

# APPLICATION

## for a Credit Account or Cash Account with Trade Pricing



|                           |                                     |                                    |                                               |
|---------------------------|-------------------------------------|------------------------------------|-----------------------------------------------|
| Company Name: _____       |                                     |                                    |                                               |
| Address: _____<br>_____   |                                     |                                    |                                               |
| Telephone No.: _____      |                                     | Post Code: _____                   |                                               |
| Ltd. Co. Reg. No.: _____  |                                     | Fax No.: _____                     |                                               |
| Purchasing Contact: _____ |                                     | Mobile No.: _____                  |                                               |
| Purchasing Email: _____   |                                     | Accounts Contact: _____            |                                               |
| Profile System: _____     |                                     | Accounts Email: _____              |                                               |
| Type of Business:-        | Fabricator <input type="checkbox"/> | Installer <input type="checkbox"/> | Locksmith <input type="checkbox"/>            |
|                           | Builder <input type="checkbox"/>    | D.I.Y. <input type="checkbox"/>    | Property Maintenance <input type="checkbox"/> |
|                           | Other (Please State): _____         |                                    |                                               |

CREDIT LIMIT REQUESTED    £ \_\_\_\_\_    NUMBER OF YEARS TRADING    \_\_\_\_\_

|                                                                                                            |                         |
|------------------------------------------------------------------------------------------------------------|-------------------------|
| <b>NAMES &amp; ADDRESS OF PRINCIPALS / DIRECTORS</b><br>(Please use separate sheet for additional details) |                         |
| Name: _____                                                                                                | Name: _____             |
| Address: _____<br>_____                                                                                    | Address: _____<br>_____ |
| _____ Post Code: _____                                                                                     | _____ Post Code: _____  |
| D.O.B.: _____                                                                                              | D.O.B.: _____           |

**DATA PROTECTION ACT 1998**

In returning this application form you accept that we will make a search with a credit reference agency and may share that information with other businesses for credit control purposes. We may also make enquiries about the principal directors/proprietors with a credit reference agency. We will monitor and record information relating to your trade credit performance and such records may be made available to other organisations to assess applications for credit. Information will also be used for re-assessing credit worthiness and any assistance in the collection of outstanding monies.

Please indicate if you do not wish to receive marketing information regarding this company.

|                         |                      |
|-------------------------|----------------------|
| <b>TRADE REFERENCES</b> |                      |
| Company Name: _____     | Company Name: _____  |
| Telephone No.: _____    | Telephone No.: _____ |
| Fax No.: _____          | Fax No.: _____       |

We have read and agreed the attached Terms & Conditions of sale.

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_  
 Printed: \_\_\_\_\_ Position: \_\_\_\_\_

# WINDOW WARE – ("THE SELLER") – GENERAL CONDITIONS OF SALE

## 1. DEFINITIONS AND INTERPRETATIONS

(1) In these conditions:-

"Buyer" means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller.

"Conditions" means these standard terms and conditions of sale.

"Contract" means the contract for the sale and purchase of the Goods (in which these Conditions apply).

"Goods" means the goods (including any installment of the goods or any parts for them) which the Seller is to supply pursuant to or in connection with the Buyer's purchase order and Contract.

"Service" means the service if any which the Seller is to perform pursuant to or in connection with the Buyer's purchase order and the Contract.

(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.

## 2. ACCEPTANCE AND AMENDMENT

(1) These Conditions shall (unless or except to the extent a director of the Seller otherwise agrees in writing) apply to all tenders, offers, quotations, acceptances, agreements and deliveries relating to the sale of Goods and/or the provision of the Service by the Seller and the Buyer shall be deemed to assent thereto.

(2) No other conditions or modifications of these Conditions shall be binding on the Seller unless agreed by a director of the Seller in writing and the Seller shall not be deemed to accept such other conditions nor to waive any of the Conditions by failing to object to provisions contained in any purchase order or other communication from the Buyer.

(3) No representative, agent or salesman who is not a director of the Seller has any authority to amend or waive any of the Conditions or other provisions of the Contract.

## 3. SPECIFICATIONS

(1) Any advice or recommendation given by the Seller or its employees or agents 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 Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

(2) All descriptions, specifications, drawings, weights, dimensions, capacities, prices, performance ratings and other data quoted or submitted by the Seller or included in any sales literature, quotation, price list, acknowledgement of order, invoice or other document or information issued by the Seller are to be deemed approximate only (except where stated in writing to be exact or expressly made of the essence) and subject thereto none of such items or any part thereof shall form part of the Contract.

(3) Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acknowledgement of order, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

(4) The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other legal requirements or which do not materially affect their quality or performance.

(5) Where the Buyer supplies or specifies materials to be used in the Contract the Seller will not be liable for any defect in the Goods or the Service or errors in delivery or performance caused by defects in or unsuitability of materials so supplied or specified.

## 4. ORDERS

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), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

## 5. PRICES

(1) Unless otherwise agreed in writing or stated on the Seller's acknowledgement of order the price for the Goods and/or the Service shall be the Seller's list price at date of the Buyer's acceptance of the Buyer's order.

(2) After an order has become binding on the Seller, all prices will have VAT added at the appropriate rate and are subject to increase to reflect any increases in costs to the Seller (including without limitation costs of materials, labour, transport and services, and fluctuations in currency exchange rates and any tax, duty, fee or charge imposed by any government or other authority) prior to delivery, any change in delivery dates, quantities or specifications for the Goods or the Service which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Seller to give the Seller adequate information or instructions.

(3) Unless otherwise agreed in writing or stated on the Seller's acknowledgement of order, packaging, delivery and transport charges and insurance are not included in the price and will be charged at extra at the Seller's then current rates for the same.

## 6. PAYMENT

(1) Unless otherwise agreed in writing or stated on the Seller's acknowledgement of order, the net invoice amount shall become due for payment by the Buyer 30 days after date of invoice or (if earlier) upon the occurrence of any circumstances whereunder, pursuant to the Contract or these Conditions, payment falls immediately due. Time of payment shall be of the essence of the Contract.

(2) The Seller reserves the right at any time before proceeding further with an order to demand full or partial payment of monies due and payable under the Contract and under any other contract between the Seller and the Buyer.

(3) If the Buyer defaults in any payment the Seller may in addition to exercising the right contained in Condition 6.2 above suspend work, delay or withhold delivery or performance or cancel the Contract or suspend, delay or withhold delivery or performance under or cancel any other contract between the Seller and the Buyer and retain any progress payments on account already received under the Contract or under any other contract between the Seller and the Buyer.

(4) Interest at annual rate of 3 per cent above the base rate from time to time of Barclays Bank plc is payable on all overdue monies.

(5) The Seller shall have a lien on all undelivered Goods which the Buyer agrees to purchase from the Seller for all monies due from the Buyer to the Seller under any contract between them and the Buyer shall have no right of set-off in respect of such monies.

(6) All rights and remedies afforded in these Conditions for non-payment shall be in addition and without prejudice to all other rights and remedies available to the Seller under the Contract or at law.

## 7. DELIVERY

(1) Time of delivery is not of the essence of the Contract and any time or date specified by the Seller as the time at which or the date on which the Goods will be delivered or the Service will be performed is given and intended as an estimate only and the Seller shall not be liable for any loss, damage or expense howsoever arising from delay in delivery.

(2) The Seller reserves the right to make delivery by installments unless otherwise expressly agreed in writing. The period during which delivery by installments may be made and the quantity of Goods delivered in each installment shall be at the Seller's discretion.

(3) Where Goods are delivered in installments, each delivery shall constitute a separate contract (in which these Conditions apply), (mutatis mutandis) and failure by the Seller to deliver any one or more of the installments or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the Contract as repudiated.

(4) Notwithstanding any express agreement as to the date of delivery of the Goods or performance of the Service the Seller may postpone or cancel delivery or performance in whole or in part when it is delayed in or prevented from making or obtaining any Goods or materials or parts or components or services therefore making delivery of any goods or performing any Service by strikes, lockouts, trade disputes or labour troubles or any cause beyond the Seller's reasonable control. During any of such events the Seller's obligations shall be suspended until such events cease or until the Seller cancels delivery or performance (as the case may be) and the Seller shall not be required to obtain elsewhere in the market goods or services with which to replace or permit it to produce Goods or perform the Service delivery or performance of which has been postponed or cancelled as a result of any production of the said events. In the event of cancellation, the Seller shall be paid pro rata for Goods delivered or work done to the date of cancellation.

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

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

(ii) 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 price under the Contract, and the Buyer shall indemnify the Seller in full against all losses, damages, charges and expenses incurred by the Seller as a result of the Buyer's said failure to take delivery or give adequate delivery instructions to the extent that the Seller's said losses, damages, charges and expenses are not covered by any payments made or monies obtained under (i) or (ii) above.

(6) Without prejudice to any other right or remedy of the Seller whether under these Conditions or otherwise, if the Buyer is to pay the Seller for the Goods on delivery of the Goods and fails to do so the Seller reserves the right not to deliver the Goods and to charge the Buyer for such attempted delivery and any later delivery of the Goods at the Seller's then current rates for the same.

(7) The Buyer shall be solely responsible for the proper unloading of the Goods. If, to assist the Buyer remove the Goods from point of delivery, the Seller or any sub-contractor does any loading or unloading of goods free of charge, no liability whatsoever shall thereby be incurred by the Seller or sub-contractor and the Buyer shall indemnify the Seller in respect thereof.

(8) Unless agreed otherwise by the Seller the Goods will be delivered to the Buyer's premises stated on the Seller's acknowledgement of order, subject to Condition 5.3 of these Conditions.

## 8. BUYER'S OBLIGATIONS AND CLAIMS ON DELIVERY

(1) The Buyer will:-

(i) examine Goods carefully within 3 days of taking delivery or before manufacturing with the Goods, whichever is the earlier;

(ii) notify the Seller in writing within 7 days of delivery or before manufacturing with the Goods, whichever is the earlier, of any error in quantity, weight or description of Goods delivered or that they were mixed with others not included in the Contract or any damage to Goods revealed by such examination and not caused since delivery was taken.

(2) Failure to make any notification in accordance with paragraph (ii) of Condition 8.1 above should have enabled the Buyer to make shall constitute a waiver by the Buyer of all claims based on or relating to the facts which such examination should have revealed.

## 9. RISK

Risk of damage to or loss of the Goods shall pass to the Buyer:-

(i) in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or

(ii) in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

Delivery to a carrier or to any person, firm or company on the Buyer's behalf shall constitute delivery to the Buyer.

## 10. TITLE TO GOODS

All goods are supplied to the customer by Window Ware on the following terms:

(1) The goods shall remain the sole and absolute property of Window Ware a legal and equitable owner until such time as all sums due to Window Ware from the customer, whether in respect of the goods or other goods or services, have been paid in full.

(2) Until such payment the customer shall be in possession of the goods solely as bailee for Window Ware and shall store the goods separately in such a way as to enable them to be identified as the property of Window Ware.

(3) Window Ware reserves the immediate right at any time of re-possession of any goods to which it has retained title and thereafter to re-sell the same and for this purpose the customer hereby grants an irrevocable right and licence to Window Ware's employees and agents to enter at any time upon all or any of its premises with or without vehicles during normal business hours. This right shall continue to subsist notwithstanding the termination of the contract for any reason and is without prejudice to any accrued rights of Window Ware hereunder or otherwise.

(4) As a separate and independent condition, the customer shall be at liberty and may in the ordinary course of its business sell and deliver the goods to any third party as Window Ware's bailee provided that the entire proceeds of sale are held in trust for Window Ware in a separate bank account and shall at all times be identifiable as Window Ware's moneys. The customer agrees immediately upon being so requested by Window Ware to assign to Window Ware all rights and claims which the customer may have against its customers arising from such sales until payment is made in full as aforesaid.

(5) Whilst the goods remain the property of Window Ware, the customer shall insure the goods against all usual risks for an amount equal to or greater than the purchase price and hold the proceeds of such insurance on trust for Window Ware.

## 11. WARRANTIES AND LIABILITY

(1) Subject as expressly provided in these Conditions all warranties, conditions or other terms implied by law are excluded to the fullest extent permitted by law, whether relating to the Goods and/or the Service or otherwise.

(2) The Seller will give a guarantee in respect of the Goods and/or the Service in its standard form from time to time for that type of Goods or the Service (as the case may be).

(3) Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at law, or under the express terms of the Contract, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and 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 Goods or their use or resale by the Buyer, or the provision of the Service except as expressly provided in these Conditions.

## 12. TRADEMARKS, PATENTS AND OTHER INDUSTRIAL RIGHTS

(1) If any claim is made against the Buyer alleging that the Goods or the Service infringe any patent rights, registered designs, copyright or other industrial property rights of another then:-

(i) the Buyer shall forthwith notify the Seller with full particulars; and

(ii) the Seller or its suppliers or licensors (as the case may be) shall be at liberty at their expense to conduct all negotiations and/or litigation in respect thereof and (if necessary) in the name of the Buyer; and

(iii) except pursuant to a final award, the Buyer shall not pay or accept any such claim or compromise any proceedings without the consent of the Seller (which shall not be unreasonably withheld or delayed);

and if as a result of such negotiations or litigation the Buyer shall be unable to use the goods substantially for the purpose for which they were bought the Seller shall (except where Condition 13 below applies) take them back and refund the price thereof and such refund shall be in full satisfaction of all claims by the Buyer against the Seller.

(2) The Buyer shall indemnify the Seller against all actions, costs (including cost of defending legal proceedings), claims, proceedings and demands in respect of any infringement or alleged infringement by the Seller of patent rights, registered design, copyright, design rights or other industrial rights attributed to the Seller complying with any special instructions from or requirements of the Buyer relating to the Goods or the Service.

(3) The Buyer shall not represent to its customers that it sells products manufactured by the Seller after the Buyer shall have ceased to purchase such products on a regular basis from the Seller and in such event the Buyer shall return to the Seller all sales literature relating to products manufactured by the Seller.

## 13. INSOLVENCY OF THE BUYER

(1) This Condition applies if:-

(i) 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 order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or

(ii) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

(iii) the Buyer ceases, or threatens to cease, to carry on business; or

(iv) 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.

(2) If this Condition applies then without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to suspend work, delay or withhold delivery under or cancel 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.

## 14. GENERAL

(1) The Seller is a member of the group of companies whose holding company is Heywood Williams Components Ltd., and accordingly the Seller may perform any of its obligations or exercise any of its rights by itself or through any other member of its group, provided that any act or omission of any such member shall be deemed to be the act or omission of the Seller.

(2) Any notice given hereunder must be in writing and may be affected by personal delivery, facsimile transmission, telex or by registered mail postage and (subject, in each case to proof that such notice was properly addressed and dispatched) if effected by facsimile transmission or telex shall be deemed to be received on the day of sending and if effected by post shall be deemed to be received 48 hours after the date of posting.

(3) The Contract shall be personal to the Buyer and shall not, nor shall any rights under it, be assigned by the Buyer without the written consent of the Seller.

(4) 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.

(5) The Contract (and these Conditions) shall be governed by and construed in accordance with the laws of England.

(6) If any provision of the Contract (or 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 the Contract (or these Conditions) and the remainder of the provision in question shall not be affected thereby.