

**GENERAL CONDITIONS OF SALE**  
**Applied Industrial Technologies Limited CN 1819**  
**("Applied")**

Unless otherwise agreed in writing with Applied Industrial Technologies Limited CN 1819 (Applied, we, us) these General Conditions of Sale (Terms) apply to the sale of goods or services to the Customer.

**1. DEFINITIONS**

In the following Terms:

- (a) **Contract** means these Terms and a quotation or purchase order, which form a contract for the sale of Goods;
- (b) **Customer or you** means the person, firm or corporation, jointly and severally if there is more than one, acquiring Goods;
- (c) **Goods** means the goods and services provided by Applied to the Customer;
- (d) **PPSA** means the Personal Property Securities Act 1999 and **Security Agreement** has the meaning given by the PPSA.

**2. QUOTATIONS AND ORDERING**

At the Customer's request we will provide a quotation for Goods. Quotations are open for acceptance for a period of 30 days or until revoked or replaced by a later quotation. Once you accept our quotation or submit a purchase order (in any form) you will be deemed to have accepted these Terms, and the Terms together with the quotation or purchase order form the Contract. Quotations include only the work material or products specified in quotation. All details such as weights, etc., supplied in quotations are approximates only and are based on information available to Applied at time of quoting. The Customer must notify Applied of, and accepts the risk of, any error or inaccuracy in a quotation. Prices are subject to change if the quotation requires amendment. Offers for delivery ex stock are subject to confirmation on receipt of order.

**3. PRICES**

Prices are as per our quotation or, if no quotation is given, our standard price list, if any, as applicable from time to time. Unless otherwise stated, all prices are exclusive of GST and ex-warehouse. Prices are applicable as at the date of the order or acceptance of quotation, and do not include transport charges or variations in tariffs, rates of exchange, special taxes, insurance premiums, harbor dues or similar costs. Increases in wages and/or cost of materials outside of Applied's control which affect Goods offered or sold will also be passed on to the Customer. Applied may change the price on any price list from time to time and, if no quotation has been given, the updated prices will apply to all orders after the date of change. Applied may change the total price if the Customer varies a quotation or a purchase order.

**4. TERMS OF PAYMENT**

Unless otherwise stated, terms of payment are net cash on delivery, or, for approved monthly accounts, on the 20<sup>th</sup> of the month following the date of purchase. If you dispute any aspect of an invoice, please contact our AR Controller (see invoice for details) as soon as possible.

**Our preferred Payment method**

Electronic Funds Transfer (EFT)	Credit Card Payment	Cheque Payment
BSB No: 01-0215 Account No : 0073370-00 Bank : ANZ Branch: Highbrook, Auckland  Note: (a) Please quote your account number; and (b) Fax or email a copy of the remittance advice to our AR Controller on the below mentioned relevant state fax number or email for speedy processing; or	Applied will accept payment by credit card (Visa/MasterCard/Amex). Please note a processing fee will be passed on at the same rate received from our financial institution.  In this case, please call our AR Controller on the below mentioned relevant state telephone number for speedy processing.	Please return your cheque to the PO BOX address

Applied AR Contact details

AR Controllers	Postal Address	Phone Number	Fax Number
Auckland  Email: <a href="mailto:nz-accounts@appliednz.com">nz-accounts@appliednz.com</a>	P O Box 58 549 Botany, Auckland 2163	+64 9 274 0056	+64 9 274 5175

If the Customer fails to make payment in compliance with these Terms, then without prejudice to any other rights or remedies available to Applied, Applied may:

- (a) withhold further deliveries and/or cease supply of Goods;
- (b) terminate the Contract with any unpaid amounts becoming immediately due; and/or
- (c) charge interest on any amount overdue by more than 60 days on a daily basis at a rate which is not more than 3% per annum above the rate of interest which would be charged to Applied by its banker on an overdrawn account. This interest is payable upon demand and is a genuine pre-estimate of damage resulting from default. The charging of interest shall in no way imply the granting of an extension of credit to the Customer. Applied reserves its right to review the interest rate from time to time and will inform the Customer of any increase or decrease in this interest rate.

All payments made by the Customer will be applied by Applied first in reduction of any interest owing and then in reduction of the invoice amount.

Applied may recover from the Customer all costs associated with the collection of overdue debts (including debt collection and legal costs on a full indemnity basis).

## 5. RISK AND SECURITY INTEREST IN GOODS

Risk in the Goods passes to the Customer on delivery to the Customer or their agent or transport company. Applied has no obligation to insure Goods after this delivery. Title to the Goods will only pass to the Customer free of encumbrances upon payment in full by the Customer of all monies due by the Customer to Applied on any account.

The Customer acknowledges and agrees that these Terms comprise a Security Agreement for the purposes of the PPSA, and that until such time as we receive full payment in cleared funds for all Goods, these Terms create a Security Interest in the Goods as security for your obligations to make payment to us for the Goods. Upon Applied's request the customer must execute such documents and do such things Applied requires in order to ensure that its Security Interest is a first perfected security interest over the Goods (including providing such information we require to complete a financing statement or financing change statement.

Where not inconsistent with the provisions of the PPSA, the following provisions apply:

- (a) The Customer agrees that until title in them passes to the Customer all goods supplied are held by the Customer as bailee for and on behalf of Applied and if requested by Applied the Customer will store them in such a way that it is clear they are the property of Applied.
- (b) If any payment due from the Customer to Applied is not made on the due date Applied is entitled, without prejudice to its other remedies, to retake possession of the goods and hold them until Applied has been paid in full, or to resell the goods and recover the deficiency on resale, plus costs of repossession, from the Customer.
- (c) If the Customer wishes to resell any goods before title in them passes to the Customer the Customer may do so only by way of bona fide sale in the ordinary course of business and the Customer will hold the proceeds of such sale on trust for Applied and shall account to Applied for such proceeds.
- (d) Applied reserves the right at its discretion to register a Financing Statement in respect of each category of goods supplied to the Customer. Applied's costs of registering a Financing Statement or a Financing Change Statement shall be paid by the Customer and where applicable, debited by Applied against the Customer's account with Applied.
- (e) The Customer must not agree to allow any person to file a Financing Statement over the Goods without the prior consent of Applied and must notify Applied immediately if it becomes aware of any person taking steps to file a Financing Statement against any of the Goods.

The Customer and Guarantor (if any):

- (f) Agree(s) that nothing in s114(1)(a), 133, 134 and 148 of the PPSA will apply to these Terms; and
- (g) Waive(s) the Customer's right to do any of the following:
  - (i) Receive notice of the sale of collateral under s 116 of the PPSA;
  - (ii) Receive notice of a proposal under s120(2) of the PPSA;
  - (iii) Object to Applied's proposal to retain any Personal Property under s121 of the PPSA;
  - (iv) Not have goods damaged when Applied removes an Accession under s125 of the PPSA;
  - (v) Refuse permission to remove an Accession under section 127 of the PPSA;
  - (vi) Receive notice of the removal of an Accession under s129 of the PPSA;
  - (vii) Apply to the Court for an order concerning the removal of an Accession under s131 of the PPSA;
  - (viii) To receive a copy of the Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to the Security Interest created by these Terms.

Capitalised terms in this clause have the meaning given to them in the PPSA.

## 6. TIME OF DELIVERY

Unless otherwise agreed upon, the estimated time of delivery is calculated from the date of your acceptance of our quotation or order. Time of delivery is an estimate only, and although every effort is made by Applied to deliver on time, Applied assumes no liability for loss or damages occasioned by delays in delivery.

## 7. PACKAGING

Standard packaging is included in the price of Goods. If the Customer requests special packing or material this will incur an additional cost, may be subject to a deposit, and is not returnable.

## **8. RETURNS AND CLAIMS**

Goods may not be returned without prior written approval from Applied and the return freight prepaid by the Customer. Goods returned in exchange for credit will be subject to a credit service fee of \$25.00 or 15% of the credit note value, whichever is greater (unless return is due to supply error or defect in manufacture). An additional service fee may apply if further inspection is required.

Claims for shortages of Goods must be made in writing immediately upon receipt of Goods. No claim will be recognised unless made within 7 days from receipt of the consignment in respect of which the shortage is alleged. Claims for non-receipt of Goods must be made within 30 days of the date of invoice. Other claims will not be considered unless received within 30 days of receipt of Goods and reference is made to the appropriate dispatch advice or invoice number.

## **9. CONSUMER GUARANTEES ACT**

If you are a consumer under the Consumer Guarantees Act 1993 (**CGA**) and you and we have not contracted out of that Act under clause 10 of these Terms, you may have certain rights under the CGA, and the provisions of the CGA will prevail over any contrary provision in these Terms.

## **10. WARRANTY AND DISCLAIMER**

Applied is a distributor of products manufactured by others and as such warrants only that all Goods supplied are free of liens and other encumbrances. Except for the warranty of title, Goods are sold only with such warranties as may be extended by the manufacturer of the product or those that apply as a matter of law and cannot be excluded (including those under the CGA).

Where these Terms would otherwise be subject to the CGA, and you are acquiring the Goods for business purposes as defined in the CGA, you agree that it is fair and reasonable for the CGA not to apply to the Goods and to the maximum extent permitted by law the CGA will not apply to our supply of Goods to you. Where you re-supply the Goods to a customer for business purposes you agree to obtain the customer's agreement that the CGA will not apply to your re-supply of Goods.

APPLIED MAKES NO OTHER WARRANTY AND THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. No statements made by Applied or its representatives constitute a warranty or may be relied on, other than under an express warranty relating to the Goods or as set out in these Terms. Applied will provide all reasonable assistance to Customer in obtaining the benefits of applicable manufacturer's warranties. The Customer is responsible for installation and use in accordance with manufacturer's instructions. In no event will Applied be liable for incidental, consequential or special damages.

## **11. SPECIFICATIONS AND DRAWINGS**

Every effort is made to ensure that specification, drawings and other information in correspondence, catalogues, quotations etc. are correct and accurate, but no warranty is given in respect thereof and Applied shall not be liable for any error. The Customer agrees that it must satisfy itself as to the suitability of the Goods for its purpose and the Customer does not rely on the skill or judgement of Applied in relation to the Goods or their use or application.

## **12. PARAMOUNTCY**

Unless otherwise agreed by Applied in writing, these Terms, together with our quotation, if any, will constitute the entire agreement between Applied and the Customer and no terms, conditions, obligations or other provisions of any nature (including any terms supplied by the Customer) will be of any effect. For the avoidance of doubt, unless otherwise agreed by Applied in writing, these Terms will apply in all circumstances, including where the Customer validly accepts an Applied quotation or where the Customer and Applied otherwise proceed with carrying out work under an Applied quotation, whether or not the Customer, at any time or by any means, purports to impose its own terms.

## **13. CORPORATE STRUCTURES**

If the Customer is a company, then each director, officer and/or representative submitting a purchase order or accepting a quotation on behalf of the company personally guarantees the payment for the Goods. If the Customer is a trust, the trustee is liable for any breach of these terms in its own capacity and in its capacity as trustee, and covenants that it is indemnified out of the assets of the trust.

## **14. FORCE MAJEURE**

Without being liable to pay indemnity, Applied reserves the right to cancel the Contract of purchase entirely or in part or to extend the delivery time in the case of force majeure, which includes strikes, lock-outs or other interruptions in operation, stoppages, inability for us or our sub-contractors to deliver Goods because of difficulties in procuring material or labour necessary for manufacture, breakdowns in machinery, fire in our sub-contractor's works, transport difficulties, war, or blockade or pandemic involving New Zealand or any other country from which the material required for the Goods on order is expected to be **procured** and every circumstance of political, economical or other nature beyond our control.

## **15. AUTHORISATION**

Where a Customer uses or authorises the use of his or her signature in whatever form, including approving an authorised person including any employee to apply his or her signature, or leaving an authorised person with his or her email address and password in order to provide authorisation to Applied, the Director/Partner or authorised person of the Customer acknowledges and agrees that he/she:

- (a) has full knowledge of the Terms and all material circumstances related to or as stated in the Credit Application or any other agreement between the parties;
- (b) has provided the requisite authority in whatever form for the use of his or her signature for the express purposes of agreement between the parties; and
- (c) acknowledges that Applied has relied upon that signature as having been duly signed with full and complete authority (express, implied or ostensible) by the Director/Partner or authorised person.

## 16. EXPORT SALES

The Customer may not export or re-export Applied's products and information unless Applied agrees in writing in a document duly signed by an authorized representative of Applied, and then only in strict accordance with that document. Approval will only be given if the customers agree to follow US export control laws and regulations. A consolidated denied party list can be obtained from <https://legacy.export.gov/csl-search>.

## 17. GENERAL

**Severability:** If any of these Terms are unenforceable, it will be read down to be enforceable or, if it cannot be read down, the term will be severed from these Terms without affecting the enforceability of the remaining Terms.

**Entire Agreement:** These Terms constitute the entire agreement between the parties and no amendment, variation or addition (including any Customer terms) will be of any force and effect unless in writing and signed by both Applied and the Customer.

**Waiver:** Any waiver of these Terms binds us only to the extent that it is in writing and signed by a director of Applied. Failure to exercise or delay in exercising a right does not amount to a waiver.

**No set-off:** No amount owing by the Customer to Applied may be set off against any liability by Applied (in each case whether present or future, actual, contingent or prospective). Applied may apply (without prior notice) any amounts paid by the Customer towards satisfaction of any amount owing by the Customer under these Terms.

**Tax:** The Customer must pay all taxes and duties in respect of Applied's supply of Goods to the Customer.

**Cumulative rights:** Except as provided in these Terms and permitted by law, the rights, powers and remedies provided in these Terms are cumulative with and not exclusive to the rights, powers or remedies provided by law.

**Privacy:** Where we collect any personal information of a Customer in the course of supplying Goods, we will comply with applicable New Zealand privacy legislation and our Privacy Policy available at <https://www.appliednz.co.nz>.

**Governing Law:** These Terms are governed by, and are to be construed in accordance with, the Laws of New Zealand and the parties submit to the nonexclusive jurisdiction of the courts of New Zealand and any court hearing appeals from those courts.