

HARPER PLANT LTD

SALES SERVICE AND SPARE PARTS

Broughtons Yard, Stockbridge Road, Lopcombe Corner, Wiltshire SP5 1BW

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APPLICATION TO OPEN A CREDIT ACCOUNT

Company Name:	
Address:	
Postcode:	
Tel No:	
Fax No:	
Accounts Email Address :	
Company Registration No:	
Registered Address: (if different from above)	
VAT Registration No:	
Years Trading:	
Bankers Name:	
Address:	
Account No:	
Sort Code:	

TRADE REFERENCES

Name:		Name:	
Address:		Address:	
Tel No:		Tel No:	
Fax No:		Fax No:	

I/We make this application to open a 30 day credit account on the understanding that your credit terms are that the payment is due promptly at the end of the month following the date of invoice and that if credit is granted I/We agree to pay in accordance with these terms and accept your 'Terms and Conditions of Sale' (Terms and Conditions available upon request)

I/We also understand that Harper Plant Ltd reserves the right to charge interest at the rate of 3% per calendar month above the bank base rate on overdue accounts.

Signed:	Date:
Name:	Position:

FOR OFFICE USE ONLY:

PARTS		SERVICE		SALES		CREDIT LIMIT		APPROVED BY	
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PLEASE ATTACH A COPY OF YOUR COMPANY LETTERHEAD WITH THIS APPLICATION

Harper Plant Ltd - TERMS AND CONDITIONS

1. Definitions:-

"Harper Plant Ltd" means Harper Plant Limited

"The Customer" means Harper Plant Ltd.'s customer

2. Acceptance:-

These conditions apply to all orders, estimates and contracts for the supply of any goods and services by Harper Plant Ltd to The Customer and no variation of these conditions is to have any effect unless accepted in writing by Harper Plant Ltd.

3. Health and Safety:-

All goods of whatever description and whether subject to special requirements or to Harper Plant Ltd specification as to their use quality or fitness for any purpose are supplied on condition that The Customer ensures that the directions and advice given by Harper Plant Ltd in its instruction Manuals / documents supplied with the goods are strictly observed and that their contents be specifically drawn to the attention of all their employees.

The Customer shall be solely responsible for providing at its own cost all such safety equipment and for fully equipping the goods to meet the standards for the time being imposed pursuant to the Health and Safety at Work, etc. Act 1974 in the light of The Customer's own particular working conditions, location of equipment and requirements.

4. Warranty:-

Any certificate of warranty which is supplied with the goods is given in addition and not in substitution for the statutory contractual and other legal rights of The Customer.

5. Specification:-

5.1. The quantity, quality and description of and any specification for goods and services shall be those set out in Harper Plant Ltd quotation.

5.2. Harper Plant Ltd reserves the right to alter the specification of any goods without prior reference to The Customer provided that such alteration does not materially reduce the standard of the previous specification.

5.3. All drawings, dimensions and weights provided by Harper Plant Ltd are approximate only and Harper Plant Ltd does not warrant or represent them to be correct.

5.4 No order which has been accepted by Harper Plant Ltd may be cancelled by The Customer except with the agreement in writing of Harper Plant Ltd and on terms that The Customer shall indemnify Harper Plant Ltd in full against all loss (including loss of profits), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Harper Plant Ltd as a result of cancellation.

5.5. Notwithstanding the provisions of Clause 5.4, Harper Plant Ltd will accept returns of standard parts/goods if all the following circumstances can be met:

5.5.1. Harper Plant Ltd has given its prior written express consent to such return of goods;

5.5.2. The Customer is responsible for ensuring that goods are safely returned to Harper Plant Ltd within 14 days of delivery to The Customer or The Customer's agent in saleable condition at no cost to Harper Plant Ltd;

5.5.3. The goods have not been used or tampered with in any way;

5.5.4. The Customer remains liable for all carriage, testing and labour charges if incurred in respect of the goods returned which charges shall be settled within 30 days of the invoice date;

5.5.5. The Customer pays Harper Plant Ltd by way of liquidated damages and as a genuine pre-estimate of loss of profit, twenty per centum (20%) of Harper Plant Ltd invoice value of the goods so returned;

Where the contract is for delivery instalments defects in quality in any delivery shall not be a ground for cancellation of the remainder of the contract.

Illustrations, photographs and advertising matter used by Harper Plant Ltd are for general information only and whilst every effort is made to ensure that technical information is correct, such information shall be deemed to be approximate only and minor deviations there from shall not render Harper Plant Ltd liable in any way to The Customer.

6. Delivery.-

Where a period is named for delivery and is not extended by mutual agreement in writing then Harper Plant Ltd reserves the right to require The Customer to take delivery within that period.

Although Harper Plant Ltd will use its best endeavours to deliver goods at the rate and at the time quoted for delivery, it shall not be liable for any loss or damage arising from its failure to do so. If Harper Plant Ltd is prevented (directly or indirectly) from making delivery of the goods or any part hereof by reason of acts of God, strikes, lockouts, trade disputes, fire, breakdowns, interruption of transport, Government action, or any cause whatsoever (whether or not of the like nature to those specified above) outside its control Harper Plant Ltd shall be under no liability whatsoever to The Customer and shall be entitled at its option (to be notified to The Customer in writing) either to cancel the agreement or to extend the time of its performance.

Harper Plant Ltd shall be entitled to add the reasonable cost of carriage and packaging where it delivers goods and the cost of travel when services are rendered.

Unless Harper Plant Ltd receives from The Customer written notice of a claim for wrong delivery or damage to or loss of goods the subject of delivery within 10 working days of the date of posting of the Delivery

Note then the lack of such written notice shall be conclusively deemed to show acceptance of goods as being delivered fully in accordance with the Delivery Note.

Unless otherwise stated in writing Harper Plant Ltd shall be entitled to make partial deliveries and to determine the route and manner of delivery of the goods and shall for the purpose of Section 32 (2) of the Sale of Goods Act 1979 to be deemed to have The Customer's authority to make such contract with any carrier as to Harper Plant Ltd shall seem reasonable.

7. Liability and Indemnity:-

Harper Plant Ltd shall not be liable to The Customer and The Customer shall indemnify Harper Plant Ltd from and against all actions, costs, claims and demands of whatever nature made against Harper Plant Ltd for any loss and damage including consequential loss or damage caused:

7.1. By the failure of The Customer or its employees to observe the directions and advice given by Harper Plant Ltd in their instruction manuals, documentation or otherwise in relation to any goods supplied;

7.2. By any defect arising out of the use of or in the quality of any goods supplied or in such goods not being fit for any purpose unless such use was qualified or fitness for purpose was indicated in Harper Plant Ltd specifications for goods of their description;

7.3. By any failure of the goods supplied to accord with any recommendation of Harper Plant Ltd made in good faith but not contained in Harper Plant Ltd specifications:

7.4. By any defect or deficiency in the goods where the failure of The Customer to comply with the conditions for acceptance and delivery contained in Clause 5 - Specification hereof has prevented a proper verification and proof of such defect or deficiency.

7.5. By the use of any goods otherwise than within the stated capacity of the same as stated in the Harper Plant Ltd specification or by the lack of proper maintenance of the goods after delivery or the failure to provide safety equipment in accordance with Clause 3 - Health and Safety

7.6. Harper Plant Ltd shall not be liable to The Customer or deemed to be in breach of the contract by reason of any delay in performing or any failing to perform any of Harper Plant Ltd obligations in relation to the goods and services if the delay or failure was due to any cause beyond Harper Plant's Ltd reasonable control. Without prejudice to the generality of the foregoing the following should be regarded as causes beyond Harper Plant's Ltd reasonable control.

7.6.1. Act of God, war, threat of war, explosion, flood, tempest, fire, accident, insurrection, sabotage, civil disturbance or requisition. Also, strikes, lockouts or other industrial actions or trade disputes whether involving employees of Harper Plant Ltd or of a third party;

7.6.2. Acts, restrictions, bylaws, prohibitions or measures of any kind on the part of any government or parliamentary or local authority, import or export regulations or embargo;

7.6.3. Difficulties in obtaining raw materials, labour, fuel, parts of machinery, power failure or breakdown machinery;

Whilst the officers and employees of Harper Plant Ltd will give such advice or technical assistance as may be necessary to customers of Harper Plant Ltd, Harper Plant Ltd shall not be liable for any loss or damage arising from any reliance on such advice unless such advice is given in writing and signed by a Director of Harper Plant Ltd.

8. Risk:-

Risk in the goods supplied shall pass on delivery unless specified in the contract.

9. Property.

9.1. The Customer will not own the goods even though risk in the goods has passed in accordance with Clause 8 - Risk until one of the following events occurs:-

9.1.1. Harper Plant Ltd is paid in full for the goods and no other amounts are outstanding from The Customer to Harper Plant Ltd in respect of other goods supplied to The Customer by Harper Plant Ltd;

9.1.2. The Customer sells the goods in accordance with this agreement in which case ownership of the goods will pass to The Customer immediately before the goods are delivered to The Customer's buyer;

9.1.3. Harper Plant Ltd waives its right under this Clause in respect of specified goods whereupon ownership of Those goods will vest immediately in The Customer;

9.2. Before title has passed to The Customer under the terms of Clause 2 - General Provisions and without prejudice to any of its other rights Harper Plant Ltd shall have the right to recover and resell the goods or any of them and may at any time enter upon The Customer's premises by its servants or agents for that purpose.

9.3. As the insurable risk in the goods shall pass to The Customer as soon as the goods are delivered to him or to his order and pending disposal The Customer shall keep the goods insured in the amount of the price at which the goods are sold to The Customer against all insurable risks.

9.4. If goods are destroyed by an insured risk prior to the same being paid for by The Customer, The Customer shall receive the proceeds of the insurance as trustees for Harper Plant Ltd.

10. Prices.

The price for the goods and/or services shall be as quoted or in accordance with the Harper Plant Ltd price list at the time of delivery in the event of no quotation being given. Harper Plant Ltd reserves the right to increase the price for all or any part of the goods and/or services that are to be supplied under contract to reflect any increase in the cost to Harper Plant Ltd. Further, Harper Plant Ltd shall be entitled to request a deposit.

The price is exclusive of any VAT which The Customer shall be additionally liable to pay to Harper Plant Ltd.

11. Payment-

All invoices shall be paid within 30 days of the invoice date unless otherwise mutually agreed with The Customer.

If The Customer fails to make payment on the due date then without prejudice to any other right or remedy available to Harper Plant Ltd, Harper Plant Ltd shall be entitled to:-

11.1. Cancel the contract or suspend any further services to The Customer;

11.2. Charge The Customer interest on the amount unpaid at the rate of 3% per annum above the base lending rate of HSBC Bank Plc from time to time until payment is made in full;

11.3. Charge The Customer all costs incurred by Harper Plant Ltd in recovering or perusing any overdue accounts irrespective of whether proceedings have been commenced.

Harper Plant Ltd shall have a general lien on all goods and property of The Customer in the possession of Harper Plant Ltd in respect of all sums due from The Customer to Harper Plant Ltd but unpaid and Harper Plant Ltd shall be entitled on giving 14 working days' notice in writing to The Customer to dispose of such goods or property and to apply the proceeds thereof towards reduction of such debt.

In the event of there being any monies due from Harper Plant Ltd to The Customer at any time on any account whatsoever then notwithstanding any rule of law or course of practice or contract to the contrary any right which The Customer might have against Harper Plant Ltd to set off sums so due or claimed as due from Harper Plant Ltd to The Customer against the purchase price of the goods and/or services is hereby excluded.

12. Proper Law and General Provisions-

The contract shall be construed and governed in all aspects by English Law and, unless expressly acknowledged in writing in Harper Plant Ltd acceptance of the order, goods shall not be required to comply with any provisions of any other law. All disputes arising under or relating to the contract shall be subject to the jurisdiction of the Courts of England

Any notice required or permitted to be given by the other party to the other under these conditions shall be in writing addresses to that other party at its registered office or principle place of business or such other addresses may at the relevant time have been notified pursuant to this provision to the party giving the notice.

No waiver by Harper Plant Ltd of any breach of the contract by the customer shall be construed as a waiver of any subsequent breach of the same or any other provision.