

APPLICATION FOR ONLINE CREDIT ACCOUNT

COMPANY NAME	BUYERS NAME
ADDRESS	Email address
.....	ACCOUNTS CONTACT
.....	TEL. NO.
.....	FAX NO. to receive invoices & statements
..... POST CODE
TEL NO. FAX NO.	Email address to receive invoices & statements
DATE ESTABLISHED REG NO.
NATURE OF BUSINESS	APPROX CREDIT REQ £
VAT NO.
IF SOLE TRADER/PARTNERSHIP FULL NAME(S) & HOME ADDRESS(ES) MUST BE GIVEN	
.....	
.....	

TRADE REF (1)	TRADE REF (2)
.....
.....
.....
TEL FAX	TEL FAX
Email address	Email address

DECLARATION : We have read the Terms and Conditions applicable to our application for Credit Facilities with Shand Higson & Co. Ltd and agree to comply with those Terms and Conditions.

AUTHORISED SIGNATORY..... PRINTED

POSITION DATE .../.../....

FOR AND BEHALF OF

Internal Use

Account No. Credit Limit £ Sales Rep.



SHAND HIGSON & CO LTD (the Supplier)
STANDARD TERMS AND CONDITIONS

The Customer's attention is particularly drawn to the provisions of clause 9.

1. **INTERPRETATION**
Contract: the contract between the Supplier and the Customer pursuant to these Conditions and Order.
Customer: the person or firm who purchases the Goods and/or Services from the Supplier
Goods: the goods (or any part of them) provided by the Supplier, as set out in the Order.
Intellectual Property Rights: all patents, rights to inventions, copyright and related rights, trade marks and any other intellectual property rights, in each case whether registered or unregistered including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
Order: the Customer's order for the supply of Goods and/or Services.
2. **BASIS OF CONTRACT**
2.1 The Order is an offer by the Customer to purchase Goods in accordance with these Conditions which the Supplier may choose to accept. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
2.2 The Contract constitutes the entire agreement between parties. The Customer acknowledges it has not relied on any statement, promise or representation made or given by or on behalf of Supplier which is not set out in the Contract.
2.3 Any samples, drawings, or advertising issued by the Supplier and any descriptions of the Goods contained in the Supplier's website or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described. They shall not form part of the Contract or have any contractual force.
3. **GOODS**
3.1 Where Goods are manufactured pursuant to a Customer's specification, the Customer indemnifies the Supplier against all liabilities, costs and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the specification. This clause shall survive Contract termination.
3.2 The Supplier may amend the Goods specification if required by any applicable statutory or regulatory requirements.
4. **DELIVERY OF GOODS**
4.1 The Goods shall be delivered at such agreed location (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready. Delivery shall be completed as follows:- (a) where the Customer is collecting the Goods from the Supplier's premises – completion of loading of the Goods at the Delivery Location; or (b) where the Supplier or a carrier delivers the Goods to an address specified by the Customer, upon completion of unloading of the Goods at the Delivery Location.
4.2 Any dates quoted for delivery are approximate only, time of delivery is not of the essence.
4.3 If the Supplier fails to deliver the Goods, its liability is limited to costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for failure to deliver the Goods to the extent such failure is caused by the Customer's failure to provide adequate delivery instructions or relevant instruction related to the supply of the Goods.
4.4 The Customer acknowledges deliveries may consist of the Supplier's standard production quantity which is as close as possible to the Customer's requirements. The Customer shall not be entitled to reject the Goods if the Supplier delivers up to and including 10 per cent more or less than the quantity of Goods ordered.
4.5 The Supplier may deliver by instalments, to be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any instalment delivery delay or defect does not entitle the Customer to cancel any other instalment
5. **QUALITY OF GOODS**
5.1 The Supplier warrants that on delivery the Goods shall: (a) conform in all material respects with their description and any applicable specification; (b) be free from material defects in design, material and workmanship; (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and (d) be fit for any purpose held out by the Supplier.
5.2 Subject to clause 5.3, if: (a) the Customer gives notice to the Supplier in writing within 30 days of delivery that some or all of the Goods do not comply with the warranty set out in clause 5.1; (b) the Supplier is given a reasonable opportunity of examining such Goods; and (c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:
(a) the Customer makes further use of such Goods after giving notice in line with clause 5.2;
(b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, use or maintenance of the Goods or (if there are none) good trade practice;
(c) the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;
(d) the Customer alters or repairs such Goods without the written consent of the Supplier;
(e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
(f) the Goods differ from their description or any applicable specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
5.4 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1. The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier under clause 5.2.
6. **TITLE AND RISK**
6.1 The risk in the Goods shall pass to the Customer:- (a) in the case of Goods to be delivered at the Supplier's premises, at the time when the Supplier notifies the Customer that the Goods are available for collection; (b) in the case of Goods to be delivered otherwise than at the Supplier's premises, at the time of delivery; or (c) in the case of Goods to be delivered otherwise than at the Supplier's premises and the Customer fails to take delivery of the Goods, the time when the Supplier has notified the Customer that the Goods are ready to be delivered.
6.2 Title to the Goods shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for the Goods; and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due.
6.3 Until title to the Goods has passed to the Customer, the Customer shall:
(a) hold the Goods on a fiduciary basis as the Supplier's bailee;
(b) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
(c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
(d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
(e) notify the Supplier immediately if it becomes subject to any of the events listed in clause 10.1(c); and
(f) give the Supplier such information relating to the Goods as the Supplier may require,
but the Customer may resell or use the Goods in the ordinary course of its business.
6.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 10.1 (c), or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
7. **CHARGES AND PAYMENT**
7.1 The price for Goods shall be the price agreed by the Supplier and the Customer. The Supplier shall invoice the Customer on or at any time after completion of delivery (where the Delivery Location is the Supplier's premises) or on despatch of the Goods (where the Delivery Location is not the Supplier's premises).

- 7.2 The Customer shall pay each invoice from the Supplier within 30 days of the end of the month following issue of the invoice in full and cleared funds. Time for payment shall be of the essence of the Contract.
- 7.3 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by, the Customer shall pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 7.4 Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (**Due Date**), the Supplier shall have the right to charge interest on the overdue amount at the rate of 2.5 per cent per annum above the then current Barclays Bank's base rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 7.5 The Customer, except as required by law, shall pay all amounts due in full without deduction, set off or withholding. The Supplier may, without limiting its other rights or remedies withhold or, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
8. **CONFIDENTIALITY**
A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 8 shall survive termination of the Contract.
9. **LIMITATION OF LIABILITY**
9.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
(a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
(b) fraud or fraudulent misrepresentation;
(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
(d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
(e) defective products under the Consumer Protection Act 1987.
9.2 Subject to clause 9.1: (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract ; and (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the total amount set out in the Order.
9.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
9.4 This clause 9 shall survive termination of the Contract.
10. **TERMINATION**
10.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:
(a) the other party breaches any provisions of this Contract and fails to remedy that breach within 30 days of it being notified in writing of the breach;
(b) the other party repeatedly breaches provisions of this Contract in a manner as to reasonably justify the terminating party's opinion that its conduct is inconsistent with it having the intention or ability to comply with or give effect to the provisions of this Contract; or
(c) if an order is made or a resolution passed for the winding up of the other party, the other party goes into liquidation, or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the other party's assets or if the other party makes an assignment for the benefit of or composition with its creditors generally or if the other party ceases to carry on business.
10.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract: (a) by giving the Customer 2 months' written notice; (b) with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.
10.3 Without limiting its other rights or remedies, the Supplier shall have the right to suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if:
(a) the Customer fails to make pay any amount due under this Contract on the due date for payment; or
(b) the Customer becomes subject to any of the events listed in clause 10.1(c), or the Supplier reasonably believes that the Customer is about to become subject to any of them.
10.4 On termination for any reason the Customer shall immediately pay all outstanding invoices and interest.
11. **GENERAL**
11.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.
11.2 The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event. If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Goods for more than 8 weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer. A Force Majeure Event means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party or any other party).
11.3 Neither party may assign, transfer, charge or deal in any other manner with all or any of its rights under the Contract without the prior written consent of the other party. Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership, agency or joint venture of any kind between the parties. The Contract (Rights of Third Parties) Act 1999 does not apply so as to give a person who is not party to the Contract any rights under it
11.4 All notices or other information under this Contract shall be deemed sufficiently given when forwarded by first class mail or recorded delivery to the other party at the respective addresses given at the head of this Agreement. A notice shall be deemed to be served two working days after it has been posted.
11.5 A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of a right or remedy shall preclude or restrict the further exercise of that or any other right or remedy. Unless specifically provided otherwise, rights arising under the Contract are cumulative and to not exclude rights provided by law.
11.6 If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
11.7 Where Customers are "dealing as consumers" (as defined by section 12 of the Unfair Contract Terms Act 1977), any provision of these Conditions which by virtue of the Unfair Contract Terms Act 1977 would be of no effect shall not apply. When dealing as a consumer, the statutory rights of the Customer shall not be affected by these Conditions.
11.8 This Contract, shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

I/We have read these conditions of sale, and agree to comply with these conditions of sale.

Company **Position**

Signed **Printed**..... **Date**/...../.....