

AGILE'S STANDARD PRODUCT WARRANTY FOR SMARTALOCK

Agile's Specification Warranty

1. Agile Workspace Limited ("Agile") warrants that for the Warranty Period, each Product will operate substantially in accordance with the published specifications for that Product, subject to the terms and conditions below. During the Warranty Period, if a Product does not operate substantially in accordance with the relevant specifications, then, subject to compliance with clauses 2 to 6 below, Agile will use commercially reasonable endeavours to either rectify the defect or provide a replacement of the relevant Product (or part of the Product) ("Agile's Specification Warranty").
2. To claim under Agile's Specification Warranty, the Customer must notify the Distributor in writing of the defect. Agile has appointed the Distributor as its agent to be the first point of contact for the Customer for support of the Product.
3. When notifying the Distributor of a defect under clause 2, the Customer will provide the Distributor with a documented example of such defect and as much information about the defect as practicable.
4. The Distributor (acting as Agile's agent) will investigate the reported defect. Subject to clause 11, the Distributor will, upon verifying the defect, use commercially reasonable endeavours to either rectify such defect or provide a replacement of the relevant Product (or part or component of the Product), without additional charge to the Customer. The Distributor will also install such replacements without additional charge to the Customer.
5. Where the Distributor has been unable to rectify the defect after providing initial support to the Customer under clause 4, the Customer may contact Agile to escalate the defect and request escalated support. Agile's contact details are provided in clause 21 below, or as updated from time to time on the www.smartalock.com website. Agile will investigate the escalated defect. Subject to clause 11, Agile will, upon verifying the existence of the defect, use commercially reasonable endeavours to either rectify such defect or provide a replacement of the relevant Product (or part or component of the Product), without additional charge to the Customer. Agile will also install such replacements without additional charge to the Customer.
6. To validly claim under Agile's Specification Warranty, the Customer must:
 - (a) review and follow the Smartalock self-help, troubleshooting and support Documentation published at support.smartalock.com before escalating a defect to Agile for escalated support;
 - (b) be responsible for any expenses or costs incurred in making the claim, including any costs associated with contacting the Distributor or Agile; and
 - (c) fully co-operate with the Distributor and Agile when they are investigating and rectifying reported defects, including by allowing the Distributor and Agile full access to relevant premises and systems.
7. Unless the Customer has entered into a separate extended support agreement directly with Agile, and subject to clause 19, the obligations under clauses 4

and 5 will be Agile's sole obligation, and the Customer's sole remedy, in the event of defect, issue or problem with any Product or any failure of any of the Product to operate in accordance with the relevant specifications.

8. To the extent permitted by applicable law, Agile makes no warranty that the operation of any Product will be completely error-free or uninterrupted, and the Customer acknowledges and agrees that the existence of such errors or interruptions will not constitute a breach of Agile's Specification Warranty.

Agile's Infringement Warranty

9. Agile warrants to the Customer that to the best of its knowledge, the use of the Products by the Customer in accordance with the Documentation will not infringe the intellectual property rights of any third party. If there is a breach of such warranty, Agile will indemnify the Customer in accordance with clause 10 ("Agile's Infringement Warranty").
10. Subject to clause 11 and 13, Agile will indemnify the Customer against any and all losses, costs, expenses, demands and liabilities incurred or suffered by the Customer arising directly from a breach of Agile's Infringement Warranty, provided that if the Customer wishes to be indemnified under this clause 10 it must:
 - (a) promptly notify Agile of any relevant claim or legal proceeding and make no admission or settlement without Agile's prior written consent;
 - (b) allow Agile to participate in and control any defence, compromise, settlement, resolution or disposition of such claim or proceeding and if Agile elects to conduct the defence of such claim or proceeding, the Customer must:
 - (i) provide Agile with reasonable assistance and information in conducting the defence of such claim or proceeding (including by ensuring the Customer's directors, employees, agents or sub-contractors give such advice, evidence or statements as Agile may reasonably request); and
 - (ii) give Agile the sole control of, and the complete authority to conduct, the defence of such claim or proceeding and to negotiate and settle such claim or proceeding, as Agile may determine in Agile's absolute discretion; and
 - (c) allow Agile to either:
 - (i) modify or substitute the infringing part of the Product to avoid continuing infringement; or
 - (ii) obtain the authority to enable the Customer to continue to possess and use the relevant Product,at Agile's option and expense.
11. Subject to clause 19, Agile will not be liable for a breach of Agile's Specification Warranty or Agile's Infringement Warranty, and will not indemnify the Customer under clause 10, to the extent that any defect, fault or infringement, or suspected defect, fault or infringement is caused or contributed to by any:

- (a) use or operation of any Product not in accordance with the Documentation or not reasonably contemplated by Agile;
- (b) failure by the Customer to follow the Smartalock self-help, troubleshooting and support Documentation published at support.smartalock.com;
- (c) faults, problems, changes or outages in or to any IT, WIFI or other system or any other software that adversely affects the operation of the Product or the Smartalock system, including without limitation, reboots or changes to the Customer's networks, upgrades to non-Smartalock software or changes to firewalls;
- (d) faults, problems, changes or outages outside of Agile's control, such as Acts of God or changes to Customer premises;
- (e) improvements, modifications, additions, customisations, enhancements, developments, patches releases, bug fixes or changes in or to any Product, other than those made by Agile;
- (f) use or interoperation of any Product with any other computer programs or software;
- (g) any negligent act or omission of the Customer or their personnel or any third party;
- (h) any incorrect configuration or installation of the Product, except where such incorrect configuration or installation is caused by Agile or the Distributor;
- (i) any virus, worm, trojan horse, backdoor, time-lock or any other malicious or disabling code, unless introduced by Agile;
- (j) any lockers, hardware, equipment, accessories, attachments, supplies, consumables or other items of the Customer or the Distributor not supplied by Agile; or
- (k) operator errors.

Agile reserves the right to charge for time spent by Agile personnel on reported defects that are caused or contributed to by any of the matters listed in this clause 11.

Additional guarantees under consumer laws

12. The New Zealand Consumer Guarantees Act 1993 and the Australian Competition and Consumer Act 2010 (including the Australian Consumer Law 2011), as well as other laws in those jurisdictions ("Consumer Law"), guarantee or imply certain conditions, warranties and undertakings, and give consumers other legal rights, in relation to the quality and fitness for purpose of certain products sold in New Zealand and Australia respectively.
13. For products sold in New Zealand, if the customer is in trade and acquiring the Products in trade, the customer agrees that the New Zealand Consumer Guarantees Act 1993 and sections 9, 12A, 13 and 14(a) of the Fair Trading Act 1986 will not apply, and that it is fair and reasonable that it is bound by the provisions of this clause.

14. For products sold in Australia, our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
15. The benefits given by Agile's Specification Warranty and Agile's Infringement Warranty are in addition to any other rights and remedies the customer may have under the Consumer Law applicable to the purchase of the Products. Except as otherwise provided by Agile's Specification Warranty and Agile's Infringement Warranty above, all warranties, terms, conditions, guarantees or similar, other than those which cannot be excluded under applicable Consumer Law, are expressly excluded by Agile to the extent legally permitted.

Agile's liability

16. To the maximum extent permitted under applicable law, Agile is not responsible for any loss or corruption of any data or information caused or contributed to by the Product or use of the Documentation.
17. To the maximum extent permitted under applicable law, in no event will Agile be liable (whether in contract, tort including negligence, or otherwise) to any Customer for:
 - (a) loss of revenue and/or profit, loss of anticipated savings, loss of goodwill or opportunity, loss of production, business interruption, loss or corruption of data or wasted management or staff time; or
 - (b) loss, damage, cost or expense of any kind whatsoever that is indirect, consequential, or of a special nature,arising directly or indirectly out of the Products, even if Agile had been advised of the possibility of such damages, and even if such loss, damage, cost or expense was reasonably foreseeable by Agile.
18. Subject to clauses 17 and 19, the maximum liability of Agile to the Customer arising out of the Specification Warranty and the Infringement Warranty, or relating to the Products or Documentation, will not exceed NZD5000.00 for all Products owned or operated by the Customer.
19. None of the exclusions or limitations in this Product Warranty will have the effect of limiting or excluding any liability to the extent such liability cannot be so limited or excluded by applicable law. Where Agile cannot legally limit its liability as provided in clauses 16 to 18 under applicable law, if permitted by such applicable law, Agile limits its liability under the Specification Warranty, the Infringement Warranty and any other implied guarantee that cannot be lawfully excluded, to (at Agile's election):
 - (a) replacement of the Product;
 - (b) repair of the Product;
 - (c) payment of any cost of replacing the Product or of acquiring equivalent products; or
 - (d) payment of the cost of having the Product repaired.

General

20. This Product Warranty shall be governed by and construed in accordance with New Zealand law. Agile and the Customer irrevocably agree that New Zealand courts will have non-exclusive jurisdiction to hear and determine all disputes under or in relation to the Products or this Product Warranty. Agile and the Customer waive any objections to New Zealand as the forum for proceedings on the grounds of forum non-conveniens or otherwise.
21. Agile may be contacted at:
Unit 403, 150 Karangahape Road, Auckland Central 1010, New Zealand
Phone: +64 93200140
E-mail: sales@smartalock.com
22. In this Product Warranty, the following terms will have the following meanings:
 - “Customer” means the person that purchased the Product for installation and use within premises owned, leased or controlled by that person;
 - “Distributor” means Agile’s authorised distributor and support provider from whom the Customer purchased the Product, or such other authorised support provider that Agile may appoint to replace them from time to time;
 - “Documentation” means the operating manuals, installation documentation, support documentation, user guides, specifications and other printed or electronic materials relating to the Products and either provided by Agile to the Distributor or officially published by Agile for general availability to Customers;
 - “Product” means the “Smartalock’ branded lock, kiosk, controller units, card reader units and associated software applications and system designed and manufactured by Agile and purchased by the Customer from a Distributor; and
 - “Warranty Period” means in relation to a Product, the period of two years from the date that such Product was first commissioned for a Customer and put into operational use.