

# MasterTrade Supplies Ltd

## Credit Account Application

This form should be completed in **BLOCK CAPITALS** using a **BALL POINT PEN**.

**If you are unsure of the contents of this document we suggest you seek independent legal advice.**

Customer name   
 Trading as

*NB: Date of Birth MUST be entered where applicable.*

Company Registered Address	
Address <input type="text"/>	
Post Code <input type="text"/>	
Date of Birth <input type="text"/>	Tel No. <input type="text"/>
Fax No. <input type="text"/>	Mobile <input type="text"/>
Is property: Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/>	
Accounts Contact <input type="text"/>	
E-mail <input type="text"/>	

Company Invoice Address	
Address <input type="text"/>	
Post Code <input type="text"/>	
Tel No. <input type="text"/>	
Fax No. <input type="text"/>	Mobile <input type="text"/>
Purchasing Contact <input type="text"/>	
E-mail <input type="text"/>	

**A: Business Details**

How long has business been established?  Years  
 How long at present address?  Years

**Company Status**

Ltd  Plc  Sole Trader  Partnership   
 Limited Liability Partnership

Company Registration Number

Bank Name   
 Sort Code  Account No.

**Trade References:** (Not associated companies of applicant)

Trade Ref 1   
 Tel No.  Fax

Trade Ref 2   
 Tel No.  Fax

Do you or have you ever held an account with MasterTrade?  
 Yes  No

If 'Yes' with which branch?

Company approximate annual electrical spend

<input type="checkbox"/> £0 - £25,000	<input type="checkbox"/> £25,000 - £75,000
<input type="checkbox"/> £75,000 - £150,000	<input type="checkbox"/> £150,000 +

**B: Principal Details**

Sole Traders and Partnerships must provide a full name and residential address. If you have not been in residence at your current address for more than 3 years, please provide previous addresses.

Name   
 Address

Post Code

Date of Birth  Tel No.   
 Fax No.  Mobile

Is property: Owned  Rented  Leased

Name   
 Address

Post Code

Date of Birth  Tel No.   
 Fax No.  Mobile

Is property: Owned  Rented  Leased

**Declaration**

I/We request credit facilities with your company. If given I/we agree to settle your account in accordance with your Conditions of Sale, a copy of which is printed on the reverse side of this Account Application. I note these include a retention of title clause. I/We agree to your credit terms and that payment is due on the 28th of the month following date of invoice ("the due date") or to any alternative terms agreed. I certify that I have checked the particulars on this form, and to the best of my knowledge and belief, they are correct. I also give permission to MasterTrade to conduct a commercial/consumer credit search and future searches in line with the Data Protection Act (1998).

I/We agree to pay statutory interest at 8% above the Bank of England base rate for Late Payment in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

**Continuing Guarantee**

**If you are unsure of the contents of this document we suggest you seek independent legal advice.**

The continuing guarantee below **MUST** be signed by a director or secretary (in the case of a limited liability company) or equity partner (in the case of a limited liability partnership). It may also be required to be completed in other cases.

**TO MASTERTRADE SUPPLIES LTD**

In consideration of your agreeing to grant credit facilities to the company or limited liability partnership described above ("the Company") I hereby unconditionally guarantee the due and punctual performance and observance by the Company of its obligations herein, and under your Condition of Sale overleaf, and agree to indemnify and keep you indemnified against any breach or non-observance thereof by the Company.

Print Name   
 Position   
 Signed   
 Dated

Print Name   
 Position   
 Date of Birth   
 Signed   
 Dated

**NB: All information given shall be treated with the strictest of confidence and will not be disclosed to any third parties.**

(Branch Use)	For Internal Use Only
Branch Name <input type="text"/>	Salesperson Name <input type="text"/>
Salesperson Name <input type="text"/>	Account Number <input type="text"/>
Date Premises Visited <input type="text"/>	Debtor Days <input type="text"/>
Representative Code <input type="text"/>	Credit Limited Approved <input type="checkbox"/>
Credit limited required <input type="checkbox"/> £ <input type="text"/>	General Manager Signature <input type="text"/>
Branch Manager Signature <input type="text"/>	Dated <input type="text"/>
Dated <input type="text"/>	

## TERMS AND CONDITIONS OF SALE

### 1. APPLICABLE TERMS

1.1. Any quotation given by the Seller to the Buyer in Writing is only an invitation to the Buyer to make an offer for the purchase of Goods from the Seller and no order placed in Writing by the Buyer with the Seller for the purchase of Goods in pursuance of a quotation from the Seller or without any quotation having been issued by the Seller or pursuant to an On-line Order shall be binding on the Seller and the Buyer (and thereby constitute a contract between the Seller and Buyer for the sale and purchase of Goods) unless and until it is accepted ("Acceptance"):- (i) by the Seller's acceptance in Writing of the Buyer's order ; or (ii) by the issue by the Seller of an On-line Order Confirmation; or (iii) by the issue by the Seller to the Buyer of a dispatch note or delivery note for the Goods , or (iv) by virtue of the goods being dispatched by the Seller to the Buyer.

1.2. These Conditions are the only terms upon which the Seller offers and agrees to contract with the Buyer for the sale and purchase of Goods. Any contract made between the Buyer and the Seller for the sale and purchase of the Goods shall incorporate and be subject to these Conditions which shall govern such contract to the exclusion of any other terms and conditions subject to which any offer is made or purported to be made by the Buyer. In no case shall the Buyer's conditions of purchase apply to such contract.

1.3. Whilst every effort is made by the Seller to ensure that no such error or omission occurs, any typographical, clerical or other error or omission in any sales literature, website based information, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction by the Seller at any time without any liability on the Seller's part. The Buyer acknowledges that the website text, price lists, lists of items for sale or other sales literature published on the Seller's Website constitute an invitation to treat and may not be construed by the Buyer as any offer by or binding upon the Seller to sell any items to the Buyer.

1.4. Unless otherwise agreed in Writing, the Seller reserves the right to despatch or deliver Goods of a modified design (as a result of changes in the law or at the sole discretion of the Seller) provided that (i) any difference does not make the Goods unsuitable for any purpose the Buyer has made known to the Seller; and (ii) such despatched or delivered Goods shall be of equal or higher value to the Goods which the Buyer originally ordered.

1.5 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order for Goods submitted by the Buyer to the Seller, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform its obligations under these Conditions. The Seller shall incur no liability resulting from inaccurate information being supplied by the Buyer.

1.6 Subject to Condition 8.7.1 below, an order from the Buyer may not be cancelled by the Buyer after Acceptance except with the agreement in Writing of the authorised representatives of the Seller and on terms that the Buyer shall indemnify the Seller in full forthwith on demand from and 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 the cancellation (whether directly or indirectly) by the Buyer of that order.

### 2. PRICE

Unless otherwise agreed, the price of the Goods (which shall be shown on the Seller's Website or on the sales order acknowledgement document in respect of the Goods issued by the Seller to the Buyer) is exclusive of VAT and other taxes and the cost of carriage and is based on costs current at the date of Acceptance. The Seller reserves the right at any time prior to delivery of the Goods to adjust the price of the Goods to take account of:- (i) any increase in the costs to the Seller which is due to any factor beyond the Seller's control (including, without limitation, currency regulation, alteration of duties, taxes, increases in the costs of labour, services, transport, materials or other costs of manufacture or any foreign currency fluctuations which increase the costs to it of Goods imported into the United Kingdom); or (ii) any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer ; or (iii) any delay caused by any of the Buyer's instructions or the Buyer's failure to give the Seller adequate information or instructions. The Seller also reserves the right to increase the quoted or agreed prices for Goods if the Buyer's instructions are such that the Seller is required:- (i) to carry out work other than during normal working hours (normal working hours being Monday to Friday from 7am until 5:30pm and Saturday between 8am and - 12 noon); and/or (ii) to deliver the Goods to any location which is not either kerbside or on a ground floor location ("Standard Delivery Location").

### 3. PAYMENT

3.1. Unless agreed otherwise in Writing by the Seller (and subject to Condition 5 below) the price of the Goods shall be payable:-

3.1.1. in the case a Buyer who is a credit account holder with the Seller, on or before the 28th day (or first working day thereafter) of the calendar month following the month in which the Seller invoices the Buyer; and

3.1.2. in all other cases, on demand.

3.2. Where the Buyer has a trade credit account with the Seller, if at the date on which the Seller is ready to deliver the Goods the Buyer delays delivery of the Goods for any reason, the Seller may present invoices for full settlement within 7 days of that date.

3.3. Time for payment shall be of the essence.

3.4. In default of any payment on the due date and without prejudice to any other rights or remedies the Seller reserves the right to demand immediate payment of all outstanding balances owed by the Buyer to the Seller whether or not then due.

3.5. Interest (both before and after any judgement) shall be charged on outstanding balances due by the Buyer to the Seller at the rate of 5 per cent per annum above Barclays Bank plc base rate from time to time (to accrue pro rata on a daily basis from the due date for payment until the date of actual payment).

3.6. The Buyer shall not be entitled to withhold or set-off payment for Goods delivered for any reason whatsoever. The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.

3.7. In the case of a Buyer who is a credit account holder with the Seller, the Seller shall be entitled in its sole discretion to suspend or terminate the Buyer's credit account if the Buyer fails to make a payment when it becomes due or if the Seller otherwise reasonably believes that the Buyer has failed or will fail to comply with the terms of the credit account.

3.8. The Buyer shall indemnify the Seller forthwith on demand from and against any legal or other expense incurred by the Seller in the collection of any sums outstanding from the Buyer to the Seller, including without limitation, legal costs and fees.

### 4. GUARANTEE

4.1. If the Buyer is a limited company, any director or directors who sign the Seller's credit account application form agree (if more than one, jointly and severally) to personally guarantee the payment of all monies, debts and liabilities of any nature from time to time due or owing from or incurred by the Buyer to the Seller (the "Guaranteed Obligations").

4.2. The guarantee in Condition 4.1 above is and shall at all times be a continuing security and shall cover the ultimate balance of all monies payable under the contract between the Seller and the Buyer for the sale and purchase of Goods, irrespective of any intermediate payment or discharge in full or in part of the Guaranteed Obligations.

5. **CREDIT** Any contract between the Seller and the Buyer for the sale and purchase of Goods shall be subject to the provision that if at any time thereafter the Seller is advised or informed of circumstances casting doubt on the Buyer's credit worthiness or satisfactory security for payment is not given to the Seller by the Buyer promptly on request, the Seller may require payment of the whole or part of the purchase price for the Goods from the Buyer in advance and pending such payment the contract between the Seller and the Buyer for the sale and purchase of the Goods shall be suspended. In the event of such advance payment not being made within a reasonable period stipulated in Writing by the Seller, the Seller may cancel the Buyer's order without liability and the Buyer shall be responsible for any resulting loss to the Seller.

6. **RISK** The risk in respect of all Goods sold under the contract between the Seller and the Buyer shall pass to the Buyer upon delivery to the Buyer or to the Buyer's order. In any event the property in the Goods shall not pass to the Buyer except as provided in Condition 7 below.

### 7. TITLE RETENTION

7.1. Until the purchase price of the Goods and all other indebtedness of the Buyer to the Seller shall have been paid or satisfied in full (if by cheque then only upon clearance):-

7.1.1. the property in the Goods shall remain vested in the Seller (notwithstanding the delivery of the same and the passing of the risk therein) and the Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the Seller's property and if the Buyer does so all moneys owing by the Buyer to the Seller will forthwith become due and payable without notice being required for the purpose ; 7.1.2. the Buyer shall properly store the Goods in such a way that they can be readily identified as being the Seller's property;

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7.1.3. the Buyer shall promptly on request inform the Seller of the precise location of each item of the Goods identified where applicable by its serial number, by supplying the Seller (at the Buyer's expense within seven days of the Seller's request) with a written schedule of the said locations. Provided that the Goods have not been sold pursuant to Condition

7.1.4 below until the property in the Goods passes to the Buyer the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so immediately, the Seller reserves the right to enter upon any premises where the Goods are stored and to repossess the Goods and to dismantle the same (without being liable for any damage caused by so doing) ;

7.1.4. the Buyer may sell the Goods as the Seller's agent in the normal course of the Buyer's business (but shall account to the Seller for the proceeds of sale of the Goods and shall keep all such proceeds separate from any other moneys or property) and may pass good title to the Buyer's customer(s) being a bona fide purchaser(s) for value without notice of the Seller's rights on the following Conditions:-

7.1.4.1. the Seller may at any time revoke the Buyer's said power of sale in the circumstances set out in Condition 5 or 11 of these Conditions ;

7.1.4.2. the Buyer's power of sale shall automatically cease in any of the circumstances set out in Condition 11 of these Conditions ;

7.1.4.3. the Buyer shall notify the Seller without delay of any attachment of the Goods or actions by third parties which might infringe the Seller's title to the Goods ;

7.1.5. Upon any revocation or cessation of the Buyer's power of sale pursuant to Conditions 7.1.4.1 or

7.1.4.2 above the Seller shall be entitled by itself, its servants or agents to enter upon any of the Buyer's premises or any other premises for the purpose of removing and repossessing such Goods and the Buyer shall indemnify the Seller forthwith on demand from and against any claims arising from such repossession and for the cost of such repossession;

7.1.5.1. until the title in the Goods has passed to the Buyer:-

7.1.5.2. the Buyer shall not purport to be the owner of the Goods, shall hold the Goods as the Seller's fiduciary agent and trustee or bailee and shall not show such Goods as stock in its accounts ;

7.1.5.3. the Buyer shall insure the Goods (for their full reinstatement value) against theft or any damage howsoever caused until their price has been paid in full or until their sale whichever shall first occur and the Seller shall be entitled to call for details of the insurance policy to be provided to it;

7.1.5.4. if the Buyer shall not insure the Goods or shall fail to supply details of its insurance policy on demand to the Seller the Buyer shall reimburse the Seller for the cost of any insurance which the Seller may reasonably arrange in respect of any of the Goods during the whole or any part of the period from the date of delivery of the Goods until the date of payment to it of their full purchase price.

7.2. Nothing in these Conditions shall:-

7.2.1. (subject to Condition 8.7.1 below) entitle the Buyer to return the Goods or to delay payment for the Goods; or 7.2.2. (other than pursuant to Condition 7.1.6.1 above) constitute or be deemed to have constituted the Buyer as the Seller's agent; or

7.2.3. render the Seller liable to any third party for any unauthorised representation or warranty made or given by the Buyer to such third party in relation to the Goods; or

7.2.4. prevent the Seller from maintaining an action for the price of the Goods not withstanding that the property in the Goods may not have passed to the Buyer.

### 8.0 DELIVERY AND RETURNS

8.1. Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises or, if some other place for delivery is agreed by the Seller in Writing, by the Seller delivering the Goods to that place. To the extent that the place of delivery so agreed is not a Standard Delivery Location, the Seller has the right to increase the quoted or agreed price for the Goods in accordance with Condition 2 above. 8.1. Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises or, if some other place for delivery is agreed by the Seller in Writing, by the Seller delivering the Goods to that place. To the extent that the place of delivery so agreed is not a Standard Delivery Location, the Seller has the right to increase the quoted or agreed price for the Goods in accordance with Condition 2 above.

8.2. Any delivery date for the Goods which is quoted is given in good faith, but any dates quoted for delivery of the Goods are not guaranteed and the Seller shall not be responsible or liable for any delay or failure in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence and the Seller shall not be liable for any delay in delivery howsoever caused. The Seller may deliver Goods before the agreed or quoted delivery date upon giving the Buyer reasonable notice.

8.3. The Seller shall be entitled to make delivery by instalments (in which case each delivery shall constitute a separate contract between the Seller and the Buyer), and to invoice the Buyer separately for each instalment. Failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the contract as a whole between the Seller and the Buyer as repudiated or terminated.

8.4 Except in the case of delivery at the Seller's premises, the Buyer shall at its own expense use all reasonable endeavours to ensure that the Seller is able to freely access and make any deliveries to any other place for delivery at such time(s) as may be specified by the Seller in Writing. Any failure by the Buyer to comply with the provisions of this Condition or to otherwise accept delivery (save upon such grounds for rejection as are specified in the law relating to the Sale of Goods) or the Buyer failing 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 by reason of the Seller's fault) shall be deemed to be a breach of contract and then, without prejudice to any other right or remedy available to the Seller, the Seller may:- i) store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or 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 payable by the Buyer to the Seller for the Goods or charge the Buyer for any shortfall below that price. Any additional costs incurred by the Seller in re-delivering the Goods (either to the originally agreed place for delivery or to such other place as may be reasonably requested by the Buyer) will be charged to the Buyer.

8.5 The quantity of any consignment of Goods as recorded by the Seller upon despatch from the Seller's premises shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

8.6 Notwithstanding the provisions of Condition 8.5, the Seller shall not be liable for any under-delivery of Goods in whole or in part (even if caused by the Seller's negligence) unless the Buyer gives notice in Writing to the Seller of the under-delivery within 48 hours of the date when the Goods are delivered to the Buyer (as recorded by the Seller or, if there is no such record, when the Goods would in the ordinary course of events have been received). Any liability of the Seller for under-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.

8.7.1 Subject to Condition 8.7.2 below, within 14 days of the day after the day of delivery of the Goods to the Buyer, the Buyer shall be entitled to cancel the contract between the Seller and the Buyer for the sale and purchase of the Goods, return the Goods in their original packaging and receive a full refund provided that the Goods have not been used in any way, are in the same good condition in which they were received by the Buyer and are returned to the Seller. In such event the Buyer shall be responsible for the costs of returning the Goods in their original packaging and shall indemnify the Seller promptly on demand from and against all and any such costs. If the Seller collects the Goods, the Seller retains the right to charge the Buyer for any direct costs associated with the return of the Goods. No additional re-stocking charge or administrative charge will be added in accordance with Distance Selling Regulations. The Seller's customer service centre can be contacted for an accurate cost of returning goods as costs may vary depending on product specification and location. For more information on the Buyer's right to withdraw from its purchase within the seven working day cooling-off period, the Buyer should please visit the Department of Trade and Industry's website at: <http://www.dti.gov.uk/consumers/buying-selling/distance-selling/index.html>.

8.7.2 Subject to Condition 8.7.1 above, any refunds to the Buyer are entirely at the discretion of the Seller. In the event that the Seller, in its sole discretion, grant a refund to the Buyer, any costs incurred by the Seller in procuring that refund shall be borne by the Buyer.

#### 9. WARRANTY

9.1. The Buyer shall lodge with the Seller in Writing within 7 days after delivery of the Goods any claims in respect of defects in such Goods, which are reasonably capable of detection by careful examination. Defects which are not detectable by careful examination within that period shall be notified in Writing by the Buyer as soon as practicable, and in any event no later than:- 9.1.1. 30 days after discovery of the defect; or 9.1.2. 12 months after the date of installation of the Goods, whichever occurs first.

9.2. The Seller shall at its option repair or replace or refund or credit the purchase price of any Goods or part thereof in which under proper storage and use defects appear within the time limits set out in Condition 9.1 above which are caused by faulty material or workmanship and if any Goods, during the recommended service life, and if fitted to an application stated in the current catalogue or bulletin of the Seller are found to be defective, the Seller will accept responsibility for damage to other working parts of the Buyer's equipment solely and directly attributed to a manufacturing defect in the Goods, and will restore such working parts to a condition equivalent to the existing condition prior to failure.

#### PROVIDED that:

9.2.1. the defective Goods are returned to the Seller, transportation charges being prepaid by the Buyer;

9.2.2. examination by the Seller of such Goods shall disclose to its satisfaction that such defects exist and have not been caused by misuse, neglect, accident, improper storage, installation or handling or by repair or alteration not effected by the Seller, and

9.2.3. the Buyer shall afford to the Seller all reasonable facilities to inspect any working parts of the Buyer's equipment which are alleged to have been damaged as a result of defects in the Goods; 9.2.4. the Buyer shall pay to the Seller the cost (as certified by the Seller in Writing) of any examination of the Goods and any relevant working parts where the outcome of the examination is that the Seller is not deemed to be liable for any defect in the Goods or any damage alleged to have been caused by defects in the Goods;

9.2.5. this warranty does not cover faulty installation, misuse, alteration, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in Writing), normal wear and tear or accident, nor will the Seller be liable for any other losses or consequential expenses incurred;

9.2.6. the Buyer shall provide such information regarding the circumstances of the claim as would be reasonably required to assess the validity of the claim. If insufficient information is provided, the Seller shall be entitled, within 7 working days of requesting in detail the additional information needed, and such information not having been received, to reject the claim and return the Goods to the Buyer;

9.3. The foregoing provisions shall be in lieu of any warranties and conditions whether express or implied by statute common law or otherwise howsoever, which warranties and conditions are hereby expressly excluded.

9.4. Save as aforesaid and save in respect of death or personal injury resulting from the negligence of the Seller its servants or agents, the Seller shall not be liable for any claim or claims for direct or indirect consequential or incidental injury loss or damage made by the Buyer against the Seller whether in contract or delict or tort (including negligence on the part of the Seller its servants or agents) arising out of or in connection with any defect in the Goods or any act, omission, neglect or default (whether or not the same constitutes a fundamental breach of the contract between the Buyer and the Seller or breach of a fundamental term thereof) or the Seller its servants or agents in the performance of the contract between the Buyer and the Seller.

9.5. WITHOUT PREJUDICE TO THE GENERALITY OF THE FOREGOING, NOTHING HEREIN CONTAINED SHALL OPERATE TO EXCLUDE ANY WARRANTY OR CONDITION IMPLIED BY STATUTE IN THE EVENT OF THE BUYER DEALING AS A "CONSUMER" AS DEFINED BY SECTION 12 OF THE UNFAIR CONTRACT TERMS ACT 1977. IN SUCH A CASE THE BUYER'S STATUTORY RIGHTS ARE UNAFFECTED BY THESE CONDITIONS.

9.6. The Buyer accepts as reasonable and agrees that the Seller's total liability for any defective Goods, and otherwise under the contract between the Seller and the Buyer for the sale and purchase of the Goods shall not in any circumstances exceed 10% of the price payable to the Seller for the Goods (excluding VAT). It is accepted by the Buyer and the Seller that in fixing the foregoing overall limit of the Seller's liability in this Condition 9.6 the Seller and the Buyer have had regard to the contract price of the Goods, the nature of the Goods, the use they will receive, and the resources available to each party including insurance cover, to meet any liability. The Seller shall not be liable to the Buyer or be deemed to be in breach of these Conditions by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control.

#### 10. HEALTH AND SAFETY

10.1 The Buyer's attention is drawn to the provisions of Section 6 of the Health and Safety at Work etc Act 1974. The Seller will make available on written request such information on the design and construction of the Goods as is in its possession to ensure that as far as is reasonably practicable the Goods are reasonably safe and without risk to health when properly used. 10.2 Any advice or recommendation which the Seller may give as to the storage, application or use of the Goods and which the Seller does not confirm in Writing 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.

11. **INSOLVENCY AND BREACH OF CONTRACT** In the event of any breach of these Conditions not being remedied by the Buyer within 30 days of the Seller's notice in Writing to the Buyer requesting such remedy or upon the Buyer committing any act of bankruptcy, ceasing to carry on business or entering into any composition or arrangement with or for the benefit of its creditors or the passing of a resolution for the Buyer's winding up, or the Buyer entering into liquidation (whether voluntary or compulsory) or any similar arrangement or a receiver being appointed over the Buyer's assets, the Seller shall be entitled forthwith (without notice being required for the purpose) and without prejudice to its other rights hereunder to suspend all further deliveries of the Goods and / or to terminate the contract forthwith between the Seller and the Buyer or any unfulfilled part thereof and the Buyer shall then be responsible for any resulting loss to the Seller.

#### 12. INTELLECTUAL PROPERTY

Notwithstanding any implied warranty or condition as to title or otherwise in relation to the Goods supplied under the contract between the Seller and the Buyer, the Seller shall not be liable to indemnify the Buyer in respect of any claim made or threatened against the Buyer by any third party whether by legal proceedings or otherwise based on any intellectual property right claimed (whether registered or not) or breach of confidence unless:-

12.1. The Seller shall have been promptly notified in Writing of the claim or threat and no admissions shall have been made by the Buyer such as would prejudice the defence of any such claim or threat; 12.2. The Goods shall have been designed by the Seller or made to its design. In any event the Seller's liability shall be limited to damages and costs awarded by a court of competent jurisdiction in proceedings conducted in accordance with the wishes of the Seller or such sum as may be paid in compromise of such proceedings with the approval of the Seller.

#### 13. MODIFICATIONS

The Buyer shall accept Goods whose specification has been modified since the date of order provided that such Goods substantially conform with the order and the modification does not materially affect the performance of the Goods.

#### 14. BUSINESS TO BUSINESS SALES: END OF LIFE OBLIGATIONS

14.1. To the extent that the law permits, the responsibility for and (where not specifically provided for in purchase price) the costs of compliance with the Waste Electrical and Electronic Equipment Regulations 2006 (as amended from time to time) shall rest with the Buyer.

14.2. The Buyer shall indemnify the Seller on demand and keep the Seller indemnified from and against all costs, expenses, damage or other losses incurred or suffered, demands or proceedings made against the Seller arising from a breach by the Buyer of this Condition 14.

#### 15. ASSIGNMENT

The Buyer shall not assign or transfer or purport to assign or transfer any of its rights and/or obligations under any contract between the Seller and the Buyer for the sale and purchase of Goods and/or the benefit of any such contract to any other person whomsoever.

16. **SUB CONTRACTS** The Seller reserves the right to sub contract the performance of any of its obligations under any contract between the Seller and the Buyer for the sale and purchase of Goods or any part of any such contract.

#### 17. GENERAL

##### 17.1. Notices

Any notice given under the provisions of any contract between the Seller and the Buyer for the sale and purchase of Goods shall be in Writing and shall be deemed to have been sufficiently served if delivered personally or sent (within the U.K.) by first class post or (outside the U.K.) by airmail and the address of service shall be that shown on the Website or such other address as the relevant party shall notify the other in Writing from time to time. Any notice served by first class post shall be deemed to have been served 48 hours after the date of despatch and any notice served by airmail shall be deemed to have been served 10 days after the date of despatch.

##### 17.2. Waiver

The waiver by the Seller of any breach of any term of any contract between the Seller and the Buyer for the sale and purchase of Goods shall not prevent the subsequent enforcement of that term and shall not be deemed a waiver of any subsequent breach.

17.3. **Severance** Each of the Buyer's obligations under these Conditions shall be a separate and independent obligation.

17.4. **Headings for convenience only** The headings in these Conditions are for convenience of reference only and shall not affect their interpretation.

17.5. **Third Party Rights** No person other than a party to any contract between the Seller and the Buyer for the sale and purchase of Goods shall have any rights to enforce any term of such contract.

##### 17.6. Variation

17.6.1. Any variation, (including, without limitation, the introduction of any additional terms and conditions) to these Conditions, shall only be binding when agreed in Writing and signed by an authorised representative of the Seller.

17.6.2. The Seller may vary these Conditions from time to time in its sole discretion. Any such variations will be posted on the Seller's Website and notified to the Buyer in Writing and the Buyer will be deemed to have accepted any and all such variations if it continues to order Goods from the Seller after the date of such notice.

##### 17.7. Governing Law

Any contract for the sale and purchase of Goods between the Seller and the Buyer (which contract shall incorporate these Conditions) shall be governed by and construed in accordance with English Law and the parties shall submit to the non-exclusive jurisdiction of the English Courts.

##### 17.8. Miscellaneous

17.8.1. All rights and remedies expressly reserved by the Seller in these Conditions are without prejudice to any other right or remedy available to the Seller.

17.8.2. Where rights and decisions in these Conditions are to be exercised or made at the sole discretion or discretion of the Seller then the Seller shall be under no duty or obligation to justify or provide a reason to the Buyer for the decision.

17.8.3. The Seller's agents or employees are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into a contract with the Seller for the sale and purchase of Goods the Buyer acknowledges and agrees that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

17.8.4. The Seller reserves the right to change and improve the design of some or all of the component parts of its products and undertakes that any such changes will not materially and adversely affect the purpose for which the Goods were to be supplied.

17.8.5. All estimates, drawings, designs, plan or models the Supplier may prepare for the Buyer's information remain the Seller's property and are subject to the Seller's copyright and other intellectual property rights. They must not in whole or in part be submitted to or copied or otherwise made use of by any other party.

17.8.6. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby and shall remain in full force and effect.

17.8.7 The Buyer will not use any of the Seller's intellectual property rights in connection with any product or service in any manner that is likely to cause confusion among customers, or in any manner that disparages or discredits the Seller, without the Seller's prior written consent.

17.8.8 The Buyer agrees to the Seller collecting and using such details (including, without limitation, Personal Data as defined in the Data Protection Act 1998) as the Buyer provides to the Seller for such purposes as are necessary in the Seller's sole discretion for the Seller to comply with its obligations under these Conditions. The Seller may have to pass the Buyer's details (including, without limitation, Personal Data as defined in the Data Protection Act 1998) on to responsible third parties for the same purpose. The Seller shall not be responsible for any breach of security or any act or omission of third parties who receive the Buyer's details (including, without limitation, Personal Data as defined in the Data Protection Act 1998).

17.8.9 The Buyer must be over 18 to buy a knife or blade. By placing an order with the Seller the Buyer declares and warrants that he or she is over 18 years of age. Additional checks may be made to confirm the Buyer's age to prevent the sale of weapons to minors.

17.8.10 The Seller may perform any of its obligations or exercise any of its rights under these Conditions by itself or where applicable through any other persons (legal or otherwise) or entities whomsoever.

17.8.11 The contract between the Seller and the Buyer for the sale and purchase of the Goods (incorporating these Conditions) shall constitute the entire agreement and understanding between the Seller and the Buyer in respect of the sale and purchase of such Goods and shall supersede all previous oral or written representations or agreements relating thereto.

17.8.12 The Seller may freely assign its rights and/or obligations under these Conditions and/or sub-contract the whole, or any part of its obligations under these Conditions to any other person (legal or otherwise) or entity whomsoever.

17.8.13 WEEE Regulations (January 2007) ensure that the amount of waste on certain electrical and electronic equipment is reduced, separated from household waste, collected separately and ultimately disposed of in a sound environmental manner (recycled and recovered). If the Buyer is a trade customer, the Buyer agrees that the collection, recovery/treatment and disposal of non-household Electrical or Electronic Equipment purchased from the Seller will be the Buyer's responsibility. In the case of household waste the Buyer should please take this waste to the Buyer's nearest Designated Collection Facility (DCF) where special facilities exist for correct disposal. To find its nearest Designated Collection Facility please can the Buyer visit the following web site: [www.recycle-more.co.uk](http://www.recycle-more.co.uk).

#### **INTERPRETATION**

In these Conditions the following words and expressions have the following meanings:-

"Acceptance" has the meaning set out in Condition 1.1;

"Buyer" means the individual, organisation, company or entity whose offer for the Goods is accepted by the Seller;

"Conditions" means the Seller's standard terms and conditions of sale, as set out herein, together with any future amendments, modifications and/or revisions thereto;

"Goods" means the goods (including any instalment or part of them) which the Seller is to supply to the Buyer in accordance with these Conditions (which Goods shall be shown on the Seller's Website or on the sales order acknowledgement document in respect of the Goods issued by the Seller to the Buyer);

"Online Order" means an order for Goods from the Buyer submitted to the Seller through the Seller's Website by completion of the staged ordering process set out therein through submission of forms and following a series of hypertext links as directed on the Seller's Website;

"Online Order Confirmation" means confirmation in Writing by the Seller of acceptance of an Online Order issued prior to the supply of the Goods to the Buyer;

"Seller" means MasterTrade Supplies Ltd.

"Seller's Website" means the website published by the Seller on the World Wide Web of the Internet with the uniform resource locator <http://www.Mastertrade.net>, or such other uniform resource locator as the Seller may sell Goods on from time to time.

"Standard Delivery Location" has the meaning ascribed to it in Condition 2; and

"Writing" includes electronic email and, facsimile transmission.