



Credit Account Application

TO BE COMPLETED BY APPLICANTS

Please complete all sections and read the Terms and Conditions of Trade overleaf.

COMPANY LEGAL NAME: DATE:

COMPANY TRADING NAME:

Phone: Fax:

Mobile: Email:

INVOICING ADDRESS: TRADING ADDRESS:

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..... Order Numbers Required:.....

COMMERCIAL CLIENTS ONLY

Company Registration No:

Requested Credit Limit: Date Established:

Purchasing Contact: Accounts Contact:

Purchasing Email: Accounts Email:

Phone: Phone:

DETAILS OF PARTNERS (If Partnership) OR DIRECTORS (If Company)

Full Name: Full Name:

Home Address: Home Address:

.....

Home Phone: Home Phone:

TRADE REFERENCES

Business Name 1: Business Name 2:

Address or A/C No: Address or A/C No:

Phone: Phone:

Fax: Fax:

I certify that the above information is true and correct and that I am authorised to make this application for credit. I irrevocably and unconditionally consent to the use of my personal information as required by the Data Protection Acts 1988-2003, and in particular the disclosure of my information to any credit reporting agency for the purposes of listing a default should I default in payment of any accounts. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf) of Gilbey Electrical Wholesalers Ltd which form part of, and are intended to be read in conjunction with this New Account Application and agree to be bound by these conditions.

Application MUST be signed by: Sole Trader; Active Partners; or if a Company, Active Director.

SIGNED: SIGNED:

Name: Name:

Position: Position:

ID: ID:

Date: ____ / ____ / ____ Date: ____ / ____ / ____

Gilbey Electrical Wholesalers Ltd Terms & Conditions of Trade

1. Definitions

- 1.1 "Agent" shall mean Gilbey Electrical Wholesalers Ltd, their successors and assigns or any person acting on behalf of and with the authority of Gilbey Electrical Wholesalers Ltd
- 1.2 "Customer" shall mean the person or entity described as such on the invoices, application for credit, quotation, work authorisation or any other forms to which these terms and conditions apply, and shall include any person acting on behalf of and with the authority of such person or entity.
- 1.3 "Guarantor" means that person (or persons), or entity, who agrees to be liable for the debts of the Customer on a principal debtor basis.
- 1.4 "Goods" shall mean Goods supplied by the Agent to the Customer (and where the context so permits shall include any supply of Services as hereinafter defined) and are as described on the invoices, quotation, work authorisation or any other forms as provided by the Agent to the Customer.
- 1.5 "Services" shall mean all services supplied by the Agent to the Customer and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).
- 1.6 "Price" shall mean the cost of the Goods as agreed between the Agent and the Customer subject to clause 4 of this contract.

2. Application of these Terms and Conditions to Consumers

- 2.1 Where the Customer buys Goods as a consumer these terms and conditions (in particular clauses relating to Risk, Disclaimer, Defects, Returns, Warranties, and Limitation of Liability) shall be subject to any laws or legislation governing the rights of consumers and shall not affect the consumer's statutory rights.

3. Acceptance

- 3.1 Any instructions received by the Agent from the Customer for the supply of Goods and/or the Customer's acceptance of Goods supplied by the Agent shall constitute acceptance of the terms and conditions contained herein.
- 3.2 Where more than one Customer has entered into this agreement, the Customers shall be jointly and severally liable for all payments of the Price.
- 3.3 Upon acceptance of these terms and conditions by the Customer the terms and conditions are irrevocable and can only be amended with the written consent of the Agent.
- 3.4 The Customer undertakes to give the Agent at least fourteen (14) days notice of any change in the Customer's name, address and/or any other change in the Customer's details.

4. Price and Payment

- 4.1 At the Agent's sole discretion the Price shall be either:
 - (a) as indicated on invoices provided by the Agent to the Customer in respect of Goods supplied; or
 - (b) the Agent's quoted Price (subject to clause 4.2) which shall be binding upon the Agent provided that the Customer shall accept the Agent's quotation in writing within thirty (30) days.
- 4.2 The Agent reserves the right to change the Price in the event of a variation to the Agent's quotation.
- 4.3 Time for payment for the Goods shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due seven (7) days following the date of the invoice.
- 4.4 Payment will be made by cash, or by cheque, or by bank cheque, or by credit card (plus a surcharge of either £5.00 or four percent (4.0%) of the Price), or by direct credit, or by any other method as agreed to between the Customer and the Agent.
- 4.5 VAT and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

5. Delivery of Goods

- 5.1 At the Agent's sole discretion delivery of the Goods shall take place when the Customer takes possession of the Goods at the Agent's address.
- 5.2 Delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this agreement. At the Agent's sole discretion any costs of delivery are in addition to the Price.
- 5.3 The Agent may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.
- 5.4 The failure of the Agent to deliver shall not entitle either party to treat this contract as repudiated.
- 5.5 The Agent shall not be liable for any loss or damage whatever due to failure by the Agent to deliver the Goods (or any of them) promptly or at all.

6. Risk

- 6.1 If the Agent retains ownership of the Goods nonetheless, all risk for the Goods passes to the Customer on delivery.
- 6.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, the Agent is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by the Agent is sufficient evidence of the Agent's rights to receive the insurance proceeds without the need for any person dealing with the Agent to make further enquiries.

7. Title

- 7.1 It is the intention of the Agent and agreed by the Customer that ownership of the Goods shall not pass until:
 - (a) the Customer has paid all amounts owing for the particular Goods; and
 - (b) the Customer has met all other obligations due by the Customer to the Agent in respect of all contracts between the Agent and the Customer.
- 7.2 Receipt by the Agent of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Agent's ownership or rights in respect of the Goods shall continue.
- 7.3 It is further agreed that:
 - (a) where practicable the Goods shall be kept separate and identifiable until the Agent shall have received payment and all other obligations of the Customer are met; and
 - (b) until such time as ownership of the Goods shall pass from the Agent to the Customer the Agent may give notice in writing to the Customer to return the Goods or any of them to the Agent. Upon such notice the rights of the Customer to obtain ownership or any other interest in the Goods shall cease; and
 - (c) the Agent shall have the right of stopping the Goods in transit whether or not delivery has been made; and
 - (d) if the Customer fails to return the Goods to the Agent then the Agent or the Agent's agent may enter upon and into land and premises owned, occupied or used by the Customer, or any premises as the invitee of the Customer, where the Goods are situated and take possession of the Goods; and
 - (e) the Customer is only a bailee of the Goods and until such time as the Agent has received payment in full for the Goods then the Customer shall hold any proceeds from the sale or disposal of the Goods on trust for the Agent; and
 - (f) the Customer shall not deal with the money of the Agent in any way which may be adverse to the Agent; and
 - (g) the Customer shall not charge the Goods in any way nor grant nor otherwise give any interest in the Goods while they remain the property of the Agent; and
 - (h) the Agent can issue proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods may not have passed to the Customer; and
 - (i) until such time that ownership in the Goods passes to the Customer, if the Goods are converted into other products, the parties agree that the Agent will be the owner of the end products, unless they have become fixtures.

8. Defects

- 8.1 The Customer shall inspect the Goods on delivery and shall within seven (7) days notify the Agent of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford the Agent an opportunity to inspect the Goods within a reasonable time following delivery if the Customer believes the Goods are defective in any way. If the Customer shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which the Agent has agreed in writing that the Customer is entitled to reject, the Agent's liability is limited to either (at the Agent's discretion) replacing the Goods or repairing the Goods.

9. Returns

- 9.1 Returns will only be accepted provided that:
 - (a) the Customer has complied with the provisions of clause 8.1; and
 - (b) the Agent has agreed in writing to accept the return of the Goods; and
 - (c) the Goods are returned at the Customer's cost within seven (7) days of the delivery date; and
 - (d) the Agent will not be liable for Goods which have not been stored or used in a proper manner; and
 - (e) the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances.
- 9.2 The Agent may (at its discretion) accept the return of non-defective Goods for credit or refund but this may incur a handling fee of twenty-five (25%) of the value of the returned Goods plus any freight.

10. Warranty

- 10.1 To the extent permitted by statute, no warranty is given by the Agent as to the quality or suitability of the Goods for any purpose and any implied warranty is expressly excluded. The Agent shall not be responsible for any loss or damage to the Goods, or caused by the Goods, or any part thereof however arising.
- 10.2 For Goods not manufactured by the Agent, the warranty shall be the current warranty provided by the manufacturer of the Goods. Whilst the Agent shall honour such warranty the Agent shall not be bound by or responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.

11. Sale of Goods Act 1979 and Supply of Goods and Services Act 1982

- 11.1 This agreement is subject to the provisions of the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982 (or any replacement or re-enactment thereof) in all cases except where the Customer is contracting within the terms of a trade/business (which cases are specifically excluded).
- 11.2 Notwithstanding clause 11.1 nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982 or any laws or legislation governing the rights of consumers, except to the extent permitted by those Acts, laws or legislation.

12. Intellectual Property

- 12.1 Where the Agent has designed, drawn or written Goods for the Customer, then the copyright in those designs and drawings shall remain vested in the Agent, and shall only be used by the Customer at the Agent's discretion.
- 12.2 The Customer warrants that all designs or instructions to the Agent will not cause the Agent to infringe any patent, registered design or trademark in the execution of the Customer's order.

13. Default and Consequences of Default

- 13.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and such interest shall compound monthly at such a rate after as well as before any judgment.
- 13.2 If the Customer defaults in payment of any invoice when due, the Customer shall indemnify the Agent from and against all costs and disbursements incurred by the Agent in pursuing the debt including legal costs on a solicitor and own client basis and the Agent's collection agency costs.
- 13.3 Without prejudice to any other remedies the Agent may have, if at any time the Customer is in breach of any obligation (including those relating to payment), the Agent may suspend or terminate the supply of Goods to the Customer and any of its other obligations under the terms and conditions. The Agent will not be liable to the Customer for any loss or damage the Customer suffers because the Agent exercised its rights under this clause.
- 13.4 If any account remains overdue after thirty (30) days then an amount of £30.00 shall be levied as an administration fee and shall be levied for each month that the account remains overdue, which sums shall become immediately due and payable.
- 13.5 Without prejudice to the Agent's other remedies at law the Agent shall be entitled to cancel all or any part of any order of the Customer which remains unperformed in addition to and without prejudice to any other remedies and all amounts owing to the Agent shall, whether or not due for payment, become immediately payable in the event that:
 - (a) any money payable to the Agent becomes overdue, or in the Agent's opinion the Customer will be unable to meet its payments as they fall due; or
 - (b) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

14. Security and Charge

- 14.1 Despite anything to the contrary contained herein or any other rights which the Agent may have howsoever:
 - (a) where the Customer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Customer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to the Agent or the Agent's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. The Customer and/or the Guarantor acknowledge and agree that the Agent (or the Agent's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be released once all payments and other monetary obligations payable hereunder have been met.
 - (b) should the Agent elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Customer and/or Guarantor shall indemnify the Agent from and against all the Agent's costs and disbursements including legal costs on a solicitor and own client basis.
 - (c) The Customer and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint the Agent or the Agent's nominee as the Customer's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 14.1.

15. Cancellation

- 15.1 The Agent may cancel these terms and conditions or cancel delivery of Goods at any time before the Goods are delivered by giving written notice. On giving such notice the Agent shall repay to the Customer any sums paid in respect of the Price. The Agent shall not be liable for any loss or damage whatever arising from such cancellation.
- 15.2 In the event that the Customer cancels delivery of Goods the Customer shall be liable for any loss incurred by the Agent (including, but not limited to, any loss of profits) up to the time of cancellation.

16. Data Protection Act 1998

- 16.1 The Customer and the Guarantor/s (if separate to the Customer) authorises the Agent to:
 - (a) collect, retain and use any information about the Customer, for the purpose of assessing the Customer's creditworthiness or marketing products and services to the Customer; and
 - (b) to disclose information about the Customer, whether collected by the Agent from the Customer directly or obtained by the Agent from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or of listing a default by the Customer on publicly accessible credit reporting databases.
- 16.2 The Agent may also use information about the Customer to monitor and analyse its business. In this connection the Customer authorises the Agent to disclose personal information to agents or third parties engaged by the Agent.
- 16.3 The Customer consents to the transfer of information outside of the European Economic Area for the purposes listed above.
- 16.4 Where the Customer is an individual the authorities under (clause 16.1) are authorities or consents for the purposes of the Data Protection Act 1998.
- 16.5 The Customer shall have the right to request the Agent for a copy of the information about the Customer retained by the Agent and the right to request the Agent to correct any incorrect information about the Customer held by the Agent.

17. Limitation of Liability

- 17.1 The Agent shall be under no liability whatever to the Customer for any indirect loss and/or expense (including loss of profit or goodwill) suffered by the Customer or any third party arising out of a breach by the Agent of these terms and conditions.
- 17.2 In the event of any breach of this contract by the Agent the remedies of the Customer shall be limited to damages and the Agent's liability (if any) whether in contract, tort or otherwise in respect of any defect in the Goods, or for any breach of these terms and conditions, or of any duty owed to the Customer in connection with them shall be limited to the amount of the Price.
- 17.3 For the avoidance of doubt, nothing in these terms and conditions shall exclude or restrict the Agent's liability to any person for death or personal injury to that person resulting from the Agent's negligence.

18. Unpaid Seller's Rights

- 18.1 Where the Customer has left any item with the Agent for repair, modification, exchange or for the Agent to perform any other Service in relation to the item and the Agent has not received or been tendered the whole of the Price, or the payment has been dishonoured, the Agent shall have:
 - (a) a lien on the item;
 - (b) the right to retain the item for the Price while the Agent is in possession of the item;
 - (c) a right to sell the item.
- 18.2 The lien of the Agent shall continue despite the commencement of proceedings, or judgement for the Price having been obtained.

19. Buyer's Disclaimer

- 19.1 The Customer hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any inadvertent misrepresentation made to the Customer by the Agent and the Customer acknowledges that the Goods are bought relying solely upon the Customer's skill and judgment.

20. General

- 20.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 20.2 These terms and conditions and any contract to which they apply shall be governed by the laws of England and Wales and are subject to the jurisdiction of the courts of Stockport.
- 20.3 The Customer shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Customer by the Agent.
- 20.4 The Agent may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
- 20.5 The Agent reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Agent notifies the Customer of such change. Except where the Agent supplies further Goods to the Customer and the Customer accepts such Goods, the Customer shall be under no obligation to accept such changes.
- 20.6 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.