

TinyMobilePaint - Terms & Conditions

The following terms and conditions constitute the entire agreement between Buyer and Seller for paint sales and there are no other terms and conditions thereof whatsoever whether or not the terms and conditions vary the provisions of Buyer's order.

PRICING AND FREIGHT COST:

One time buy and ad-hoc purchases: If the paint is purchased as one time buy with a robot or as ad-hoc by direct order to the Kennesaw office freight cost is added to the cost of the paint. All shipments are EXW.

Auto ship multi-annual purchases: If the paint is purchased as an auto-ship multi-annual plan, the freight cost is included in the cost of the paint. The quantities of paint delivered per order or suborder is fixed at the time of invoicing. Seller reserves the right to adjust the quantities included in an order by the end of the calendar year. The changes in the amounts delivered will reflect increased cost of production, labour and freight.

SHIPPING POLICY: The Seller ship products Monday to Friday. The Seller processes all orders within 24-48 business hours if goods are in stock. If goods are not in stock, lead time can be as long as 6 weeks. If shipment will require more than 7 days of lead time, Seller will strive to inform the Buyer. Products will normally ship ground and shipment cannot be expedited. All packages will be properly packaged for transit. Because most shippers do not deliver to P.O. boxes, a valid street address must be provided. If a product is damaged or lost in transit, please report for the damage or loss immediately. If your product damage was concealed (not visible until package opened), you have 5 business days from delivery to report the damaged product, otherwise we are not responsible for the damage and the goods will be deemed accepted "as is." . We will ask you to provide images of the damage so we can file a claim with the shipping company prior to reshipping or processing a refund.

SUBJECT TO ACCEPTANCE: Buyer's order is subject to acceptance by Seller at its Kennesaw, Georgia office only.

NO REPRESENTATIONS: No representations, agreements, statements, estimates or recommendations by any person, including any salesperson, whether oral or written not appearing hereon are or shall be part hereof or of any binding effect between Buyer and Seller and all prior negotiation and correspondence concerning the purchase and merchandise herein described are merged herein and superseded hereby.

WARRANTY: Any warranty or guarantee to be made by Seller to Buyer will be as set forth in the product packaging or otherwise provided at the time of delivery. **NO WARRANTY OR GUARANTEE OF ANY KIND CONCERNING SUCH TRANSACTION AND MERCHANDISE, WHETHER EXPRESS, IMPLIED OR BY OPERATION OF LAW INCLUDING BUT LIMITED TO**

MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE (EXCEPT SUCH, IF ANY, AS SHALL BE EXPRESSED IN A SEPARATE WRITTEN INSTRUMENT AS PROVIDED IN THE PRECEDING SENTENCE) IS OR HAS BEEN MADE BY SELLER TO BUYER. NO SUCH WARRANTY OR GUARANTEE SHALL EXIST BETWEEN BUYER AND SELLER OR BE PART OF THEIR AGREEMENT OR BASED HEREON OR IMPLIED HEREFROM, ANY AND ALL SUCH WARRANTIES AND GUARANTEES BEING EXPRESSLY WAIVED BY BUYER,

Seller shall have no responsibility or liability whatsoever for the fitness or suitability of the goods for your specific purpose or use, whether or not Seller knows of Buyer's intended use or purpose and whether or not Seller has examined the premises or surface in or to which such merchandise is to be used or applied.

NO CANCELLATION: Buyer's order may not be cancelled or revoked by Buyer prior to Seller's acceptance, without Seller's consent.

DELIVERY: Delivery to Buyer shall be deemed made upon delivery by Seller to a carrier or to other agent of Buyer, and risk of loss or damages thereafter shall be upon Buyer.

NO RESPONSIBILITY FOR APPLICATION: Unless otherwise expressly agreed in writing signed by Seller, Seller has no responsibility for application or installation of the merchandise sold hereby, nor for supervision of such installation; any such application, installation or supervision performed for Buyer by any person also employed by Seller shall be solely for Buyer's account and at Buyer's responsibility and risk.

PAYABLE TO: All accounts are payable at Seller's Kennesaw, Georgia office only.

IF NOT PAID: Buyer agrees that in the event this order is not paid in accordance with this contract, and collection action becomes necessary, this order is subject to an additional collection fee of 1% per month on the unpaid balance until paid, or the maximum amount allowed by law if less.

RIGHT TO WITHHOLD: Right to Withhold Services or Goods: The Seller reserves the right to withhold services or goods for any account with an outstanding balance beyond the agreed-upon payment terms.

CREDIT LIMIT AND APPROVAL: The Seller may establish a credit limit for the Customer. Exceeding this limit may result in the requirement of pre-payment for future orders. Credit limits are subject to periodic review and adjustment.

HANDLING DAMAGED GOODS: Seller will not be responsible for any damaged merchandise or shortages not noted in the body of the original freight bill, and Buyer shall not return any merchandise to Seller without written authorization from Seller's Kennesaw, Georgia office.

BUYERS' LEGAL OBLIGATIONS: Buyer shall comply with all applicable international, federal, state, local and provincial laws, statutes, rules, ordinances and regulations pertaining to the

goods and products and services pertinent to this invoice, including, but not limited to, all export and import laws of all countries involved in the sale of the goods and products.

SELLER NOT LIABLE: Seller shall not be liable for any delay or default in the fulfillment of its obligations hereunder due to matters beyond its reasonable control, including an act of God, accident, riot, strike, terrorism, war, embargo or government interference.

INDEPENDENT CONTRACTORS: The relationship between Seller and Buyer is that of independent contractors. Nothing herein shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between Seller and Buyer, and neither party is authorized to bind the other party in any manner whatsoever.

LIMITS OF LIABILITY: IN NO EVENT, WHETHER BASED ON BREACH OF WARRANTY OR CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR ANY OTHER LEGAL THEORY WILL SELLER BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OR COSTS, INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOST PROFITS OR FOR EXPENSES INCURRED IN CONNECTION WITH CLAIMS OF CUSTOMERS, ARISING OUT OF THE SELECTION, ORDERING, PURCHASE, USE, RESALE OR DISTRIBUTION OF THE GOODS AND PRODUCTS COVERED IN THIS INVOICE, OR OTHERWISE, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, NOR WILL SELLER'S TOTAL LIABILITY TO THE BUYER AND ANY THIRD PARTIES WITH RESPECT TO ANY SPECIFIC GOODS AND PRODUCTS AND ANY RELATED SERVICES PERTINENT TO THIS INVOICE EXCEED THE PURCHASE PRICE TO SELLER FOR THAT PRODUCT AND SUCH SERVICES. SUCH DAMAGES THAT SELLER WILL NOT BE LIABLE FOR INCLUDE, BUT ARE NOT LIMITED TO: LOSS OF PROFITS, SAVINGS OR REVENUE, LOSS OF THE USE OF THE PRODUCT OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF ANY SUBSTITUTE GOODS, EQUIPMENT, FACILITIES OR SERVICES, BUSINESS INTERRUPTION, AND DOWN TIME.

INDEMNIFICATION: Seller shall not be liable for damages to any person or to any property in connection with the delivery, installation or use of any goods sold under this agreement and invoice, and Buyer shall indemnify and hold harmless Seller against all such liability, including all costs and expenses, and attorney's fees.

SEVERABILITY: If any term or provision herein is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision herein or invalidate or render unenforceable such term or provision in any other jurisdiction.

GOVERNING LAW: This invoice and agreement, and any claims or disputes related to this invoice and agreement, will be governed by the laws of the State of Georgia. All disputes relating to this invoice and agreement will be resolved by arbitration under the rules of the American Arbitration Association sitting in Cobb County, Georgia. Buyer hereby agrees to

appear at any such arbitration and consents to the jurisdiction and resolution of any dispute in this sole forum.

INFORMATION FOR YOUR ASSISTANCE:

PAY NO MONEY TO AGENT EXCEPT ON WRITTEN ORDER FROM THIS COMPANY

FOR YOUR PROTECTION

The carrier who delivers merchandise to your door is responsible for loss and damages. Acceptance of the shipment by the Transportation Company is acknowledgement that the articles delivered to them were in good condition and properly packed. Here's how to handle damages and shortages:

VISIBLE DAMAGE

1. Have the delivery man note on the Freight Bill the nature and extent of damages.
2. Notify the Transportation Company's office to inspect the merchandise.
3. File claim for damages at once. In filing a claim with the Transportation Company, you may make a cash adjustment for full value or replace the merchandise.

CONCEALED DAMAGE

1. If damage is noticed when merchandise is unpacked, notify the Transportation Company's office immediately and ask to have it inspected.
2. Do not destroy packing materials until shipment is inspected and claims settled.

SHORTAGES

1. Check the number of cartons delivered with the quantity shown on your receipt.
2. If quantities do not tally, have driver note shortage. If missing items do not show up in a few days, advise us and we will ship.

IMPORTANT

All claims for loss or damage should be filed immediately with the Transportation Company making delivery to your door. Then, notify us and we will mark our records accordingly. Should you need assistance with the claim, we will be glad to help.

Note: Do not return damaged merchandise as the transportation company will pick it up after settling the claim.