

**TERMS AND CONDITIONS OF SALE**

**1. CONDITIONS OF SALE**

- 1.1 In these terms and conditions:  
"Supplier" means The Car Paint Company Limited, company number 03408478;  
"Products" means goods sold by the Supplier;  
"Customer" means a customer of the Supplier for the purchase of Products.
- 1.2 These terms and conditions will apply to and be deemed to be incorporated in all contracts for the sale of Products by the Supplier to the Customer, and shall override any terms proffered by the Customer in respect of any order for Products. If not otherwise incorporated into the contract, these terms and conditions shall be deemed to be accepted and incorporated into the contract by the Customer accepting delivery of the Products which are the subject of that contract. No variation to these terms and conditions shall be binding unless agreed in writing between the authorised representatives of the Supplier and Customer. References to any contract between the Supplier and the Customer for the supply of Products shall include these terms and conditions.
- 1.3 The Supplier's employees or agents are not authorised to make any representations concerning the Products unless confirmed by the Supplier in writing. In entering into any contract for the supply of the Products the Customer acknowledges that it does not rely on any such representations which are not so confirmed, but nothing in these terms and conditions affects the liability of either party for fraudulent misrepresentation.
- 1.4 Any advice or recommendation given by the Supplier or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Products which is not confirmed in writing by the Supplier is followed or acted on entirely at the Customer's own risk and accordingly the Supplier will not be liable for any such advice or recommendation which is not so confirmed.

**2. ORDERS**

- 2.1 The Customer shall be responsible to the Supplier for ensuring the accuracy of the terms of any order submitted by the Customer and for giving the Supplier any necessary information relating to the Products within a sufficient time to enable the Supplier to perform the particular contract in accordance with its terms.
- 2.2 The quantity, quality and description of the Products and any specification for them shall be as set out as in the Supplier's quotation (if accepted by the Customer) or the Customer's order (if accepted by the Supplier).
- 2.3 The Supplier reserves the right to make any changes in the specification of the Products which are required to conform with any applicable statutory or EU requirements or which do not materially affect their quality or performance.
- 2.4 No order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in writing of the Supplier and on terms that the Customer will indemnify the Supplier in full against all loss (including loss of profit), costs, damages, charges and expenses incurred by the Supplier as a result of such cancellation.

**3. DELIVERY OF THE PRODUCTS**

- 3.1 Risk of damage to or loss of the Products shall pass to the Customer at the time of delivery or, if the Customer wrongfully fails to take delivery of the Products, the time when the Supplier has tendered delivery of the Products. Delivery of the Products shall take place at the Customer's premises unless otherwise agreed by the parties.
- 3.2 The Supplier shall use all reasonable endeavours to deliver each of the Customer's orders for the Products on the dates specified in the order, but the time of delivery shall not be of the essence unless previously agreed in writing between the parties.
- 3.3 The Customer shall within 24 hours of the arrival of each delivery of the Products at the Customer's premises notify the Supplier of any defect by reason of which the Customer alleges that the Products delivered are not in accordance with the specification and which should be apparent on reasonable inspection.
- 3.4 If the Customer fails to give such a notice, then the Customer shall be deemed to have accepted the delivery of the Products in question and the Supplier shall have no liability to the Customer with respect to that delivery.
- 3.5 If the Customer rejects any delivery of the Products within the time specified the Supplier shall, as soon as reasonably practical after being requested to do so by the Customer, supply replacement Products (in which event the Supplier shall not be deemed to be in breach of these terms and conditions or have any liability to the Customer).

**4. PRICE & PAYMENT**

- 4.1 The price for the Products shall be exclusive of any Value Added Tax or other applicable sales tax or duty, all of which shall be payable in addition.
- 4.2 The Supplier shall invoice the Customer at the time of delivery and all invoices will be paid by the Customer within 30 days from the date in which the invoice was raised.
- 4.3 If the Customer fails to make any payment on the due date then, without limiting any other right or remedy available to the Supplier, the Supplier may:
- 4.3.1. cancel the particular contract or suspend any further deliveries to the Customer under that or any other contract between the parties;

**TERMS AND CONDITIONS OF SALE**

- 4.3.2. appropriate any payment made by the Customer to such of the Products (or the Products supplied under any other contract between the Customer and Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer); and
- 4.3.3. charge the buyer interest (both before and after any judgment) on the amount unpaid at the rate of 6 per cent per month until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
- 4.3.4. The Supplier shall be entitled to recover from the customer all costs it incurs in recovering any outstanding amount from the Customer.

**5. RESERVATION OF TITLE**

- 5.1. Notwithstanding delivery and the passing of risk in the Products, or any other provision in these terms and conditions, the property in the Products shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Products and all other goods agreed to be sold by the Supplier to the Customer for which payment is then due.
- 5.2. Until such time as the property in the Products passes to the Customer, the Customer shall hold the Products as the Supplier's fiduciary agent and bailee, and shall keep the Products separate from those of the Customer and third parties and properly stored, protected and insured and identified as the Supplier's property, but the Customer may use the Products in the ordinary course of its business.
- 5.3. Until such time as the property in the Products passes to the Customer (and provided the Products are still in existence), the Supplier may at any time require the Customer to deliver up the Products to the Supplier and, if the Customer fails to do so immediately, enter on to any premises of the Customer or any third party where the Products are stored and repossess the Products.
- 5.4. For the avoidance of doubt this section 5 shall apply equally to Products which form part of consignment stock held on the Customer's premises.

**6. WARRANTIES**

- 6.1. The Supplier warrants that the Products will correspond with their description at the time of delivery.
- 6.2. The above warranty shall be subject to the Supplier being under no liability in respect of any defect arising from failure to follow the manufacturer's instructions, failure to store the Products in appropriate conditions, or use of Products in abnormal working conditions.
- 6.3. The Supplier shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Products has not been paid by the due date for payment.
- 6.4. Subject to the above, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

**7. CLAIMS & LIABILITY**

- 7.1. A claim by the Customer which is based on any defect in the quality or condition of the Products or their failure to correspond with specification shall (whether or not delivery is refused by the Customer) be notified to the Supplier within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Customer does not notify the Supplier accordingly, the Customer shall not be entitled to reject the Products and the Supplier shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the goods had been delivered in accordance with the particular contract.
- 7.2. Where a valid claim in respect of any Products which is based on defect in the quality or condition of the Products or their failure to meet specification is notified to the Supplier in accordance with these terms and conditions, the Supplier may replace the Products free of charge or at the Supplier's sole discretion refund the Customer the price of the Products (or a proportionate part of the price) in which case the Supplier shall have no further liability to the Customer.
- 7.3. The Supplier shall not be liable to the Customer or be deemed to be in breach of any particular contract by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations in relation to the Products, if the delay or failure was due to any cause beyond the Supplier's reasonable control. Without limiting the foregoing, the following should be regarded as causes beyond the Supplier's reasonable control: act of God; explosion, flood, tempest, fire or accident; war or threat of war, sabotage, insurrection, civil disturbance or requisition; acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental parliamentary or local authority; imports or exports regulations or embargoes; strikes, lock outs or other industrial actions or trade disputes (whether involving employees of the Supplier or of a third party); difficulties in obtaining raw materials, or power failure or break down in machinery.
- 7.4. Except in respect of death or personal injury caused by the Supplier's negligence, or liability for defective products under the Consumer Protection Act 1987, the Supplier shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the expressed terms of the particular contract, for loss of profit or loss of business or contracts, or loss of anticipated savings nor for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Supplier, its employees or agents or otherwise) which arise out or in connection with the supply of the Products (including any delay in supplying or any failure to supply the Products in accordance with the particular contract or at all) or their use or resale by the Customer, and the entire liability of the Supplier under or in connection with the particular contract shall not exceed the price of the particular Products the subject matter of the particular contract, except as expressly provided in these terms and conditions.

**8. Cancellations, Returns and Refunds**

**TERMS AND CONDITIONS OF SALE**

- 8.1 Where the Goods are faulty, the Customer must notify the supplier within 3 working days of delivery providing full details of the nature of the alleged defect. If the supplier accepts that the Goods are defective having regard to these Terms and Conditions, the supplier may at its option replace the Goods or such parts thereof as may be deemed defective.
- 8.2 The Customer may cancel an Order by notifying the supplier in writing at the address above within 5 days of placing an Order and any deposit paid will be refunded in full subject to the deduction of any non-recoverable costs incurred by the supplier consequent upon the Order or its cancellation.
- 8.3 If the Customer fails to cancel the order within the time specified in Clause 8.2 any deposit paid may not be returnable and any costs incurred by the supplier will be payable by the Customer.
- 8.4 All refunds and returns are subject to a maximum time limit of 90 days from date of delivery.
- 8.5 If a Customer is permitted to return a special order, which will be advised to him at time of order placement, this will be subject to a handling charge of minimum 15% of invoice value.

**9. CUSTOMER OBLIGATIONS**

- 9.1 To enable the supplier to perform its obligations, the Customer shall;
- 9.1.1 provide the supplier with any information reasonably required by the supplier
  - 9.1.2 co-operate with the supplier
  - 9.1.3 obtain all necessary permissions, licences and consents which may be required before delivery of the Goods or commencement of the services, the cost of which shall be the sole responsibility of the Customer
  - 9.1.4 comply with such other requirements as may be otherwise agreed between the parties.
  - 9.1.5 ensure the account is paid on time and any disputes over invoicing are promptly communicated in writing to the supplier within 5 days of invoice date.
  - 9.1.6 to insure loan equipment against fire, theft and other insurable perils whilst on their premises and to enter into an Agreement approved maintenance contractors for the regular inspection and servicing of loan equipment and to make such payments as may be required for this service on demand.
  - 9.1.7 to keep all Goods properly stored and maintained under proper supervision and to take all reasonable precautions for their safety and to make good to the satisfaction of the supplier any loss or damage or deterioration to the Goods from whatever cause

**10. TERMINATION**

- 10.1 Without limiting any other right or remedy available to the Supplier, the Supplier shall be entitled immediately to cancel or terminate any contract or order for the supply of Products to the Customer by written notice to the Customer if:
- 10.1.1. the Customer commits any breach of any of the provisions of that contract or order;
  - 10.1.2. an encumbrancer takes possession or a receiver is appointed over any of the property or assets of the Customer.
  - 10.1.3. the Customer makes any voluntary arrangement with its creditors or enters into administration;
  - 10.1.4. the Customer enters into liquidation (except for the purposes of an amalgamation, reconstruction or other reorganisation of a solvent company and in such manner that the company resulting from the reorganisation effectively agrees to be bound by or to assume the obligations on that other party under that contract or order);
  - 10.1.5. the Customer ceases, or threatens to cease, to carry on business.

**11. MISCELLANEOUS**

- 11.1 The Customer is not entitled to assign, transfer or otherwise encumber any contract between the Supplier and the Customer or any of its benefits or obligations under any such contract.
- 11.2 Any waiver by the Supplier of a breach of any provision of any contract between the Supplier and the Customer shall not be considered as a waiver of any subsequent breach of the same or any other provision.
- 11.3 All contracts between the Supplier and the Customer for supply of Products will be governed by and construed in accordance with the laws of England and Wales and the English courts shall have exclusive jurisdiction in relation to any dispute arising out of or in connection with any such contract.

**12. COLOUR MATCHING AND PRODUCT USAGE**

- 12.1 The customer shall be responsible for the use of all products supplied by the supplier;
- 12.1.1. Any advice or recommendation given by the Supplier or its employees or agents to the Customer or its employees or agents as to colour matching are for guidance purposes only
  - 12.1.2. the supplier accepts no responsibility for colour matching after application
  - 12.1.3. All products supplied by the supplier to the customers are sold for professional use only

**TERMS AND CONDITIONS OF SALE**

Page **4** of **4**

12.1.4. Products supplied by the supplier can be dangerous, it is the customer's responsibility to ensure all safety and protective guidelines are followed. Product safety data sheets can be supplied by the supplier upon request

**13. EU VOC PRODUCT DIRECTIVE 2004/42/EC**

13.1 The supplier operates under EU VOC directive 2004/42/EC which;

13.1.1. aims to prevent the negative environmental effects of emissions of volatile organic compounds (VOC) from decorative paints and vehicle refinishing products.

13.2 The supplier supplies VOC Compliant paints and products for the purpose of vehicle refinishing;

13.2.1. The supplier accepts no responsibility for the use of non-compliant products for the purpose of vehicle refinishing

13.2.2. All products supplied by the supplier to the customers are sold for professional use only