customer).

7 Specifications

Products are supplied in accordance with Altro's current product specifications. Any advance sample of the products is to be regarded only as an average representation of the relevant specification.

8 Warranty

- (a) Altro warrants that the Products will be free of material or workmanship defects during the designated warranty period for the relevant Product, provided that the Products are properly installed, used and maintained and are not altered after delivery (Product Warranty).
- (b) Where Altro installs the product, Altro warrants the installation of the Products for a period of 12 months from the date of installation (Installation Warranty).
- (c) The Customer acknowledges that the Product Warranty and Installation Warranty do not extend to normal wear and tear, defects arising as a result of the Customer's fault in maintenance, misuse or alterations carried out to the Products without the written consent of Altro.

9 Claims

The Customer must give written notice to Altro of any claim regarding defects in the Products or in relation to the installation of the Products within 30 days after discovery of such defect, together with details of the alleged defect. To be valid, any such claim must be received by Altro within 12 months of the date of delivery to the Customer of the Products in respect of which the claim is made (or, where such claim relates to the installation of the Products, within the Installation Warranty period). Altro may, at its election:

- (a) repair any Products found to be defective during the warranty period without charge, or replace the Products or refund the purchase price paid for the Products; or
- (b) in the case of defective installation, re-perform the

installation of the Products or refund the cost of the re-performance of the installation.

Where a defective Product is repaired or re-installed, the Product Warranty and/or Installation Warranty period in respect of such Product will commence on the date of completion of the repair or re-installation of the Product (as the case may be).

10 Limitation of liability

- (a) Except as expressly provided above, all implied conditions and warranties on the part of Altro are excluded to the maximum extent permitted by law and Altro excludes all liability in respect of Products or services supplied by it to the maximum extent permitted by law. To the extent that liability cannot be excluded, it is limited (at Altro's option) to the repair, replacement or refund of the purchase price of the relevant Products, or either supplying the defective services again or payment of the cost of having the defective services supplied again.
- (b) Altro will not be liable for any consequential loss, indirect loss, or loss of anticipated profits sustained by the Customer as a result of any act or omission by Altro or its employees, agents, contractors or sub-contractors, and in any event, Altro's maximum liability for Products or services supplied by it is capped at the amount paid to Altro by the Customer for those Products or services.

11 Force Majeure

If Altro is prevented from carrying out any of its obligations under these Conditions by reasons beyond its control, Altro will be excused from complying with such obligations while such reason or event persists and may, at its option, elect to cancel any order without liability in such circumstances. Altro will endeavour to promptly notify the Customer if any such reason or event arises. If Altro cancels any order in accordance with this clause, the Customer must pay Altro for all Products and services supplied or delivered under these Conditions prior to such cancellation.

12 GST

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in accordance with these terms and conditions are exclusive of GST. If GST is imposed on any supply made under or in accordance with these Conditions, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the taxable supply subject to the recipient receiving a valid tax invoice in respect of the supply at or before the time of payment. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with these Conditions. If these terms and conditions require a party to pay for, reimburse or contribute to any expense, loss or outgoing (reimbursable expense) suffered or incurred by another party, the amount required to be paid, reimbursed or contributed by the first party will be the amount of the reimbursable expense net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense plus any GST payable by the other party.

13 Severability

The invalidity of any provision of these Conditions (in whole or in part) will not affect the validity or enforceability of any other provision.

14 Waiver and exercise of rights

Altro's right to require strict performance of these Conditions will not be affected by any prior waiver of any term or condition, or by any course of dealing.

15 Assignment and sub-contracting

Altro may, in its absolute discretion, assign, transfer or sub-contract all or any of its rights under these Conditions to any third party.

16 Governing law and jurisdiction

This document is governed by and is to be construed in accordance with the laws applicable in Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

17 Variation

Altro reserves the right to vary these Conditions from time to time in its absolute discretion. Such varied Conditions will supersede all terms and conditions previously issued by Altro.