

# Open an account with us - it's easy

## Account application form

Salesman opening account:

Please be aware information contained within this form will be forwarded to our credit agency, as a matter of procedure the agency often make contact with new accounts before credit is granted.

Account type required: Full credit  Cash only

Full registered trading name:

Contact person for accounts:  How long has your business been trading under this name?

Company number, imperative if LTD company

How much total credit is required at any one time? £2500  other please state:

Company type: Sole trader  Limited  Partnership

Has any proprietor or director been associated with a business that has failed during the last 5 years or been unable to discharge it's debts? Yes  No

Does the business have any preferential creditors? If so, to whom and to what value?

### Company address

Address   
Address   
Town   
County   
Postcode   
Telephone   
Fax   
Email   
Mobile

### Who recommended you to us?

Is an order reference mandatory?   
Who can sign for goods on this account?  
*with order number:*  
  
  
  
*with written PO:*

I ("the under signed") agree that all transactions of sale entered into by my company (known as "The customer") shall be subject to DW Burns & Partner LTD "terms and conditions of sale" which I have read, understood and agree to. I have answered all questions on this application form truly and fully. I hereby, personally guarantee payment in respect of all sums due from my company ("The Customer") to DW Burns & Partner LTD. I have retained a copy of this form for my records.

Signature of Director/  
Proprietor

Date

Full Name

Position

Please submit a copy of your company letterhead along with this application form.  
If you are not a limited company please submit copies of 2 utility bills ie gas, electricity, phone.

**Woking Merchants & Head Office**  
Royden House  
Triggs Lane, Woking  
Surrey GU21 7PL  
Tel: 01483 714265  
Fax: 01483 750942

**Farnham Merchants**  
Unit 9C  
Farnham Trading Estate,  
Farnham, Surrey GU9 9NN  
Tel: 01252 726321  
Fax: 01252 737807

**DWBurns Showroom**  
Unit 12A, Lansbury Estate  
Lower Guildford Road, Knaphill  
Woking Surrey GU21 2EP  
Tel: 01483 522288  
Fax: 01483 522299

# BURNS

TERMS AND CONDITIONS OF BUSINESS  
D. W. BURNS & PARTNER LIMITED

**1.1** In these Conditions the following words have the following meaning:

Account Customers: a person(s), firm or company or partnership having an account with the Seller the Buyer: the person(s), firm or company who purchases the Goods from the Seller;

the Goods: any goods agreed in the Order to be supplied to the Buyer by the Seller;

the Order: any order made by the Buyer to the Seller for the sale and purchase of the Goods incorporating these Conditions;

the Seller: D.W. Burns & Partner Limited.

**1.2** These Conditions govern any Order between the Seller and the Buyer and shall prevail over any terms put forward by the Buyer (including any terms or conditions which the Buyer purports to apply under any purchase Order, confirmation of Order, specification or other document), unless the Seller expressly agrees in writing to incorporate any terms varying these terms and conditions. No conduct of the Seller shall be deemed to constitute acceptance of any terms put forward by the Buyer.

**1.3** For the avoidance of doubt no employee or agent of the Seller has authority to vary these terms orally and no addition to or variation of these terms and conditions is binding on the Seller unless agreed in writing signed on the Seller's behalf by a Director of the Seller Company.

**2.1** A quotation given by the Seller shall not:

**2.1.1** Constitute an offer by the Seller; or

**2.1.2** Bind the Seller to deliver any Goods at the price quoted or at all.

**2.2** The price of all Goods supplied will be that prevailing on the day of delivery save as otherwise agreed in writing by the Seller.

**2.3** Unless otherwise specified any price given to the Buyer by the Seller excludes delivery charges and value added tax.

**2.4** At any time prior to delivery the Seller shall be entitled to refuse to deliver any Goods ordered by the Buyer without being obliged to give any reasons therefore and without liability for any loss occasioned by the Buyer whether loss of profit or otherwise and whether caused directly or indirectly by the Seller's decision to refuse delivery

**3.1** The Seller may in respect of any Goods ordered by the Buyer require the payment of a deposit which will only be returned to the Buyer if the Seller is unable or unwilling to supply the items ordered and no part of any deposit paid will be refunded if prior to delivery the Order is cancelled by the Buyer

**3.2** Buyers who do not have a credit account facility agreed with the Seller will be charged a minimum deposit of 25% on all Orders. This deposit is non-refundable but may be returned to such Buyer if the Seller is unable or unwilling to supply the items but not otherwise.

**3.3** The Buyer cannot cancel an Order once it has been accepted by the Seller, save with the Seller's express and written agreement.

**4.1** Unless otherwise agreed payments terms are cleared funds in the Seller's possession prior to delivery.

**4.2.1** Credit account Customers' invoices are due for payment by the last day of the month following the date of the invoice (the 'invoice date')

**4.2.2** Credit account Customers are required to settle all balances in excess of credit limits agreed in writing with the Seller forthwith and if any terms of the credit account are exceeded to repay the whole of the balance then outstanding immediately upon demand.

**4.3** No payment shall be deemed to have been received until the Seller has received cleared funds.

**4.4** All payments payable to the Seller under the Order shall become due immediately upon termination of this Order despite any other provision.

**4.5** The Buyer shall make all payments due under the Order without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Seller to the Buyer.

**4.6** Any monies due from the Buyer after the due date shall attract a charge of interest at the rate of 8% above base rate per month until payment.

**4.7** The Seller reserves the right to withhold delivery of any Goods ordered by the Buyer in the event of non-payment of any invoice by the due date or where the Buyer exceeds a credit limit which has been agreed with the Seller and to charge the Buyer a cancellation fee equivalent to not less than 25% per centum of the Agreed price for the Good but up to the full value of the agreed price for the goods at the Sellers option

**5.1** Unless otherwise specified the place of delivery is the Seller's premises.

**5.2** Time shall not be of the essence for delivery and dates are given in good faith as an estimate only of the approximate time of delivery. If no dates are specified, delivery will be within a reasonable time.

**5.3** Subject to the other provisions of these Conditions the Seller will not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, loss of profits, loss of business, depletion of goodwill and like loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Seller's negligence), nor will any delay entitle the Buyer to terminate or rescind the Order unless such delay exceeds 180 days.

**5.4** Risk in the Goods shall pass upon delivery.

**5.5** The Buyer agrees to carefully inspect all Goods at the point of delivery and the signing of a delivery note by or for and on behalf of the Buyer shall constitute acceptance that the Goods have been delivered complete as listed on the delivery note and are in good Order and the Seller's liability (if any) shall be limited to defects not immediately apparent on inspection provided that such defects have been notified to the Seller within two working days following the day of delivery or are of the nature and type that could not be detected by visual inspection given the nature and type of Goods supplied and taking into account the Conditions applicable to the supply of the Goods

**5.6** In the event of a date for delivery having been agreed between the parties and the Seller being in a position to despatch Goods ordered by the Buyer but not receiving notification of the place of delivery within 48 hours of advising the Buyer that the Seller is ready willing and able to deliver:

**5.6.1** the Seller may charge the Buyer a storage fee of no less than £5 per day until delivery

**5.6.2** risk in the Goods will pass to the Buyer (including for loss or damage caused by the Seller's negligence); and

**5.6.3** the Goods will be deemed to have been delivered.

**6.1** All Goods are supplied as being in accordance with the manufacturer's specification and the Seller gives no further or other warranty as to the merchantable quality or the fitness for the purpose of the Goods and the Buyer agrees that in selecting the Goods no reliance has been placed upon the opinion (if any) expressed by the Seller as to the suitability of the Goods for any proposed use.

**6.2** If any Goods prove not to comply with the manufacturer's specification as notified to the Buyer prior to the date of delivery then the Buyer will afford the Seller (at the Seller's option) a reasonable opportunity to inspect the Goods either on site or at the Seller's premises and if considered appropriate by the Seller to allow the Seller a reasonable opportunity to carry out any works necessary to bring the Goods up to the said specification

**6.3** It shall be the obligation of the Buyer to comply in all respects

with the manufacturer's and/or Supplier's written instructions for the installation of any Goods supplied and the Seller's liability for defects is reduced to the extent the Buyer's failure to so comply is the cause of any defect in the Goods supplied and if appropriate to the value thereof

**6.4** Subject to Condition 6.1 above, the following provisions sets out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

**6.4.1** any breach of these Conditions; and

**6.4.2** any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

**6.5** All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Order.

**6.6** Nothing in these Conditions excludes or limits the liability of the Seller for death or personal injury caused by the Seller's negligence or fraudulent misrepresentation.

**6.7** Subject to conditions 6.5 and 6.6:

**6.7.1** the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Order shall be limited to the total value of the Goods; and

**6.7.2** the Seller shall not be liable to the Buyer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Order.

**7.1** Title to any Goods supplied shall remain with the Seller until payment in full for all Goods supplied to the Buyer has been received by the Seller in compliance with these Conditions or until such time as the Buyer sells the Goods to its customers at full market value

**7.2** If any payment is overdue in whole or in part the Seller may (without prejudice to any of its other rights) recover or resell the Goods or any part of them and for this purpose is authorised by the Buyer to enter upon any premises of the Buyer by its servants or agents or by any persons duly authorised by the Seller.

**7.3** Until ownership of the Goods has passed to the Buyer, the Buyer must:

**7.3.1** hold the Goods on a fiduciary basis as the Seller's bailee;

**7.3.2** store the Goods (at no cost to the Seller) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Seller's property;

**7.3.3** not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

**7.3.4** maintain the Goods in satisfactory condition and keep them insured on the Seller's behalf for their full price against all risks to the reasonable satisfaction of the Seller. On request the Buyer shall produce the policy of insurance to the Seller; and

**7.3.5** where Goods are obtained from the Seller for the specific purpose of a resale as aforesaid, then the Buyer shall:

**7.3.5.1** keep the Goods separate from all other Goods held by the Buyer; and

**7.3.5.2** shall keep the proceeds of sale of any such Goods in a separate account and provide the Seller with full details of the same at the Seller's request.

**7.4** Any sums due from the Buyer whether overdue for payment or not shall become due for payment immediately in the event that the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into

liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer.

**7.5** If any of the Goods supplied by the Seller to the Buyer are incorporated in or used as an addition to other Goods not supplied by the Seller before payment in full as aforesaid the property in the whole of such Goods, so far as the law allows, shall be and remain with the Seller until full payment has been received and all the Seller's right pursuant these Conditions shall extend to those other goods.

**7.6** Any claims that the Buyer may have against any sub-buyer are hereby expressly assigned to the Seller for the purposes of payment for the Goods remaining unpaid and due to the Seller.

**8.1** The Seller reserves the right to defer the date of delivery or to cancel the Order or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Seller including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials. Provided that, if the event in question continues for a continuous period in excess of 30 days, the Buyer shall be entitled to give notice in writing to the Seller to terminate the Order.

**9.1** All communications between the parties about this Order must be in writing and delivered by hand or sent by pre-paid first class post or sent by facsimile transmission to the address of each party as set out in any document which forms part of this Order or such other address as shall be notified in writing to one party by the other.

**9.2** Communications shall be deemed to have been received:

**9.2.1** if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);

**9.2.2** if delivered by hand, on the day of delivery;

**9.2.3** if sent by facsimile transmission on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

**10.1** These Conditions are not intended to be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to them.

**10.2** If any term or provision hereof shall be held to be illegal or unenforceable in whole or in part, under any enactment or rule of law, such term or provision shall to that extent be deemed not to form part of these Conditions but the validity and enforceability of the remainder thereof shall not be affected.

**10.3** The waiver or forbearance or the failure of the Seller in insisting in any one or more instances upon the performance of any provisions of these Conditions shall not be construed as a waiver or relinquishment of the Seller's rights to insist upon the future performance of such provisions and the Buyer's obligations in respect thereof shall continue in full force and effect.

**10.4** The Buyer shall not be entitled to assign the Order or any part of it without the prior written consent of the Seller.

**10.5** The formation, existence, construction, performance, validity and all aspects of the Order shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.