

## APPLICATION FOR CREDIT ACCOUNT

To open an account with Atkinson Equipment Limited, please provide the following information:							
COMPANY NAME:							
TRADING ADDRESS:					POSTCODE:		
REGISTERED OFFICE: (If different to the above)							
					POSTCODE:		
TELEPHONE:		FAX:		EMAIL:			
YEARS TRADING?		DATE OF INCORPORATION:					
COMPANY REGISTRATION NUMBER:							
ARE YOU A SOLE TRADER?		YES	NO	PARTNERSHIP?		YES	NO
If sole trader/partnership, please give the name of the proprietors or partners:							
NAME/ADDRESS:					POSTCODE:		
NAME/ADDRESS:					POSTCODE:		
To make trading with us more efficient, please advise the following:							
To whom and where should invoices be posted?							
Who is responsible for the payment of your account?							
Who is responsible for buying in your company?							
YOUR BANK NAME & ADDRESS:							
					POSTCODE:		

BUSINESS REFERENCE (1)				BUSINESS REFERENCE (2)			
		POSTCODE:				POSTCODE:	
TEL:		EMAIL:		TEL:		EMAIL:	
Please state the nature of your business by ticking the appropriate boxes below:							
Heating / Plumbing		Agricultural		Storage Tanks		Fuel based	
Hydraulic & Hose		Commercial		Industrial		Other	
If Other, please list your primary business here:							
PLEASE NOTE: <b>Payment is due 30 days from the end of the month of invoice.</b> Failing to comply with these terms will result in the suspension of your account and the possible withdrawal of your credit account facility, making the total account balance upon demand.							

APPLICANT SIGNATURE:	
PLEASE PRINT NAME:	

DATE:	
POSITION:	

**NEED MORE INFORMATION?**

# GENERAL BUSINESS TERMS & CONDITIONS

## ATKINSON EQUIPMENT LIMITED - TERMS & CONDITIONS FOR THE SUPPLY OF GOODS

In these conditions, the following definitions apply:

**"BACK END DEFECTS"** means surface defects caused during the manufacture of the material.

**"BUSINESS DAY"** means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;

**"BESPOKE GOODS"** means the goods manufactured by the Supplier in accordance with the Specification;

**"CONDITIONS"** means the terms and conditions set out in this document, as amended from time to time in accordance with clause 11.3;

**"CONTRACT"** means the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions and the Order;

**"CUSTOMER"** means the person or firm who purchases the Goods from the Supplier;

**"DELIVERY LOCATION"** means the location set out in the Order or such other location as the parties may agree from time to time;

**"FORGE MAJEURE EVENT"** means any event, circumstance or cause beyond a party's reasonable control, including, without limitation: acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; COVID-19; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; nuclear, chemical or biological contamination or sonic boom; any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; collapse of buildings, fire, explosion or accident; any labour or trade dispute, strikes, industrial action or lockouts; non-performance by suppliers or subcontractors; and interruption or failure of utility service.

**"GOODS"** means the goods, including the Bespoke Goods (or any part of them), set out in the Order;

**"ORDER"** means the Customer's order for the Goods, as set out in the Customer's written or verbal acceptance of the Supplier's quotation;

**"SPECIFICATION"** any specification for the Goods, including any related plans and drawings, that is provided by the Customer to the Supplier; and

**"SUPPLIER"** means Atkinson Equipment Limited, a private company limited by shares and incorporated in England and Wales with company number 01050233

### 1.2 INTERPERTATION

(a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

(b) A reference to a party includes its personal representatives, successors and permitted assigns.

(c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

(d) Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

(e) A reference to writing or written includes fax and email.

### 2. BASIS OF CONTRACT

**2.1** These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

**2.2** The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and the Specification (if applicable) are complete and accurate.

**2.3** The Order shall only be deemed accepted when the Supplier acknowledges acceptance of the Order either orally or in writing, at which point the Contract shall come into existence.

**2.4** The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.

**2.5** Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's website, catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.

**2.6** A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 3 days from its date of issue.

### 3. GOODS

**3.1** The Goods are described in the Supplier's website, catalogues, brochures or the Specification.

**3.2** To the extent that the Goods are to be manufactured by the Supplier in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Specification. This clause 3.2 shall survive termination or expiry of the Contract.

**3.3** The Supplier reserves the right to amend the specification of the Goods or the Specification of the Bespoke Goods if required by any applicable statutory or regulatory requirements or in line with any manufacturer's amendments.

**3.4** The Supplier may, at the request of the Customer, provide technical written or oral advice to the Customer regarding use of the Goods, provided that such advice is given at the Customer's sole risk and the Supplier shall not be liable for any loss, damage or claim arising there from.

### 4. DELIVERY & CARRIAGE

**4.1** The Supplier shall deliver the Goods to the Delivery Location at any time after the Supplier notifies the Customer that the Goods are ready.

**4.2** Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence of the Contract.

**4.3** The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

**4.4** If the Supplier fails to deliver the Goods, its liability shall be limited to the cost of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

**4.5** If the Goods were damaged prior to arrival at the Delivery Location, the Customer must notify the Supplier in writing within three Business Days of the delivery.

**4.6** If the Supplier delivers up to and including 5% more or less than the quantity of Goods ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Goods was delivered, a pro rata adjustment shall be made to the Order invoice.

**4.7** The Supplier may deliver the Goods in installments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to reject them or cancel any other instalment.

**4.8** Where the Goods are intended for international delivery:

(a) the Goods only comply with UK laws, regulations or standards, unless the Supplier states otherwise. It is the responsibility of the Customer to check the Goods comply with any relevant country specific standards.

# GENERAL BUSINESS TERMS & CONDITIONS

---

## 4. DELIVERY & CARRIAGE

- (b) the Goods only comply with UK laws, regulations or standards, unless the Supplier states otherwise. It is the responsibility of the Customer to check the Goods comply with any relevant country specific standards;
- (c) the Customer will be responsible for payment of any such import duties and taxes and the Customer should contact their local customs office for further information before placing an Order;
- (d) the Customer must comply with all applicable laws and regulations of the country for which the Goods are destined. The Supplier accepts not liability for the Customer breaking any such law.

## 5. WARRANTY & CLAIMS

**5.1** The Supplier warrants that on delivery, and for the period outlined in the manufactures warranty provided with the Goods or 12 months in respect of the Bespoke Goods manufactured by the Supplier, the Goods shall:

- (a) conform with their description and any applicable Specification; and
- (b) be free from material defects in design, material and workmanship

**5.2** Subject to clause **5.4**, if:

- (a) the Customer gives notice in writing to the Supplier during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause **5.1**;
- (b) the Supplier is given a reasonable opportunity of examining such Goods; and
- (c) subject to clause **5.3**, the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

**5.3** Prior to any return of the Goods, the Customer must obtain authorisation from the Supplier via email or telephone.

**5.4** The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause **5.1** in any of the following circumstances:

- (a) the Customer makes any further use of such Goods after giving notice in accordance with clause **5.2**;
- (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of the Supplier following the drawing, design or specification supplied by the Customer;
- (d) the Customer alters or repairs such Goods without the written consent of the Supplier;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- (f) the Goods differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

**5.5** For the avoidance of doubt, the following is not covered by the applicable warranty set out in clause **5.1**, the natural characteristics of the materials used to manufacture the Goods (including but not limited to grain, colour variations, cracks, holes and flaws due to the manufacture of the material e.g. Back End Defects) will not be accepted as a defect.

**5.6** Except as provided in this clause **5**, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause **5.1**.

**5.7** The terms implied by sections **13** to **15** of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

**5.8** These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

## 6. TITLE & RISK

**6.1** The risk in the Goods shall pass to the Customer upon completion of delivery.

**6.2** Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.

**6.3** Until title to the Goods has passed to the Customer, the Customer shall:

- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 8.2; and
- (e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.

**6.4** Subject to clause **6.5**, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:

- (a) it does so as principal and not as the Supplier's agent; and
- (b) title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.

**6.5** If before title to the Goods passes to the Customer, the Customer becomes subject to any of the events listed in clause **8.2**, then, without limiting any other right or remedy the Supplier may have:

- (a) the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
- (b) the Supplier may at any time:
  - (i) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
  - (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## 7. PRICE & PAYMENT

**7.1** The price of the Goods shall be the price set out in the Order.

**7.2** The Supplier may, at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- (a) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification thereof; or
- (c) any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

# GENERAL BUSINESS TERMS & CONDITIONS

---

## 7. PRICE & PAYMENT

**7.3** The price of the Goods:

- (a) unless the Order states otherwise, includes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer; and
- (b) excludes amounts in respect of value added tax ("VAT"), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice.

**7.4** Payment for the Goods must be in advance (i.e. on placing the Order), in full and in cleared funds, of the delivery to the bank account nominated by the Supplier or via credit or debit card. In the case of a Customer with a credit account, payment shall be in accordance with the credit terms agreement between the parties. Time for payment shall be of the essence of the Contract.

**7.5** The Supplier reserves the right to claim interest, compensation and reasonable costs under the Late Payment of Commercial Debts (Interest) Act 1998 ("the Act") and it is agreed that the term implied by that Act shall apply after any judgment as well as before. If for any reason the Act does not apply interest shall be payable on overdue amounts at 8% over the Bank of England Base Rate from time to time, but at 8% a year for any period when the base rate is below 0%.

**7.6** The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set-off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

## 8. TERMINATION & SUSPENSION

**8.1** If the Customer becomes subject to any of the events listed in clause **8.2**, without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer.

**8.2** For the purposes of clause **8.1**, the relevant events are:

- (a) the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 14 days after being notified to make such payment;
- (b) the Customer commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
- (c) the Customer suspends, or threatens to suspend, payment of its debts, or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being a sole trader) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company, limited liability partnership or partnership);
- (e) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the Customer (being a Company);
- (f) the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and
- (g) (being a sole trader) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

**8.3** If the Customer becomes subject to any of the events listed in clause **8.2(a)** to clause **8.2(g)**, or the Supplier reasonably believes that the Customer is about to become subject to any of them, then the Supplier may, without limiting its other rights or remedies:

- (a) the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier;
- (b) terminate the Contract or any other contract between the Customer and the Supplier with immediate effect by giving written notice to the Customer; and/or
- (c) require payment upon or in advance of delivery in respect of any undelivered Goods.

**8.4** On termination of the Contract for any reason the Customer indemnifies the Supplier in respect of all costs and expenses (including, but not limited to, any legal costs or disbursements) incurred for or on behalf of the Supplier in enforcing its rights under this clause 8.

**8.5** On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, the supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.

**8.6** Termination or expiry of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.

**8.7** Clauses which expressly or by implication survive termination or expiry of the Contract shall continue in full force and effect.

## 9. LIMITATION OF LIABILITY

**9.1** The restrictions on liability in this clause 9 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

**9.2** Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- (d) defective products under the Consumer Protection Act 1987; or
- (e) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

**9.3** Subject to clause **9.2**:

- (a) the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence) for: loss of profit; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; loss of or damage to goodwill; loss of use or corruption of software, data or information; and indirect or consequential loss arising under or in connection with the Contract; and
- (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods ordered to which the claim relates.

## 10. FORCE MAJEURE

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for four weeks, the party not affected may terminate this Contract by giving 14 days written notice to the affected party.

# GENERAL BUSINESS TERMS & CONDITIONS

## 11. GENERAL

### 11.1 Assignment and other dealings.

- (a) The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

### 11.2 Entire agreement.

- (a) This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

### 11.3 Variation. No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

### 11.4 Waiver. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

### 11.5 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 11.5 shall not affect the validity and enforceability of the rest of the Contract.

### 11.6 Notices:

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause 11.6, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or email.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 11.6(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.
- (c) The provisions of this clause 11.6 shall not apply to the service of any proceedings or other documents in any legal action.

### 11.7 Third party rights. No one other than a party to this Contract shall have any right to enforce any of its terms.

### 11.8 Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

### 11.9 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.

## IMPORTANT

Please read the terms and conditions carefully and then print, sign, date, and email/fax back to us. Without this form being filled in a credit account cannot be set up.

COMPANY NAME: .....

NAME: .....

SIGNED: .....

DATE: .....

[www.atkinsonequipment.com](http://www.atkinsonequipment.com)

PHONE



01373 822220

EMAIL



[sales@atkinsonequipment.com](mailto:sales@atkinsonequipment.com)

FAX



01373 826996