

1. DEFINITIONS

- 1.1. "Industrial Air Systems" shall mean Industrial Air Systems (NZ) Ltd, or any agents or employees thereof.
- 1.2. "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing products and services from Industrial Air Systems.
- 1.3. "Goods" shall mean:
 - 1.3.1. All Goods of the general description specified on the front of this agreement and supplied by Industrial Air Systems; and
 - 1.3.2. All Goods supplied by Industrial Air Systems to the Customer; and
 - 1.3.3. All inventory of the Customer that is supplied by Industrial Air Systems; and
 - 1.3.4. All Goods supplied by Industrial Air Systems and further identified in any invoice issued by Industrial Air Systems to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and
 - 1.3.5. All Goods that are marked as having been supplied by Industrial Air Systems or that are stored by the Customer in a manner that enables them to be identified as having been supplied by Industrial Air Systems; and
 - 1.3.6. All of the Customer's present and after-acquired Goods that Industrial Air Systems performed work on or to or in which goods or materials supplied by Industrial Air Systems have been attached or incorporated.
 - 1.3.7. The above descriptions may overlap but each is independent of and does not limit the others.
- 1.4. "Goods" shall also mean all goods, products, services and advice provided by Industrial Air Systems to the Customer and shall include all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of goods by Industrial Air Systems to the Customer.
- 1.5. "Price" shall mean the cost of the goods as agreed between Industrial Air Systems and the Customer and includes all disbursements e.g. charges Industrial Air Systems pays to others on the Customer's behalf.

2. ACCEPTANCE

- 2.1. Any instructions received by Industrial Air Systems from the Customer for the supply of Goods shall constitute a binding contract and acceptance of the terms and conditions contained herein.
- 2.2. Industrial Air Systems reserves the right to make minor adjustments to order quantities to conform to standard packaging protocol.

3. COLLECTION AND USE OF INFORMATION

- 3.1. The Customer authorizes Industrial Air Systems to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract, or marketing any Goods provided by Industrial Air Systems to any other party.
- 3.2. The Customer authorizes Industrial Air Systems to disclose any information obtained to any person for the purposes set out in clause 3.1.
- 3.3. Where the Customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.
- 3.4 The Customer has the right to inspect and correct any personal information held by Industrial Air Systems.

4. PRICE

- 4.1. Where no price is stated in writing or agreed to orally the Goods shall be deemed to be sold at the current amount as such Goods are sold by Industrial Air Systems at the time of the contract.
- 4.2. The price may be increased by the amount of any reasonable increase in the cost of supply of the Goods that is beyond the control of Industrial Air Systems between the date of the contract and delivery of the Goods.

5. PAYMENT

- 5.1. Payment for Goods shall be made in full on or before the 14th day following the date of the invoice (the due date) unless provided for otherwise in the contract.
- 5.2. Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.3. Any expenses, disbursements and legal costs incurred by Industrial Air Systems in the enforcement of any rights contained in this contract shall be paid by the Customer, including any reasonable solicitor's fees or debt collection agency fees.
- 5.4. Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.

6. QUOTATION

- 6.1. Where a quotation is given by Industrial Air Systems for Goods:
 - 6.1.1. Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and
 - 6.1.2. The quotation shall be exclusive of goods and services tax unless specifically stated to the contrary.

7. RISK AND DELIVERY

- 7.1. The Goods remain at Industrial Air Systems risk until delivery to the Customer
- 7.2. Delivery of Goods shall be deemed complete when Industrial Air Systems gives possession of the Goods directly to the Customer or possession of the Goods is given to a carrier, courier, or other bailee for purposes of transmission to the Customer.
- 7.3. All orders with a net value (before the addition of GST) of \$200 or more will be delivered freight free.

8. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

- 8.1. Title in any Goods supplied by Industrial Air Systems passes to the Customer only when the customer has made payment in full for all Goods provided by Industrial Air Systems and of all other sums due to the Customer have been paid in full, Industrial Air Systems has a security interest in all Goods.
- 8.2. If the Goods are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Goods shall remain with Industrial Air Systems until the Customer has made payment for all Goods, and where those Goods are mixed with other property so as to be part of or a constituent of any new Goods, title to these new Goods shall be deemed to be assigned to Industrial Air Systems as security for the full satisfaction by the Customer of the full amount owing between Industrial Air Systems and the Customer.
- 8.3. The Customer gives irrevocable authority to Industrial Air Systems to enter any premises occupied by the Customer or on which Goods are situated at any third party premises at any time Industrial Air Systems believes a default is likely and to remove and repossess any Goods and any other property to which Goods are attached or in which Goods are incorporated. Industrial Air Systems shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. Industrial Air Systems may either resell any repossessed Goods and credit the Customer's account with the invoice value thereof less such sum as Industrial Air Systems reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- 8.4. Where Goods are retained by Industrial Air Systems pursuant to clause 8.3 the Customer waives the right to receive notice under s120 of the Personal Property Securities Act 1999 (PPSA) and to object under s121 of the PPSA.
- 8.5. The following shall constitute defaults by the Customer;
 - 8.5.1. Non payment of any sum by the due date.
 - 8.5.2. The Customer intimates that it will not pay any sum by the due date.
 - 8.5.3. Any Goods are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Goods.
 - 8.5.4. Any goods in the possession of the Customer are materially damaged while any sum due from the Customer to Industrial Air Systems remains unpaid.
 - 8.5.5. The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord distrains against any of the Customer's assets.
 - 8.5.6. A court judgement is entered against the Customer and remains unsatisfied for seven (7) days.
 - 8.5.7. Any material adverse change in the financial position of the Customer.

9. PAYMENT

- 9.1. Industrial Air Systems may in its discretion allocate any payment received from the Customer towards any invoice that Industrial Air Systems determines and may do so at the time of receipt or at any time afterwards and on default by the Customer may reallocate any payments previously received and allocated. In the absence of any payment allocation by Industrial Air Systems, payment shall be deemed to be allocated in such manner as preserves the maximum value of Industrial Air Systems purchase money security interest in the Goods.

10. CLAIMS FOR DAMAGE IN TRANSIT

- 10.1. No claim relating to Goods damaged in transit will be considered unless made in writing within seven (7) days of delivery and agreed to by Industrial Air Systems. No claim outside this period will be recognized. Insurance beyond Carrier's Limited Liability is Customer's care.
- 10.2. All freight costs incurred in the return of the Goods are to be paid by the Customer, except if expressly provided otherwise by Industrial Air Systems' contractual documents.

11. LIABILITY

- 11.1. The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Industrial Air Systems which cannot by law (or which can only to a limited extent by law) be excluded or modified. Industrial Air Systems excludes all such imposed warranties, conditions or obligations to the extent permitted by the law and excludes any warranty, condition or obligation imposed under common law, equity or otherwise. The only warranties that may be provided by Industrial Air Systems are the warranties specifically provided for under clause 12 or otherwise specifically provided in writing by Industrial Air Systems to the Customer.
- 11.2. Except to the extent that the law prevents Industrial Air Systems from excluding its liability, and notwithstanding that a warranty is provided, Industrial Air Systems shall not be liable for:
 - 11.2.1. Any loss or damage of any kind whatsoever, arising from the supply of Goods by Industrial Air Systems to the Customer, including consequential loss whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Goods provided by Industrial Air Systems to the Customer; and
 - 11.2.2. The Customer shall indemnify Industrial Air Systems against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused of arising as a result of the negligence of Industrial Air Systems or otherwise brought by any person in connection with any matter, act omission or error by Industrial Air Systems its agents or employees in connection with the Goods.
- 11.3. To the extent that Industrial Air Systems is liable for any reason for any loss suffered or liability incurred by the Customer arising from any breach of this contract or for any other reason, such liability is limited in all circumstances to the amount of the price of the Goods.

12. WARRANTY

- 12.1. Pneu-Assure standard warranty or Pneu-Assure portable warranty will apply in all circumstances unless the Customer qualifies for Pneu-Assure Bronze/Silver/Gold Guarantee and has a Pneu-Assure Master Maintenance plan in place.
- 12.2. Unless otherwise stated in Industrial Air System's quotation to the Customer, Goods supplied by Industrial Air Systems for plant service requirements are subject to a warranty period of 90 days from date of invoice, and labour for a period of 30 days from date of invoice.
- 12.3. The standard warranty provides that Industrial Air Systems warrants to the Customer that its Goods are free from defects in material and workmanship, and loss of capacity due to wear, for the defined period, and it is otherwise on the terms and conditions as provided for in the standard warranty document which is incorporated into these terms and conditions.
- 12.4. Any warranty shall cease and be at an end if the Goods are taken out of New Zealand, unless a specific international warranty is provided by the manufacturer. In such case the terms of the warranty shall be limited to the specific terms of the manufacturer's warranty.

13. CONSUMER GUARANTEES ACT

- 13.1. The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Goods from Industrial Air Systems for the purposes of a business in terms of section 2 and 43 of that Act and the Customer confirms that it acquires the Goods for a business unless it specifically advises Industrial Air Systems to the contrary in writing at the time of purchase.

14. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

- 14.1. If the Customer is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for Industrial Air Systems agreeing to supply Goods to the Customer at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to Industrial Air Systems the payment of any and all monies now or hereafter owed by the Customer to Industrial Air Systems and indemnify Industrial Air Systems against non-payment by the Customer. Any personal liability of a signatory hereto shall not exclude the Customer in any way whatsoever from the liabilities and obligations in this contract. The signatories and Customer shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.

15. TIME

- 15.1. Time shall in no case be of the essence. The Vendor shall not be responsible for any delay in delivery of the Goods and the Customer shall not be entitled to cancel any order because of any such delay. Dates for deliver are given in good faith and are not to be treated as a condition of sale or purchase. Delivery by Industrial Air Systems to a carrier is deemed to be delivery to the Customer.

16. MISCELLANEOUS

- 16.1. Industrial Air Systems shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- 16.2. Failure by Industrial Air Systems to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations Industrial Air Systems has under this contract.
- 16.3. If any provision of this contract shall be invalid, void, or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected.
- 16.4. Industrial Air Systems shall be entitled at any time by notice in writing to the Customer to amend its Terms of Trade and the Customer shall be bound by such variation from the date it is provided with notice of the amended Terms of Trade for Goods purchased or services performed thereafter.
- 16.5. If there is any inconsistency between these terms and conditions of trade and the terms of any order that may be lodged by you or with any delivery docket or invoices or other communication by or to us or you, then these terms and conditions will prevail unless we expressly agree otherwise in writing and, without limited the foregoing, in no case shall the fulfillment of an order by us by itself constitute acceptance of any terms of the customer.

17. CANCELLATIONS AND RETURNS

- 17.1. Cancellation of an order by the Customer prior to delivery may occur only at Industrial Air Systems' discretion. In such case a cancellation fee of 10% shall be charged to the Customer.
- 17.2. Industrial Air Systems may at its discretion agree to the return of Goods by the Customer in return for a credit. In such case a restocking fee of 10% shall be charged to the Customer and the Customer shall be liable for the cost of the return of the Goods.