

## **General Terms of Sale of Coatec Gesellschaft für Oberflächenveredelung mbH**

### **1. General**

- (1) Our sales terms apply exclusively. We do not accept any opposing or supplementary conditions of the customer, nor any such conditions which deviate from our terms of business. Such conditions shall also not become a contractual component even if we render services for the customer without reservation in the knowledge thereof.
- (2) With the exception of the following General Terms of Sale, the statutory provisions apply exclusively.
- (3) The following General Terms of Sale apply only insofar as our customer is an enterpriser.

### **2. Offer and offer documents**

- (1) Our offers are non-binding unless otherwise stated in the offer. We are only bound to offers that we designate as binding for two weeks from receipt of the offer by the recipient. We reserve the right to make technical changes to the extent reasonable for the customer.
- (2) We may accept orders of the customer within two weeks of receipt by sending an order confirmation or by executing the order. Any amendments or supplements to an order confirmation sent by us shall only be effective if we have confirmed them in writing.

### **3. Protective rights**

- (1) We reserve all property rights and copyrights to our figures, drawings, calculations, and other documents. They may not be made accessible to third parties. This applies in particular to documents that we have marked as confidential.

### **4. Right of withdrawal and advance payment, extension of the delivery period**

- (1) The delivery period presupposes the unequivocal creditworthiness of the customer, of which it gives its assurance upon submission of its order. In the event of doubts regarding this assurance or if circumstances become known following contractual conclusion, which endanger our claim to counter-performance in the amount determined by the order, in particular a significant deterioration of the financial situation, the filing of insolvency proceedings, enforcement measures, default on the settlement of due invoices in a significant amount etc, we shall be permitted to demand advance payments or securities or compensation or withdraw from the contract. Agreed delivery periods shall be deemed interrupted from this point in time.

### **5. Prices and payment conditions, exclusion of set-off**

- (1) Unless otherwise agreed, our prices apply "ex works". We are permitted to charge for the costs of packaging and transport as well as transport insurance separately. Shipping shall take place at our discretion in customary packaging.
- (2) We reserve the right to increase our prices appropriately if cost increases occur as a result of collective bargaining agreements or material price increases after conclusion of the contract. We shall provide evidence for this at the request of the customer. Should a price increase exceed 5% of the original price, the customer shall be permitted to cancel.
- (3) Our offer prices are net prices. The value added tax must be added to the prices in the amount of the value added tax rate that applies on the day of invoicing.
- (4) The deduction of an early payment discount requires an explicit written agreement.
- (5) Our claims arising from the underlying contract are due immediately. Without the need for a reminder, the customer shall also enter default on payment if it does not settle our claim within 14 days of complete delivery or performance.

- (6) We shall only accept cheques and bills of exchange on account of performance. Collection fees shall be borne by the customer.
- (7) Against our claims, the customer may only offset with legally determined, established, undisputed or recognised counter-claims. The exercise of a right of retention or a right to withhold performance shall likewise only be possible for the customer if this relates to the same contractual relationship.

## **6. Delivery period**

- (1) The start of a delivery period stated by us or agreed with us presupposes the clarification of all technical questions and the fulfilment of the contractually agreed duties of cooperation on the part of the customer. If a performance deadline is agreed, this shall be postponed by the period during which performance could not be rendered as a result of non-cooperation.
- (2) We shall only be liable for compliance with our performance obligations depending on culpability and only in the case of the prompt and contractually compliant delivery by our suppliers. This shall only apply insofar as we have agreed sufficient cover transactions with these suppliers.
- (3) On the grounds of non-compliance with a delivery deadline or delivery period, the customer may only cancel if it has previously given us a suitable grace period for the delivery or performance and we are responsible for the exceedance of the delivery period and delivery deadline. The above provision shall not affect statutory rights of withdrawal if these relate to a serious and final refusal of performance for which we are responsible or a fixed transaction was agreed and the customer has bound the continuation of its interest in performance to compliance with the fixed date.

## **7. Force majeure**

- (1) In the event of disruptions to our business operations or at suppliers which are beyond our responsibility, in particular labour walkouts and legal lockouts as well as cases of force majeure, current delivery or subsequent fulfilment periods shall automatically be extended by the duration of the impediment, yet by no more than five weeks. In such cases, the customer is only permitted to withdraw from the contract if it has given a reminder for the agreed performances upon expiry of the delivery period, has set a suitable grace period and the suitable grace period has fruitlessly expired. Prior to expiry of the subsequent fulfilment period, claims of the customer due to delayed delivery are excluded.

## **8. Transfer of risk**

- (1) Unless otherwise agreed, we shall owe our performance "ex works". At the request of the customer, we shall conclude a transport insurance policy for the delivery.

## **9. Quality specifications – no guarantees**

- (1) Specifications in prospectuses, product descriptions or information material related to certain qualities of our product shall in no case establish the assumption of a guarantee. As a rule, we do not provide any declaration of guarantee unless this is agreed by us in writing in individual cases.

## **10. Defect-dependent claims of our customer**

- (1) Any defects clearly recognisable upon delivery must be reported to us in a complaint promptly, yet no later than within five workdays. Other clear defects must be reported to us in a complaint promptly upon occurrence of the defect, otherwise our liability for the defect is excluded.
- (2) The customer must prove the time of discovering the defect.
- (3) Goods delivered by us are deemed accepted no later than five workdays after delivery.
- (4) Should the customer complain about a defect, it shall provide us with the defective object in order that we can conduct an inspection of the defect. We are permitted to demand the reimbursement of costs incurred to us as a result of the infringement of the above obligation. The above provision shall not prevent the customer from determining the defect by other means.
- (5) If only some objects of multiple objects sold by us are defective, the customer may only assert its rights with regard to the respective defective objects. This also applies if a total price was agreed for the sold

objects or the objects were sold together, however, the defective object may be separated from the other objects without resulting in damage.

- (6) We may also refuse the type of subsequent fulfilment selected by the customer if its costs exceed 20% of the costs of the other type of subsequent fulfilment and the other type of subsequent fulfilment is reasonable without significant disadvantages for the customer in consideration of the value of the object in the non-defective condition and the significance of the defect.
- (7) If, following delivery, the purchaser brings our good to another location other than the place of delivery or to the place at which it had its registered address at the time of service provision, we are not obliged to assume any arising additional costs of subsequent fulfilment.
- (8) We shall provide subsequent fulfilment by way of delivery of a non-defective object step by step against the return of the defective object and the uses realised.
- (9) A subsequent fulfilment incumbent upon us shall only be deemed to have failed if we could not rectify the respective defect despite two independent attempts at subsequent fulfilment or within a reasonable grace period. The customer may not invoke the failure of subsequent fulfilment if we were not previously granted sufficient opportunity for subsequent fulfilment or substitute delivery.
- (10) A period set for subsequent fulfilment is reasonable if we are given at least two weeks from the date at which we were first granted the possibility of subsequent fulfilment.

## 11. Liability

- (1) For damages not due to the injury of life, limb or health of the customer (other damages), we shall only be liable in the amount of the contractually typical, foreseeable damage insofar as we are able to demonstrate that our breach of duty was merely slightly negligent.
- (2) The liability limitations according to clause 1 exclude claims of the customer according to the German Product Liability Act (*Produkthaftungsgesetz*) and claims due to damages against which the customer should have been protected by a guarantee assumed by us. Moreover, it shall not apply if we are liable due to the concealment of a defect in bad faith.
- (3) Insofar as we are liable for other damages due to the merely negligent breach of a duty incumbent upon us, our liability shall be limited to the compensation of our product liability insurance. We are prepared to grant the customer the opportunity to inspect our policy upon request.
- (4) We shall only be liable for accidents insofar as we have explicitly assumed a guarantee or the procurement risk by written declaration.
- (5) The liability limitation according to clause 1 shall also apply to the personal liability of our employees, representatives, and vicarious agents.
- (6) Due to a breach of duty which does not relate to a defect in an object supplied by us or a performance rendered by us, the customer may only withdraw from the contract if we are responsible for the breach of duty.

## 12. Reservation of title

- (1) Delivered objects shall remain our property until payment in full of our claims arising from the business relationship. The contractual partner is not permitted to dispose over goods in our ownership. The contractual partner must insure goods and software programs in our ownership held by the contractual partner sufficiently against loss and theft. Claims from this insurance shall be assigned to us. We accept this assignment.
- (2) If goods in our ownership are inseparably combined with other objects, we shall acquire co-ownership of the new object in the ratio between the value of the purchased object and the value of the other objects at the time of combination. In the event of combination in a manner in which the object of the customer is to be regarded as the main object, the customer shall assign us co-ownership on a proportionate basis.
- (3) In the event of seizures or other third-party interventions with respect to our property, the contractual partner shall inform us immediately. Insofar as the third party is not able to reimburse us for the judicial and extrajudicial costs of a lawsuit pursuant to Section 771 of the Code of Civil Procedure (*Zivilprozessordnung – ZPO*), the contractual partner shall be held liable to us.

- (4) We shall also be permitted without withdrawing from the contract to request the return of reserved goods if the customer enters default on its payment obligations.

### **13. Limitation of claims against us**

- (1) The limitation period for claims against us, which are not due to wilful conduct attributable to us, amounts to one year. The limitation period shall apply accordingly to the exclusion of the right of withdrawal from the contract and the right to reduce the purchase price. The above limitation periods shall not apply if we are liable due to the injury of life, limb, or health.

### **14. Assignment prohibition**

- (1) The customer may not assign its claim to the provision of the performances owed by us.
- (2) Payment claims against us may only be assigned with our consent.

### **15. Termination provisions**

- (1) We are permitted to terminate the contract concluded with the customer for important reasons. An important reason exists in particular if insolvency proceedings are opened with respect to the assets of our customer or an application to open such proceedings is filed and the customer is unable to demonstrate the unequivocal illegitimacy of this application within a reasonable period despite a request to that effect. An important reason within the meaning of the above also exists if one of our direct competitors acquires a controlling majority in our customer.

### **16. Compliance with import/export laws**

- (1) The customer undertakes to comply with all applicable laws or provisions on import and export control for the relevant countries. The customer shall provide us with all information about compliance with the trade regulations, which we require in order to comply with the import and export laws, and shall obtain all necessary import and export licences. We reserve the right to suspend our performances in connection with this contract or to terminate the contract if deliveries would violate an import or export law. The payment obligation of the customer for the performances rendered remains unaffected. The customer must assume all costs in connection with imports and exports including customs processing and transport.

### **17. Final provisions**

- (1) Insofar as the contractual partner is a merchant, our registered address shall be the place of jurisdiction and performance. Notwithstanding the above clause, we are permitted to assert claims against the customer at another court responsible for the customer.
- (2) The law of the Federal Republic of Germany applies exclusively. The application of the UN Convention on the International Sale of Goods (CISG) is excluded.
- (3) We hereby point out that we shall electronically store and process the data of the customer.

### **18. Data protection**

- (1) Coatec processes the contract data of the customer and its contact partners by automated means. Insofar as personal data is processed, data processing shall occur according to the provisions of the General Data Protection Regulation and all applicable provisions on data protection, in particular the German Federal Data Protection Act (Bundesdatenschutzgesetz). In this context, we refer to our privacy policy which can be accessed online at the following address: <http://coatec.de/Datenschutz.141.0.html>