

1 Application and precedence

The terms and conditions of sale and delivery (hereinafter referred to as "the Terms and conditions") apply to all quotations, orders, invoices and deliveries from NowoCoat Industrial A/S, VAT no. 25067282 (hereinafter referred to as "the Supplier"), to any customer (hereinafter referred to as "the Buyer") (hereinafter collectively referred to as "the Parties") unless otherwise expressly specified in writing.

The Supplier shall not be obligated by any terms and conditions set forward by the Buyer, including any purchasing terms and conditions, even if the Supplier has not in any way disputed such terms and conditions.

2 Quotation and order registration

All quotations shall be made subject to prior sale. If the Supplier makes a quotation without specification of the time limit for acceptance, the quotation automatically terminates, if the order is not placed by the Buyer latest 30 days from the date of the quotation.

Quotations shall only be binding upon receipt of the Supplier's order confirmation. However, the quotation is binding upon placing the order with the Supplier, unless the Supplier without delay after receipt of the order declares that the order in question cannot be accepted.

3 Price

The price specified at the date of the order confirmation is the price prevailing exclusive of VAT, taxes, duties, transportation costs, and all other remaining costs that rest with the Buyer due to the agreed EXW clause as specified in Clause 4 hereinafter. Unless otherwise expressly stated in writing on the Supplier's quotation/order confirmation, all prices shall be perceived as specified in EUR.

If in the period between receipt of order confirmation and delivery increases occur, such as price increase in raw materials, pay increase obtained through collective agreement, increase in any duties, fees or charges payable by the employer, taxes for goods, duty rates, import/export expenses, changes in the exchange rate of the Danish currency or any other conditions outside control of the Supplier, the Supplier shall be entitled to increase the price accordingly.

If the Supplier decides to increase the price as specified in Clause 3 hereof, this decision shall be informed to the Buyer before the dispatch of goods, whereafter the Buyer has 8 days to cancel the delivery.

4 Delivery

Delivery shall be EXW (INCOTERMS 2010) the Supplier's address (Stålvæg 3, DK-6000 Kolding, Denmark) unless otherwise agreed in writing, in accordance with delivery times specified in the order confirmation. The Supplier may choose to owe a duty of care for the dispatch of goods and in selecting the method of dispatch, whereas the Buyer is liable for the goods and any transport option. The Buyer may at its own expense take out any transport and/or cargo insurance. The dispatch shall always be at Buyer's risk and expense, and in any case delivery is deemed performed at the time at which the goods are made available to Buyer's collection at the Supplier's address. In all other respects, INCOTERMS (at present INCOTERMS 2010) shall prevail from the time at which the quotation is made.

5 Packaging

Any goods shall be dispatched in the Supplier's standard packaging and shall be equipped with such external packaging as deemed necessary and adequate for shipment by the Supplier. The packaging shall be included in the price unless otherwise agreed. Any packaging marked returnable shall only be taken back if returned in compliance with DDP INCOTERMS 2010 to the Supplier's address in emptied and undamaged condition. Any returned packaging shall be at Buyer's risk and expense.

6 Delay in delivery

The Buyer shall only be entitled to cancel/withdraw an order due to a delay in delivery of more than 30 days. A delay in delivery shall entitle the Buyer to compensation only if the Buyer provides documentation of such delay based on gross negligence or wilful misconduct on the part of the Supplier. However, the Supplier cannot be held liable for any operating loss, loss of time, loss of profits, any consequential damage or similar indirect losses, such as day fines imposed by the Buyer.

7 Payment

The Buyer shall without further demand for payment settle the full invoice amount according to the terms and conditions stipulated on the invoice or in accordance with terms and conditions otherwise agreed upon. In the event of late payment, the Supplier calculates a default interest of 2% per month commenced from the time at which the invoice amount is overdue until receipt of payment. Neither bill of exchange nor instrument of debt is considered proper means for payment. The Buyer shall not be entitled to set any counterclaims against the Supplier without prior approval in writing from the Supplier, and the Buyer shall not be entitled to withhold parts of the purchase price due to counterclaims of any such kind, including defects alleged.

8 Ownership reservation

The Supplier shall be entitled to reserve ownership of the goods delivered until the full purchase price including interest accrued, costs, etc. have been paid in full.

9 Defects and notice of lack of conformity

If the supplied goods do not comply with specifications stipulated by the Supplier or do not comply with written claims set out by the Buyer or fails to meet general quality requirements, the Supplier shall (provided that the Buyer has given his notice of lack of conformity in due time as specified hereinafter) be obliged to, irrespective of whether this action arise out of an identifiable defect on the part of the Supplier or not, hand out new, flawless goods to remedy this defect in accordance with terms and conditions in Clause 11 hereof. Delivery of goods in replacement is not performed at Buyer's expense provided that defective goods are prior returned and that the return is at Buyer's risk and expense. The Buyer's return of defective goods shall always take place in consultation with the Supplier. Any delivery of goods in replacement by the Supplier shall be subjected to similar conditions and assumptions as applicable for the original delivery in accordance with Clause 4 hereof. However, the Buyer loses the right to rely on the non-conformity after the lapse of 6 months from the original delivery to the Buyer as specified hereinafter. However, the Supplier may instead of delivering goods in replacement choose to pay back the invoice price of the defective goods within the delivery.

The Supplier is entitled to deliver up to 10% less and up to 10% more than the volume agreed upon, without the delivery then be regarded as inadequate.

Defective goods in a delivery never entitles the Buyer to compensation neither for direct nor indirect losses, including operating loss, loss of time, loss of profits, any consequential damage or the like with exception of the above pertaining to delivery of goods in replacement and repayment hereof.

Upon delivery at Buyer's address, the Buyer is obliged to promptly and thoroughly examine the delivery, including volume and specifications. If the Buyer wishes to give notice of lack of conformity also pertaining to the volume or specifications delivered as it has been ascertained or ought to have been ascertained by the Buyer during his thorough examination of the delivery, the Buyer shall give prompt notice of lack of conformity in writing to the Supplier, setting forth in reasonable detail the basis of such non-conformity latest within the lapse of 30 days after receipt of delivery at Buyer's address. In any case, the Buyer shall give prompt notice of lack of conformity to the Supplier to rely on the non-conformity. However, the Buyer loses his right to rely on the non-conformity after the lapse of 6 months from the original delivery time in accordance with Clause 4 hereof. A later notice of lack of conformity means the Buyer waives his right to rely on the non-conformity.

10 Tort liability of the delivery (product liability)

The Supplier cannot be held liable in tort unless personal injury or property damage is caused by defects and lack of conformity in the goods delivered. The Supplier cannot incur liability for any such damage caused by inappropriate or unusual use of the goods delivered, such as application on foundation support or, for example, exposure to weather or moisture conditions for which the goods delivered were unintended. In addition, the Supplier cannot be held liable in tort for damage suffered as a consequence of inadequate or inappropriate storage of the goods.

The Supplier cannot incur liable in tort pertaining to real estate and/or goods, when the delivery is in the Buyer's custody, or for any damage to goods manufactured by the Buyer.

If liability arises out of the above, the liability does not include operating loss, loss of time, loss of profits, any consequential damage or similar indirect losses. Unless otherwise agreed damage to property is limited to DKK 1 million.

If at any time, the Supplier incurs product liability against a third party, the Buyer shall indemnify and hold harmless the Supplier to the same extent as the Supplier's liability is limited in accordance with remaining terms and conditions set forward in Clause 10 hereof. If a third party raises a claim against one of the Parties about tortious liability with reference to this clause, this Party shall give prompt notice to the other about the subject matter. The Supplier and Buyer mutually undertakes to allow proceedings to be commenced against them at a court/governing body dealing with tort liability, as raised against either of them by a third party for damage caused by the delivery.

11 Limitation of liability / extent

Supplementary to the above mentioned limitation of liability, any claim for damages against the Supplier cannot at any time exceed the total purchase price for the defective part of the delivery.

The Supplier's information conveyed to the Buyer is based on laboratory tests and/or technical application tests that constitute instructions for the sale of goods and applicable work method. Information from the Supplier to the Buyer may in no way constitute a guarantee or warranty for the properties of the product. The Buyer/user shall at all times comply with instructions of the Supplier pertaining to application and storage of the goods. If not in compliance with instructions given, the Buyer (and/or user) shall not be entitled to raise any claim against the Supplier. As the work conditions of the user are outside the control of the Supplier, the Supplier disclaims liability for any such results achieved.

12 Force Majeure

The below-mentioned circumstances constitute examples of such events outside the control of the Parties, and the Parties' obligations herein shall always be conditional on the non-occurrence of such events (force majeure);

Industrial conflicts, strike, lockout and any other such events outside the control of the Parties, including fire, war, mobilisation or unforeseen military mobilisation on a similar scale, act of sabotage, requisitioning, seizure, currency restrictions, import and export restrictions, insurrection and riots/civil commotion, lack of motive power, lack of energy supply, damage in production, general scarcity of goods, lack of means of transportation, restrictions on motive power, and defects and delays in deliveries from sub-suppliers owing to any of the above-mentioned circumstances herein.

As expressly set forth herein the list of examples herein is incomplete rendering other events possible for which the Parties' obligations herein shall also depend on the non-occurrence of such events. If delivery is temporarily impeded due to one or several of the events mentioned above, the delivery time is equally postponed. If delivery is impeded for more than 12 weeks, the Supplier shall be entitled to cancel the respective delivery without incurring liability.

The above will never exempt the Buyer from or suspend the Buyer's obligation to pay the order amount or any other amounts the Buyer owes the Supplier, timely.

13 Invalidity

Should any or several Terms and conditions herein be declared void, invalid or unenforceable, all the remaining Terms and conditions hereof shall remain in full force and effect and shall not be invalidated, impaired or affected thereby.

14 Law applicable and jurisdiction

Any disputes that may arise between the Parties shall be settled according to Danish law with the exception of the Danish conflict of laws rule. The International Sale of Goods Act (CISG) shall neither be applied in full nor in part.

Any dispute between the Parties shall be settled by courts of law in Kolding as venue for first instance.