

GENERAL CONDITIONS OF SALE - CONSUMER CONTRACTS



1. APPLICATION

- (1) In these Conditions, unless the context otherwise requires:-
(2) "Company" means Rose Corrosion Services Limited (registration no. 2480648)
"Contract" means the contract between the Company and you for the sale and/or supply and purchase of the Goods
"Goods" means the goods and/or services described overleaf and includes any or any part of them
"writing" includes facsimile transmission
"person" includes any firm, company or incorporated body
"you" means the person named as the customer to who the Goods are to be supplied
Words in the singular include the plural and vice versa
If any terms are specified overleaf and/or any special terms agreed between the Company and you conflict with these Conditions, the special terms will prevail
(3) Nothing in these Conditions will affect any of your legal rights as a consumer under any applicable legislation
(4) The Contract may be cancelled by you in accordance with paragraph 13

2. ORDERS AND SPECIFICATIONS

- (1) The Company agrees to sell the Goods, and you agree to buy them in accordance with the Contract. These conditions form part of the Contract
(2) Any orders placed by you and your acceptance of any estimate or quotation given to you by the Company will only bind the Company and you when the Company accepts them in writing
(3) The Goods to be supplied are as described overleaf. However, the Goods' specification may be changed so that it complies with the latest specification for the Goods (so long as that does not materially adversely affect the quality or performance of the Goods) or any applicable safety or other legal requirements
(4) The Goods are subject to availability. If they are not in stock when you place your order, the Company will inform you of that as soon as reasonably practicable and refund or re-credit you for any amount you have paid or has been debited from your credit debit card for the Goods

3. PRICE

- (1) Unless the Company otherwise agrees in writing, the price of the Goods will be that specified overleaf. All prices quoted and quotations are valid for 30 days only. All prices and other charges will be subject to any applicable value added tax and other taxes or duties which will be payable at the same time as the price of the Goods
(2) Unless the Company otherwise agrees in writing, all prices quoted are for delivery of the Goods to you at the Company's premises. If the Company is to deliver the Goods to you elsewhere, in addition to the price you must pay the Company's charges for transport and insurance at the Company's rates stated in the Contract. Unless the Company otherwise specifies, the price includes packing them in accordance with the Company's standard practice

4. PAYMENT

- (1) The Company may invoice you for all sums payable under the Contract when the Goods are delivered or at any time after delivery, if you wrongfully fail to collect or take delivery of the Goods the Company may invoice you, at any time after it has notified you that the Goods are ready for collection or it has offered to deliver the Goods to you
(2) You must pay all sums owed to the Company on or before the dates on which they are due. If you fail to make any payment by the due date, without affecting any of its other rights, the Company may:-
(a) bring the Contract to an end;
(b) suspend any further deliveries;
(c) allocate any payment by you to such of the Goods as the Company decides despite any purported allocation by you; and/or
(d) charge you interest on the amount for the time being unpaid at a rate equivalent to 4% above the base rate (or if it is replaced, the successor from time to time of Lloyds TSB Bank Plc until payment in full is made. That interest will accrue on a daily basis and be payable both before and after any court judgement obtained against you
(3) Unless payment is to be made on delivery, the Company's invoices will be payable within thirty days of their date, even though delivery may not have taken place because of your default and you have not become the owner of the Goods
(4) All sums payable by you under the Contract must be paid in pounds sterling

5. DELIVERY

- (1) The Company will use its reasonable endeavours to supply the Goods in accordance with any estimated delivery or completion date given or agreed to by the Company. However, the Company will not be liable for any loss or damage suffered by you as a result of any reasonable or unavoidable delay in delivery
(2) If the Company fails to supply the Goods by the estimated or agreed date, you may give the Company written notice requiring it to deliver or complete the supply of the Goods within a reasonable period. If the Company fails to do so within that period, you may terminate the Contract immediately by giving written notice of termination to the Company. You will not have the right to require the Company to deliver or supply the Goods within a reasonable period or to terminate the Contract if the Company's failure to deliver or supply the Goods by the relevant date is due to any circumstances beyond the Company's reasonable control or your default
(3) The Goods will be delivered where stated by the Company
(4) If you wrongfully fail to collect or accept delivery of the Goods or give proper delivery instructions (unless due to the Company's default) without affecting its other rights, the Company may:-
(a) arrange for storage of the Goods at your risk and expense until they are delivered or collected, including if applicable reasonable storage charges and the cost of any redelivery; or
(b) if the Company terminates the Contract, sell the Goods in its discretion and, after deducting from the sale proceeds all sale costs and other sums owing to the Company, retain any surplus for its own benefit

6. TESTING OF GOODS

If the Company is required to carry out tests other than its normal ones or in your presence, the Company may charge for them at the rates stated overleaf. The Company may carry out and charge for the tests if you fail to attend on the notified dates

7. INSPECTION AND ACCEPTANCE OF GOODS

- (1) You must notify the Company in writing of any claim regarding:-
(a) the quantity of Goods delivered, within 5 days of delivery;
(b) non-delivery, within 5 days of the date notified to you for delivery; and
(c) the condition or damage to Goods delivered within 5 days of delivery or in the case of any defect which should be apparent on reasonable inspection, with 15 days of delivery
(2) Notification will not be valid if it is given on the delivery document and will only be effective if given within the time periods stated in paragraph 7(1). If you fail to do so, the Company may enter on the delivery document, if no such notice is given, so far as concerns those matters, you will be deemed to have accepted the Goods and that they comply with the Contract

8. OWNERSHIP OF THE GOODS AND RISK

- (1) Even though the Goods may have been delivered to you, the legal and beneficial ownership of the Goods will remain with the Company, which retains the right to dispose of the Goods, until the Company has received payment in full of all sums payable to the Company in relation to the Contract
(2) Until you become the owner of the Goods:-
(a) you will hold the Goods as fiduciary agent and bailee for the Company and must not sell or part with possession of the Goods or do anything else inconsistent with the Company's ownership of the Goods. In particular, you must ensure that they are not affixed to or become part of any land or building, are kept separate from any other item, properly stored and protected and clearly identified as the Company's property
(b) if you fail to pay any sum under the Contract by the due date for payment or the Company brings the Contract to an end, the Company may require you to return the Goods to the Company within 7 days (whether or not they form part of or are affixed to any other item). If you fail to do so, the Company may enter on any land or buildings where the Goods may be with its representatives and appropriate transport and repossess the Goods
(3) After the Company has repossessed any Goods it may sell them and the proceeds of sale will belong to the Company absolutely. If the net sale proceeds received by the Company are less than the amount payable to it under the Contract it may recover the balance from you
(4) When the Goods have been delivered you will become responsible from that time for any loss or destruction of or damage to the Goods
(5) Even though you may not have become the owner of the Goods, the Company may recover all sums payable to it in relation to the Contract

9. WARRANTY AND LIABILITY

- (1) The following warranty will apply to the Goods:-
The Goods will correspond with their specification and description and sample (if any) at the time of delivery and if within twelve calendar months of the Goods being delivered by the Company or, as the case may be, completion of the supply of any services (any defect in the Goods is discovered under normal use which is directly attributable to faulty design, materials or workmanship, or a valid claim is made under paragraph 7, the Company will at its expense remedy the defect or damage by replacement or repair or, as appropriate, refund the purchase price of the defective or damaged Goods
(2) The following conditions apply to the warranty:-
(a) the warranty will not apply to any defect or damage resulting from any:-
(i) alteration of the Goods without the Company's prior written consent, incorrect installation (except by the Company), or storage, overloading, normal wear and tear, misuse or use not intended or intended for purposes, accident, abnormal conditions of use or maintenance, repair or use which is not in accordance with the Company's or manufacturer's instructions or procedures; or
(ii) act or omission by you or any third party (excluding the Company's agents or sub-contractors involved in the supply of the Goods) or any fault in any other goods or equipment
(b) you must ensure that the Company's personnel will have such access to the Goods as they may require to investigate alleged defects or damage and carry out any warranty work
(c) Goods must be returned to the Company's trading premises as required by the Company. Repaired or replacement Goods will be returned to you at the cost of the Company. The Company will reimburse you the reasonable carriage costs incurred by you in returning by road from your premises in Great Britain or by other agreed mode of transport Goods which are repaired or replaced under the warranty or whose purchase price is refunded. Replaced Goods will belong to the Company
(d) you must give the Company in writing full particulars of any alleged defect or damage within the period stated in paragraph 7 or, in the case of a warranty claim, within 7 days of the end of the warranty period. If notice of a claim is not given within those periods it will not be effective. Warranty claims and any other complaints you have regarding the Goods should be notified to the Company at its address or fax number overleaf
(e) if you make any claim falling outside the terms of the warranty the Company may charge for examining the Goods and any work done or goods supplied by it in respect of that claim and any reasonable cost or expense incurred by the Company
(f) this paragraph 9 will apply to Goods or components replaced or repaired under the warranty for the balance of the original warranty period
(3) To the fullest extent permitted by law, the Company will not be liable in contract or tort (including negligence) or in any other way for:-
(a) any indirect or consequential loss, liability or damage or any other claim for consequential compensation; or
(b) loss of any kind of profit, business, production, goodwill, anticipated savings or other benefits or any loss or corruption of data; and any costs, expenses or liability to any third party incurred by you (excluding any reasonable costs incurred in repairing or replacing any defective or damaged Goods if the Company fails to do so in accordance with paragraph 9(1)) arising directly in the natural and ordinary course or indirectly from or in connection with the Contract or the Goods. This will not apply to any death or personal injury arising from the Company's negligence or breach of the Contract or any other duty

10. ACCELERATED PAYMENT

Without affecting its other rights, if the Company has serious doubts about your ability to pay any sum under the Contract on the due date you must within seven days of written notice from the Company pay the balance of all sums payable under the Contract

11. CIRCUMSTANCES OUTSIDE OF THE COMPANY'S CONTROL

The Company will not be in breach of the Contract or otherwise be liable to you for any delay or failure in performing any of its obligations under the Contract if that is caused by any circumstances or event beyond the Company's reasonable control (including breakdown of plant or machinery, strike or industrial dispute, shortage of materials or failure of or delay in receiving supplies)

12. TERMINATION

- (1) If either you or the Company (the "Defaulting Party"):
(a) makes an arrangement with its creditors generally or has an interim order (within the meaning of the Insolvency Act 1986) made against him or becomes bankrupt or enters into compulsory liquidation or voluntary liquidation or the equivalent or is dissolved; or
(b) has a receiver and/or manager, supervisor or administrator appointed over or in relation to it or any part of its assets or undertaking; or
(c) is unable to pay its debts within the meaning of sections 123 or 268 Insolvency Act 1986; or
(d) commits any breach of any of the provisions of the Contract (except for paragraph 4(3) of these Conditions) and, in the case of a breach that is capable of being remedied, does not remedy it within 7 days of written notice of the breach being given to it by the other party without affecting its other rights the other party may terminate the Contract or the balance of the Contract (or if the other party is the Company, suspend deliveries immediately) by written notice to the Defaulting Party without any liability whatsoever
(2) The termination of the Contract for any breach will not affect your or the Company's accrued rights or any obligation which is expressed to continue afterwards or is of a continuing nature, and that obligation will continue in full force and effect

13. NOTICE OF RIGHT TO CANCEL

- (1) If the Contract is a distance contract within the meaning of the Consumer Protection (Distance Selling) Regulations 2000, the provisions of this paragraph 13 will apply
(2) You have the right to cancel the Contract at any time up to the end of seven working days after you receive the Goods. You agree that paragraph 19(1) of the above Regulations (which requires a supplier to perform the contract within 30 days) will not apply
(3) To exercise your right of cancellation, you must give the Company written notice of cancellation by delivering it at or sending it by post, fax or email to the address, fax number or email address shown overleaf, giving details of the Goods and (where appropriate) their delivery address
(4) You will not have any right to cancel the Contract under this paragraph 13 to the extent that the Goods are made to your specification or are clearly personalised or which by reason of their nature cannot be returned or are liable to deteriorate or expire rapidly or comprise audio video recordings or computer software if they are unsealed by you
(5) If you cancel the Contract in accordance with this paragraph 13 after the Goods have been delivered to you, you will be responsible for returning them to the Company at your cost. The Goods must be returned to the Company's address shown overleaf within 7 days of the date of the notice of cancellation. You must take reasonable care of the Goods until they are returned or sent to the Company
(6) If you cancel the Contract in accordance with this paragraph, the Company will refund you as soon as possible, and in any event within 30 days of receipt of the notice of cancellation, any sum paid by you for the Goods less any costs recoverable under paragraph 13(7)
(7) If you do not return the Goods as required, the Company may recover them and charge you for the direct costs of recovery

14. GOVERNING LAW AND JURISDICTION

The law of England will apply to the Contract and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims). All claims and legal proceedings arising out of or in connection with the Contract, its subject matter or its formation (including non-contractual disputes and claims) will be subject to the non-exclusive jurisdiction of the Courts of England

15. INTELLECTUAL PROPERTY

- (1) The Company will indemnify you against damages and costs awarded against you by a court of competent jurisdiction or agreed to be paid by it under a settlement negotiated by the Company pursuant to this paragraph in respect of any claim by a third party alleging that the Goods or any trade mark or service mark applied to them by the Company (other than at your request) infringe any intellectual property rights of that third party PROVIDED THAT this indemnity;
(a) will not apply to any infringement to the extent that it is attributable to the association or combination of the Goods with any other item or device or if the Goods have been altered or modified or otherwise differ from those delivered by the Company; and
(b) will be conditional upon:-
(i) your giving the Company written notice of any actual or potential claim as soon as practicable and in any event within seven days of your becoming aware of the same;
(ii) the Company being entitled to defend, avoid, appeal against or compromise any such claim and/or any proceedings relating thereto in its absolute discretion and in your name and on your behalf and to have the exclusive conduct thereof and of all negotiations in respect thereof;
(iii) you not doing or omitting to do any act or thing which prejudices or might prejudice any of the foregoing and its rendering such assistance and providing such information in connection with any such claim or proceedings and the matters referred to in sub-paragraph (b) (ii) above as the Company may from time to time request;
(iv) the Company being entitled to the benefit of, and you shall accordingly account to the Company for, all damages and costs payable to you by any third party in respect of any such claim or proceedings;
(v) without prejudice to your common law duties, you taking such steps as the Company may reasonably require to mitigate or reduce any such damages or expenses covered by this indemnity; and
(vi) you not doing anything which would or might vitiate any insurance cover you may have in relation to such infringement, and this indemnity shall not apply to the extent that it recovers any sums under any such cover (whether or not you use its best endeavours to do)
(2) In the event of any such claim being made against you, the Company shall be entitled (but not obliged) at its own expense and option to:-
(a) procure the right for you or the end-user to continue using the Goods in accordance with the Contract; or
(b) procure such alterations, modifications or adjustments to the Goods that they become non-infringing or procure the replacement of the Goods with non-infringing substitutes
(3) The foregoing states the Company's entire liability in relation to any claim that the Goods infringe any person's intellectual property rights
(4) If any computer programs are included in the Goods, you and your successors in title to the Goods will have a non-exclusive licence to use the computer programs created by the Company in or in conjunction with the Goods to which they relate and the ownership of all intellectual property rights in those programs and related documentation supplied by the Company will remain with the Company except for any owned by any third party
(5) Any other computer programs included in the Goods will be subject to the appropriate licence issued by the supplier of those programs
(6) All plans, drawings, designs, specifications and any other documents in any medium relating to the Contract produced by or on behalf of the Company and all rights in them will remain with the Company and will not be disclosed to any third party or (except to the extent necessary for the proper use of the Goods) used by you and all copies in the possession or under the control of the Customer will be returned to the Company on request
16. MISCELLANEOUS
(1) The provisions of the Contract are separate, and if any provision or part of it is held to be invalid or unenforceable by any court or other body of competent jurisdiction that will not affect the other provisions or the remainder of the relevant provision
(2) You may not transfer or otherwise deal with all or any of your rights or obligations in relation to the Contract without the Company's prior written consent (which will not be unreasonably withheld but may be subject to reasonable conditions). The Company will be free to transfer all of its rights and/or obligations in relation to the Contract provided that does not adversely affect you
(3) If you comprise more than one person, your obligations and liabilities under or in relation to the Contract will be joint and several
(4) If the Company or you do not strictly enforce its or your rights that will not in any way affect any of its or your rights in respect of the Contract
(5) Any notice or claim under the Contract must be in writing and will be effectively served if it is personally delivered or sent by pre-paid first class post or facsimile transmission to the addressee at its address overleaf or any other address for service notified to the other in accordance with this paragraph. In addition, a notice of cancellation may be given in accordance with paragraph 13

Revision August 2015

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CANCELLATION NOTICE

If you are a consumer and wish to cancel the Contract under paragraph 13 above, you may use this form to do so but you not have to.

Complete, detach and send the Company this form in accordance with paragraph 13 only if you wish to cancel the Contract

To: Rose Corrosion Services Limited
Unit C 10/11
Stafford Park 11
Telford
Shropshire
TF3 3AY

Order [Contract] Number: [To be inserted]

Email address: sales@rcslgroup.com

Fax number: +44 (0) 1952 290 325

*I/we hereby give you notice that I/we wish to cancel the Contract between me/us and the Company for the supply of [insert description of goods and, if applicable, services]

Signed:

Name(s) in capitals:

Address(es):