

## 1. General Terms:

These terms and conditions ("Terms and Conditions") herein written complement the specific conditions agreed between buyer and seller in any order and, in the view of the foregoing, shall govern the **sale of products** to buyer ("Buyer") and shall supersede all previous communications, agreements or contracts, and no term, condition or trade custom in conflict or inconsistent herewith shall be binding upon seller ("Seller") unless agreed to in a signed writing. They can be downloaded from [WWW.RADIANTCOLOR.COM](http://WWW.RADIANTCOLOR.COM) . A copy will be sent for free at your request. Customer terms and conditions are explicitly rejected.

All orders are subject to acceptance within reasonable time by Seller in the form of a written acknowledgment from Seller or commencement of performance. Seller's failure to enforce any right it may have under the Terms and Conditions shall not be construed as a waiver thereof, nor shall such failure or failures be deemed to establish any custom, usage, course of dealing or course of performance. The failure of Seller to exercise any rights resulting from Buyer's default or otherwise shall not be deemed a waiver of such right or any other right.

These Terms and Conditions may be enforced at any time, in whole or in part. Any provision hereof which is prohibited or unenforceable in any applicable jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions or affecting the validity or enforceability in any other jurisdiction.

Any advice, recommendation, information, assistance or service provided by Seller in relation to the Products or in respect of their use or application is given in good faith, shall be deemed accepted by Buyer without imputation of any liability to Seller, and it shall be the responsibility of Buyer to confirm the accuracy and reliability of the same in light of the use of which Buyer makes or intends to make of the Goods. Providing this limited service, does not change the nature of the transaction.

Seller may assign, mortgage, subcontract, charge, declare trust over or deal in any other manner with any or all rights under these Terms and Conditions.

Buyer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare trust over or deal in any other manner with any of its rights under these Terms and Conditions without prior written approval from Seller, which shall not be refused without good cause.

These Terms and Conditions apply to the exclusion of any other terms that Buyer seeks to impose or incorporate, or which are implied by law, trade, custom, practice or course of dealing.

## 2. Payment:

Products may require full or partial payment in advance or upon delivery, may require other security for payment or performance, or may impose such other credit or payment terms as Seller deems appropriate in its sole discretion.

Seller is entitled to increase the price of the products still to be delivered if the costs price determining factors have been subject to an increase. These factors include but are not limited to: raw and auxiliary materials, energy, products obtained by Seller from third parties, exchange rates, wages, salaries, social security contributions, governmental charges, freight costs and insurance premiums. Seller shall notify Buyer of such increase which shall not exceed the increase in the determining costs factors.

All Prices are exclusive of VAT and all other taxes and they are based on the method of shipping stated in article 3. Risk and Title

All made-to-order or non-stock materials will be invoiced on the total batch yield within ten percent (10%) which may exceed quantity ordered.

Invoices are due for payment 30 days after date of invoice unless otherwise specified.

Sums not paid when due shall accrue interest each day at the local commercial rate for unpaid commercial debts as transposed in local law following directive 2011/7/EU and will in no case be lower than 4% a year above the European Central Bank's base rate from time to time, but at 4% a year for any period when that base rate is below 0%. Buyer may not withhold or set-off payment for products delivered for any reason whatsoever. Any debt recovery costs will be at the expense of the Seller with a minimum of 40,00 euro except as stated otherwise in applicable law.

Seller reserves the right, among other remedies, either to terminate or dissolve the sale or to suspend future deliveries upon failure of Buyer to make any payment pursuant to these Terms and Conditions or any other contract between the parties hereto. Buyer shall reimburse Seller in full for all damages, costs and expenses, including reasonable legal fees, which Seller incurs with respect to Buyer's breach of these Terms and Conditions or any collection efforts by Seller to recover past due amounts from Buyer.

### 3. Risk and Preservation Obligations:

The risk in the Products shall pass to Buyer in accordance with the method of delivery selected as referred to in the "Shipping/Freight costs" section below.

Title to the Products shall not pass to Buyer until (if permissible according to mandatory applicable law):

- i) Seller receives payment in full (in cash or cleared funds) for the Products and any other Products that Seller has supplied to Buyer in respect of which payment has become due. As the Buyer has paid the full price for the ordered products, ownership will automatically pass to the Buyer.
- ii) Buyer resells the Products, in their ordinary course of business, as principal and not as Seller's agent, in which case title to the Products shall pass to Buyer immediately before the time at which Buyer resells the Products.

Until Seller receives payment in full (in cash or cleared funds) from Buyer,, Buyer shall: store the Products separately from all other Products held by Buyer so they remain identifiable, not remove, deface or obscure any identifying mark or packaging relating to the Products, maintain the Products in satisfactory condition and keep them insured from all risk for their full price from the date of delivery, give Seller such information as they may reasonably require from time to time relating to i) the Products and ii) the ongoing financial position of Buyer. Along with the handing over of the Products to the Buyer, the risk of accidental loss or damage to the product is transferred to Buyer and Buyer is obliged to bear all the costs of maintaining the products in good condition.

In the event that Seller does not timely receive payment for the Products, Seller has the right to prohibit Buyer from reselling the goods or using them in its ordinary course of business. Seller may also require Buyer to deliver all of the Products in its possession that have not been resold or irrevocably incorporated into another product and if Buyer fails to do so promptly Seller may (if permissible by applicable law) enter any of Buyer's premises or of any third party where the Products are stored in order to recover them.

#### 4. Credit Terms:

If applicable, credit terms are subject to Seller's continuing approval of Buyer's credit, and if, in Seller's sole judgment, Buyer's credit or financial standing is impaired so as to cause Seller to deem Buyer insecure, Seller may withdraw the extension of credit and require other payment terms and any amount outstanding on Buyer's credit shall become immediately due and payable in full. Buyer agrees to submit such financial information, from time to time, as may be reasonably requested by Seller for the establishment and/or continuation of credit terms.

#### 5. Changes:

Any request to change any order with respect to quantity or packaging must be communicated in writing prior to shipment. If such changes result in increased cost or time to complete the manufacture of the product(s) or if there is a decrease in the quantity requested which invalidates any discounts offered by Seller, then the price and timing of the original order shall be adjusted accordingly.

Buyer agrees to pay any increased costs associated with the changes.

Once orders have been accepted by Seller, no changes with respect to specifications will be made or allowed unless they are requested and accepted in writing and the resulting new price and delivery time are agreed upon by both Parties in writing.

Additional costs for changes, including any costs for additional engineering, will be reflected in the new price.

Cancellations are subject to Seller's agreement and reasonable cancellation charges which are determined in the sole discretion of the Seller.

#### 6. Shipments/Freight Costs:

Seller will confirm on which basis the shipment is made, typically this will be FCA (Incoterms 2020) OR FOB shipping point (Incoterms 2020) OR DDP (Incoterms 2020) OR DAP (Incoterms 2020).

In absence of express agreement all shipments will be EXW (Incoterms 2020).

A minimum charge may be applicable for orders.

Shipping and/or delivery dates are best estimates and Seller shall not be liable for any limited delay or discrepancy in the shipping or delivery of products, unless the Shipping and/or delivery date have expressly been agreed upon as being an essential part of the order. Seller reserves the right to make deliveries in instalments. Delay in delivery of one instalment shall not entitle Buyer to cancel other instalments. Any applicable freight costs will be added to the invoice unless customer specifies collect on purchase order.

If, in accordance with applicable law, delivery dates are binding and the Buyer has a right to claim compensation in case of late delivery, parties agree that the compensation will never exceed 1% of the value of the late delivery per week and with a maximum of 6% of the late delivery value in total.

#### 7. Field Service:

Any applicable field service, technical support, installation supervision, or related service shall be governed by a separate written agreement.

Absent a separate written agreement, any advice, recommendation, information, assistance or service provided by Seller in relation to the Products or in respect of their use or application is given in good

faith, shall be deemed accepted by Buyer without imputation of any liability to Seller, and it shall be the responsibility of Buyer to confirm the accuracy and reliability of the same in light of the use of which Buyer makes or intends to make of the Goods.

#### 8. Back Orders:

Seller reserves the right to cancel back orders. Seller is entitled to rescind the contract if despite entering into coverage transactions in a timely manner the Seller itself is not supplied correctly or in a timely manner and other coverage purchases are unreasonable or have failed or if the Seller or its suppliers are unable to make timely delivery for reasons of Force Majeure as set forth in Section 14 below or changed market conditions.

#### 9. Return of Products:

Written authorisation is required from Seller prior to any return shipment, which may be granted or denied by Seller in its sole discretion.

Custom colours, special orders, or limited-shelf-life materials are not returnable. Likewise, excess product due to Buyer's overestimate of requirements or need is not subject to return.

In the event any terms or conditions of any authorization conflict with these Terms and Conditions, the Seller's returned goods authorisation shall prevail.

Authorised returns must be shipped using the carrier selected by Seller and routed to the location of Seller's choice. Buyer is responsible for all freight charges and risk.

Returns must be shipped in their original unopened cartons. A minimum 25% re-stocking fee will be charged on all authorised returns. Obsolete, damaged, discontinued products and/or merchandise over six months old is not eligible for return in any instance.

#### 10. Claims:

Claims resulting from losses, shortages or damage in transit must be acknowledged on the delivery papers at receipt. Buyer shall further promptly notify Seller of any delivery of any damaged product(s) purchased from Seller, or of any complaint whatsoever Buyer may have concerning delivery.

Buyer's failure to give such notice and to note such damage constitutes a waiver of any claim against Seller relating to the damaged product, if applicable. Any other claim pertaining to the ordering, shipment (including timeliness), suitability, accuracy, or delivered condition of the Products not specifically set forth in these Terms and Conditions shall be deemed waived and released by Buyer unless made in writing within five (5) business days after Buyer's receipt of the product(s).

#### 11. Warranty:

The Buyer must inspect the goods immediately after receiving them and, if a defect is found, must notify the Seller in writing without undue delay. Otherwise, the materials are deemed to have been accepted, insofar as a defect which capable of being identified during proper inspection is concerned. The same applies when the Buyer does not carry out an agreed acceptance, or does not carry it out completely or in a timely manner. If a defect subsequently appears, this fact must be notified after discovery without undue delay. Later notifications of defects are hereby excluded.

Insofar as there is a defect and this has been complained about in a timely manner and in no case later than 30 days after delivery of the Products, the Seller is entitled to effect subsequent performance in the form of defect rectification or to supply a flawless item within a reasonable period, as the Seller

chooses. The Seller bears only its work and materials costs associated with this subsequent performance; other costs, particularly disassembly and inspection costs, will not be borne by the Seller. If the Buyer takes the goods to a location other than the acceptance location, then the Buyer bears the additional subsequent performance costs which arise as a result thereof. If the subsequent performance is unsuccessful or commercially impracticable, then the Buyer is entitled to rescind the contract or to demand reduction of the remuneration paid to Seller. However, in the case of a contract breach which is only minor, particularly in the case of only minor defects, the Buyer is not entitled to any reduction or rescission right. The Seller can refuse to effect subsequent performance if it is associated with disproportionate costs.

No claims will be considered until the product in question has been inspected by a Seller representative.

SELLER MAKES NO OTHER WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AND DISCLAIMS EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE PRODUCTS TO THE EXTENT PERMITTED BY LAW.

The warranty set forth on the product label shall be void, and shall not apply to any products;

- (i) which have been altered, modified or combined with any other materials other than materials as specified on the products' labelling, or technical documentation;
- (ii) which have been subject to improper storage or handling;
- (iii) which have been exposed to conditions beyond the operating constraints specified by Seller in its labelling. With the exception of the warranty terms set forth herein or, if applicable, on the Product label, it is Buyer's sole responsibility to test the Product to ensure that it is fit for the use intended by Buyer or any end user; or
- (iv) which have not been timely paid for, in full, by Buyer, regardless of whether such products have already been applied or otherwise utilized by Buyer or other parties.

With the exception of the warranty terms set forth herein or, if applicable, on the Product label, it is Buyer's sole responsibility to test the Product to ensure that it is fit for the use intended by Buyer or any end user.

## 12. Limited Liability:

Insofar as nothing is stipulated to the contrary in this Section 12, claims of the Buyer based on material defects or defects in title - for whatever legal reason - are hereby excluded if permitted by applicable law. The Seller is not liable for any damage which has not occurred to the delivered Products themselves. In particular, the Seller is not liable for loss of profits or other pecuniary loss suffered by the Buyer in this respect.

Insofar as nothing is stipulated to the contrary in this Section 12, claims of the Buyer due to breach of an obligation arising from contractual obligations are hereby excluded.

The foregoing no-liability declarations in this Section 12 do not apply in circumstances where the Seller is compulsorily liable as a matter of applicable law, for example (1) pursuant to the applicable Product Liability Act, (2) due to loss of life, personal injury or damage to health which is attributable to a negligent or intentional breach of obligation by the Seller or one of the Seller's legal representatives or vicarious agents, (3) if the cause of damage or loss was due to intentional behaviour or gross negligence by the Seller or one of the Seller's legal representatives or vicarious agents, (4) if the Buyer

asserts rights based on a defect arising from a guarantee regarding the product qualities or the particular duration of a product quality, (5) the Seller negligently breaches a fundamental contractual obligation whose fulfilment is what makes the due performance of the contract possible at all and whose fulfilment may be usually relied upon by the contract partner (cardinal obligation), (6) recourse claims in the consumer goods purchase delivery chain are involved.

If the Seller negligently breaches a cardinal (essential) obligation, its obligation to pay damages is limited to the contract-typical, foreseeable loss, if no intentional or grossly negligent behaviour is involved, and/or the Seller is not liable due to loss of life, personal injury or damage to health.

If the Seller has effected a partial delivery, the Buyer can only rescind the entire contract if it no longer has an interest in the part-performance. For successive delivery contracts, the Buyer's rights are limited to each respective partial delivery.

In the case of the elimination of a defect or replacement delivery (subsequent performance), this Section 12 applies correspondingly.

The Seller can refuse to carry out the elimination of defects, as long as the Buyer has not paid for the portion of the delivery which has not been objected to.

No claims against the Seller exist based on loss for which the Buyer is responsible. The Buyer is particularly responsible for damage and loss which occurs due to the following reasons:

- (i) alteration, modification or combination of the products with any other materials other than materials as specified on the products' labelling,
- (ii) improper storage or handling, or
- (iii) exposure to conditions beyond the operating constraints specified by Seller in its labelling. With the exception of the warranty terms set forth herein or, if applicable, on the Product label, it is Buyer's sole responsibility to test the Product to ensure that it is fit for the use intended by Buyer or any end user. "

SELLER SHALL NOT BE LIABLE TO BUYER, BUYER'S CUSTOMERS OR ANY PERSON OR ENTITY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR INDIRECT DAMAGES (INCLUDING, WITHOUT, LIMITATION LOST PROFITS OR BUSINESS INTERRUPTION LOSSES) AS A RESULT OF SUPPLYING PRODUCT TO CUSTOMERS OR OTHERS AND WHETHER ARISING IN TORT (INCLUDING NEGLIGENCE), CONTRACT OR OTHERWISE.

NOTHING IN THESE TERMS SHALL LIMIT OR EXCLUDE SELLER'S LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE OR FRAUD OR FRAUDULENT MISREPRESENTATION. OTHERWISE, SELLER'S EXCLUSIVE LIABILITY AND BUYER'S SOLE REMEDY IN THE EVENT OF A NON-CONFORMING PRODUCT SHALL BE REPLACEMENT OF THE DEFECTIVE PRODUCT WITH CONFORMING PRODUCT. IN NO EVENT SHALL SELLER'S TOTAL LIABILITY EXCEED THE PURCHASE PRICE OF THE PRODUCT AT ISSUE.

For the avoidance of any doubt, any limitation of liability shall be within the limits permissible by law.

### 13. Time Limitation:

No dispute, claim or other legal action, regardless of form, may be brought by Buyer for any breach by Seller or any other claim relating to or arising out of the Product, including negligence or any other tort-based claims, after one year from the date of delivery of the Product, unless otherwise agreed to in a signed writing by both Parties or by mandatory applicable law.

#### 14. Force Majeure:

No party shall be liable for any failure or delay in performance with respect to delivery or otherwise, if such failure or delay is due to an act of God as defined by the applicable law and in the following (not limited) cases: war, civil disturbance, riot, labour difficulties, factory capacity, fire, other casualty, accident, inability to obtain containers or raw materials, supply chain failure or inability to perform, governmental acts or restrictions, including shutdowns and inability to perform due to epidemics, pandemics, or any other cause of any kind whatsoever beyond the reasonable control of a Party. In case of Force Majeure the Seller shall have the right to dissolve the agreement(s) by sending a written confirmation to the Buyer. The contract will be automatically suspended without compensation of any kind, from the date of occurrence of the event of Force Majeure to the date of its end.

Seller shall have the right at its option and without liability to apportion its supply of product among its customers, including its affiliated divisions and companies, in such a manner as Seller, in its sole discretion, believes equitable.

In no event shall Seller be obligated to purchase products from others in order to enable it to deliver products to Buyer.

Force Majeure will never apply to any payment obligation as far as products (or part of them) have been delivered.

#### 15. Indemnity:

Buyer shall assume full responsibility for the use of the products and shall defend, indemnify and hold harmless Seller and its respective affiliates, officers, directors, shareholders, employees, agents and representatives from and against any and all losses, liabilities, claims, damages, demands, costs and expenses (including without limitation legal fees and court costs on a full indemnity basis) arising out of or relating to same.

#### 16. Governing Law and Jurisdiction:

All sales are governed by the law of the registered office of the Seller without regard to principles of conflicts of law, and excluded the United Nations Convention on Contracts for the International Sale of Goods (CISG or Vienna Convention).

Any action, dispute, claim or other will be exclusively brought before the courts competent for the registered office of the Seller (exclusive jurisdiction).

#### 17. Compliance with Instructions:

Buyer shall comply with all applicable instructions furnished by Seller relating to the installation and use of the product(s) and Buyer agrees not to misuse, modify or misapply such product in any manner.

Seller shall not be liable for Buyer's failure to apply or use the product in accordance with such instructions, technical notes or guidelines and good craftsmanship.

Buyer agrees to indemnify and hold Seller harmless from any and all claims, costs, liability, damages and expenses, including attorneys' fees, against or incurred by Seller due to injuries to persons or property in connection with Buyer's application or use of the product(s).

Buyer acknowledges receipt of and familiarity with Seller's labelling and literature concerning the product(s) and will forward such information to its employees who handle, process or sell such product(s) and to customers of such product(s), where applicable.

The Buyer agrees to keep updated and check all technical data sheets and SDS (Safety Data Sheet). In case the Buyer sells the goods, it will comply with all regulations and make the technical and safety data sheets available for its customers.

#### 18. Compliance with Applicable Law:

Buyer shall comply with all applicable laws and regulations. Buyer shall not - directly or indirectly - sell, export, re-export, transmit, divert or otherwise transfer any goods or products into or through, Cuba, Iran, Russia, Syria, North Korea, Venezuela, the Crimean, Donetsk or Luhansk Regions of Ukraine, Belarus, or any other country that is subject to sanctions or an embargo by the United States, the United Kingdom or the European Union, or with or to any party listed on any United States Government, United Kingdom Government or European Union blocked-persons list, as amended from time to time.

#### 19. Compliance with Applicable Policies:

Buyer shall comply with all applicable Seller policies including but not limited to Seller's Values & Expectations of 168 which can be accessed at the following URL <https://www.rpminc.com/pdf/CodeGuidelines.pdf> and Seller's Distributor and Applicator Code of Conduct which can be accessed at the following URL <https://www.rpminc.com/distributors-and-applicators-code-of-conduct/>.

#### 20. License:

Nothing in these Terms and Conditions is intended or shall be construed to grant any license or other permission by Seller to Buyer to use any trademarks, trade names, copyrighted materials, patents or other intellectual property rights or interest of Seller at any time.

In the event the Parties have entered into a separate License Agreement, that agreement is hereby incorporated by reference and made part hereof, to the extent applicable. If any inconsistency shall exist between these Terms and Conditions and the separate License Agreement, the terms of the License Agreement shall prevail.

If any right has been granted to the Buyer to use Seller's intellectual property (such as, but not limited to trademarks, trade names, copyrighted materials, patents or other intellectual property rights) the Buyer will only be allowed to use this intellectual property to promote sales of the goods of the Seller.

#### 21. Data Protection:

Each shall process, apply, view and use Personal Data only to the extent necessary to perform the agreement under these Terms and Conditions. Neither party shall transfer or otherwise allow the use of Personal Data of the other party unless expressly instructed or authorized by the other party. Both parties shall comply with applicable laws and best practices relating to data privacy and data security. Sellers Privacy Policy can be found on <https://www.rpminc.com/privacy-policy/>

The Purchaser has the right to access his data also for the purpose of their correction, integration and/or cancellation in accordance with the applicable laws on the subject and the General Data Protection Regulation (EU 2016/679). Any such request can be done at [dataprotection@rpminc.com](mailto:dataprotection@rpminc.com)

#### 22. Entire Agreement:

These Terms and Conditions represent the entire agreement between the parties hereto, and there are no understandings, representations, or warranties of any kind except those expressly set forth herein or in contractual documentations.