

Coilcolor Limited Sales Terms

1 Definitions

In these Conditions, the following words shall have the following meanings:

- 1.1 **'Agreement'**: any agreement between you and us incorporating these Conditions and any Confirmation of Order;
- 1.2 **'Buyer's Provisions'**: has the meaning given in condition 2.4;
- 1.3 **'Delivery Date'**: means the date specified in our Order Confirmation;
- 1.4 **'Goods'**: means the goods delineated in our Order Confirmation;
- 1.5 **'Guarantee'**: means the guarantee we may at our discretion, provide in respect of the Goods;
- 1.6 **'Order Confirmation'**: our written acceptance of any request by you to purchase Goods from us;
- 1.7 **'Payment Date'**: means the date for payment of the Price which unless specified otherwise in our Order Confirmation shall be 14 days from the date our invoice;
- 1.8 **'Price'**: means the price for the Goods paid by you to us in consideration for the supply of Goods by us to you;
- 1.9 **'these Conditions'**: the terms and conditions of sale below and any special Terms agreed in writing by us;
- 1.10 **'we, us or our'**: Coilcolor Limited of Whitehead Estate, Docks Way, Newport NP20 2NW;
- 1.11 **'you, your'**: means any person firm or company selling Goods or Services to us pursuant to this Agreement.

2 Conditions Applicable

- 2.1 The sale of the Goods by us to you that is constituted by and recorded in any Agreement shall be governed solely, throughout the performance of the

Agreement and for as long as obligations subsist under or in connection with the Agreement, by these Conditions and any Confirmation of Order.

2.2 Subject to condition 2.8:

2.2.1 no provision other than a provision that is expressly set out in any Agreement shall become a term of that Agreement; and

2.2.2 no provision not expressly set out in these Conditions or any Confirmation of Order shall in any manner govern or affect an Agreement between you and us or any obligation arising under or in connection with that Agreement.

2.3 Condition 2.2 shall apply regardless of:

2.3.1 the manner in which or the time at which you purport to proffer or incorporate such other provision(s) into the Agreement; and

2.3.2 whether you invoke, proffer or seek to bring into effect such other provision(s) by way of contract term or notice.

2.4 For the avoidance of doubt, and in accordance with this condition 2 generally:

2.4.1 the reference to a provision that is not set out in an Agreement includes (without limitation or other prejudice to the general meaning of such reference) any provision emanating from standard terms or conditions routinely proffered or employed by you in the course of your business or profession ('Buyer's Provisions') that you invoke, proffer, or purport to bring into effect as governing the Agreement; and

2.4.2 you acknowledge and agree that we shall not be bound by any of the Buyer's Provisions.

2.5 An order from you for the Goods shall be deemed to be an offer by you to purchase Goods pursuant to the provisions of an Agreement.

2.6 We shall have accepted that offer only when we have indicated in writing to you by delivering a Confirmation of Order to you that we have accepted that offer.

2.7 Such acceptance shall be a condition precedent to an Agreement and shall be and take effect only on the terms of that Agreement.

- 2.8 No purported variation of any of the provisions of an Agreement, whether such purported variation purports to have been made or to be made before or after the conclusion of an Agreement, shall apply to or affect that Agreement or any obligation arising under or in connection with it nor become binding on us, unless and until we have agreed to it in writing and in terms that conform to condition 14.4.
- 2.9 The rule of exclusion expressed in condition 2.8 applies (without limitation to its general scope) to any special terms and conditions that are agreed between the parties but not yet reduced to writing.

3 Order

- 3.1 You order, and we agree to sell to you, the Goods at the Price for delivery by the Delivery Date.
- 3.2 The quantity and description of the Goods are set out in our quotation previously communicated by us to you.
- 3.3 Acceptance of the delivery of the Goods shall occur and be deemed to occur immediately on the entry or inscription of your signature on our standard delivery note, which entry or inscription shall immediately constitute, and be deemed to constitute, conclusive evidence of your satisfaction with and acceptance of the Goods.

4 Description

You acknowledge and agree that any description which is given or applied to the Goods:

- 4.1 is solely for purposes of reference and does not constitute or afford the basis for any express or implied undertaking that the Goods correspond with or conform to such reference;
- 4.2 shall not make any Agreement a sale by description; and
- 4.3 is not and has not been relied on by you when entering into that Agreement.

5 Sample

You acknowledge and agree that when a sample of the Goods has been shown to

or inspected by you:

- 5.1 the sole purpose of so doing was to enable you to judge the quality of the bulk; and
- 5.2 the sale does not, in consequence of your inspection of the sample or otherwise, constitute a sale by sample.

6 Price

You shall pay the Price for the Goods as stated on our invoice and not (where different) as expressed in any quotation, estimate or documentation, or given orally.

7 Payment

- 7.1 Payment for the Goods shall be made on the Payment Date.
- 7.2 All amounts stated are exclusive of VAT and any other applicable taxes or levies, which shall be charged in addition at the rate in force at the date any payment is required from you.
- 7.3 If payment is not received by the due date, at our exclusive discretion we shall be entitled:
 - 7.3.1 to charge interest on the outstanding amount at the rate of 8% per annum above the base lending rate of Barclays Bank plc, accruing daily; and
 - 7.3.2 to charge a fixed sum for the cost of recovering a late payment as per the late payment legalisation set out below; or

Amount of Debt	Charge
Up to £999.99	£40
£1,000 to £9,999.99	£70
£10,000 or more	£100

- 7.3.3 to require that you make a payment in advance of any delivery not yet made; and/or
- 7.3.4 not to make any delivery.

8 Delivery

- 8.1 We shall deliver the Goods to the address shown within the Confirmation of Order on the Delivery Date.
- 8.2 The cost of delivery shall be in addition to the Price.
- 8.3 For the avoidance of doubt, both the Delivery Date and any other date given under or pursuant to any Agreement is no more than an estimate, and our conformity with such date is not, and shall not in any event or circumstance be or become, of the essence of an Agreement.

9 Risk

The risk in the Goods shall pass to you on the Delivery Date.

10 Property

- 10.1 The property in the Goods shall not pass to you until we have received the full amount of the Price and any other sums that are owed to us by you.
- 10.2 Condition 10.1 shall apply irrespective of whether delivery has been made.

11 Acknowledgments

You acknowledge and agree:

- 11.1 that you have had a reasonable opportunity to inspect the Goods before signing our delivery note;
- 11.2 that you have inspected the Goods before signing our delivery note;
- 11.3 that you have satisfied yourself as to the condition of the Goods before signing our delivery note and that the entry or inscription of your signature on our delivery note on delivery of the Goods to you shall be conclusive evidence that you have examined the Goods and that the Goods correspond in every respect with the Goods that you are entitled to receive under the Agreement.
- 11.4 that except and in so far as is provided in these Conditions or in our Confirmation of Order:

11.4.1 we give no representation or undertaking, and shall be bound by no condition, warranty, innominate term or other obligation (whether express or implied, and whether imposed or implied by statute, at common law or otherwise) concerning the condition, quality, physical state or attributes, location, origin, fitness or suitability for any purpose, or conformity with description or sample, of the Goods;

11.4.2 all liability on our part in respect of the matters referred to in condition 11.4.1 is excluded; and

11.4.3 you undertake not to bring any claim or resort to any proceeding in respect of the matters referred to in condition 11.4.1.

12 Defects

12.1 We may provide a Guarantee in respect of the Goods.

12.2 If for any reason Goods are not supplied together with our Guarantee we may, at our exclusive and unqualified discretion, make good either by repair or by the provision of a replacement, any defect which, following proper use of the Goods, appears in the Goods within a period of [] after the Goods have been delivered, provided that:

12.2.1 you notify us in writing of the claimed defect(s) immediately on their appearance; and

12.2.2 we are satisfied that the sole cause of the defect(s) is:

12.2.2.1 faulty design (other than a design made, furnished or specified by you for which we have disclaimed responsibility in writing), or

12.2.2.2 faulty materials, or

12.2.2.3 faulty workmanship, and

12.2.3 all Goods or parts claimed to be defective are returned to us at your expense within the period stipulated by us, following our receipt of notice in accordance with condition 12.2.1.

12.3 Repaired or replacement Goods shall:

12.3.1 be delivered to you at the original place of delivery; and

12.3.2 be subject in all other respects (*mutatis mutandis*) to the provisions of the Agreement, and

in particular, without limitation we undertake no responsibility for the condition, quality, physical state or attributes, location, origin, fitness or suitability for any purpose, or conformity with description or sample, of such repaired or replacement Goods or any portion, part or component of them.

12.4 As an alternative to the discretion expressed in condition 12.2, and in the event that you have already paid the Price when you notified the claimed defect to us, we may, at our exclusive and unqualified discretion:

12.4.1 refund the Price of the Goods to you; and thereafter

12.4.2 recover possession of the Goods from you.

12.5 For the avoidance of doubt and without prejudice to the generality of Condition 11.4 we do not make or give, and shall not be deemed to make or give, any representation undertaking, warranty, covenant or other commitment, whether express or implied and whether statutory or otherwise, as to:-

12.5.1 the quality, viability, value, durability and condition of the Goods;

12.5.2 the description of, or the fitness for any particular or general use or purpose of the Goods;

12.5.3 the design or operation of the Goods; or

12.5.4 the absence from the Goods of any latent or other defect, discoverable or otherwise.

12.6 You acknowledge and accept that:-

12.6.1 irrespective of whether any breach on our part arises or is alleged to arise in contract, tort, bailment, negligence, breach of statutory duty or otherwise; and

12.6.2 irrespective of the nature of the loss, damage, costs or expenses resulting to you from any such breach, and in particular irrespective of whether

such loss, damage, cost or expense:-

12.6.2.1 flows directly from the breach without any intervening cause and independently of special circumstances; or

12.6.2.2 is of an indirect or consequential nature, including (without limitation and without excluding from the ambit of this clause 12.6 direct losses) the following:-

- (a) Loss or deferment of profit;
- (b) Loss or deferment of revenue;
- (c) Loss of goodwill;
- (d) Loss of business;
- (e) Loss or deferment of production or increased costs of production.

We shall have no liability to you save as expressly set out in these Conditions provided that nothing in this condition 12.6 shall exclude or limit our liability for death or personal injury resulting from our negligence.

13 Defences and variations

13.1 Force majeure

13.1.1 Neither party shall owe or incur any liability under or in connection with, or be deemed to be in breach of, the Agreement by reason of any delays in, revisions to, or failures in performance of the Agreement that result from circumstances beyond the reasonable control of that party.

13.1.2 The party affected by the circumstances referred to in condition 13.1.1 shall promptly notify the other party in writing:

13.1.2.1 when the occurrence of any circumstance referred to in condition 13.1.1 causes, or can reasonably be expected to cause or to threaten to cause, a delay, revision or failure in performance; and

13.1.2.2 when any such circumstance ceases to do so.

13.1.3 If such circumstances continue for a continuous period of more than three

months either party may terminate the Agreement by written notice to the other party.

13.2 Amendments

This Agreement may be amended only by formal amendment in writing signed by duly authorised representatives of the parties.

13.3 Waiver

13.3.1 No inaction, omission, failure or delay by us in exercising or securing the enforcement or validity of any right, power, privilege or demand arising under or in connection with an Agreement, and no single or partial exercise of any such right, power, privilege or demand shall impair the existence, operation, content, effect and enforcement of the said right, power, privilege or demand, or operate as a waiver of it.

13.3.2 The rights and remedies provided in any Agreement are cumulative and (subject to condition 13.4.1) not exclusive of any rights and remedies provided by law.

13.4 No agency or partnership

13.4.1 No Agreement shall constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties, other than, and except as provided for in, the contractual relationship expressly provided for in that Agreement.

13.4.2 Neither you or us shall have, nor shall either party represent that it has, any authority to make any commitments on the other party's behalf.

14 Integrity, continuity, exclusivity and enforcement

14.1 Severance

If any provision of an Agreement is prohibited by law, or is determined by any court of law or other binding adjudicatory authority or conceded by the parties to be unlawful, void or unenforceable, the provision:

14.1.1 shall, to the extent required and as far as possible, be severed from this Agreement and rendered ineffective without modifying the remaining provisions of the Agreement; and

14.1.2 shall not in any way affect any other particular provisions of that Agreement or the validity or enforcement of the Agreement generally.

14.2 Assignment

14.2.1 Subject to clause 15.3.2, neither party may assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under this Agreement without the prior written agreement of the other party.

14.2.2 A party may, however, assign and transfer all its rights and obligations under this Agreement to any person to which it transfers all of its business, provided that the assignee undertakes in writing to the other party to be bound by the obligations of the assignor under this Agreement.

14.3 Interpretation

In these Conditions unless the context otherwise requires:

14.3.1 words importing any gender include every gender;

14.3.2 words importing the singular number include the plural number and vice versa;

14.3.3 words importing persons include firms, companies and corporations and vice versa;

14.3.4 references to numbered conditions and schedules are references to the relevant condition in these Conditions;

14.3.5 the headings are not to affect the interpretation;

14.3.6 where the word 'including' is used in this Agreement, it shall be understood as meaning 'including without limitation';

14.4 Notices

14.4.1 Any notice to be given under an Agreement shall be in writing and shall be sent by first-class mail or air mail, or by facsimile or email (confirmed by first-class mail or air mail), to the address of the relevant party set out in

the Confirmation of Order.

- 14.4.2 Notices sent as in condition 14.6.1 shall be deemed to have been received, in the case of inland first-class mail, five working days after the day of posting, in the case of air mail, five working days after the date of posting, in the case of fax messages, on the next working day after transmission but only if a transmission report is generated by the sender's fax machine recording a message from the recipient's fax machine confirming that the facsimile was sent to the number indicated above and that all pages were successfully transmitted, or in the case of email, when the email first appears in the inbox of any email system that can reasonably be assumed to be used by the recipient.
- 14.4.3 In proving the giving of a notice, it shall be sufficient to prove that the notice was left, that the envelope containing the notice was properly addressed and posted, or that the applicable means of telecommunication was addressed and despatched and despatch of the transmission was confirmed or acknowledged.

14.5 Law and jurisdiction

The validity, construction and performance of this Agreement and of all other rights and liabilities arising in connection with this Agreement shall be governed by English law and shall be subject to the [non-]exclusive jurisdiction of the English courts, to which the parties submit.