

# GENERAL CONDITIONS OF SALE OF LIBERTY CLASSIC CARS LTD

## 1. Definitions and Interpretation

1.1 In these Conditions: "**Cape**" means Liberty Classic Cars Ltd trading as Cape International, with company registration number 11213747 and whose registered office is 40 Grosvenor Place, 2<sup>nd</sup> Floor, London, United Kingdom, SW1X 7GG; "**Customer**" means the customer placing an Order to purchase Products; "**Conditions**" means the general terms and conditions on which Cape supplies Products to Customers as set out in this document; "**Contract**" means a contract between the Customer and Cape for the sale of Products; "**Goods**" means all goods purchased under a Contract including used or salvaged, 'off-the-shelf' and bespoke or made-to-measure components for motor vehicles; "**IPR**" means all registered or unregistered rights to exploit intellectual property worldwide including patents, trade marks, registered designs, design rights and copyright, moral rights, rights in computer software, rights in databases, rights in information, trade secrets, inventions, know-how, trade names, domain names, goodwill, the right to bring an action for passing off and any rights of a similar nature or having equivalent effect; "**Order**" means any order whatsoever issued by the Customer in relation to Products; "**Products**" means Goods and/or Services; and "**Services**" means all services purchased under a Contract including the restoration, servicing and maintenance of motor vehicles.

1.2 A reference to "writing" or "written" in these Conditions includes emails, text messages and WhatsApp messages.

1.3 A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time. A reference to legislation or a legislative provision includes all subordinate legislation made from time to time under that legislation or legislative provision.

1.4 Any phrase introduced by the terms including, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## 2. Our Contract

2.1 These are the Conditions on which Cape will supply Products to the Customer. The Customer should read these Conditions carefully before submitting an Order and contact Cape if they have any queries.

2.2 Cape's trading address is at The Old Chocolate Factory, Unit 49H Pipers Rd, Park Farm Industrial Estate, Redditch, B98 0HU, United Kingdom. The Customer may contact Cape by calling 01527 521 633 or emailing [sales@cape-international.com](mailto:sales@cape-international.com).

2.3 All Contracts, however formed, incorporate these Conditions to the exclusion of all other terms or conditions (other than those which cannot be excluded by law). Save for the Customer's statutory consumer rights, no other terms and conditions are binding on Cape and the Customer waives any right to rely thereon.

2.4 Cape's performance of a Contract is conditional upon the Customer accepting these Conditions as written without amendment. Any pre-contractual quotations or estimates made by Cape are non-binding.

## 3. Orders and Specifications

3.1 Cape relies on the Customer to place an accurate Order, whether this be in person, over the telephone, via email or online. The Customer is solely responsible for ensuring that each specification in an Order is accurate and adequate. Cape shall not be liable for any omission in an Order or loss arising from any imprecision in an Order.

3.2 Cape's acceptance of a Customer's Order will take place when Cape notifies the Customer in writing that they accept the Order, whether this be in person or by email. The point at which Cape accepts the Customer's Order is the point when the Contract is formed. Orders are accepted on the basis that the Conditions are incorporated into the Contract to the exclusion of all other terms or conditions (other than those which cannot be excluded by law and the Customer's statutory consumer rights). Cape's prices are based on this position.

3.3 Provided that there is no material effect on the quality of Products, Cape reserves the right at any time to alter the specification for any Products to conform to applicable laws, standards or otherwise.

3.4 Prototypes, samples or test works shall be at the cost of the Customer and Cape accepts no liability therefor. If the Customer approves any prototype, sample or test work, Cape has no liability for Products matching such prototype, sample and/or test work.

## 4. The Products

4.1 Images of Goods such as those in any product catalogues or on Cape's website are for illustrative purposes only. The Goods supplied to the Customer (including the colours) may vary slightly from such images.

4.2 The packaging of Goods may vary from that shown in images such as those in any product catalogues or on Cape's website.

4.3 Although Cape makes every effort to be as accurate as possible, where Goods are manufactured to order, all sizes, weights, capacities, dimensions and measurements quoted may vary by up to 3%.

4.4 The Customer acknowledges that some Goods sold by Cape include used, old and salvaged parts which may have imperfections or faults that can be attributed to wear and tear and degradation over time. Goods in this condition shall be described as such. The Customer is encouraged to inspect such Goods prior to Contract. The Customer acknowledges and accepts that their statutory consumer rights (including fitness for purpose and satisfactory quality) shall be interpreted and exercised within the context of these Goods being used, old and/or salvaged.

4.5 Cape are under a legal duty to supply Products in conformity with the Contract and nothing in these Conditions shall affect a Customer's statutory rights as a consumer. For example, if a Customer has ordered Goods, these must be as described, fit for purpose and of satisfactory quality. If a Customer has been provided with Services, these must be carried out with reasonable skill, care and diligence. If the Customer has any questions or complaints about a Product they should contact Cape using the contact details provided in clause 2.2. Alternatively, the Customer should speak to a member of staff in person.

4.6 The Customer will inspect Products as soon as reasonably possible after delivery and notify Cape of any defects or discrepancies at the earliest opportunity.

## 5. Delivery and Returns

5.1 Product prices are exclusive of delivery costs which, if applicable, will be charged to the Customer in addition to the price of the Products.

5.2 The Customer may collect Goods from Cape. If Goods are to be delivered to the Customer, then the means and cost of delivery will be as stated on Cape's website or as otherwise communicated in writing.

5.3 If the Products are Goods, Cape will provide the Customer with an estimated delivery date. In the case of 'off-the-shelf' Goods, deliveries within the United Kingdom will be made within 30 days after the date on which Cape accepts the Customer's Order. In the case of bespoke or made-to-measure Goods, the Customer accepts that delivery of these Goods may take longer and Cape will provide the Customer with a delivery estimate when the Order is accepted and/or contact the Customer to agree a delivery date. If the Customer requests that Goods be delivered outside the United Kingdom then the Customer accepts that this is likely to take longer than if the Goods were delivered within the United Kingdom. In these circumstances Cape and the Customer will agree a suitable means and date for delivery.

5.4 If the Products are Services, Cape will notify the Customer of the earliest date on which Cape will be able to commence the Services and provide the Customer with an estimated completion date. The Customer acknowledges that Cape may not be able to commence the Services unless and until the Customer has delivered any vehicles which form the subject of the Services to Cape's trading address as stated in clause 2.2 (or any other address specified by Cape).

5.5 Cape will deliver and/or complete the Products as soon as reasonably possible but shall not be responsible for delays or events outside their control (including but not limited to adverse weather conditions, staff shortages or illness or shortages of particular products or materials). If Cape believes that delivery and/or completion of the Products may be delayed, then Cape will contact the Customer to inform them of this. Where there is a risk of substantial delay the Customer may contact Cape to terminate the Contract and receive a refund for any Products that have been paid for but not received.

5.6 The Customer acknowledges that the manufacture of bespoke and made-to-measure components and the restoration, servicing and maintenance of classic cars can be time-consuming processes requiring a high degree of care and skill. The Customer therefore acknowledges that delivery

and/or completion dates are estimates only and that, while Cape will make every effort to provide accurate estimates, delay in the delivery and/or completion of Products is a possibility. Time of delivery and/or completion of Services shall not be of the essence of the Contract.

5.7 If the Customer is collecting any Goods and/or vehicles on which Services have been completed, Cape will notify the Customer of the date(s) on which the Customer may collect any such Goods and/or vehicles. Unless a particular time for collection is specified by Cape, Goods and/or vehicles will be available for collection during Cape's opening hours.

5.8 If the Customer terminates the Contract for any reason after Goods have been dispatched to them or the Customer is already in possession of the Goods, then the Customer must return the Goods to Cape in exactly the same condition and packaging in which they were supplied. The Customer must either: (i) return the Goods in person to Cape's trading address specified in clause 2.2; or (ii) post them back to Cape and bear the cost of such return. The value of any refund may be reduced to reflect any reduction in the value of the Goods.

5.9 Subject to clause 5.10, for most Goods purchased through Cape's website the Customer will have a statutory right to change their mind within a 14 day 'cooling off' period from the date the Goods are delivered to the Customer. If the Customer wishes to exercise their right to change their mind, then they must send the Goods to Cape within 14 days of informing Cape that they are exercising their right to change their mind. The Customer will be entitled to a full refund less any deductions for loss of value resulting from excessive handling and will be liable to cover the cost of returning the Goods to Cape.

5.10 Customers who have placed an Order for bespoke, made-to-measure, customised or personalised Goods do not have the right to change their mind within the 14 day 'cooling off' period set out in clause 5.9 above.

5.11 If Goods are faulty or misdescribed and the Customer wishes to reject them, the Customer must post the Goods back to Cape or allow Cape to collect them. Cape will pay the cost of returning faulty or misdescribed Goods.

## 6. Exports

6.1 For Goods supplied outside of the UK (notwithstanding any other Condition): all import and export duties, taxes and charges must be paid by the Customer; at its cost the Customer must obtain import or export licences required for supply of the Goods to the country of destination, prior to shipment and the Customer must comply with all regulations governing importation of the Goods.

6.2 Cape has no liability for any claim for defective supply which is made after shipment or in relation to damage in transit.

## 7. Risk, Title and Insurance

7.1 Risk in the Goods passes to the Customer and the Customer is responsible for any damage, loss or deterioration of Goods when the Goods have been delivered to the delivery address provided by the Customer or the Customer has collected the Goods.

7.2 Title (legal and equitable) to the Goods passes to the Customer only upon the Customer paying in full all sums (including interest) due to Cape under all Contracts. Cape may recover all Goods in respect of which title has not passed. Until title has passed to the Customer the Goods must be kept by the Customer as fiduciary agent and bailee of Cape and must be stored separately from other goods and be clearly identifiable as belonging to Cape. Before title has passed Cape may claim the price of the Goods when due. If the Customer sells the Goods prior to title passing, the Customer shall account to Cape for the resulting proceeds of sale.

7.3 Any property (including vehicles) belonging to the Customer that is kept in Cape's possession shall be insured by the Customer for its full replacement value for the duration of the time that such property remains within Cape's possession and until such a time that the property is restored to the Customer's possession.

## 8. Price and Payment

8.1 The price of Goods (including VAT) is for retail customers only and will be the price indicated to the Customer when the Order is placed (whether in person, over the telephone, by email or online). Cape will take all reasonable care to ensure that the price of Goods is stated correctly. However, if there is an error in the price of Goods then clause 8.3 shall apply.

8.2 If the rate of VAT changes between the Order date and the date on which Cape supplies the

Products, Cape may adjust the rate of VAT due by the Customer, unless the Customer has already paid for the Products in full before the change in VAT takes effect.

8.3 Cape's website/catalogue contains a large number of Goods and it is possible that, despite Cape's best efforts, some Goods may be priced incorrectly. If a Good's correct price at the date of the Order is higher than the price initially stated to the Customer, then Cape will contact the Customer before accepting the Order. If Cape accepts and processes an Order where a pricing error is obvious and unmistakable and could reasonably have been recognised by the Customer as a mistake, then Cape may terminate the Contract, refund any sums paid to the Customer and require the return of any Goods provided.

8.4 Cape may require the Customer to make an advance payment prior to the production and/or supply of bespoke or special-order Goods.

8.5 Cape will provide the Customer with an estimated price for the completion of any Services. The Customer accepts that motor vehicles are complex pieces of machinery and that further chargeable work may be required during the supply of Services which may require revisions to the price initially estimated for the Services. Cape reserves the right to request advance payment(s) for Services and associated costs in its sole discretion.

8.6 Cape accepts payments for Products with cheque, credit card or debit card. Goods will be invoiced when an Order is accepted and must be paid for before being dispatched to, or collected by, the Customer and in any event within 7 calendar days after the date of the invoice. Services require an advance payment to be agreed with the Customer before Cape will commence work. Services may be invoiced periodically at Cape's discretion and when completed Cape will invoice the Customer for any balance remaining. Payment must be made in full within 7 calendar days after the date of all invoices.

8.7 If the Customer has not paid in full by the date payment is due then Cape may charge interest on any overdue amount at the rate of 4% a year above the base lending rate of Barclays Bank Plc from time to time. Interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgement. The Customer must pay any interest together with any overdue amount.

#### 9. Changing or Cancelling an Order

9.1 If the Customer wishes to make a change to an Order they should contact Cape using the details provided in clause 2.2. Cape will inform the Customer whether any changes to the Order are possible. If it is possible to make changes to an Order, Cape will inform the Customer of any changes to the price of Products, the expected timing of their supply and any other relevant changes. Cape will then ask the Customer to confirm that they wish to proceed with these changes. If Cape cannot make changes to the Order, or the consequences of such a change are not acceptable to the Customer, then the Customer may wish to terminate the Contract.

9.2 Customers who have placed an Order for Services will have a statutory right to change their mind within a 14 day 'cooling off' period from the date on which Cape accepts the Order. If Cape has not commenced the Services when the Customer informs Cape that they are exercising their right to change their mind, then the Customer will be entitled to a full refund. However, if Cape has commenced but not completed the Services before being notified by the Customer, then the Customer must pay Cape for the Services provided up until the time when the Customer notified Cape. If the Services have been completed before the Customer notifies Cape that they want to change their mind, then the Customer will not be entitled to a refund, even if the 14 day 'cooling off' period is still running.

9.3 If Cape fails to deliver and/or complete the Products by any date(s) agreed with the Customer then, provided that the delay is not a direct result of any breach by the Customer of any of their obligations under the Contract (such as failing to deliver a vehicle to Cape's premises on time) and/or due to circumstances beyond Cape's reasonable control, the Customer may request in writing that Cape deliver and/or complete the Products within a reasonable time period. If Cape then fails to deliver and/or complete the Products within the reasonable time period, the Customer shall have the option to terminate the Contract due to Cape's breach.

9.4 If Cape is not at fault and the Customer does not have a right to change their mind within a 14 day

'cooling off' period, the Customer may still terminate the Contract before it is completed. The Customer may terminate the Contract by giving Cape one month's written notice using the contact details provided in clause 2.2. In these circumstances Cape will refund any advance payments made for Products not provided to the Customer by the end of the Contract.

#### 10. Liability

10.1 Cape does not attempt to exclude or limit liability where it would be unlawful to do so, including liability for: (i) death or personal injury caused by Cape's negligence or the negligence of Cape's employees, agents or subcontractors; (ii) fraud or fraudulent misrepresentation; (iii) breach of the Customer's legal rights in relation to the Products; and (iv) defective products under the Consumer Protection Act 1987.

10.2 Cape shall not be liable for any loss or damage to Products after they have been supplied to the Customer, save for any loss or damage caused by Cape itself. Cape shall not be liable for any loss or damage incurred as a result of Goods or vehicles on which Services were undertaken being used on a race track, for competitive purposes or being subject to modification.

10.3 The Customer is solely responsible for making themselves aware of any applicable laws or local restrictions and for ensuring that Goods or Services undertaken on vehicles, and the Customer's use of such Goods and/or vehicles, are in accordance with such laws and/or restrictions.

10.4 Cape shall not be liable for any damage to a Customer's vehicle which is caused as a direct result of structural defects or weaknesses save for damage that is caused as a direct result of a breach of Cape's obligations under the Contract. Cape shall not be liable for the cost of repairing any pre-existing faults or damage to the Customer's property (including vehicles) that are discovered while providing the Services.

10.5 Cape shall not be liable for loss or damage to the extent that it is caused as a direct result of the Customer breaching their obligations under the Contract and/or due to circumstances beyond Cape's control. Cape shall not be liable for loss or damage to the extent that it is caused as a result of the installation of Goods by the Customer or a third party.

10.6 Cape supplies Products solely for domestic and private use. If the Customer utilises the Products for any commercial, business or re-sale purpose then Cape shall have no liability to the Customer for any loss of profit, loss of business, business interruption or loss of business opportunity.

10.7 Cape accepts liability for loss or damage which the Customer may suffer as a direct result of Cape's breach of the Contract and which was reasonably foreseeable at the date the Order was accepted. However, Cape shall not be liable for loss or damage which is not caused as a direct result of Cape's breach of the Contract or loss which was not foreseeable at the date the Order was accepted. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the Contract is made, Cape and the Customer knew it might happen (for example, if you discussed it with us during the sales process). Goods are priced on the assumption that they will be installed by the Customer for private use and what may be regarded as foreseeable will be interpreted on this basis. The Customer must notify Cape if Goods will not be installed by the Customer for private use.

10.8 If the Customer suffers any loss or damage for which Cape is responsible then the Customer must afford Cape a reasonable opportunity to remedy the issue and the Customer must take reasonable steps to minimise or avoid any loss or damage which the Customer may suffer as a result. Cape shall not be responsible for any loss or damage: (i) if the Customer fails to afford Cape a reasonable opportunity to remedy a breach; and/or (ii) which could have been avoided or mitigated by the Customer taking reasonable steps which they failed to take.

#### 11. IPR

11.1 IPR in the Products and related drawings, specifications and data is not transferred to the Customer unless originally supplied by the Customer to Cape. The Customer cannot modify Goods or packaging, nor remove, or tamper with any trade marks used on or in relation to the Goods.

11.2 The Customer shall fully indemnify Cape against all liability, losses, costs, claims, damages, and expenses suffered directly or indirectly by Cape arising out of any infringement or alleged infringement

of the IPR of any third party in relation to Products supplied to the specification or instructions of the Customer.

#### 12. Termination

12.1 Cape may terminate or suspend a Contract immediately by giving written notice to the Customer if: (i) the Customer does not make any payment when it is due under a Contract; (ii) the Customer does not, within a reasonable time of Cape requesting it, provide Cape with the information necessary to supply the Products; (iii) the Customer does not, within a reasonable time, allow Cape to supply the Products or collect the Products from Cape; (iv) the Customer breaches the Contract in any other way; or (v) for any other reason in Cape's discretion.

12.2 If Cape terminates the Contract for any reason in clause 12.1 above, Cape will refund any money paid in advance by the Customer for Products not yet provided by Cape, less any deductions as compensation for the net costs incurred by Cape as a result of the Customer breaching the Contract.

#### 13. Data protection

13.1 Cape will only use the Customer's personal information in accordance with the privacy policy as set out on Cape's website (<https://cape-international.com/privacy-policy/>).

#### 14. General

14.1 Nothing in these Conditions shall prejudice the statutory rights of any consumer.

14.2 No Contract is enforceable by any person other than Cape and the Customer.

14.3 The Customer cannot assign its rights or subcontract its obligations under a Contract without the written consent of Cape. Cape may assign or subcontract in whole or part any obligations under a Contract. If Cape intends to do this it shall notify the Customer in writing. If the Customer is dissatisfied with any such transfer they may contact Cape to end the Contract within 2 weeks of Cape informing the Customer and Cape shall refund any payments made in advance for Products not provided.

14.4 The Contract and these Conditions constitute the entire agreement between Cape and the Customer and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to their subject matter. The Customer confirms that they have not relied on any statement not expressly incorporated into the Contract provided that liability for fraud is not excluded.

14.5 Each clause of these Conditions operates separately. If any court or relevant authority decides that any of the terms are unlawful, the remaining clauses will remain in full force and effect.

14.6 Failure or delay in enforcing any term shall not constitute a waiver of any rights under a Contract. Cape's remedies under a Contract are cumulative and not exclusive.

14.7 No variation of the terms of a Contract or these Conditions, or the introduction of any additional terms, shall be effective unless agreed in writing and signed by both parties.

14.8 If bespoke terms and conditions are agreed between Cape and the Customer, these Conditions remain binding on the parties to a Contract. Any discrepancy between these Conditions and any bespoke terms may only be construed against Cape if such other terms are in writing and agreed by Cape.

14.9 The construction, performance and validity of these Conditions and any Contract are governed by English law. The parties accept the exclusive jurisdiction of the English courts to settle any dispute or claim that may arise out of or in connection with a Contract, its subject matter or formation.