



AUCKLAND ENGINEERING SUPPLIES

Auckland Engineering Supplies (ME) Ltd
154 Beaumont Street, Westhaven
PO Box 90 129, Victoria Street., Auckland
Telephone: (09) 358 0910 Fax: (09) 358 0912
Web www.aesnz.com

CREDIT ACCOUNT APPLICATION FORM

Trading Name:.....

Applicants Full Legal Name:.....

(Please Circle): Limited Company Sole Trader Individual Partnership Other: (please state)

If Limited Company - Date & place of Incorporation:

N.Z.Postal Address :

Overseas Postal Address (if applicable):.....

Physical Address:

Name of Vessel (if applicable)

Nature of Business : Years in Business :

Telephone Business : (1) (2) Fax : Mobile:.....

Email Address:

Director (s) Name(s) in full :

Address:

Name of Accountant: Ph:.....

Solicitor : Ph:.....

Contact number and Name (Accounts Payable):..... Ph:.....

Contact number and Name (General):..... Ph:.....

If Limited liability company - address of registered office :

Capital - Authorised \$ Paid Up Average monthly credit applied for \$.....

THREE TRADE REFERENCES (NB Banks, Lawyers, Accountants, Utilities etc. excluded)

1..... PH.....

2..... PH.....

3..... PH.....

- I/We have read and agree to be bound by AUCKLAND ENGINEERING SUPPLIES (ME) Ltd (the Company") current terms and conditions of trade as attached including all future changes, alterations and substitutions which may apply from time to time. I/We further acknowledge notification of all such changes, alterations and substitutions shall be made in writing by AUCKLAND ENGINEERING SUPPLIES (ME) Ltd and shall be deemed to be delivered and received by me/us five days after posting to the last known mailing address of the Applicant.
- I/We irrevocably authorise AUCKLAND ENGINEERING SUPPLIES (ME) Ltd to obtain from any person or company any information which AUCKLAND ENGINEERING SUPPLIES (ME) Ltd may require for credit reference purposes. I/We further irrevocably authorise AUCKLAND ENGINEERING SUPPLIES (ME) Ltd to provide to any third party, in response to credit reference and enquiries about me/us or by way of information exchange with credit reference agencies, details of this application and any subsequent dealings that I/We may have with AUCKLAND ENGINEERING SUPPLIES (ME) LTD as a result of this application being actioned by AUCKLAND ENGINEERING SUPPLIES (ME) Ltd.
- I/We further acknowledge that the information is to be used by AUCKLAND ENGINEERING SUPPLIES (ME) Ltd for all purposes in connection with AUCKLAND ENGINEERING SUPPLIES (ME) Ltd considering this application and the subsequent operation of the account by me/us once approved.
- I/We warrant to AUCKLAND ENGINEERING SUPPLIES (ME) Ltd that the above information is to the best of my knowledge, information and believe true and correct and that I am duly authorised to enter into this application and future contracts on the applicant's/purchaser's behalf.
- The Company reserves the right to limit amounts of credit and to withdraw monthly facilities at any time.
- All goods are supplied on the above conditions and also upon the Company's standard Terms and Conditions of Sale which is acknowledged by the applicant.

I CERTIFY that the information in support of this application given overleaf is correct and I ACCEPT that the above conditions of contract and the Company's conditions of sale shall govern all dealings with the Company. (I understand that the Company may require payment upon/prior to delivery of goods until the Company approves the application).

Signed :Print Name : Designation :

(Authorised Signatory) Date

TERMS & CONDITIONS OF TRADE

1. DEFINITIONS

- 1.1 "AES" shall mean Auckland Engineering Supplies (ME) 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 AES.
- 1.3 "Products" shall mean:
- 1.3.1 all Products of the general description specified on the front of this agreement and supplied by AES to the Customer; and
- 1.3.2 all Products supplied by AES to the Customer; and
- 1.3.3 all inventory of the Customer that is supplied by AES; and
- 1.3.4 all Products supplied by AES and further identified in any invoice issued by AES to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and
- 1.3.5 all Products that are marked as having been supplied by AES or that are stored by the Customer in a manner that enables them to be identified as having been supplied by AES; and
- 1.3.6 all of the Customer's present and after acquired Products that AES has performed work on or to or in which goods or materials supplied or financed by AES 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 "Products and Services" shall mean all products, services, goods and advice provided by AES to the Customer and shall include without limitation the manufacture and supply of marine products and services and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Products and Services by AES to the Customer.
- 1.5 "Price" shall mean the cost of the Products and Services as agreed between AES and the Customer and includes all disbursements e.g. charges AES pay to others on the Customer's behalf subject to clause 4 of this contract.

2. ACCEPTANCE

- 2.1 Any instructions received by AES from the Customer for the supply of Products and Services shall constitute a binding contract and acceptance of the terms and conditions contained herein.

3. COLLECTION AND USE OF INFORMATION

- 3.1 The Customer authorises AES 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 Products and Services provided by AES to any other party.
- 3.2 The Customer authorises AES 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.

4. PRICE

- 4.1 Where no price is stated in writing or agreed to orally the Products and Services shall be deemed to be sold at the current amount as such Products and Services are sold by AES 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 Products and Services that is beyond the control of AES between the date of the contact and delivery of the Products and Services.

5. PAYMENT

- 5.1 Payment for Products and Services shall be made in full either:
- 5.1.1 Cash on delivery / completion;
- 5.1.2 Within 7 days on completion; or
- 5.1.3 On or before the 20th day of the month following the date of the invoice ("the due date").
- 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 AES 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.
- 5.5 A deposit may be required.

6. QUOTATION

- 6.1 Where a quotation is given by AES for Products and Services:
- 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;
- 6.1.3 AES reserve the right to alter the quotation because of circumstances beyond its control.
- 6.2 Where Products and Services are required in addition to the quotation the Customer agrees to pay for the additional cost of such Products and Services.

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

- 7.1 Title in any Products and Services supplied by AES passes to the Customer only when the Customer has made payment in full for all Products and Services provided by AES and of all other sums due to AES by the Customer on any account whatsoever. Until all sums due to AES by the Customer have been paid in full, AES has a security interest in all Products and Services. If the Products and Services 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 Products and Services shall remain with AES until the Customer has made payment for all Products and Services, and where those Products and Services are mixed with other property so as to be part of or a constituent of any new Products and Services, title to these new Products and Services shall be deemed to be assigned to AES as security for the full satisfaction by the Customer of the full amount owing between AES and Customer.
- 7.3 The Customer gives irrevocable authority to AES to enter any premises occupied by the Customer or on which Products and Services are situated at any reasonable time after default by the Customer or before default if AES believes a default is likely and to remove and repossess any Products and Services and any other property to which Products and Services are attached or in which Products and Services are incorporated. AES 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. AES may either resell any repossessed Products and Services and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Products and Services and credit the Customer's account with the invoice value thereof less such sum as AES reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- 7.4 Where Products and Services are retained by AES pursuant to clause 7.3 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s. 121 of the PPSA.
- 7.5 The following shall constitute defaults by the Customer:
- 7.5.1 Non payment of any sum by the due date.
- 7.5.2 The Customer intimates that it will not pay any sum by the due date.
- 7.5.3 Any Products and Services are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Products and Services.
- 7.5.4 Any Products and Services in the possession of the Customer are materially damaged while any sum due from the Customer to AES remains unpaid.
- 7.5.5 The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or landlord distains against any of the Customer's assets.
- 7.5.6 A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days,
- 7.5.7 Any material adverse change in the financial position of the Customer.

8. SECURITY INTEREST FOR SERVICE PROVIDERS

- 8.1 The Customer gives AES a security interest in all of the Customer's present and after acquired property that AES has performed services on or to or in which goods or materials supplied or financed by AES have been attached or incorporated.

9. GENERAL LIEN

- 9.1 The Customer agrees that AES may exercise a general lien against any Products and Services or property belonging to the Customer that is in the possession of AES for all sums outstanding under this contract and any other contract to which the Customer and AES are parties.
- 9.2 If the lien is not satisfied within seven (7) days of the due date AES may, having given notice of the lien at its option either:
- 9.2.1 Remove such Products and Services and store them in such a place and in such a manner as AES shall think fit and proper and at the risk and expense of the Customer; or
- 9.2.2 Sell such Products and Services or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage caused.

10. LIABILITY

- 10.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon AES which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on AES, AES's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 10.2 Except as otherwise provided by clause 10.1 AES shall not be liable for:
- 10.2.1 Any loss or damage of any kind whatsoever, arising from the supply of Products and Services by AES to the Customer, including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Products and Services provided by AES to the Customer and
- 10.2.2 The Customer shall indemnify AES 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 or arising as a result of the negligence of AES or otherwise, brought by any person in connection with any matter, act, omission, or error by AES its agents or employees in connection with the Products and Services.

11. WARRANTY

- 11.1 Any warranty provided by AES to the Customer shall also form part of these terms and conditions of trade.
- 11.2 Manufacturers Warranties
Where Goods are subject to a manufacturer's or software supplier's warranty AES will make the benefit of that warranty available to the Buyer

11.3 Exclusion of Liability

- AES will not be liable to the Buyer or to any other person for any damages whatsoever caused either to the Goods or as a result of the use of the Goods if the Goods are:
- 11.3.1 fitted by an unqualified tradesperson or fitted or used in any manner not in accordance with AES' or the manufacturer's instructions or with current industry standards of skill.
- 11.3.2 Altered or adapted to a use that they are not specifically intended for, or
- 11.3.3 Added to or repaired using components not recommended or approved by the manufacturer of the Goods.

12. CONSUMER GUARANTEES ACT

- 12.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Products and Services from AES for the purposes of a business in terms of section 2 and 43 of that Act

13. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

- 13.1 If the Customer is a company or trust the director(s) or trustee(s) signing this contract in consideration for AES agreeing to supply Products and Services and grant credit to the Customer at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to AES the payment of any and all monies now or hereafter owed by the Customer to AES and indemnify AES 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 contained 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.

14. MISCELLANEOUS

- 14.1 AES shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- 14.2 Failure by AES 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 AES has under this contract.
- 14.3 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, prejudiced or impaired.