



J.W.Filshill Ltd.

HILLINGTON ROAD, GLASGOW G52 4HE. TEL: 0141 883 7071. FAX: 0141 883 2224. E-MAIL: enquiries@filshill.co.uk

APPLICATION FOR CREDIT – LIMITED COMPANY

(Please ensure that all sections are fully completed in BLOCK CAPITALS – Failure to complete all sections will render application invalid)

Company Name: _____

Registration Number: _____

Years Established: _____

Trading Address: _____

Post Code _____

Telephone No. _____

Tobacco Reg No. _____

Registered Address: _____

(If different _____

from above) _____

Post Code _____

Correspondence Address: _____

Statements/Invoices etc _____

(If different from above) _____

Telephone No. _____

Credit References A _____

Name _____

Address _____

Telephone No. _____

Bank Name _____

Account No _____

Sort Code _____

Address _____

Credit amount applied for £ _____

Direct debit mandate completed (please circle) Yes No

Directors – 1

Name: _____

Address: _____

Directors / Company Secretary - 2

Name: _____

Address: _____

Tel No: _____

Fax No. _____

B _____

Customer Due Diligence

Passport ID Number

1. _____

2. _____ OR

Driving License Photo ID

1. _____

2. _____

I confirm the information detailed above is accurate and that I approve of the terms and conditions on the reverse (copy provided).

I confirm and accept searches on banking details and properties will be carried out.

Please ensure all directors have signed the application form.

Signature: _____ Date: _____

N.B. Credit applications normally take ten working days to process.

FOR HELP CONTACT ALAN WYLIE (EXT 211) OR SANDRA FAULDS (EXT 206)

The ownership of goods delivered by JW Filshill will only be transferred to the purchaser, when he has paid all that is owed to the supplier no matter on what grounds.

Terms and Conditions of Sale

1. Interpretation

- 1.1. In these terms and conditions of sale as amended from time to time in accordance with clause 14.1 (the "Terms"):-

"Buyer"	means the person, firm or company who orders Goods from the Company;
"Company"	means J. W. Filshill Limited a company registered under the Companies Acts in Scotland (Number SC019246) with its registered office at Ainslie Avenue, Glasgow G52 4HE;
"Contract"	means any contract between the Company and a Buyer for the sale and purchase of Goods howsoever constituted;
"Delivery Point"	means the place where delivery of Goods is to take place as indicated in advance by the Buyer;
"Goods"	means any goods supplied or to be supplied by the Company to a Buyer; and
"Start Date"	means the date of delivery of the Buyer's first order of Goods.

- 1.2. In these Terms, references to any statute or statutory provision shall unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

2. Application of Terms

- 2.1. These Terms shall apply to all Contracts and supply of Goods by the Company to the exclusion of all other terms and conditions (other than any special terms imposed by the Company as a condition of contract with a Buyer).
- 2.2. Any waiver of or allowance under these Terms or any part of them shall have no effect unless expressed in writing and signed by a director of the Company.

3. Orders

- 3.1. Each order for Goods placed by the Buyer shall be deemed to be an offer by the Buyer to purchase Goods subject to these Terms.
- 3.2. No order placed by the Buyer shall be deemed to be accepted by the Company until the Company delivers the Goods to the Buyer.
- 3.3. The minimum order is 35 items/outers.

4. Description

- 4.1. The description of Goods shall be as set out in the Company's order form.
- 4.2. All descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described to them. They will not form part of any Contract.

5. Delivery

- 5.1. Unless otherwise agreed in writing by the Company, delivery of Goods shall take place at the Delivery Point.
- 5.2. The Buyer will take delivery of Goods within 7 days of the Company giving notice that the Goods are ready for delivery.
- 5.3. Any dates specified by the Company for delivery of Goods are intended to be an estimate and time for delivery. If no dates are so specified, delivery will be within a reasonable time.
- 5.4. Subject to the other provisions of these Terms the Company will not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of Goods (even if caused by the Company's negligence).
- 5.5. If for any reason the Buyer will not accept delivery of any Goods when they are ready for delivery, or the Company is unable to deliver Goods on time because the Buyer has not provided appropriate instructions then the Company shall be entitled to charge additional delivery charges.
- 5.6. A signed delivery note is confirmation that the Buyer has checked and accepted Goods.

6. Non-delivery

- 6.1. The quantity of Goods as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence to the contrary.
- 6.2. The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the delivery note has been amended and signed by both the Buyer and the Company's delivery driver.
- 6.3. Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note against any invoice raised for such Goods.

7. Risk/Ownership

- 7.1. Goods are at the risk of the Buyer from the time of delivery.
- 7.2. Ownership of Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of
- 7.2.1. the Goods; and
- 7.2.2. any all other sums which are or which become due to the Company from the Buyer on any account.
- 7.3. Until ownership of Goods has passed to the Buyer, the Buyer must:
- 7.3.1. hold the Goods in trust for the Company;

- 7.3.2. store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company'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 insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company;
- 7.3.5. hold the proceeds of the insurance referred to in condition 7.3.4 in trust for the Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account;
- 7.3.6. to return the Goods to the Company on demand;
- 7.3.7. to allow and to consent to access and entry by the Company to the Buyer's premises or that of any third party where the Goods are stored for the purposes of repossession at any time; and
- 7.3.8. to indemnify the Company in full against all losses, liabilities, costs and expenses whether incurred directly or indirectly in connection with any repossession of the Goods from the Buyer's premises or that of any third party.

- 7.4. The Buyer may resell Goods before ownership has passed to it solely on the following conditions:

- 7.4.1. any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
- 7.4.2. any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale and not as an agent.

- 7.5. The Buyer's right to possession of Goods shall terminate immediately if the Buyer (being an individual) is sequestrated signs a trust deed, or (being a partnership) is dissolved or wound up or on the sequestration or signing of a trust deed by any of its partners, (or being body corporate) convenes a meeting of creditors (whether formal or informal), or enters into a liquidation (whether voluntary or compulsory), 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.

- 7.6. The Company shall be entitled to recover payment for Goods notwithstanding that ownership of any Goods has not passed from the Company.

- 7.7. The Company may at any time prior to transfer of ownership, require the Buyer to deliver up the Goods and the Buyer shall allow and consent to the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or where the Buyer's right to possession has terminated, to recover them.

8. Price

- 8.1. Unless otherwise agreed by the Company in writing the price for Goods is as set out in the Company's invoice on the date of delivery or deemed date of delivery.
- 8.2. The price of the Goods shall be exclusive of any value added tax.
- 8.3. The Company reserves the right, to increase the price of Goods to reflect any increase in cost to the Company which is due to any factor beyond the control of the Company in any delay attributable to the Buyer.
- 8.4. The cost of any returnable tobacco containers, pallets or cages shall be charged to the Buyer in addition to the price of Goods in the event that the Buyer fails to return or damages any such items.
- 8.5. Any discounts, allowances or bonuses agreed by the Company with the Buyer shall be disallowed in the event of late payment and the price in full in the Company's price list shall be the price payable.

9. Payment

- 9.1. Payment of the price for Goods is due 7 days after the date of delivery or deemed delivery, unless agreed otherwise in writing.
- 9.2. Time for payment shall be of the essence.
- 9.3. No payment shall be deemed to have been received until the Company has received cleared funds. In the event that a cheque or direct debit payment is dishonoured, the Company shall on every occasion be entitled to charge an additional administration fee of £25.
- 9.4. The Buyer shall make payments due without any deduction whether by way of set-off, counterclaim, discount or otherwise.
- 9.5. If the Buyer fails to pay the Company any sum due:-
- 9.6. the Buyer will be liable to pay interest to the Company on such sum from the due date of payment at a monthly rate of 2%, accruing on a daily basis until payment is made, whether before or after any judgement;
- 9.7. the Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998;
- 9.8. the Company may suspend any further deliveries to the Buyer; and
- 9.9. the Company will allocate any payment made by the Buyer as the Company may see fit.

10. Credit

- 10.1. The Company may at its discretion supply Goods to the Buyer on credit subject to a credit account being in place for the Buyer with the Company and subject to the terms of any credit facilities available to the Buyer in such credit account.
- 10.2. The Company reserves the right to amend or withdraw the credit account availability to the Buyer at any time or to require further bonds, guarantees or security prior to delivery. The Company may share information about the Buyer with third parties in order to obtain such guarantees or securities.

11. Limitation of Liability

- 11.1. Subject as expressly provided in these Terms, all warranties, representations, conditions or other terms implied by statute or common law (save for the conditions

implied by Section 12 of the Sale of Goods Act 1979) are excluded to the fullest extent permitted by law from these Terms and any Contract.

- 11.2. The entire financial liability of the Company (including any liability or the acts or omissions of its employees, agents or sub-contractors) howsoever arising, including any misrepresentation, statement, act, omission, negligence arising under or in connection with these Terms or any Contract or delict (including breach of statutory duty or otherwise to the Buyer in any period of 12 months (commencing on the Start Date or any anniversary of the Start Date), will be limited to a sum equal to 50% of the aggregate amount paid by the Buyer in any such 12 month period.
- 11.3. The Company shall not be liable to the Buyer for any indirect or consequential loss or damage (whether for loss or 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 these Terms, any Contract or otherwise.
- 11.4. Nothing in these Terms excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.
- 11.5. No goods may be returned for credit or replacement without prior consent of the Company unless on current delivery.

12. Assignment

- 12.1. The Buyer shall not be entitled to assign any Contract or any part of it without prior written consent of the Company.
- 12.2. The Company may assign any Contract or any part of it to a person, firm or Company.

13. Force Majeure

The Company reserves the right to defer the date of delivery or to cancel any Contract 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 Company including, without limitation, acts of God, governmental actions, war or national emergency, 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.

14. General

- 14.1. The Company reserves the right at its sole discretion to amend these Terms at any time provided the Buyer is notified prior to delivery of the Buyer's next order.
- 14.2. Each right or remedy of the Company under these Terms or any Contract is without prejudice to any other right or remedy of the Company whether contractual or not.
- 14.3. The Buyer shall forthwith notify the Company upon any change in status from sole trader to partnership or to limited company or vice versa and in the event that any party with a controlling interest in a partnership or company loses or transfers such interest to a third party.
- 14.4. The Buyer will at all times keep confidential all information acquired as a consequence of their relationship with the Company or as a party to these Terms and any Contract save as may be required by law or where such information is in the public domain other than due to the Buyers breach.
- 14.5. Every clause and sub-clause in these Terms shall be severable and distinct from every other clause or sub-clause and if any clause or sub-clause of the these Terms is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining clauses or sub-clauses and the remainder of such clause shall continue in full force and effect.
- 14.6. Failure and delay by the Company in enforcing or partially enforcing any provision of these Terms will not be construed as a waiver or any of its rights under any Contract.
- 14.7. Any waiver by the Company of any breach or, default under, any provision of these Terms or any Contract by the Buyer will not be deemed a waiver of any subsequent breach or default.
- 14.8. The formation, existence, construction, performance, validity and all aspects of these Terms or any Contract shall be governed by Scots Law and the parties submit to the exclusive jurisdiction of the Scottish Courts.