



KELVIN TIMBER Holdings LTD  
 Milngavie 0141 956 | Hamilton 01698 421 366

### CREDIT APPLICATION FORM - BUSINESS CONTACT INFORMATION

Title		Date business commenced:	
Company name		<input type="checkbox"/> Sole Trader <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Company <input type="checkbox"/> Other	
Phone   Fax			
Business E-mail			
Registered company address, City, Postcode			

### PERSONAL AND BANK INFORMATION

Your D.O.B		Bank name:	
Full Home Address, Including Postcode – Please see more information required highlighted in red below.		Full Bank Address. Including postcode	
Personal Phone Number		Bank Phone Number	
Sort Code		Account number	
How much are You Applying for ?	£	How will you pay? (Bacs, Cash, Card, Cheque)	
Personal E-mail		Type of account	<input type="checkbox"/> Business <input type="checkbox"/> Personal <input type="checkbox"/> Other

### **BUSINESS/TRADE REFERENCES** *DO NOT INCLUDE MKM OR HOWDENS THEY DO NOT GIVE OUT REFERENCES*

Company name		Phone	
Address		Web Address	
City, Post Code		E-mail	
Type of account		Other	
Company name		Phone	
Address		Web Address	
City, Post Code		E-mail	
Type of account		Other	

### BUSINESS TYPE & REGISTRATION

Trading Details (Landscape, Housing Association, Joiner etc)		VAT Number:	
Do You use Purchase Orders?		Registration no:	

*Please supply proof of your address, such as a copy of a current utility bill and a sample of your business letter headed paper*

Have any of the persons who are owners/directors/members/partners of your business been involved in a Liquidation/ Bankruptcy/ IVA/CVA/ Administration/ Receivership or had any Court Orders registered against them?

Yes  No Details:



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## CREDIT GUARANTEE

### TO BE COMPELTED BY THE SHAREHOLDER(S) / DIRECTOR(S) OF AN APPLYING COMPANY OR THE MEMBERS OF AN APPLYING LIMITED LIABILITY PARTNERSHIP

In consideration of your agreement to supply goods to the applicant on credit. I/we the undersigned being shareholder(s) / director(s) / member(s) of the applicant hereby personally guarantee payment of all the financial obligations arising from the provision of (or increase in) the credit facilities granted by Kelvin Timber Holdings Ltd or its subsidiaries and successors from time-to-time following review of the applicant company's account.

I/we also agree to indemnify Kelvin Timber Holdings Ltd or its subsidiaries and successors from time-to-time following review of the applicant company's account.

I/we also agree to indemnify Kelvin Timber Holdings Ltd against all losses incurred by them and arising because of their provision of credit facilities to the applicant.

Where this credit guarantee and indemnity are undertaken on a joint and several basis by those signing, I/we further acknowledge and have had notice that such guarantee and indemnity obligations will be enforceable against me in my individual capacity.

## SIGNATURES

Signature		Signature	
Full Name and Title		Full Name and Title	
Date		Date	

## DECLARATION

### PLEASE READ AND COMPLETE ALL PAGES BEFORE SIGNING THE SECTION BELOW

We make this application to open a credit account with Kelvin Timber (East) Ltd and/or Kelvin Timber (West) Ltd. I / We understand that credit terms are that payments are due promptly at the end of the month following the date of invoice and that if granted credit, I / We agree to pay in accordance with these terms.

Kelvin Timber (East) Ltd and/or Kelvin Timber (West) Ltd reserves the right to terminate this agreement for credit forthwith without notice upon a breach by the customer of any terms and conditions and all amounts then outstanding will become due forthwith. Thereafter interest will apply on a daily basis until the account is paid in full.

I / We agree to credit checks being conducted upon us within the terms of the Data Protection Act.

I / We acknowledge and agree to Kelvin Timber (East) Ltd and/or Kelvin Timber (West) Ltd Terms and Conditions of sale.

## SIGNATURES

Signature		Signature	
Full Name and Title		Full Name and Title	
Date		Date	

After form completed, please forward to [accounts.west@kelvintimber.co.uk](mailto:accounts.west@kelvintimber.co.uk) (Milngavie Store) or [accounts.east@kelvintimber.co.uk](mailto:accounts.east@kelvintimber.co.uk) (Hamilton Store). We will be in contact once checks have been made.



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## CONDITIONS OF SALE

### If You are a consumer:

- a) Sections 1 and 2 apply to You.
- b) Section 3 does not apply to You.

**If You are not a consumer** (You will not be a consumer if You are a business or if You are operating a trade account):

- a) Sections 1 and 3 apply to You.
- b) Section 2 does not apply to You.

## SECTION 1 - GENERAL

THE FOLLOWING CLAUSES IN THIS SECTION 1 APPLY TO BOTH CONSUMERS AND NON-CONSUMERS.

### 1. THESE TERMS

- 1.1 The "Terms": these are the terms and conditions on which We supply Goods to You.
- 1.2 Why You should read them. Please read these Terms carefully before You submit Your Order to Us. These Terms tell You who We are, how We will provide Goods to You, how You and We may change or end the Contract, what to do if there is a problem, and other important information. If You think that there is a mistake in these Terms, please contact Us to discuss.

### 2. INFORMATION ABOUT US AND HOW TO CONTACT US

- 2.1 "We/Our/Us": **Kelvin Timber Limited**, a company registered in Scotland. Our company registration number is **178996** and Our registered office is at **123 Main Street, Milngavie, G62 6JA**. Our registered VAT number is **GB 680 6741 18**.
- 2.2 How to contact Us. You can contact Us by telephoning Our customer service team at **0141 956 5183** or by writing to Us at **sales.west@kelvintimber.co.uk** or **123 Main Street, Milngavie, G62 6JA**.
- 2.3 "You/Your": the customer making the Order (defined below). The customer may or may not be a consumer.
- 2.4 How We may contact You. If We have to contact You, We will do so by telephone or by writing to You at the email address or postal address You provided to Us in Your Order.

### 3. WHAT ARE WE DOING?

- 3.1 We deliver timber and building products.
- 3.2 "Goods": the delivery of the timber and/or building products will comprise Goods. The Goods We will supply are set out in the Order (defined below).
- 3.3 "Order": You can purchase Goods from Us by placing an Order ("Order"). The Order, the Quotation, the Plan, and these Terms will form the Contract between You and Us.
- 3.4 "Quotation": The price of the Goods will be set out in a quotation ("Quotation"). The Quotation will be attached to Your Order. Any Quotation that We may give You will only last for 30 days, unless We notify You otherwise.

3.5 "Plan": We may provide You with a drawing or illustration of Your Goods ("Plan"). Any Plan We give You will be attached to Your Order.

3.6 "Contract": when We refer to the "Contract" in these Terms, this means the Contract between You and Us and includes the Order, the Quotation, the Plan, and these Terms.

## 4. OUR CONTRACT WITH YOU

- 4.1 How We will accept Your Order. Our acceptance of Your Order will take place when We tell You that We are able to provide You with the Goods, at which point a Contract will come into existence between You and Us. Please allow approximately seven business days for Us to confirm Your Order.
- 4.2 Making sure Your Order is accurate. You must check Your Order carefully to ensure that it is complete and accurate. In particular, You must ensure all dimensions and color choices in respect of the Goods are accurately provided for in Your Order.
- 4.3 If We cannot accept Your Order. If We are unable to accept Your Order, We will inform You of this and will not charge You for the Goods. This might be because, for example, the Goods are out of stock.
- 4.4 Your Order number. We will assign an Order number to Your Order and will tell You what it is when We accept Your Order. It will help Us if You can tell Us the Order number whenever You contact Us about Your Order.
- 4.5 We only sell to the UK. Our brochure and website are solely for the promotion of Our products in Scotland. We will charge You an additional amount for any delivery of Goods outside the mainland of Scotland.

## 5. THE GOODS

- 5.1 The Goods We supply may vary slightly from their pictures. The images of the Goods in Our brochure or on Our website are for illustrative purposes only. Although We have made every effort to display the colors accurately, We cannot guarantee that a device's display of the colors or the printed pictures in Our brochure accurately reflects the color of the Goods. Your Goods may vary slightly from those images. Although We have made every effort to be as accurate as possible, because some Goods are sourced from natural products, there may be slight differences in the color, grain, and aesthetic appearance. The sizes, weights, and dimensions indicated on Our website or in Our catalogue or brochure may have a tolerance within acceptable industry standards under the relevant British, European, or International Standards.
- 5.2 Packaging of the Goods may vary. The packaging of the Goods may vary from that shown in images on Our website or in Our catalogue or brochure.
- 5.3 Making sure Your measurements are accurate. If We are making the Goods to measurements You have given Us, You are responsible for ensuring that these measurements are correct. You can obtain information and tips on how to measure by contacting Us.
- 5.4 Warranty in relation to the Goods. We will endeavor to transfer to You the benefit of any warranty or guarantee given to Us by a manufacturer of the Goods. Any guarantee or

warranty available in respect of the Goods will be enclosed within the packaging of the Goods. You must liaise with the manufacturer of the Goods, in order for You to enjoy their warranty. In particular, You must validate a warranty by sending the appropriate paperwork to the manufacturer of the Goods.

## 6. YOUR RIGHTS TO MAKE CHANGES

If You wish to make a change to the Goods You have ordered, please contact Us. We will let You know if the change is possible. If it is possible, We will let You know about any changes to the price of the Goods, the timing for delivery, or anything else which would



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be necessary as a result of Your requested change and ask You to confirm whether You wish to go ahead with the change.

8.9 When You own the Goods. You own the Goods once We have received payment in full.

## 7. OUR RIGHTS TO MAKE CHANGES

7.1 Minor changes to the Goods. We may change the Goods. For example, to reflect changes in relevant laws and regulatory requirements; or to implement minor technical adjustments and improved safety features. These changes will not affect Your general use of the Goods.

7.2 More significant changes to the Goods and these Terms. In addition, We may make changes to these Terms or the Goods, but if We do so, We will notify You before the changes take effect.

## 8. PROVIDING THE GOODS

8.1 Delivery costs. The costs of delivery will be as set out in Your Order.

8.2 When We will provide the Goods. During the Order process, We will let You know when We will provide the Goods to You. If the Goods are a one-off purchase (rather than a subscription), We will deliver them to You as soon as possible and in any event within a reasonable time. If We cannot deliver the Goods within 30 days, We will contact You. Any delivery dates We give you are estimates and timing will not be essential.

8.3 Your responsibility to inspect the Goods. At the time the Goods are delivered to You, You must inspect the Goods to ensure:

- (a) the Goods are not damaged;
- (b) there are no Goods (or any part of the Goods) missing.

If You discover that certain Goods (or part of the Goods) are damaged or missing, You must contact Us within 48 hours of delivery of the Goods. If You are a consumer, Your failure to contact Us within 48 hours will not affect any of Your rights in clause 17 of the Contract.

8.4 If Goods are damaged or missing. If You have contacted Us to tell Us that certain Goods are damaged or missing, and We have agreed to provide You with replacement, or extra Goods, We will endeavor to deliver these Goods to You as soon as reasonably possible (and in any event within 25 business days).

8.5 Collection by You. If You have asked to collect the Goods from Our premises, You must collect the Goods within 7 days of Us telling You that the Goods are ready for collection.

8.6 Delivery to You. If it is agreed that We will deliver the Goods to You and no one is available at Your address to take delivery, We will leave You a note informing You of how to rearrange delivery or collect the Goods from a local depot. We may charge You for redelivery of the Goods.

8.7 If You do not provide Us with information We require. We may need certain information from You so that We can supply the Goods to You, for example, Your address or measurements. We will contact You to ask for this information. If You do not

give Us this information within a reasonable time of Us asking for it, or if You give Us incomplete or incorrect information, We may either end the Contract or make an additional charge of a reasonable sum to compensate Us for any extra work that is required as a result. We will not be responsible for supplying the Goods late or not supplying any part of them if this is caused by You not giving Us the information We need within a reasonable time of Us asking for it.

8.8 When You become responsible for the Goods. The Goods will be Your responsibility from the time We deliver the Goods to the address You gave Us or You collect the Goods from Us.

## 9. PRICE OF THE GOODS

9.1 Where to find the price for the Goods. The price of the Goods will be the price set out in Your Quotation.

9.2 How You must pay. We accept payment by cash, credit or debit card, or BACS transfer but we do not accept cheques.

## 10. HOW WE MAY USE YOUR PERSONAL INFORMATION

10.1 How We will use Your personal information. We will use the personal information You provide to Us:

- (a) to supply the Goods to You;
- (b) to process Your payment for the Goods; and
- (c) if You agree to this, we will inform You about similar Goods that We provide, but You may stop receiving these communications at any time by contacting Us.

10.2 We will only give Your personal information to third parties where the law either requires or allows Us to do so.

## 11. OTHER IMPORTANT TERMS

11.1 Notices must be in writing. If You are required to give Us a formal notice, or We are required to give You a formal notice, under the Contract, it must be in writing. That notice must be sent by first class post to: (a) Us, at Our address (see clause 2); or (b) You, at the address You have given Us.

11.2 When is a notice deemed to be received. If a notice was sent by first class post, it will be deemed to be received two days (excluding weekends or bank/public holidays) after posting (not counting the day it was posted).

11.3 We may transfer this agreement to someone else. We may transfer Our rights and obligations under these Terms to another organization. We will contact You to let You know if We plan to do this.

11.4 You need Our consent to transfer Your rights to someone else. You may only transfer Your rights or Your obligations under these Terms to another person if We agree to this in writing. We may not agree.

11.5 Nobody else has any rights under the Contract. This Contract is between You and Us. No other person shall have any rights to enforce any of its Terms.

11.6 If a court finds part of the Contract illegal, the rest will continue in force. Each of the clauses of these Terms operates separately. If any court or relevant authority decides

that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

11.7 Even if We delay in enforcing the Contract, We can still enforce it later. If We do not insist immediately that You do anything You are required to do under these Terms, or if We delay in taking steps against You in respect of Your breaking the Contract, that will not mean that You do not have to do those things and it will not prevent Us from taking steps against You at a later date. For example, if You miss a payment and We do not chase You but We continue to provide the Goods, We can still require You to make the payment at a later date.



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11.8 Which laws apply to the Contract and where You may bring legal proceedings. These Terms are governed by Scots law and You may bring legal proceedings in respect of the Goods in the Scottish courts.

the overdue amount, whether before or after judgment. You must pay Us interest together with any overdue amount.

### SECTION 2 - CONSUMERS

The following clauses in this Section 2 will only apply to You if You are a consumer. The clauses in this Section 2 are expressly excluded from applying to non-consumers.

13.4 What to do if You think an invoice is wrong. If You think an invoice is wrong, please contact Us promptly to let Us know. You will not have to pay any interest until the dispute is resolved. Once the dispute is resolved, We will charge You interest on correctly invoiced sums from the original due date.

### 12. SUSPENSION ON THE SUPPLY OF GOODS

12.1 Reasons We may suspend the supply of Goods to You. We may have to suspend the supply of the Goods because:

- (a) We have to deal with technical problems or make minor technical changes;
- (b) update the Goods to reflect changes in relevant laws and regulatory requirements; or
- (c) make changes to the Goods as requested by You or notified by Us to You (see clause 7).

13.5 We will pass on changes in the rate of VAT. If the rate of VAT changes between Your Order date and the date We supply the Goods, We will adjust the rate of VAT that You pay, unless You have already paid for the Goods (including delivery costs) in full before the change in the rate of VAT takes effect.

12.2 Your rights if We suspend the supply of Goods. We will contact You in advance to tell You We will be suspending the supply of the Goods unless the problem is urgent or an emergency. If We have to suspend the supply of Goods for longer than three months, We will adjust the price so that You do not pay for Goods while they are suspended. You may contact Us to end the Contract for the supply of Goods if We suspend it or tell You We are going to suspend it, in each case for a period of more than three months and We will refund any sums You have paid in advance for the Goods in respect of the period after You end the Contract.

13.6 What happens if We got the price wrong. It is always possible that, despite Our best efforts, some of the Goods We sell may be incorrectly priced. We will normally check prices before accepting Your Order so that, where the correct price of the Goods at Your Order date is less than Our stated price at Your Order date, We will charge the lower amount. If the correct price of the Goods at Your Order date is higher than the price stated in Our price list, We will contact You for Your instructions before We accept Your Order.

12.3 We may also suspend supply of the Goods if You do not pay. If You do not pay Us for the Goods when You are supposed to (see clause 13) and You still do not make payment within fourteen days of Us reminding You that payment is due, We may suspend supply of the Goods until You have paid Us the outstanding amounts. We will contact You to tell You We are suspending supply of the Goods. We will not suspend the Goods where You dispute the unpaid invoice (see clause 13). We will not charge You for the Goods during the period for which they are suspended. As well as suspending the Goods, We can also charge You interest on Your overdue payments (see clause 13).

### 14. YOUR RIGHTS TO END THE CONTRACT

14.1 You can always end the Contract for the supply of the Goods before they have been delivered. You may contact Us to end the Contract for the Goods at any time before We have delivered them to You, but in some circumstances, We may charge You for doing this, as described below. Of course, You always have rights where the Goods are faulty or mis-described (see clause 17 of the Contract).

12.4 We are not responsible for delays outside Our control. If Our delivery of the Goods is delayed by an event outside Our control, then We will contact You as soon as possible to let You know and We will take steps to minimize the effect of the delay. Provided We do this, We will not be liable for delays caused by the event, but if there is a risk of substantial delay, You may contact Us to end the Contract and receive a refund for any Goods You have paid for but not received.

14.2 What happens if You have good reason for ending the Contract. If You are ending the Contract for a reason set out at (a) to (e) below, the Contract will end immediately and We will refund You in full for any Goods which have not been provided or have not been provided properly and You may also be entitled to further compensation. The reasons are:

- (a) We have told You about an upcoming change to the Goods or these Terms which You do not agree to (see clause 7.2);
- (b) We have told You about an error in the price or description of the Goods You have ordered and You do not wish to proceed;
- (c) We have told You that We plan to transfer Our rights under the Contract to someone else and You do not wish to proceed;
- (d) there is a risk that the supply of the Goods may be significantly delayed because of events outside Our control; or
- (e) We have suspended the supply of the Goods for technical reasons, or We notify You that We are going to suspend them for technical reasons, in each case for a period of more than three months.

### 13. PAYMENT OF THE PRICE

13.1 When You must pay. Unless We have agreed to provide You with credit facilities, you must pay for the Goods (including delivery) before We dispatch them to you.

13.2 What happens if the Goods are bespoke. If the Goods are made to order, you must make an advance payment of 50% of the price of the Goods (including delivery) on

14.3 What happens if You end the Contract without a good reason. If You are not ending the Contract for one of the reasons set out in clause 14.2, then the Contract will end

signing the Order. You must make a payment for the balance of the price of the Goods (including delivery) before We dispatch them to You or You collect them from Us. If You have ticked the box on Your Order asking Us to start working on the Goods during an applicable cancellation period, and You subsequently exercise Your right to cancel in accordance with clause 15.1, then the Contract will end immediately and We will refund any advance payment but We will deduct from such advance payment any costs incurred by Us as a result of Our work on the Goods in accordance with Your instructions.

immediately and We will refund any sums paid by You for Goods not provided but We may deduct from that refund (or, if You have not made an advance payment, charge You) reasonable compensation for the net costs We will incur as a result of Your ending the Contract. This will cover at least the cost of items acquired for You and time spent on the partial delivery of the Goods.

13.3 We can charge interest if You pay late. If You do not make any payment to Us by the due date, We may charge interest to You on the overdue amount at the rate of 4% a year above the base lending rate of the Royal Bank of Scotland from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of

14.4 What happens if the Goods are bespoke. Unfortunately, as certain Goods are made to Order, if You decide to cancel Your Order once made then We will charge You for those Goods if We have commenced to manufacture them, prior to receipt of Your notice of cancellation. By ticking the box on the Order indicating You are happy for Us to start manufacturing the Goods, then You confirm that You will be responsible for and due to pay the costs involved in their manufacture or ordering even if You exercise Your right to cancel.



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## 15. HOW TO END THE CONTRACT WITH US

15.1 Cancellation form. If You place Your Order out-with Our business premises, You may cancel the Contract within Your 14-day cancellation period by signing the cancellation form on Your Order and returning this page to Us.

15.2 Title to the Goods. Title to the Goods shall remain with Us until they are fixed into Your property. All Goods, materials, and Goods that We bring onto site shall remain Our property at all times. Pending full payment of the price, You will hold these on Our behalf but will have no entitlement to use them.

15.3 Returning Goods after ending the Contract. If You end the Contract after Goods have been dispatched to You and (because We cannot recall them) they are delivered to You, You must return them to Us. If You are ending the Contract for a reason set out in clause 14.2 then We will pay the costs of return. In all other circumstances, You must pay the costs of return.

## 16. OUR RIGHTS TO END THE CONTRACT

16.1 We may end the Contract if You break it. We may end the Contract for the Goods at any time by writing to You if:

- (a) You do not make any payment to Us when it is due and You still do not make payment within 14 days of Us reminding You that payment is due;
- (b) You do not, within a reasonable time of Us asking for it, provide Us with information that is necessary for Us to provide the Goods, for example, Your address or dimensions in connection with the Goods; or
- (c) despite our reasonable efforts to deliver the Goods to You, You do not collect the Goods from Us as arranged or if, after a failed delivery to You, You do not re-arrange delivery or collect them from a delivery depot.

16.2 You must compensate Us if You break the Contract. If We end the Contract in the situations set out in clause 16.1, We will refund any money You have paid in advance for Goods We have not provided, but We may deduct or charge You reasonable compensation for the net costs We will incur as a result of Your breaking the Contract. This will cover at least the cost of items acquired for You and time spent on the partial delivery of the Goods. However, if We end the Contract in situations set out in clause 16.1 then you will become liable to pay Us all sums outstanding due by You to Us under any other contract in addition to this Contract.

16.3 We may withdraw the Goods. We may write to You to let You know that We are going to stop providing the Goods. We will let You know at least fourteen days in advance of Our stopping the supply of the Goods and will refund any sums You have paid in advance for Goods which will not be provided.

## 17. IF THERE IS A PROBLEM WITH THE GOODS

17.1 How to tell Us about problems. If You have any questions or complaints about the Goods, please contact Us. You can telephone Our consumer service team at **0141 956**

**5183** or write to Us at [sales.west@kelvintimber.co.uk](mailto:sales.west@kelvintimber.co.uk) or **123 Main Street, Milngavie, G62 6JA**. Alternatively, please speak to one of Our staff in-store.

**Summary of Your legal rights.** We are under a legal duty to supply Goods that are in conformity with the Contract. See the box below for a summary of Your key legal rights in relation to the Goods. Nothing in these Terms will affect Your legal rights.

### Summary of Your key legal rights

This is a summary of Your key legal rights. These are subject to certain exceptions. For detailed information please visit the Citizens Advice website [www.adviceguide.org.uk](http://www.adviceguide.org.uk) or call 03454 04 05 06.

The Consumer Rights Act 2015 says Goods must be as described, fit for purpose, and of satisfactory quality. During the expected lifespan of the Goods, Your legal rights entitle You to the following:

- **up to 30 days:** if the Goods are faulty, then You can get an immediate refund.
- **up to six months:** if the Goods can't be repaired or replaced, then You're entitled to a full refund, in most cases.
- **up to six years:** if the Goods do not last a reasonable length of time You may be entitled to some money back.

17.2 Your obligation to return rejected Goods. If You wish to exercise Your legal rights to reject Goods, You must either return them in person to where You bought them, post them back to Us or (if they are not suitable for posting) allow Us to collect them from You. We will pay the costs of postage or collection.

## 18. OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU

18.1 We are responsible to You for foreseeable loss and damage caused by Us. If We fail to comply with these Terms, We are responsible for loss or damage You suffer that is a foreseeable result of Our breaking the Contract or Our failing to use reasonable care and skill, but, except as set out in clause 18.2, We are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the Contract was made, both We and You knew it might happen, for example, if You discussed it with Us during the sales process.

18.2 We do not exclude or limit in any way Our liability to You where it would be unlawful to do so. This includes liability for death or personal injury caused by Our negligence or the negligence of Our employees, agents or sub-contractors; for fraud or fraudulent misrepresentation; for breach of Your legal rights in relation to the Goods, as summarized at clause 17.2 and for defective Goods under the Consumer Protection Act 1987.

18.3 We are not liable for business losses. If You use the Goods for any commercial, business, or re-sale purpose, We will have no liability to You for any loss of profit, loss of business, business interruption, or loss of business opportunity.

## SECTION 3 - BUSINESSES

The following clauses in this Section 3 will only apply to You if You are a non-consumer. The clauses in this Section 3 are expressly excluded from applying to consumers.

## 19. EXCLUSION OF OTHER TERMS

19.1 These Terms will apply to the Contract between You and Us to the exclusion of any other terms or conditions that You seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

19.2 For administrative convenience, You may use Your own pre-printed forms, You agree that no terms or conditions endorsed on, delivered with or contained in Your purchase Order, confirmation of Order, specification, or any other document shall form part of the Contract between Us except to the extent any such terms and conditions are consistent with these Terms.

## 20. NON-DELIVERY OF THE GOODS

20.1 We shall not be liable for any direct, indirect, or consequential loss (all three of which Terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by Our negligence), nor shall any delay entitle You to terminate the Contract unless such delay exceeds 120 working days.



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20.2 If for any reason You fail to accept delivery of any of the Goods at the time provided for by these Terms, or We are unable to deliver the Goods on time because You have not provided appropriate instructions, documents, licenses, or authorizations:

(a) risk in the Goods shall pass to You (including for loss or damage caused by Our negligence);

(b) the Goods shall be deemed to have been delivered; and

(c) We may store the Goods until actual delivery, whereupon You shall be liable for all related costs and expenses (including, without limitation, the costs of storage and insurance).

20.3 We may deliver the Goods by instalments. Each instalment shall be a separate Contract between Us and no cancellation or termination of any one Contract relating to an instalment shall entitle You to cancel or terminate any other Contract or instalment. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.

20.4 The quantity of any consignment of Goods as recorded by Us, or Our suppliers, on dispatch from Our (including Our suppliers') place of business shall be conclusive evidence of the quantity received by You on delivery unless You can produce written evidence proving the contrary.

20.5 We shall not be liable for any non-delivery of Goods (even if caused by Our negligence) unless You give Us written notice of the non-delivery within 3 working days of the date when the Goods would, in the ordinary course of events, have been received.

20.6 Our liability for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro-rata Contract rate against any invoice raised for such Goods.

## 21. LIQUIDATED DAMAGES

Restocking charges. You accept the following provisions as a fair and reasonable pre estimate of the liquidate damages payable to Us in the event of Your breach of the Contract by cancellation of any Order, in whole or in part:

(a) 15% of the price of the canceled Goods in respect of Goods that are usually held in stock by Us and provided the Goods have not been used and are in perfect, resalable condition;

(b) 25% of the price of the canceled Goods in respect of Goods that are non-stock items ordered at Your request and provided the Goods have not been used and are in perfect, resalable condition. On occasion, We may charge more for the return and re-stocking of non-stock items;

(c) 100% of the price of the canceled Goods in respect of any one-off or specially manufactured Goods made to Your specification, and You undertake to pay the relevant amount of liquidate damages on demand.

## 22. RETENTION OF TITLE

22.1 Until the title to the Goods has passed to You in accordance with clause 8.9, You shall:

(a) store the Goods separately from all other Goods held by You so that they remain readily identifiable as Our property;

(b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

(c) retain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;

(d) notify Us immediately if any of the events listed in clause 22.3 apply; and

(e) give Us such information relating to the Goods as We may require from time to time.

22.2 Subject to clause 22.3, You may resell or use the Goods in the ordinary course of its business (but not otherwise) before We receive payment for the Goods. However, if You resell the Goods before that time:

(a) You do so as principal and not as Our agent; and

(b) title to the Goods shall pass from Us to You immediately before the time at which resale by You occurs.

22.3 Your right to possession of the Goods shall terminate immediately if:

(a) You become the subject of a bankruptcy Order or arrangement or composition with Your creditors, or otherwise take the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convene a meeting of creditors (whether formal or informal), or enter into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or have a receiver and/or manager, administrator or administrative receiver appointed in respect of Your undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator in respect of Your undertaking or You (or Your directors or creditors) have given notice of intention to appoint an administrator, or a resolution is passed or a petition presented to any court for Your winding-up or for the granting of an administration Order in respect of Your undertaking, or any other proceedings are commenced relating to Your insolvency or possible insolvency or for the granting of an administration Order in respect of Your undertaking, or any other proceedings are commenced relating to Your insolvency or possible insolvency; or

(b) You suffer or allow any diligence or enforcement action to be levied on Your property or obtained against it, or You fail to observe or perform any of its obligations under the Contract or any other contract between Us, or You become unable to pay Your debts within the meaning of section 123 of the Insolvency Act 1986 or You cease to trade; or

(c) You encumber or in any way charge any of the Goods; or

(d) the Contract has been terminated for any reason.

22.4 We shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed to You.

22.5 You grant Us (including Our agents and employees) an irrevocable license at any time to enter any premises where the Goods are or may be stored in Order to inspect them, or, where Your right to possession has terminated, to recover them.

22.6 Where We are unable to determine whether any Goods are the Goods in respect of which Your right to possession has terminated, You shall be deemed to have sold all Goods of the kind sold by Us in the Order in which they were invoiced to You.

22.7 On termination of the Contract, howsoever caused, Our (but not Your) rights contained in this clause 22 shall remain in effect.

## 23. PAYMENT OF THE PRICE

23.1 The following definitions shall apply to this clause 23:

(a) "Late Payment Compensation" means the fixed sum that We are entitled to charge You in respect of each individual Qualifying Debt (defined below), in accordance with section 5A of the Regulations (defined below).



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(b) "Late Payment Interest" means the statutory interest in relation to a Qualifying Debt (defined below) in accordance with section 4 and section 6 of the Regulations (defined below).

(c) "Qualifying Debt" has the meaning given to it in section 3 of Regulations.

(d) "Regulations" means the Late Payment of Commercial Debts (Interest) Act 1998, as amended by the Late Payment of Commercial Debts (Scotland) Regulations 2013/77 and the Late Payment of Commercial Debts (Scotland) Regulations 2015/226 (as amended or replaced from time to time).

(e) "Statutory Period" means the period in which We become entitled to charge You Late Payment Interest in respect of a Qualifying Debt, in accordance with section 4 of the Regulations.

23.2 For the avoidance of doubt, the Regulations shall apply to the Contract.

23.3 Subject to clause 23.4, and unless otherwise agreed by Us in writing, payment of the price for the Goods shall be paid in full and in cleared funds no later than the last working day of the month following the month in which the Goods are delivered or deemed to be delivered (as the case may be). Payment shall be made to the bank account nominated by Us in writing.

23.4 In respect of bespoke Goods, You shall make an advance payment of 50% of the price of the Goods (including delivery) on signing the Order. Unless We have granted You credit facilities, you must pay the balance of the price of the Goods in full and in cleared funds before We dispatch the Goods to You, or You collect the Goods from Us.

23.5 Time of payment shall be of the essence. Without limiting Our other rights in any way, We reserve the right to suspend deliveries, withdraw any credit facility, and demand immediate payment for all Goods which have been ordered or delivered if (a) any payment under any Contract between You and Us, or any Contract We have with any person associated with You, becomes overdue; or (b) We, in Our sole discretion, believe that You may be unable or unwilling to pay for the Goods in accordance with these Terms; or (c) You are trading above any credit limit stipulated by Us.

23.6 All monies prospectively payable to Us under the Contract shall become immediately due on termination of the Contract, or on the termination of any other contract We have with any other person associated with You.

23.7 You shall make all payments due without any deduction whether by way of retention, set-off, counterclaim, discount, abatement or otherwise unless You have a valid court Order requiring Us to pay You an amount equal to such deduction.

23.8 If You fail to make any payment due to Us under the Contract by the due date for payment, then, in respect of each individual invoice or part thereof which remains unpaid by the due date for payment, such monies due to Us shall be deemed a Qualifying Debt.

23.9 In respect of each Qualifying Debt, and without limiting Our rights under clause 23, We shall be entitled to charge You Late Payment Interest upon each outstanding invoice, accruing on a daily basis, over the Statutory Period.

23.10 In respect of each Qualifying Debt, once the Late Payment Interest begins to run in accordance with clause 23.9, We shall be entitled to charge you Late Payment Compensation upon each outstanding invoice.

23.11 We may, at our sole discretion and subject to such credit limits as We may determine (or vary from time to time), agree to open a trade account(s) for You.

23.12 If You have any trade account(s) with Us then You must provide Us with a list of named individuals, who are authorized to place Orders for Goods against Your trade account(s). You are solely responsible to Us for maintaining an up-to-date list of named individuals who are authorized to place Orders for Goods against Your trade account(s). We are entitled to rely upon the list of named individuals that You have provided Us as being fully up to date and accurate.

23.13 We may accept Orders placed on Your behalf from individuals on the list You pass Us and You authorize Us to accept such Orders on Your behalf. If an individual on the list You pass to Us is no longer authorized by You for any reason (whether by ceasing their employment with You or otherwise), then You will continue to be liable to Us for Orders they place and any charges against Your trade account(s) until You tell Us that the person is not authorized.

23.14 Any update to the list of authorized named individuals by You shall not extinguish or diminish Your obligation to pay Us for any charges placed by any authorized or unauthorized individuals prior to the time and date We confirm acceptance of Your up-to-date list of authorized named individuals.

23.15 Notwithstanding clauses 23.12 to 23.14, We have discretion to accept an Order for Goods against Your trade account(s) where We reasonably believe that the individual placing the Order is authorized by You to do so.

## 24. QUALITY

24.1 Subject to the other provisions in the Contract, We warrant that on delivery, and for a period of 6 months from the date of delivery, the Goods shall:

(a) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979);

(b) be reasonably fit for purpose; and

(c) be reasonably fit for any particular purpose provided that before the Contract comes into existence (i) You have made Us aware in writing for such purpose; and (ii) We have confirmed in writing that using the Goods for that purpose is reasonable.

24.2 We shall not be liable for a breach of any of the warranties in clause 24.1 unless:

(a) You have given Us written notice of the defect, and, if the defect is as a result of damage in transit, to the carrier, within 3 working days of the time when You discover or ought to have discovered the defect; and

(b) We have been given a reasonable opportunity after receiving the notice of examining such Goods and You (if We so instruct) return such Goods to Our place of business for the examination to take place there.

24.3 We shall not be liable for a breach of any of the warranties in clause 24.1 if:

(a) You make any further use of such Goods after giving such notice; or

(b) the defect arises because You failed to follow Our (including Our suppliers') oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are no such instructions) good trade practice; or

(c) You alter or repair such Goods without Our prior written consent.

24.4 Subject to clauses 24.2 and 24.3, if any of the Goods do not conform with any of the warranties in condition 24.1, We shall, at Our discretion, repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro-rata Contract rate provided that, if We so request, You shall return the Goods or the part of such Goods which is defective to Us.

24.5 If We comply with clause 24.4, We shall have no further liability for a breach of any of the warranties in clause 24.1 in respect of such Goods.

## 25. LIMITATION OF LIABILITY

25.1 Subject to clause 24, the following provisions set out Our (including any liability for the acts or omissions of its employees, agents and sub-Contractors) entire financial liability to You in respect of:





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(a) any breach of the Contract;

consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

(b) Your use or resale of any of the Goods, or of any product incorporating any of the Goods; and

(c) any representation, statement or delictual act or omission including Our (including Our agents) negligence arising under or in connection with the Contract.

25.2 All warranties, conditions, and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

25.3 Nothing in these Terms excludes or limits Our liability for:

(a) death or personal injury caused by Our (including Our agents) negligence; or

(b) any matter in respect of which it would be illegal for Us to exclude or attempt to exclude its liability; or

(c) fraud or fraudulent misrepresentation.

25.4 Subject to clause 25.2 and condition 25.3:

(a) Our total liability in Contract, delict (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with Our (including Our agents' or suppliers') performance or contemplated performance of the Contract shall be limited to replacing, repairing, or making good the defect or faulty Goods or, at Our discretion, reimbursing You with the Price (whether in whole or part) You paid for the defective or faulty Goods; and

(b) We shall not be liable to You for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect, or consequential, or any claims for

**26. FORCE MAJEURE** - We reserve the right to suspend or defer the date of delivery or to cancel the Contract or reduce the volume of the Goods You have ordered (without liability to You) if We are prevented from or delayed in carrying on Our business or performing the Contract due to circumstances beyond Our (including Our agents' or suppliers') reasonable control including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either Our or Your workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, or in respect of Our costs, any increase in the price of the Goods which exceeds 20% of the same price at the date the Contract was made, provided that, if the circumstances in question continue for a continuous period in excess of 120 working days, either party shall be entitled to terminate the Contract on notice.

**27. PERSONAL LIABILITY OF DIRECTORS** - If You are a limited company, a limited liability partnership, a trust, or an unincorporated voluntary association, Your directors/members/trustees/office bearers (as the case may be) each personally, jointly, and severally, unconditionally and irrevocably (until all sums payable by You have been paid to Us) (a) guarantee the payment of all sums due to Us; (b) indemnify and hold Us harmless in respect of any losses sustained by Us as a result of trading with You; and (c) agree that the foregoing guarantee and indemnity shall not be discharged or affected by (i) anything that would not have discharged or affected them if they had been a principal debtor instead of a guarantor; (ii) Our waiver or failure to enforce any of Our rights in the Contract; or (iii) any increase in the credit limit which has been extended to You.

**28. CREDIT FACILITIES**

28.1 Notwithstanding Our rights under clause 23, We may use information about You which You have provided Us, or that We have obtained in Our dealings with You, for the purpose of a credit risk assessment.

28.2 In Our sole and absolute discretion, We may, subject to satisfactory credit checks on You over such periods as We deem appropriate, grant You credit facilities. We reserve the right thereafter, in Our sole and absolute discretion and without giving You any reason, withdraw the credit facilities at any time.

**Acknowledgment and Acceptance:**

I confirm that I have read, understood, and agree to the Terms and Conditions outlined above.

**Signature:**

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**Full Name (Print):**

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**Today's Date:**