

APPLICATION FOR CREDIT ACCOUNT

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DIRECT BUILDERS MERCHANTS
Unit Y, Newington Industrial Estate
London Road, Sittingbourne, Kent, ME9 7NU

FULL TRADING TITLE
OF CUSTOMER/COMPANY

TELEPHONE No.
TYPE OF BUSINESS

INVOICE/STATEMENT
ADDRESS

POSTCODE

REGISTERED OFFICE (if Limited Co.)
ADDRESS

POSTCODE
COMPANY REGISTRATION No.

ARE THE PREMISES OCCUPIED, FREEHOLD / RENTED?

BANKERS NAME
ADDRESS

ACCOUNT No.
SORT CODE

FULL NAMES
ADDRESS

DIRECTORS / PARTNERS

NO. SHARES HELD
OTHER DIRECTORSHIPS HELD (if any).

TRADE REFERENCES

REFERENCE NAME (1)
FULL ADDRESS

(2)

TELEPHONE No.

OFFICIAL ORDER No. REQUIRED? YES / NO

TOTAL CREDIT REQUIRED (MONTHLY x 2)

IN CONSIDERATION OF DIRECT BUILDERS MERCHANTS LTD AGREEING TO SUPPLY

GOODS TO.....

I HEREBY AS PRINCIPAL AND NOT MERELY AS SURETY UNDERTAKE AND PERSONALLY GUARANTEE THE DUE PAYMENT TO DIRECT BUILDERS MERCHANTS LTD OF MONIES NOW PAYABLE OR WHICH MAY HEREAFTER AT ANY TIME BECOME PAYABLE. THIS GUARANTEE IS TO BE A CONTINUING GUARANTEE BINDING MY ESTATE AND EFFECTS AND MY LIABILITY UNDER IT SHALL NOT BE AFFECTED BY DIRECT BUILDERS MERCHANTS GIVING TIME OR ANY OTHER INDULGENCE TO ME.

ON BEHALF OF:

SIGNATURE.....	WITNESS.....
NAME IN FULL	NAME
HOME ADDRESS	ADDRESS
OCCUPATION	OCCUPATION
TEL. No.:	

I HAVE READ AND CONFIRM ACCEPTANCE OF YOUR TERMS AND CONDITIONS

CONDITIONS OF SALE

1. Interpretation

1.1 in these conditions

- "Buyer" means the person who accepts the quotation of the seller for the sale of the goods or whose order for the goods is accepted by the Seller.
- "Goods" means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these conditions.
- "Seller" means **DIRECT BUILDERS MERCHANTS LIMITED, of UnitY, Newington Industrial Estate, London Road, Newington, Nr. Sittingbourne, Kent, ME9 7NU.**
- "Conditions" means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.

"Contract" means the contract for the purchase and sale of the goods.

"Writing" includes telex, cable, facsimile transmission and comparable means of communication.

1.2 Any Reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. Basis of the Sale

- 2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any quotation of the Seller (however given) which is accepted by the Buyer or any order of the Buyer (however given) which is accepted by the Seller, subject in either case to these Conditions which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted or any such order is made or purported to be made by the Buyer
- 2.2 No variation to these conditions shall be binding unless agreed in writing between the authorised representative of the buyer and the seller.
- 2.3 The seller's employees or agents are not authorised to make any representation concerning the goods unless confirmed by the seller in writing. In entering into the contract the buyer acknowledges that it does not rely on any such representations which are not so confirmed
- 2.4 Any advice or recommendation given by the seller or its employees or agents to the buyer as to the storage, application or use of goods which is not confirmed in writing by the seller is followed or acted upon entirely at the buyers own risk, and accordingly the seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the seller shall be subject to correction without any liability on the part of the seller.

3. Orders and specifications

- 3.1 The buyer shall be responsible to the seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the buyer and for giving the seller any necessary information relating to the goods within a sufficient time to enable the seller to perform the contract in accordance with its terms.
- 3.2 The quantity, quality and description of and any specification for the goods shall be those set out in the seller's quotation (however given) (if accepted by the buyer) or by the buyers order (however given) Of accepted by the seller).
- 3.3 No order which has been accepted by the seller may be cancelled by the buyer except with the agreement in writing of the seller and on terms that the buyer shall indemnify the seller in full against all loss (including loss of profit) cost (including the cost of all labour and materials used) damages charges and expenses incurred by the seller as a result of cancellation.
4. Price of the Goods
- 4.1 The price of the goods shall be the sellers quoted price or, where no price has been quoted (or a quote price is no longer valid) the price listed in the sellers published price list current at the date of acceptance of the order. All prices quoted are only valid at the time of issue and may be altered by the seller at any time thereafter. All prices refer to sums exclusive of Value Added Tax ("VAT") and any VAT charged on it is payable in addition.
- 4.2 The Seller reserves the right by giving notice to the buyer at any time before delivery to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller, (such as, without limitation any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the cost of materials), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 4.3 Except as otherwise stated under the terms of any quotation or in any price list of the seller and unless otherwise agreed between the Buyer and the Seller all prices are given by the Seller are inclusive of the Seller's charges for transport, packaging and insurance.
- 4.4 The price is exclusive of any applicable value added tax which the Buyer shall be additionally liable to pay to the Seller.
- 4.5 The cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods but full credit will be given to the Buyer provided they are returned undamaged to the Seller before the due payment date.

5. Terms of payment

- 5.1 Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.
- 5.2 Except as otherwise stated under the terms of any quotation or in any price list of the Seller and unless otherwise agreed between the Buyer and the Seller the Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled, but without other deduction) within 30 days of the date of the Seller's invoice and the Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued upon request.
- 5.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- 5.3.1. cancel the contract or suspend any further deliveries to the Buyer;
- 5.3.2. appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
- 5.3.3. charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of four per cent per annum above National Westminster Bank plc base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

6. Delivery

- 6.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Sellers premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or if some other place of delivery is agreed by the Seller, by the Seller delivering the Goods to that place.
- 6.2 Any dates quoted for the delivery of the Goods are approximate only and the Seller shall not be liable for any delay in the delivery of the Goods, however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the buyer
- 6.3 Where delivery of the Goods is to be made by the Seller in bulk, the Seller reserves the right to deliver up to 10 per cent more or 10 per cent less than the quantity ordered with a pro rata adjustment in price, and the quantity so delivered shall be deemed to be the quantity ordered.
- 6.4 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contact and separate failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 6.5 If the Seller fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Seller's reasonable control or the Buyers fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

6.6 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyers reasonable control or by reason of the Seller's fault) then without prejudice to any other right to remedy available to the Seller the Seller may:

6.6.1 store the Goods until actual delivery and charge the Buyer for reasonable costs (including insurance) or storage; or

6.6.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the contract.

7. Risk and Property

- 7.1 The Goods are delivered to the Buyer when the Seller makes them available to the Buyer or any agent of the Buyer or any carrier (who shall be the Buyers agent whoever pays its charges) at the Sellers premises or other delivery point agreed by the Seller.
- 7.1.2 Risk in the Goods passes when they are delivered to the buyer.
- 7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.
- 7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Sellers property, but shall be entitled to resell or use the Goods in the ordinary course of its business.
- 7.4 Until such time as the property in Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 7.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy to the Seller) forthwith become due and payable.

8. Warranties and Liability

- 8.1 Subject to the conditions set out below the Buyer shall only be entitled to the benefit of any such warranty or guarantee that the Goods will correspond with the agreed quality condition and specification at the time of delivery as is given by the manufacturer or supplier to the Seller
- 8.2 The Seller shall be under no liability under the above warranty (or any other warranty condition or guarantee) if the total price for the Goods has not been paid by the due date for payment.
- 8.3 Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law
- 8.4 Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these conditions.
- 8.5 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification description or sample shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 3 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 8.6 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or the part in question) free of charge or at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price) but the Seller shall have no further liability to the Buyer.
- 8.7 Except in respect of death or personal injury caused by the Sellers negligence, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.
- 8.8 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Sellers obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Sellers reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Sellers reasonable control:
- 8.8.1 Act of God, explosion, flood, tempest, fire or accident;
- 8.8.2 War or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 8.8.3 Acts, restrictions, regulations, by-laws, prohibitions, or measures of any kind on the part of any governmental, parliamentary or local authority;
- 8.8.4 Import or export regulations or embargoes;
- 8.8.5 Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or a third party);
- 8.8.6 Difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 8.8.7 Power failure or breakdown in machinery.

9. Insolvency of Buyer

- 9.1 This clause applies if:
- 9.1.1 the Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or
- 9.1.2 an encumbrancer takes possession, or a receiver is appointed, or any of the property or assets of the Buyer; or
- 9.1.3 the Buyer ceases, or threatens to cease, to carry on business; or
- 9.1.4 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 9.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary

10. General

- 10.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principle place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 10.2 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.3 If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 10.4 The contract shall be governed by the laws of England and the Buyer agrees to submit to the exclusive jurisdiction of the English Courts.

Exclusion of Liability for Advice

Any advice or recommendation given by the Seller or its employees or agents to the Buyer as to the storage, application, or use of the goods which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyers own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.