

Jaytees Limited – Terms and Conditions of Sale

In these conditions of sale: **"the Seller"** means Jaytees Limited, **"The Buyer"** means the person, firm or company purchasing the Goods; **"The Goods"** means the goods or materials which shall be the contract between the Seller and the Buyer; **"The Price"** means the price specified in (the Seller's Quotation, Acknowledgement or otherwise communicated to the Buyer and agreed).

The Seller reserves the right to update these terms and conditions at any time in writing to the Buyer at their trading/invoice address.

1. Acceptance of Order

All orders are accepted by the Seller subject to these Conditions of Sale to the exclusion of all other terms and conditions.

The Seller is under no obligation to accept the Buyer's order.

Prices, offers and products are subject to availability and may change at any time prior to acceptance of the Buyer's order. The Seller will notify the Buyer of any changes.

All orders made, whether verbally, in writing or online indicate an invitation to enter into a sales contract with the Seller.

In listing its delivery address on the order, the Buyer is representing to the Seller that the Buyer is a commercial enterprise domiciled in the United Kingdom. This is a representation on which the Seller relies on upon prior to accepting the Buyer's offer to purchase the Goods. We will not accept any orders from any entity that is not a commercial enterprise domiciled in the United Kingdom under these terms and conditions.

The Seller will confirm that it has received and accepts such order verbally or via email without undue delay. Should the Seller decide not to accept the order, the Buyer will receive an order rejection (via email) from the Seller at which point the order will not be processed or become a binding contract.

Any variations to these Conditions of Sale shall have no effect unless expressly agreed in writing between the Seller and the Buyer. Contracts for delivery by instalments shall be deemed to be indivisible. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in these Conditions of Sale.

2. The Price

All quotations are made and all orders are accepted subject to the following conditions. All conditions of the Buyer or other terms, conditions or warranties whatsoever are excluded from the contract or any variation thereof, unless expressly accepted by the Seller in writing.

A All prices are quoted in writing and unless otherwise stated are quoted net and exclusive of VAT at the legal rate in place at time of order. The Seller will inform the Buyer of their VAT number and the Buyer must inform the seller of their VAT number if registered upon commencement of business so that HMRC duties are complied with.

B All product prices quoted are valid for the time period stated on the quote.

At least 30 days before each anniversary a revised price list will be issued in writing by the Seller to the Buyer, this will be based on raw material prices, RPI and Buyer's commercial history with the Seller. The Seller will attempt to keep prices as stable as reasonably possible with the assistance of the Buyer meeting the terms and conditions of sale.

C In the event of an alteration in specification being requested by the Buyer agreed to by the Seller, the Seller shall be entitled to make an adjustment of the contract price corresponding to such alteration.

D All paint or product prices quoted by the Seller are exclusive of Carriage.

Carriage prices may vary due to geographic location of Buyer, size of order and payment terms and are therefore variable and the Seller will endeavour to use competitive delivery companies or agents.

The Buyer reserves the right to organise collection from the Seller's address and deliver to themselves at their own expense, but must communicate intentions and validate couriers when placing order/s.

Damage or loss of goods during such must be insured against by the Buyer and agreement accepted by the Buyer that the Seller reserves the right to claim back any such losses from the Buyer.

The Seller accepts no responsibility for costs or otherwise incurred by the Buyer or their agents due to factors covered in this section.

E Quotations shall only be available for acceptance by the Buyer for a maximum period of 30 days from the date of letter or email communication sent date and may be withdrawn by the Seller within such period at any time by written or oral notice.

Quotations are given based on commercial conditions at the time and details are given in writing and are exclusive of VAT. The quotation will state delivery charges based on Buyer's location and order quantity.

Acceptance of delivery of goods shall constitute acceptance of these conditions where acceptance has not previously been communicated by the Buyer to the Seller.

3. Payment

Unless otherwise stated by quotation with fixed terms, on the Seller's invoice or otherwise agreed in writing, payment for the Goods shall be made no later than 30 days from invoice date.

Time for payment of the invoice shall be of the essence and failure by the Buyer to pay the Price of any instalment thereof to the seller in due time shall entitle the Seller to one or more of the following:

A treat such failure as a repudiation of the whole contract by the Buyer;

B require the Buyer to make immediate payment of all monies due or to become due;

C recover from the Buyer damages for such breach of contract; and /or

1. Where credit is granted by the Seller to a Buyer the terms of payment shall be net cash monthly account due and payable within 30 days from the date of invoice or as agreed in writing and signed by a director of the Seller otherwise. The Seller shall be entitled to submit its invoice with its delivery advice note or at any time thereafter save that where delivery has been postponed at the request of or by the default of the Buyer, then the Seller may submit its invoice at any time after the Goods are ready for delivery or would have been ready in the ordinary course but for the request or default as aforesaid.

2. Payment Terms quoted to a Buyer may notwithstanding any arrangement with the Buyer be withdrawn at any time by the Seller. Credit may only be granted at the absolute

discretion of a Director of the Seller on initial orders over the minimum value if specified by the Seller.

3. Where goods are delivered by instalments the Seller may invoice each instalment separately and the Buyer shall pay such invoices in accordance with Conditions.

4. No disputes arising under the contract or delays beyond the reasonable control of the Seller shall interfere with prompt payment in full by the Buyer to the Seller.

5. In the event of default in payment by the Buyer either of the whole payment or any instalments under the above terms of payment the Seller shall be entitled without prejudice to any other right or remedy to suspend all further deliveries on any contract or contracts between the Seller and the Buyer without notice and to charge interest on any amount at the rate of 8% per annum above the Bank of England Base Lending Rate in force at the time when payment was due, and the Company shall have the option of treating any outstanding balance of the Contract as having been repudiated by the Customer.

6. In the event of difficulties in payment by the Buyer caused by unforeseen or extraordinary circumstances proven by the Buyer to the Seller, then normal payment terms may be suspended or varied at the discretion of the Seller.

4. Delivery

Unless otherwise agreed in writing between the Seller and Buyer the following provisions shall apply:

A Delivery of the Goods shall take place when the Goods are delivered at the address specified on the Seller's Quotation, Acknowledgement or other documentation.

B The delivery date or dates specified on the Seller's acceptance of the order are estimates only and the time for delivery shall not be of the essence. The Seller shall not be liable for failure to deliver by such date or dates or for any damage or loss arising directly or indirectly out of delay in delivery; nor shall the Buyer be entitled to refuse to accept the goods because of late delivery.

C Shortages and defects apparent on inspection. The Buyer shall have no claim for **shortages or defects apparent on visual inspection** unless:

i) the Buyer inspects the Goods within 12 hours of arrival at premises or other agreed destination and

ii) a written complaint is made to the Seller within two days of receipt of the Goods by Buyer or such shorter period as the carriers conditions (if applicable) require specifying the shortage or defect and

iii) the Seller is given an opportunity to inspect the Goods and investigate any complaint by the Buyer before any use is made of the Goods.

iv) If a complaint is not made to the Seller as herein provided then the Goods shall be in all respects in accordance with the Contract and the Buyer shall be bound to pay for the same accordingly and in such circumstances the Guarantee Condition shall not apply.

The Buyer shall have no claim in respect of defects not apparent on inspection at the time of delivery, unless:

i) a written complaint is sent to the Seller as soon as reasonably practicable after the defect is discovered and no use is made of the Goods thereafter and no alteration made thereto before the Seller is given an opportunity to inspect the Goods.

The Buyer shall not be entitled to claim in respect of any repairs of alterations undertaken without the prior specific written consent of the Seller.

The Seller shall not be liable for loss or damage suffered by reason of continued use of the Goods after the Buyer becomes aware of a defect of after circumstances which should reasonably have indicated to the Buyer the existence of a defect.

D The risk of any loss or damage to or deterioration of the goods shall be borne by the Buyer once the Goods are accepted and signed for at the Buyer's premises under section 4 c) above.

E Unless otherwise expressly agreed any packaging supplied by the Seller is intended to be only sufficient to protect the goods for all normal conditions of transit and for the normal period of transit only and wherever possible will be cost effective and environmentally sustainable. If the Buyer insists on a variation from the Seller's standard packaging any additional costs will be notified by the Seller to the Buyer in writing, and no deliveries with modified packaging will be undertaken until written agreement between both parties.

F Notwithstanding that samples may be, or have been submitted by the Seller, the sale to the Buyer is not and shall not be deemed to be a sale by sample for the purposes of section 15 of the sale of goods act 1979.

Samples are classified as such by labelling of product or Component and generally constitute a small sample of product up to a maximum of 1l or an agreed number or size of finished Components.

Any samples submitted to the Buyer as samples are given Free of Charge unless stated otherwise (by issue of invoice) by the Seller.

Samples are supplied for the Buyer to indicate only the substance and the general character of the materials and the Buyer shall have no claim if the colour or composition of the bulk supplied fails to correspond with the sample in such respect unless the particular requirement is specified by the Buyer and accepted by the Seller in writing or unless the sample has been supplied for the purpose of the batch approval.

5. Retention of title

The legal and beneficial title in the products provided by the Seller to the Buyer shall remain with the Seller. Products provided as such by the Seller must only be used by the Buyer - unless agreed in writing with the Seller. Accepting the previous statement -

A The legal and beneficial title in the goods shall remain with the Seller until payment in full has been made to the Seller by the Buyer for the Goods and all other sums due to the Seller at the date of delivery of the Goods.

B Where full payment has not been made to the Seller and the Buyer uses the Goods in his manufacturing process or incorporates the Goods with other products, the title in the goods shall be retained by the seller in so far as such Goods are identifiable.

C Until such payment is made, the Buyer shall hold the Goods and materials on a fiduciary basis on behalf of the Seller and shall store such Goods and materials so as to be clearly identifiable as the property of the Seller.

D The Buyer shall keep the Goods in satisfactory condition and insured on the Seller's behalf for the full price against all risks to the reasonable satisfaction of the Seller.

E The Buyer grants the Seller, 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 in the case of default and/or the Buyer going into receivership or closing down as a company, for whatever reason, to recover them if deemed necessary by the Seller.

Also the Buyer agrees by purchasing the Seller's products that -

The Buyer must not analyse or pass on to third parties any information or samples supplied or divulged by the supplier including any information sent via electronic or postal media.

If evidence or suspicion is obtained by the seller that the Buyer has passed on Seller's product/s or commercially sensitive information to third parties without the Seller's written consent this is considered a very serious breach of contract.

The Seller reserves the right to cancel supply of future products and/or services to this Buyer immediately without warning and reclaim any outstanding debts and/or collect any unused product from Buyer's premises. The Seller may, if the Buyer's actions are deemed to have serious negative financial or commercial impact, pursue a legal claim for breach of contract for these losses.

6. Lien

The Seller shall in respect of all unpaid debts due from the Buyer under the same or any other contracts have a general lien on all Goods and property of the Buyer in its possession (although such Goods or some of them may have been paid for) and shall after the expiration of fourteen days written notice to the Buyer be entitled to dispose of such Goods and property as it deems fit and apply the proceeds towards such debts.

7. Shortages and Damages and/or loss in Transit

1. Unless otherwise agreed in writing between the Buyer and Seller, the Seller may deliver against any order total an excess and/or deficiency of up to ten per cent of weight or volume ordered without any liability whatsoever to the Buyer save that the price shall be adjusted accordingly.

2. The Buyer shall inspect the Goods immediately upon delivery and shall if damaged or defective within two days of such delivery (time being of the essence), give notice in writing to the Seller and the carrier of all claims on account of damage to or total or partial loss of paints in transit.

3. Quality issues must be made in writing immediately after the Buyer learns of the defect and in any event not later than ten working days after the Buyer's receipt of the Goods. Any claim not made in writing and received by the Seller with the foresaid time limits shall be deemed waived.

4. If the Seller fails to make delivery, or makes defective delivery of any one instalment, such failure of defective delivery shall not vitiate the contracts as regards other instalments.

5. The right of the Buyer to set off the value of any shortage, defective goods of Goods not otherwise conforming to contract shall be restricted to the specific invoice of the Goods in question and shall not apply to previous or future accounts.

8. Warranty and Limitation Liability

1. The Seller warrants that the Goods are produced within the accepted tolerance levels in accordance with the standard specifications stated in the Seller's official literature on the Goods current at the relevant time. Unless otherwise agreed, the quality of the goods is exclusively determined by the Seller's product specifications.

Identified uses under the European Chemicals Regulation REACH relevant for the Goods shall neither represent an agreement on the corresponding contractual quality of the Goods nor the designated use under this contract.

2. Save as aforesaid, all other conditions, guarantees, or warranties whether express or implied by statute, common law or otherwise including (but without prejudice to the generality of the foregoing) conditions, guarantees or warranties as to quality fitness for purpose or description of the Goods or their life or wear or use under any conditions whether known to the Seller or not are hereby excluded.

3. The Seller's liability for any and all direct loss or damage resulting to the Buyer from defects in the Goods or any other cause shall be limited to the purchase price of the quantity of the Goods in respect of or in relation to which such loss or damage is claimed.

4. The Seller shall have no liability to the Buyer in case of impossibility or delay in the performance of its supply obligations if the impossibility or delay is due to compliance with regulatory and legal obligations in connection with the European Chemical Regulation REACH being triggered by the Buyer.

5. Subject as aforesaid the Seller shall be under no liability in contract or in tort for any loss or damage or personal injury arising directly or indirectly out of the supply or use of the Goods or containers other than the Goods or any other cause shall be limited to the purchase price of the quantity of the Goods in respect of or in relation to which such loss or damage is claimed.

6. Subject as aforesaid the Seller shall be under no liability in contract or in tort for any loss or damage or personal injury arising directly to indirectly out of the supply or use of the goods or containers other than death or personal injury resulting from negligence of the Seller within the meaning of Section 1 of the Unfair Contract Terms Act 1977.

7. With regards to the Sellers product specification and batch variation -

i) The Seller reserves the right to alter or change specification of the Goods supplied within reasonable limits having regard to the nature of the Goods.

ii) The Buyer will have no claim in respect of minor batch to batch variations in colour or texture or composition.

iii) The Seller must inform the Buyer of any changes to products deemed as significant by the Seller. Significant would be considered as resin change or change of more than 10% of formulation parameters or Quality control parameters.

8. Technical information and Product data and Health and safety data sheets.

i) All Information contained in Seller's publications is provided for general guidance only and forms no part of a Contract unless expressly agreed in writing.

Buyers should obtain specific recommendations and advice from the Seller regarding the uses and attributes of the Sellers products if not fully understood.

ii) As product performance and use are outside the direct control of the seller no claims are made by the seller to the Buyer for product performance especially where other products are used in combination or as part of a "system".

iii) The Buyer must ensure the Seller's products are used responsibly and within legal obligations relative to existing compliance directives or law and comply to any EEC directives such as PG6/23 or its successors and the Seller accepts no responsibility or claims in respect of failure to comply with this clause which will be considered a serious breach of contract and prevent further supply.

iv) The Seller agrees to supply Health and safety data sheets that meet legal requirements as set out by the HSE at time of issue by both electronic mail and paper copies. The Buyer must ensure all personnel who are likely to come into contact with the Seller's products, whether employed or not by the Buyer, comply strictly with any instructions or guidance on said documentation as regards the safe use and disposal of the Seller's products. Failure to comply with this clause will be considered a serious breach of contract and prevent further supply.

9. Force Majeure

Deliveries may be partially or totally suspended by either party during any period in which it is prevented from manufacturing, delivering or taking delivery of the Goods through any circumstances outside its control. If, because of such circumstances, the Seller is unable to supply total requirement of the Goods, the Seller may allocate its available supply (after satisfaction of its own requirements) among all of its customers, including those not under contract, as the Seller thinks fit. Deliveries so suspended shall be cancelled without liability, but the contract between the parties shall otherwise remain unaffected. In the event of such circumstances the Seller shall be relieved from his obligations under this contract to the extent the Seller is prevented from performing such obligations to procure Goods from other sources.

10. Indemnity

The Buyer shall indemnify the Seller in respect of all damage or injury occurring to any person, firm, company or property and against all actions, suits, claims and demands, charges or expenses in connections therewith for which the Seller may become liable in respect of the Goods sold under the contract in the event that the damage or injury shall have been occasioned otherwise than by the negligence of the Seller.

The Seller shall provide up to date legally compliant Material Safety Data Sheets (MSDS) for all products or groups of products at start of supply to Buyer and updated as and when required without charge.

It is the Buyer who must ensure they have requested and received such documentation and hard copies are held to meet all Buyer's legal Obligations and insurance requirements fully. The Buyer must comply with all legal requirements regards protection of staff from exposure to hazardous materials identified on Seller's MSDS.

It is the Buyer's legal responsibility to ensure they comply with all U.K. or European Union directives regards release of hazardous materials to the environment.

Any issue with compliance should be reported to the local council and the Seller agrees to offer reasonable advice free of charge.

11. Default

The Seller reserves the right (without prejudice to its other rights and remedies) either to terminate the contract between the parties or to suspend further deliveries under it or require payment in advance or require return of Goods delivered in the event that:

1. the Buyer fails to pay for any one delivery when the same becomes due; or
2. the Buyer's financial responsibility becomes unsatisfactory to the Seller; or
3. if the Buyer, being a company, goes into liquidation or has a receiver appointed or not being a company has a receiving order made against him or enters into any arrangement or composition with creditors.

12. Patents and Trade Marks

No representation, warranty or indemnity is given by the Seller that the Goods do not infringe any letters patent, trade marks, registered designs or other industrial rights.

13. Assignability

The contract of which these Conditions forms part is personal to the Buyer who shall not assign the benefit thereof without the Seller's written consent.

14. Proper Law

These Conditions and the Contract between the parties shall be construed and applied in accordance with the law of England and the English Courts shall have sole jurisdiction in any dispute relating thereto.

15. Insolvency

If the Buyer shall become bankrupt or insolvent or compound with creditors or in the event of a resolution being passed or proceedings commenced for the liquidation of the Buyer (other than for a voluntary winding up for the purpose of reconstruction or amalgamation) or if a Receiver or Manager is appointed of all or any part of its assets or undertakings the Seller shall be entitled to cancel the contract in whole or in part by notice in writing without prejudice to any right or remedy accrued for accruing to the Seller.

Also please refer to section 5. Retention of title

16. Notices

1. The parties agree to electronic communication and acknowledge that all contracts, notices, information and other communications that the parties provide to each other electronically comply with any legal or contractual requirement that such communications be in writing.

2. All notices given by the Buyer to the Seller must be sent either:

- i) via post to Jaytees Ltd at Lower Warehouse, Tything Road East, Arden Forest Industrial Estate, Alcester, Warwickshire B49 6ET.
- ii) via email to the following email address: orders@jayteesitdpaints.com

3. The Seller may give notice to the Buyer at either the e-mail or postal address the Buyer provided when placing an online order. Notice will be deemed received and properly served by return confirmation to the sender's email address or by post within three working days after the date of email or posting of any letter.