MALONEY'S
PLUMBING & HEATING MERCHANTS

www.maloneys.co.uk

APPLICATION FOR CREDIT FACILITIES

Please tick which is applicable : Ltd. Co. ❑ Partnership ❑ Sole Trader ❑

Please complete fully, using capitals and black ink. A sample letter heading or compliment slip should be attached.

Once form is completed please return to: Maloney's, Unit 5, Epsom Business Park, Kiln Lane, Epsom, Surrey KT17 1JF

COMPANY NAME :

TRADING ADDRESS & POSTCODE :

PHONE NO :
FAX NO :
MOBILE NO :
EMAIL :

REG. OFFICE IF DIFFERENT :

COMPANY REG. NO :

VAT REG. NO :

NATURE OF BUSINESS :

INCORPORATION DATE :

CONTACT NAME :

DIRECTORS FULL NAMES & ADDRESSES :
1. 2. 3.

NAME & ADDRESS OF BANK :

ACCOUNT NO :

SORT CODE :

PLEASE PROVIDE THE NAMES OF TWO TRADE REFERENCES :

1.

2.

APPROXIMATE MONTHLY EXPENDITURE EXPECTED :

PLEASE INDICATE WITH A TICK THE TYPE OF MATERIALS YOU ARE LIKELY TO BUY FROM US:

BUILDING : ❑ PLUMBING : ❑ DECORATING : ❑ ELECTRICAL : ❑ HEATING : ❑

PLEASE INDICATE HOW YOU WERE REFERRED TO US :

We understand and agree that should credit facilities be granted, your terms and conditions for sale require settlement during the month following the date of invoice, and we understand and agree to the 'terms and conditions for sale' generally as set out on the reverse of this form. All trade with you will be subject to these 'terms and conditions of sale'

Data Protection
We may make a search with a credit reference agency, who will keep a record of that search and will share with others. We may also make enquiries about the principal director with a credit reference agency. Your signature below gives us the authorisation to do so.

SIGNED : PRINT NAME : DATE :

OFFICE USE ONLY

BANK REF : YES/NO
SEARCH COMPLETED : YES/NO
Trade Terms Applicable (House Account) 1. 2. 3.
Trade Terms Applicable (Rep's Account) 1. 2. 3.

TRADE REF : YES/NO
CREDIT AMOUNT AUTHORISED :

AUTHORISED BY : DATE AUTHORISED : ACCOUNT NO ALLOCATED :

VAT No. 697 614 190

MALONEY'S LIMITED – TERMS AND CONDITIONS OF SALE

1. Definitions

In these conditions of sale the following meanings shall apply "we" and "us" means Maloney's Limited. "You" means the person seeking to purchase goods from us. "The Goods" means the goods or where the context permits the services to be supplied by us. "Consumer" means a consumer as defined by the Unfair Contract Terms Act 1977 or the Unfair Terms in Consumer Contracts Regulations 1994. "The defect" means the condition and/or any attribute of the goods and/or any other circumstances which but for the effect of these Terms would have entitled you to damages. "The terms" means the terms as set out in this document and any special terms agreed in writing between us and you. "The Contract" means the contract for the supply of goods incorporating these terms. If you deal as a consumer any provision of these terms which is of no effect shall not apply. The statutory rights of consumers are not affected by these terms.

2. The Contract

2.1 All orders are accepted by us only under these terms and they may not be altered other than with our written agreement. Any contrary or additional terms unless so agreed are excluded.

2.2 Quotations are invitations to treat only and shall lapse 7 days from their date.

2.3 Orders may be cancelled only with our written agreement and you will indemnity us against all costs, claims, losses or expenses incurred as a result of that cancellation.

2.4 You shall be responsible to us for ensuring the accuracy of the terms of any order including any applicable design drawing or specification provided to us by you and for giving us any necessary information relating to the goods within a sufficient time to enable us to perform the contract in accordance with its terms.

2.5 We shall not be liable in respect of any misrepresentation made by us, our servants or agents to you, your or agents as to the conditions of the goods, their fitness for any purpose or as to quantity or measurements unless the representation is:

2.5.1.1 Made or confirmed in writing by us and/or

2.5.1.2 Fraudulent.

2.5.2 Without prejudice to clause 2.5.1 of these terms, while we take every precaution in the preparation of our catalogues, technical circulars, price lists and other literature, these documents are for your general guidance only and statements made therein (in the absence of fraud on our part) shall not constitute representations by us and we shall not be bound by them. If you require advice in relation to the goods a specific request for advice should be made. Any advice made or confirmed in writing in response to such a request shall amount to a representation and we shall be liable accordingly.

2.5.3 For the avoidance of doubt if you are not dealing as a consumer our liability for damages for misrepresentation (other than fraudulent) is excluded or limited by clause 8 of these terms. The statutory rights of a consumer are not affected by these terms.

3. Price

3.1a) The price of the goods shall be as published on our price list current at the date of acceptance of order. The price is exclusive of VAT which shall be due at the rate ruling on the date of a VAT invoice.

3.1b) Our quotations and prices are based on costs prevailing at the time when they are given or agreed. We shall be entitled to adjust the price of the goods as at the time of delivery by such amount as may be necessary to cover any increase sustained by us after the date of acceptance of your order and any direct or indirect costs of making, obtaining, handling or supplying the goods.

3.2 Our quotations are based on prices applicable to the quantity specified. In the event of orders being placed for lesser quantities we shall be entitled to adjust the price of the goods as ordered to take account of the variation in quantity.

4. Payment

4.1 Unless the sale is for cash or other credit terms have been agreed in writing all accounts are due for payment on the last day of the month following the month in which the goods are invoiced.

4.2 Invoices which we issue are deemed to have been accepted and agreed for payment by us unless we are notified otherwise within seven days of the invoice date.

4.3 We reserve the right to refuse to execute any order or contract if the arrangements for payment or the customer's credit are not satisfactory to us, or specifically if the credit limit which has been set on the customer account is exceeded, and in our sole discretion we may require payment for each consignment when it is available and before it is despatched, in which case delivery will not be effected until we are in receipt of cleared funds.

4.4 In the case of short delivery you will remain liable to pay the full invoice price of all goods delivered or available for delivery.

4.5 You may not withhold payment of any invoice or other amount due to us by reason of any right of set off or counterclaim which you may have or allege to have for any reason whatsoever.

4.6 We shall be entitled at all times to set off any debt or claim of whatever nature which we may have against you against any sums due by us to you.

5. Delivery

5.1 Delivery will be effected when the goods leave our premises or the premises of our supplier when the goods are delivered direct from suppliers.

5.2 Delivery dates are given in good faith but are estimates only.

5.3 Time for delivery shall not be of the essence of the contract.

5.4 For the avoidance of doubt and without derogation from any other provisions of these terms we shall not be liable for any damages whatsoever whether direct or consequential (including for the avoidance of doubt any liability to a third party) resulting from any delay in delivery of the goods or failure to deliver the goods in a reasonable time whether such delay or failure is caused by our negligence or otherwise howsoever.

5.5 We reserve the right to make delivery by instalments and tender a separate invoice in respect of each instalment. Our failure to deliver any one or more instalments or any claim by you in respect of any one or more instalments shall not entitle you to treat the Contract as a whole as repudiated.

5.6 Unless otherwise stated all quotations and estimates assume delivery in full loads. We reserve the right to levy additional charges for deliveries by instalments where requested by you.

5.7 The price agreed includes the cost of delivery on weekdays and Saturday mornings during normal working hours. An additional charge will be made if we agree to your request to deliver outside normal working hours, Saturday afternoons, Sundays and/or Bank Holidays.

5.8 You must provide the necessary labour for unloading the goods and unloading is to be completed with reasonable speed. If our delivery vehicle is kept waiting for an unreasonable time or is obliged to return without completing delivery or if we provide additional staff to unload goods or if for any reason you fail to accept delivery of the goods an additional charge will be made.

5.9 We shall deliver the goods as near as possible to the delivery address as a safe hard road permits. We reserve the right to refuse to deliver the goods to premises considered in the discretion of the driver to be unsuitable.

5.10 If goods are to be deposited on your private premises or on any other premises as you instruct, you shall be responsible for compliance with all regulations and for all steps which need to be taken for the protection at all times of persons or property and will indemnity us in respect of all costs, claims, losses or expenses which may be incurred as a result of such delivery, whether caused directly by our vehicle or employees or not, and whether on the public highway or elsewhere.

6. Inspection and Returns

6.1 You shall inspect the goods at the place and time of unloading but nothing in these terms shall require you to break packaging and/or unpack goods which are intended to be stored before use. Goods supplied may differ in non-material respects from those advertised in the supplier's catalogue or other promotional material.

6.2.1 You must give us written notice within two working days of unloading of any claim for short delivery.

6.2.2 If you do not give us that notice within that time the goods will be deemed to have been delivered in the quantities shown in the delivery documents.

6.2.3 You shall not be entitled and irrevocably and unconditionally waive any right to reject the goods or claim any damages whatsoever for short delivery howsoever caused.

6.2.4 Our liability for short delivery is limited to making good the shortage.

6.3.1 Where it is or would have been apparent on a reasonable inspection that the goods are not in conformity with the contract or (where the contract is a contract for sale by sample) that the bulk does not compare with the sample you must give us written notice within two working days.

6.3.2 If you are not a consumer and you fail to give us that notice within that time the goods will be deemed to have been accepted and you shall not be entitled and irrevocably and unconditionally waive any right to reject the goods.

6.3.3 If you are not a consumer and you fail to give us that notice within that time clause 8.7 shall have effect.

6.3.4 Credit will be given for returns which are received back by us within 7 days of the date of invoice, provided that the goods are in a condition fit for resale or provided that we accept responsibility for the damaged or otherwise unsatisfactory state of the goods. Credit will not be allowed if the goods have been soiled, damaged or fitted in any way since the time of sale. Returns will only be accepted if the correct invoice number relating to the sale of the goods is supplied. We reserve the right to levy a handling charge of 10% on goods returned directly to us and 15% in cases where goods are returned to us and we are involved in their collection from the customer or any other place.

7. Title and Risk

7.1 Risk in the goods shall pass to you when the goods are delivered.

7.2 The property in the goods shall remain with us until you pay all sums due to us whether in respect of this contract or otherwise.

7.3 Until title passes:

7.3.1 You shall hold the goods as our fiduciary agent and bailee.

7.3.2 The goods shall be stored separately from any other goods and you shall not interfere with any identification mark, labels, batch numbers or serial numbers on the goods.

7.3.3 We agree that you may use or agree to sell the goods as principal and not as our agents in the ordinary course of your business subject to the express condition that at our discretion the entire proceeds of any sale or insurance proceeds received in respect of the goods are held in trust for us and not mixed with any other monies or paid into an overdrawn bank account and shall at all times be identifiable as our money.

7.4 We shall be entitled to recover the price of the goods including VAT even though the property in any of the goods remains with us.

7.5 We shall be entitled at any time to recover any or all of the goods in your possession to which we have title and for that purpose we, our servants or agents may with such transport as is necessary enter upon any premises occupied by you or to which you have access and where the goods may be or are believed to be situated.

8. Liabilities

8.1 Nothing in these terms shall exclude or restrict our liability for death or personal injury resulting from our negligence or our liability for fraudulent misrepresentation.

8.2 We are willing to undertake liability in addition to that provided by these terms if a higher selling price for the goods is agreed.

8.3 If you deal as a consumer any provision of these terms which is of no effect shall not apply. The statutory rights of a consumer are not affected by these terms.

8.4 Subject to clauses 8.1 to 8.3 of these Terms we shall not be liable by reason of any misrepresentation (unless fraudulent) or any breach of warranty, condition or other term express or implied or any breach of duty (common law or statutory) or negligence for any damages whatsoever. Instead of liability in damages we undertake liability under clause 8.5 below.

8.5 Where but for the effect of clause 8.4 of these terms you would have been entitled to damages against us we shall not be liable to pay damages but subject to the conditions set out in clause 8.6 below shall in our sole discretion either repair the goods at our own expense or supply replacement goods free of charge or refund all (or where appropriate part) of the price paid for the relevant goods.

8.6 We will not be liable under clause 8.5:

8.6.1 If the defect arises from fair wear and tear.

8.6.2 If the defect arises from wilful damage, negligence, abnormal working conditions, mis-use, alteration or repair of the goods, failure to follow British Standard or industry instructions relevant to the goods or storage of the goods in unsuitable conditions (but this sub-clause shall not apply to any act or omission on our part).

8.6.3 Unless after discovery of the defect we are given a reasonable opportunity to inspect the goods before they are used or in any way interfered with. For the avoidance of doubt we acknowledge that the costs of suspending works are relevant to the determination of what is a reasonable opportunity and this sub-clause shall not apply to any works affecting the goods which it may be reasonably necessary to carry out in the interests of safety and/or as emergency measures.

8.7 Subject to clauses 8.1 to 8.3 of these terms we shall not be liable by reason of any misrepresentation (unless fraudulent) or any breach of warranty, condition or other term express or implied or any breach of duty (common law or statutory) or negligence for any damage whatsoever (if notwithstanding clause 8.4 of these terms you are entitled to recover any) nor shall we be liable under clause 8.5 of these terms unless:

8.7.1 If the defect would have been apparent on a reasonable inspection under clause 6.1 of these terms at the time of unloading, written notice of any claim is given to us within 2 working days of the time of unloading or in any other case

8.7.2 The defect is discovered within one month from the date of delivery and we are given written notice of the defect within two working days of it being discovered.

8.8 If the goods are not manufactured by us or have been processed or milled by a third party whether or not at our or your request our liability in respect of any defect in workmanship or materials of the goods will be limited to such rights against the manufacturer or the third party as we may have in respect of those goods. We will on written request provide details of our rights against the manufacturer or third party and any other terms and conditions imposed by the manufacturer or the third party and so far as possible will on request assign to you any such rights.

8.9 If the goods are manufactured, processed or milled by us to the design, quantity, measurement or specification of you or your agents then:

8.9.1 Subject to clauses 8.1 to 8.3 of these terms we shall not be under any liability for damages whatsoever or under clause 8.5 of the terms as the case may be except in the event of:

8.9.1.1 Fraudulent misrepresentations

8.9.1.2 Misrepresentation where the representation was made or confirmed in writing

8.9.1.3 Non-compliance with such design, quantity, measurement or specification

8.9.1.4 Breach of written warranty by us that the goods are fit for that purpose or

8.9.1.5 A claim maintainable against us pursuant to clause 8.1 or 8.3 of these term

8.9.2 You will unconditionally fully and effectively indemnity us against all loss, damages, costs on an indemnity basis and expenses awarded against or incurred by us in connection with or paid or agreed to be paid by us in settlement of any claim for infringement of any patents, copyright, design, trademark or any other industrial or intellectual property rights of any other person.

8.9.3 You will further unconditionally fully and effectively indemnity us against all loss, damages, costs on an indemnity basis and expenses awarded against or incurred by us in connection with or paid or agreed to be paid by us in settlement of any other claim arising from any such manufacturing, processing or milling including but not limited to any defect in the goods. This indemnity will be reduced in proportion to the extent that such loss, damage, costs and expenses are due to our negligence.

8.10 If you are not dealing as a consumer you will unconditionally fully and effectively indemnity us against all loss, damages, costs on an indemnity basis and expenses awarded against or incurred by us in connection with or paid or agreed to be paid by us in settlement of any claim by any third party arising from the supply or use of the goods including loss arising from our negligence.

8.11 Without prejudice to any other provisions in these terms in any event our total liability for any one claim or for the total of all claims arising from any one act of default on our part (whether arising from our negligence or otherwise) shall not exceed the purchase price of the goods the subject matter of any claim or such greater figure as is from time to time the limit of liability laid down by our insurers in respect of any such claim.

9. Non-Payment / Insolvency

9.1 "Insolvency" means you becoming unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986; the levying or the threat of execution or distress on any of your property; the appointment of a receiver or administrative receiver over all or any part of your property; a proposal for a voluntary arrangement or compromise between you and your creditors whether pursuant to the Insolvency Act 1986 or otherwise; the passing of a resolution for voluntary winding up or summoning a meeting to pass such a resolution otherwise than for the purpose of a bona fide amalgamation or reconstruction; the presentation of a petition for your winding up or for an administration order in relation to you; if you suffer any analogous step or proceedings under foreign law or you ceasing or threatening to cease to carry on your business.

9.2 If you fail to pay the price of any goods on the due date or you become insolvent or if you are a limited company or partnership there is a material change in your constitution or you commit a material breach of this contract and fail to remedy that breach all sums outstanding between you and us shall become immediately payable and we shall be entitled to do any one or more of the following (without prejudice to any other right or remedy we may have):

9.2.1 Require payment in cleared funds in advance of further deliveries.

9.2.2 Cancel or suspend any further deliveries to you under any contract without liability on our part.

9.2.3 Charge interest on the balance of monies outstanding at the rate of 4% above the Lloyds Bank PLC base rate in force from time to time from the date the payment became due until actual payment is made after as well as before judgement.

9.2.4 Recover the cost from you of any bank charges which we incur in obtaining payment from you.

9.2.5 Recover the cost from you of any legal and professional costs and expenses which we incur in collecting payments which are due from you.

9.2.6 Payments made on account of this total amounts due to us by you, will be allocated first against the invoices which are the most due for payment.

9.2.7 Without prejudice to the generality of clause 7 of these terms exercise any of our rights pursuant to that clause.

10. General

10.1 This contract shall be governed and interpreted exclusively according to the law of England.

10.2 We shall not be liable for any delay or failure to perform any of our obligations in relation to the goods due to any cause beyond our reasonable control including industrial action.

10.3 The waiver by us of any breach or default of these terms shall not be construed as a continued waiver of that breach nor as a waiver of any subsequent breach of the same or any other provision.

10.4 If any clause or sub-clause of these terms is held by a competent authority to be invalid or unenforceable the validity of the other clauses and sub-clauses of these terms shall not be affected and they shall remain in full force and effect.

10.5 Headings to these conditions are included to facilitate reference only and should not affect the construction thereof.

10.6 Health and Safety information relevant to the goods is available on request.

11. Data Protection

11.1 The Company shall process all personal data in accordance with the UK General Data Protection Regulation ("UK GDPR"), the Data Protection Act 2018 and any other applicable data protection legislation.

11.2 The Company may collect, store and process personal data provided by Customers, including contact details, delivery addresses, account information, purchase history and payment-related information, for the purposes of:

- administering customer accounts;
- processing and delivering orders;
- managing credit facilities and debt recovery;
- providing after-sales support and warranty services;
- complying with legal and regulatory obligations; and
- maintaining legitimate business records.
- we may share information with our bank or finance provider.

11.3 The Company shall only retain personal data for as long as is necessary for the purposes for which it was collected or as required by law, including HMRC record-keeping requirements.

11.4 The Company may share customer information with trusted third parties where necessary to fulfil contractual obligations, including delivery providers, payment processors, IT service providers, credit reference agencies and professional advisers.

11.5 Customers have the right to request access to, rectification of, restriction of processing of, or deletion of their personal data, subject to statutory and contractual obligations.

11.6 Full details of how the Company collects, processes, stores and protects personal data are set out in the Company's Privacy Policy, which forms part of these Terms and Conditions and is available upon request or via the Company's website.

11.7 Where the Customer provides personal data relating to employees, contractors or other individuals, the Customer warrants that it has obtained all necessary consents and permissions required under applicable data protection legislation.