



**Hawthorn**Timber

Hawthorn Timber Ltd

Importers and Sawmills, Sheet Material Distributors, Bulk and Baled WoodShavings

Wyke Street, Hedon Road, HULL, HU9 1PA Tel: 01482 228159 Fax: 01482 216937 Email: enquiries@hawthorntimber.co.uk

## ACCOUNT APPLICATION

*Please answer the following questions fully - All information on this form will be treated in the strictest confidence. We may share your information with credit reference agencies and other companies for use in credit decision, fraud prevention and to persue debtors. For further details please see our Privacy Policy.*

*Occasionally we may wish to send you information and offers about our products and services, by post, telephone/fax and email. If you agree to being contacted in this way, please tick the relevant box.*

Post    Email    Telephone    Fax    I do not wish to be contacted for these purposes

1. Company Name:

2. State whether Limited or Company/Partnership/Sole Trader:

3. For Limited Company state full names of ALL Directors:

4. For Partnerships / Sole Trader state full names of ALL Partners/Proprietors:

5. Registered Office:

6. Company Registration Number:

7. Date of Formation of Company:

Account Application

8. Accounts Telephone No:

Accounts Fax:

Accounts Email:

Accounts Contact Name:

9. Delivery Address:

10. Deliveries Telephone No:

Deliveries Fax:

11. Bankers:

12. Address:

13. Account No:

Sort Code:

14. Anticipated Credit Limit Required:

**PLEASE PROVIDE THE NAMES AND ADDRESSES OF TWO CURRENT RELEVANT TRADE REFERENCES**

Name:

Address:

Tel:

Fax:

Name:

Address:

Tel:

Fax:

Account Application

**I / We agree to operate my / our account in accordance with the conditions of sale, which are attached**

Signed:

Date:

Name in Block Capitals:

On Behalf of:

**PLEASE ENCLOSED A COPY OF YOUR COMPANY LETTERHEAD WITH THIS FORM**

# HAWTHORN TIMBER LIMITED CONDITIONS OF SALE

Goods and services supplied by the Company upon the conditions set out below.

## 1. DEFINITIONS

In these conditions:

- 1.1 "the Company" means Hawthorn Timber Limited  
1.2 "the Customer" means the person issuing an enquiry or accepting a quotation invoice or other document for the supply of goods or services from the Company.  
1.3 "the Contract" means any contract for the sale of Goods or Services by the Company to the Customer.  
1.4 "the Goods" means any goods forming the subject of a Contract between the Company and the Customer including parts and components of or materials incorporated in them.  
1.5 "the Services" means any services supplied by the Company to the Customer forming the subject of a Contract.  
1.6 "Writing" includes telex cable facsimile transmission e-mail and comparable means of communication.

## 2. QUOTATIONS AND EXISTENCE OF CONTRACT

2.1 All quotations given by the Company shall constitute an invitation to the Customer to make an offer within 30 days of the date of the quotation on the terms set out therein a bid all quotations are made subject to alteration and withdrawal by the Company without notice.

## 3. PRICE AND PAYMENT

3.1 Where at any time before delivery of the Goods or Services there:

3.1.1 is an increase in the cost of:

3.1.1.1 raw materials

3.1.1.2 labour or services; or

3.1.2 are any currency fluctuations increasing the cost of raw materials the Company may adjust the price accordingly.

3.2 The prices quoted are exclusive of Value Added Tax.

3.3 With regard to payment time shall be the essence of the Contract.

3.4 The cost of any Goods or Services in addition to those included in the quotation which may be ordered by the Customer shall be added to the quoted price and paid accordingly.

3.5 Unless otherwise agreed in writing by the parties all accounts shall be payable within 30 days after the month in which the invoice is dated. No dispute arising under any contract shall interfere with prompt payment by the Customer who shall not exercise any rights of set off or counterclaim against the invoices submitted.

3.6 Without prejudice to the foregoing provisions the Company shall be entitled to charge interest at the rate of 4% per annum above the base rate from time to time of Nat West Bank Plc or its successors in title from due date to actual date of payment on all or any part of the price of the Goods or Services remaining unpaid the charge to be calculated on a compound basis on the balance outstanding on the 28th day of each month.

## 4. DELIVERY

4.1 Where Goods are sold at a price to include the costs of the delivery they will (unless otherwise expressly agreed in writing) be despatched to the Customer by any means of transport at the option of the Company.

4.2 Delivery by the Company shall be conditional upon access free from encumbrances and good roads being available to the Company's haulier's vehicles up to the place of delivery and to the Company's haulier's vehicles being off loaded within a reasonable time and in the manner required by the Company's haulier. The Customer will if requested at all reasonable times give every facility to the Company's haulier's drivers and workmen.

4.3 Where the Goods are to be delivered by the Company delivery shall be effected when the Goods arrive at the place specified in the Company's quotation otherwise delivery shall be effected on the date the Company notifies the Customer the Goods are available for collection at the Companies Premises.

4.4 The Company reserves the right to make delivery by instalments and to tender a separate invoice in respect of each instalment.

4.5 Any damage caused to the Goods in transit or to the property of the Customer is the responsibility of the Company's haulier and any claim in respect thereof should be notified to the Company within 3 days of delivery.

4.6 Any delivery date in respect of Goods or completion date in respect of services given is an estimate for the guidance of the Customer and the Company shall be under no liability whether in damages or otherwise for delay in delivery of the whole or any part of the Goods ordered or for delay in completion of the Services arising from any cause whatsoever.

4.7 The Company will be under no obligation to comply with requests by the Customer for postponement of the delivery of the Goods or Services. Where postponement is agreed by the Company in writing the Customer shall if required by the Company pay all costs charges and expenses incurred by the Company including a reasonable charge for storage occasioned thereby.

## 5. CANCELLATION

5.1 The Customer is not permitted to cancel the Contract except with the written consent of a director of the Company.

5.2 Cancellation will only be accepted by the Company on condition that all costs and expenses incurred by the Company up to the time of cancellation and all loss of profits and other loss or damage resulting to the Company by reason of such cancellation will be reimbursed by the Customer to the Company forthwith.

## 6. RISK AND INSURANCE

6.1 Risk of damage to or loss of the Goods shall pass to the Customer:

6.1.1 In the case of Goods to be delivered at the Company's premises at the time when the Company notifies the Customer that the Goods are available for collection; or

6.1.2 In the case of Goods to be delivered otherwise than at the Company's premises, at the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.

6.2 All Goods belonging to the Customer stored at the Company's premises are at the risk of the Customer who will insure the same for their full cost.

6.3 Until the property in the Goods passes to the Customer it shall take all reasonable precautions to protect the Goods from damage or loss and shall insure, the same from the delivery for the full cost thereof against all insured risks.

6.4 If the Goods are destroyed by an insured risk prior to title in them passing to the Customer then the Customer shall receive any proceeds of such insurance as trustee for the Company.

## 7. RESERVATION OF TITLE

7.1 The Goods shall be at the Customer's risk as from delivery.

7.2 In spite of delivery having been made property in the Goods shall not pass from the Company until:

7.2.1 the Customer shall have paid the Price plus VAT in full; and

7.2.2 no other sums whatever shall be due from the Customer to the Company.

7.3 Until property in the Goods passes to the Customer in accordance with clause [7.2] the Customer shall hold title Goods and each of them on a fiduciary basis as bailee for the Company. The Customer shall store the Goods (at no cost to the Company) separately from all other goods in its possession and marked in such a way that they are clearly identified as the Company's property.

7.4 Notwithstanding that the Goods (or any of them) remain the property of the Company the Customer may sell or use the Goods in the ordinary course of the Customer's business at full market value for the account of the Company. Any such sale or dealing shall be a sale or use of the Company's property by the Customer on the Customer's own behalf and the Customer shall deal as principal when making such sales or dealings. Until property in the Goods passes from the Company the entire proceeds of sale or otherwise of the Goods shall be held in trust for the Company and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all funds identified as the Company's money.

7.5 The Company shall be entitled to recover the Price (plus VAT) notwithstanding that property in any of the Goods has not passed from the Company.

7.6 Until such time as property in the Goods passes from the Company the Customer shall upon request deliver up such of the Goods as have not ceased to be in existence or resold to the Company. If the Customer fails to do so the Company may enter upon any premises owned occupied or controlled by the Customer where the Goods are situated and repossess the Goods. On the making of such request the rights of the Customer under clause [7.4] shall cease.

7.7 The Customer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of the Company. Without prejudice to the other rights of the Company, if the Customer does so all sums whatever owing by the Customer to the Company shall forthwith become due and payable.

7.8 The Customer shall insure and keep insured the Goods to the full Price 'against' all risks' to the reasonable satisfaction of the Company until the date that the property in the Goods passes from the Company, and shall whenever requested by the Company produce a copy of the policy of insurance. Without prejudice to the other rights of the Company, if the Customer fails to do so all sums whatever owing by the Customer to the Company shall forthwith become due and payable.

7.9 The Customer shall promptly deliver the prescribed particulars of this contract to the Registrar in accordance with the Companies Act 1985 Part X11 as amended. Without prejudice to the other rights of the Company, if the Customer fails to do so all sums whatever owing by the Customer to the Company shall forthwith become due and payable.

8.1 **IMPORTANT: BECAUSE THE POTENTIAL LOSSES WHICH THE CUSTOMER MIGHT SUFFER AS A**

RESULT OF ANY BREACH OF CONTRACT BY THE COMPANY ARE MORE READILY ASCERTAINABLE BY THE CUSTOMER AND BECAUSE SUCH LOSSES COULD BE WHOLLY DISPROPORTIONATE TO THE PRICE OF THE GOODS OR SERVICES THE PARTIES AGREE THAT THE COMPANY LIMITS ITS LIABILITY IN ACCORDANCE WITH THE FOLLOWING PROVISIONS:

8.1.1 The Company will accept liability as required by law or statute for death or personal injury resulting from the negligence of the Company its employees agents or sub-contractors and/or for any breach on the part of the Company of any undertaking as to title quiet possession and freedom from encumbrance implied by section 12 of the Sale of Goods Act 1979 and/or arising by virtue of Part 1 of the Consumer Protection Act 1987.

8.1.2 The Company will accept liability for direct physical damage to tangible property of the Customer to the extent that it is caused by the negligence of the Company its employees agents or sub-contractors subject only to the exclusions and limitations set out below:

8.1.3 except as provided in 8.1.1 above the liability to the Company for breach of any of the terms warranties obligations and conditions imposed on the Company by the Contract or implied by law or statute howsoever such breach is caused (whether by any negligent act or omission of the Company its employees agents or sub-contractors or otherwise) shall not exceed 100 per cent of the aggregate of the sum paid by the Customer to the company in respect of the Goods and/or Services (excluding VAT);

8.1.4 except as provided in 8.1.1 and 8.1.2 above the Company shall not be liable for the following loss or damage howsoever caused (whether by any negligent act or omission of the Company its employees agents or sub-contractors or otherwise) and even if foreseeable by or in the contemplation of the Company;

8.1.4.1 loss of profits business revenue goodwill or anticipated savings whether sustained by the Customer or any other persons; or

8.1.4.2 special, indirect or consequential loss (other than expenses setup costs or direct physical damage to tangible property of the Customer) whether sustained by the Customer or any other person; or

8.1.4.3 any loss arising from any claim made against the Customer by any other person (except for any claim arising out of a breach of the undertakings implied by section 12 of the Sale of Goods Act 1979)

8.2 If a court finds that any sub clause in the clause falls the requirements of the reasonableness test under the Unfair Contract Terms Act 1977 the Company nevertheless excludes the relevant liability to the extent that the court finds reasonable.

8.3 The Company shall not be liable for any failure in the performance of any of its obligations under the Contract caused by factors outside its control.

## 9. SHORTAGES AND DEFECTS APPARENT ON INSPECTION

9.1 The Customer shall have no right to claim for shortages or defects or, inspection unless:

9.1.1 The Customer inspects the Goods supplied on or within a reasonable time after their arrival at its premises;

9.1.2 A written complaint is sent to the Company within a reasonable time after delivery specifying the shortage or defect

9.1.3 The Company is given every reasonable opportunity it requires to inspect the Goods before any use is made thereof or any alteration or modification is made thereto by the Customer.

9.2 If no complaint is sent to the Company as hereinbefore provided then the Goods shall be deemed to be in all respects in accordance with the contract made and the Customer shall be bound to pay for the Goods accordingly.

9.3 All allegations of total non-delivery of any consignment of the Goods must be made by the Customer in writing to the Company within 10 days of the date of the Company's delivery note or invoice or other notification of despatch or such shorter time limit as may be specified in any condition of the carrier. Failure of the Customer to comply with the provisions of this Sub clause shall render the Customer liable for any temporary or permanent loss of the Goods and all additional costs and expenses of the Company in relation thereto.

## 10. FITNESS

10.1 All expenses and Implied warranties or conditions statutory or otherwise as to the quality or fitness of materials used goods supplied work done services performed or any other matter other than the liabilities expressly accepted are hereby expressly excluded.

10.2 The Company reserves to itself the right to change the specification of the Goods ordered and/or to change the Goods ordered for other Goods provided that the Goods actually supplied shall be reasonably suitable for the purpose for which they are intended by the Customer.

## 11. TERMINATION AND WAIVER

11.1 If the Customer shall make default in or commit a breach of the Contract or any other of his obligations to the Company or if any distress or execution shall be levied upon the Customer's property or assets or if the Customer shall have no reasonable prospect of paying or be unable to pay its debts the amount of the aggregate amount of which exceeds the bankruptcy level (within the meaning of the Insolvency Act 1986 Section 267) or enter into a compromise to the benefit of its creditors or if the Customer shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part 1 of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the Customer shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the Customer or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the Customer or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction) or in the event of default in payment by the Customer in accordance with agreed terms the Company shall be entitled without prejudice to any other right or remedy to stop goods in transit and suspend all further deliveries without notice.

11.2 No relaxation forbearance delay or indulgence by the Company in enforcing any of the terms and conditions herein contained nor the granting of time by the Company shall prejudice affect or restrict the rights and powers of the Company hereunder not shall any waiver by the Company operate as a waiver or any subsequent or continuing breach of such terms and conditions.

11.3 If the Customer fails to make payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:

11.3.1 cancel the Contract or suspend any further deliveries to the Customer,

11.3.2 appropriate any payment made by the Customer to such of the Goods (or the Goods supplied under any other Contract between the Customer and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Customer).

## 12. GENERAL

12.1 The Customer agrees that apart from the express terms contained herein or in the Company's quotation or in any document expressly stipulated to form part of the Contract and to be exempt from the provisions of this Clause no statement or representation has been made by the Company relating to the Goods supplied but if any such statement or representation has been made the Customer warrants that it was understood to be a statement of opinion only and not relied upon.

12.2 Only these conditions apply to Contracts between the Company and the Customer and the Customer agrees to accept and pay for the Goods on the terms hereof. Any documents emanating from the Customer which contain printed standard conditions have been of -11 be sent by the Customer to the Company on the understanding that they appear on the Customer's documents because they are printed thereon but have no legal affect whatever and the Customer waives any rights which the Customer otherwise might have to rely on such conditions.

12.3 Where the expression "the Customer" includes 2 or more persons the obligations and liabilities of the Customer under the terms hereof shall be joint and several and any reference to the Customer shall where the context so admits include a reference to any one of them.

12.4 If the Goods are manufactured or Services supplied in accordance with any design or specification provided or made by the Customer the Customer shall indemnify the Company from and against all Claims costs expenses and liability of any nature in connection with them including any Claim whether actual or alleged that the design or specification infringes the rights of any third party.

12.5 All tools patterns materials drawings specifications and other data provided by the Company shall remain its property and all technical information patentable or unpatentable copyright and registered designs arising from the execution of any orders shall become the property of the Company.

12.6 The Company may sub-contract the performance of the Contract in whole or in part.

12.7 The Contract is between the Company and the Customer and shall not be assignable without the express written consent of the Company.

## 13. LAW AND CONSTRUCTION

13.1 These conditions and any other documents forming part of the Contract between the Company and the Customer shall be governed by the laws of England and the Customer consents to the exclusive Jurisdiction of the English Courts in all matters relating to the Contract except to the extent that the Company invokes the jurisdiction of the Courts or any other County.

13.2 The headings of conditions are for convenience of reference only and shall not affect their interpretation.

13.3 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.

## 14. NOTICE

Any notice given under the Contract shall be in writing and telexed sent by facsimile transmission e-mailed or forwarded by first class per-paid letter post to the receiving party at its business address as last notified in writing to the other party and shall be deemed to have been given on the date of the telex facsimile transmission ore-mail or on the day following that on which the notice was posted.