

GENERAL TERMS AND CONDITIONS OF BUSINESS

SULLAIR AUSTRALIA PTY. LTD.

Unless otherwise agreed in writing by Sullair Australia Pty. Ltd. A.B.N. 68 006 732 332 (“**We, Us, Our**”), you (“**You, Your**”) agree that You will be bound by these terms and conditions (“**Terms**”) in every instance where You place an order with Us and We accept that order by either sending You a confirmation letter or providing You with the products and/or services (whichever is earlier). We are not bound by any terms and conditions contained in any purchase order, email or other document issued by You or any oral arrangement. Our quote and these Terms constitute the entire agreement between Us and You for each order by You of products and/or services from Us.

1. ORDERS: a) We may in Our discretion, accept part or all of any order You place, or refuse to accept an order from You. b) Unless otherwise agreed in writing by Us, once We accept an order, You cannot vary or cancel an Order. c) The supply of products or services is subject to availability. We reserve the right to suspend or discontinue the supply of products or services to You. If We are unable to supply all of Your order, these Terms continue to apply to any part of the order supplied. d) You agree that in the event of any dispute arising concerning any order Our internal records will be conclusive evidence of what was ordered in all respects.

2. CREDIT LIMIT: The provision by Us of any credit facility is in Our sole discretion. We may vary or withdraw any credit facility at any time at Our discretion and without incurring any liability whatsoever to You or any third party.

3. DESCRIPTION: Any representation, promise, statement or description by Us, other than those expressly set out in Our quote, is excluded. You acknowledge that You have relied solely upon Our quote and Your own inspection, skill and judgment and not relied on any such representation, promise, statement or description.

4. PRODUCT CHARACTERISTICS: a) You agree to check all products for compliance with all relevant applicable standards, regulations and guidelines before use, on-sale or application. b) You agree to use and/or apply the products in accordance with all applicable standards, regulations and guidelines, with all manufacturers’ recommendations and directions as well as with good trade practice. c) You agree to immediately notify Us in writing if any of the products fail to comply with any relevant applicable standards, regulations and guidelines.

5. PRICE: Unless otherwise agreed in writing: a) all sales of products or services are made by Us at the price prevailing at the time of delivery or performance and You acknowledge that any price quoted by Us at the time of enquiry or order or in any price list or other form of information will be deemed to be an estimate only and will in any event at all times be subject to a time period at Our discretion to reflect changes required, extras, movement in exchange rates, duties, government imposts, CPI increases and increases in the cost of labour and/or raw materials up to the time of delivery; b) the price for any of the products or services will not include sales tax, GST or any other taxes applicable to the products, all of which are payable by You; and c) prices given in any quote by Us are applicable to that quote only and will not apply in any other instance. We are not bound by any errors or omissions in any invoice, quote, order form or other document or statement issued by Us and, where applicable, You must accept any amended pricing and pay the difference to Us.

6. DELIVERY: a) If a delivery date is specified, that date is an estimate only and We are not liable for any delay in delivery. Time is not of the essence in relation to delivery and You must accept delivery and pay for the products delivered even if they are delivered after any specified delivery date; b) We accept no responsibility whatsoever for delivery but may elect to arrange delivery at Our discretion, and at Your sole cost and risk. c) We reserve the right to charge for any delivery, including a reasonable handling fee. d) You will be deemed to have accepted the delivery and liability upon actual delivery to Your business premises or nominated address for delivery whether attended or not. e) You agree that a certificate purporting to be signed by an officer of Us confirming delivery, and signed delivery docket whether signed by an employee of You or any other person with Your ostensible authority and any invoice from Us will be conclusive evidence of delivery.

7. FRUSTRATED DELIVERY: a) If for any reason the time necessarily spent by Us in attempting to effect or in effecting delivery exceeds 30 minutes or requires more than one attempt You agree to pay all Our costs and expenses thereby incurred together with a loading of 10% to cover administration costs. b) When We advise You that any product is ready for delivery or pick-up and You fail to take delivery or pick-up within a reasonable time the products will be deemed delivered and You accept all risk and liability and agree to pay any associated reasonable storage charge and expenses claimed by Us.

8. RETURNS: a) You must inspect the products and/or services immediately following delivery or completion of the services (as the case

may be). b) We reserve the right to refuse to accept any returns. c) If We elect to take back any products it will be on such terms as We are willing to accept and a restocking fee of not less than 20% of invoice value will apply. d) If any of the products or services are faulty or in any way defective We may elect to either repair or replace in accordance with clause 16. e) Any of the returned products which are accepted by Us will be Our property. f) We will not issue cash refunds in any event. g) Products made to order or “one-off” cannot be returned at all.

9. PAYMENTS: Payments are due without deduction when stipulated by Us and if not so stipulated, by the end of the month following invoice date, unless otherwise agreed in writing. Time is of the essence in respect of Your obligation to pay for products and/or services supplied by Us.

10. INTEREST: We may in Our discretion charge and require You to pay interest on any overdue amount calculated daily, from its due date until the date of payment, at a rate of 3% above Our bank’s “Overdraft rate” as specified by Our bank on each day that the payment is due.

11. ON-SALE: You agree that upon the sale by You of any of the products to a third party You will import into and make part of any such on-sale all of these Terms .

12. PROPERTY

a. Products: Property in the products will not pass to You until payment in full in cleared funds of all monies owed to Us for the products and of all other monies owed to Us. Immediately upon delivery You accept liability for the safe custody of the products. You acknowledge and agree that until property passes:

- i) You are in possession of the products for and on behalf of Us as fiduciary and bailee;
- ii) You are only authorised to sell the products in the ordinary course of business but only as fiduciary and bailee of Us;
- iii) You must not represent to any 3rd party that You are acting in any capacity for or on behalf of Us and You have no authority to bind Us to any contract or assume any liability for or on behalf of Us;
- iv) You will keep a complete record of all sales of the products;
- v) You will keep the products separate from other stock;
- vi) We are authorised to enter Your premises to inspect the products; and
- vii) in the event of any sale of part or all of the products You:
 - (aa) will deposit all proceeds of sale in a separate and identifiable bank account;
 - (bb) will not mix such proceeds with any other monies; and
 - (cc) will account to Us for such proceeds (notwithstanding that We may have granted any credit facility and/or time to pay).
 - (dd) agree We will be entitled to trace all proceeds of any sale through any account.
 - (ee) agree that a certificate purporting to be signed by an officer of Us identifying any of the products as “unpaid for” will be conclusive evidence that they have not been paid for and of Our ownership of the products.
- viii) Your right to sell the goods to a customer in the ordinary course of its business will terminate immediately upon the happening of any of the following events:
 - (aa) if You default on any payment or are unable or state that You are unable to pay Your debts as and when they fall due;
 - (bb) if You being an individual commit an act of bankruptcy or has a controller or trustee appointed in respect of Your estate or any of the Your property or assets;
 - (cc) if You being a company passes a resolution for Your winding up or enters into liquidation or has an application for winding up filed against You;
 - (dd) if a receiver, receiver and manager, controller of voluntary administrator is appointed over any part of Your property or assets; or
 - (ee) if We give notice to You prohibiting You from selling the goods within the ordinary course of business or otherwise.

b. Services:

- i) We will (in addition to any common law or statutory lien) have a general lien over all Your property submitted for the performance of any services until payment in full).
- ii) In the event of non-payment of any account in accordance with these Terms You authorise Us to sell any of Your property in relation to which services have been performed and to apply the proceeds in payment of all costs and expenses of sale, all monies outstanding and then account for the balance to You.

13. RISK AND INSURANCE: Products supplied by Us to You are at Your risk immediately on the earlier of delivery to You or into Your custody, including Your carrier or forwarder. You must insure the products at Your cost from delivery of the products until they are paid for in full against such risks as are usual or reasonable to insure against in a business of a similar nature to Yours.

14. YOUR PREMISES: If Our employees or authorised representatives attend any premises as directed by You to perform any services, You will ensure appropriate policies and procedures are in place and followed and generally implement good industry practice (including occupational health and safety policies and risk assessments for any dangerous or potentially dangerous activities) and act consistently with Our policies as notified from time to time to You. This includes ensuring all safety equipment, communications equipment or other items are provided, maintained and are fit for their intended purpose and conducting hazard and risk assessments.

15. DEFAULT: Where there is a failure by You to perform or observe any of these Terms or We consider You are in financial difficulties We at Our election: a) will have an immediate right to possession of the products and You irrevocably authorise Us or Our representatives to enter any premises (forcibly if necessary) in Your name and take any of the products (without liability for the tort of trespass, negligence or payment of any compensation to You). If the goods are stored on the premises of any other party, You will indemnify Us on demand in respect of any cost or liability incurred by Us in exercising Our rights under this clause; b) may retain all monies paid on account of any products or services; c) may cease delivering any of the products or services; d) vary or withdraw any approved credit limit; e) terminate any orders or agreements between Us and You and demand immediate payment of any moneys due and outstanding under those orders or agreements; f) may recover from You on demand all losses without prejudice to any other rights and without Us being liable in any way to any party whatsoever (including instituting any recovery process that We in our discretion decide and recovering all costs We or Our agents incur from You on demand, such as legal fees between solicitor and client).

16. OUR WARRANTY: a) To the extent permitted by law, these Terms exclude all other conditions, warranties, liabilities or representations in relation to the goods and /or services. b) Where legislation implies in these Terms any condition or warranty that cannot be excluded or modified, Our liability for a breach of any such condition or warranty is limited at Our option to any one or more of the following:

(i) in the case of products:

- (aa) repair or replacement of the products in accordance with paragraph c) below or the supply of equivalent products;
- (bb) payment of the cost of replacing the products or of acquiring equivalent products, by credit to Your account, in cash or by cheque at Our discretion; or
- (cc) repayment of any part of the purchase price of the products which has been paid by You, by credit to Your account, in cash or by cheque at Our discretion.

(ii) in the case of advice, recommendations, information or services by supplying the advice recommendations, information or services again.

c) Parts and labour for repair or replacement under paragraph b) (i) (aa) above will be provided by Us during normal working hours at Our place of business or in Our discretion, at Your premises. We are not liable for the cost of transportation of the product to such place nor the travel cost associated with mobilising a service technician to and from Your site. All rejected parts or defective parts will be Our property to dispose of as We see fit.

17. LIMITATION OF LIABILITY: Subject to clause 16, We are not liable for any loss or damage of any kind whatsoever and howsoever arising (including but not limited to loss arising by reason of delay, non-delivery,

defective materials or workmanship) out of or in connection with the supply of products or services, including (without limitation) any indirect or consequential loss, loss of profit, loss of revenue, loss of contract, loss of use of goods, loss on resale, loss of goodwill or increased cost of workings, even if due to Our negligence or Our employees' negligence.

18. OTHER MANUFACTURES/SERVICE PROVIDERS: If any products are manufactured by or any part of the services is provided by another party We give no warranty and accept no liability in respect of such product and/or service.

19. INDEMNITY: You indemnify Us, Our employees and agents against any damage or loss directly or indirectly suffered or incurred as a result of any claim against Us, Our employees or agents in any way connected with any products sold or services provided under these Terms.

20. INTELLECTUAL PROPERTY: You acknowledge that, as between You and Us, We retain all intellectual property rights in the products or services the subject of an order. You are only entitled to use those intellectual property rights for the purpose of using the products or services in the manner ordinarily contemplated for such products or services and otherwise as expressly authorised by Us.

21. CUSTOMER RESTRUCTURE AND/OR CHANGE OF POSITION: You must notify Us in writing within 7 days of any change in the structure or management of Your company, including any change of directors or shareholders, in Your overall management, in any relevant partnership or trustee or of any disposal or part or all of Your business.

22. PRIVACY: In addition to the above general conditions, You agree that for the purpose of processing Your application a credit check may be undertaken as part of the application and that You have read and understood the acknowledgement and authority in the Privacy Authorisation of the application.

23. FORCE MAJEURE: If for any cause beyond Our reasonable control, including but not limited to, any act of God, war, strike, lock out, industrial dispute, governmental or semi-governmental award, enactment priority or restriction, fire, flood, storm or tempest, delay in obtaining licenses, transport, labour or materials, accidents, damage to Our works or business or those of Our suppliers, We are prevented from providing delivery or performance at the time stipulated, We will be entitled at Our option either to extend the time for delivery or performance for a reasonable period or to terminate the order. In those circumstances, You do not have any claim for damages and You agree to pay for all deliveries made or services performed prior to the date of such termination and all expenses incurred and monies paid by Us in connection with the order.

24. ASSIGNMENT: Any agreement incorporating these terms and conditions cannot be assigned or transferred by You to another party without Our approval, which approval will not be unreasonably withheld. For the purposes of this clause, a change in control in You is deemed to be an assignment.

25. WAIVER: These terms and conditions, or a right created by them, may only be waived by a party by giving notice in writing and the failure to exercise or any delay in exercising a right or remedy provided by this agreement or by law does not constitute a waiver of the right or remedy. A waiver of a breach of these terms and conditions does not waive any other breach.

26. EXPORT: You agree that the goods purchased are to be used within Australia, New Zealand or Papua New Guinea. If the goods are to be used in other territories you must obtain written authorisation from us, to comply with controls of exports to prohibited countries.

27. REMEDIES CUMULATIVE: The rights and remedies provided in these terms and conditions are in addition to other rights and remedies given by law independently of these terms and conditions.

28. GOVERNING LAW: These Terms and all agreements made between You and Us are governed by the law in force in Victoria, Australia. Each party submits to the exclusive jurisdiction of the courts of Victoria, Australia. The application of the United Nations Convention on Contracts for the International Sale of Goods (known as the Vienna Sales Convention 1980) and its related instruments is excluded.

29. NOTICE: You will be deemed to have immediate notice of any change to these Terms, whenever these Terms are updated on Our website.

30. SEVERABILITY: If any provision of these Terms is unenforceable, illegal or void, that provision is severed without affecting any other part.