

## STANDARD TERMS AND CONDITIONS OF SALE

1. The Seller is Coating Technologies Limited. The Seller will contract to sell or supply goods on these standard terms and conditions only. By placing or confirming an order with the Seller, the Buyer is accepting these standard terms and conditions, and anything to the contrary in the Buyer's enquiries, orders or confirmations will not apply.
    2. **PAYMENT**
    - 2.1 The Buyer must pay the price indicated on the invoice, order form or other document or statement issued by the Seller.
    - 2.2 Payment is due on the 20th of the month following the date of delivery of the goods unless the Seller otherwise agrees in writing.
    - 2.3 If any payment is not made in full to the Seller by the due date, then:
      - a. The Seller may charge interest on the outstanding payment commencing on the due date. The interest rate will be determined by the Seller based on the monthly overdraft interest rate applicable to the Seller plus an additional rate of 2% per month; and/or
      - b. The Seller may suspend or cancel any further deliveries to the Buyer, (under this contract or any other contract).
    - 2.4 All payments by the Buyer must be made in full and without any deduction or right of set-off or counterclaim.
    - 2.5 The agreed price is based upon the Seller's costs of manufacture at the date of quotation. The Seller reserves the right to increase the agreed price if those costs increase.
    - 2.6 Unless otherwise stated all prices exclude GST which is payable to the Buyer's account.
    - 2.7 The Buyer agrees to pay on demand all costs (including commission and legal fees as between solicitor and own client and any other costs), incurred by the Seller or the Seller's agents relating to the recovery of any amounts payable by the Buyer under any credit arrangement or under any contract between the Buyer and the Seller.
  3. **DELIVERY**
  - 3.1 Delivery is deemed to be made:
    - a. When the Buyer or the Buyer's agent is given possession of the goods at the Seller's warehouse or elsewhere (loading is then at the Buyer's risk); or
    - b. When the goods arrive at the Buyer's premises (unloading is then at the Buyer's risk) whichever is the earlier.
  - 3.2 On delivery:
    - a. The goods are at the Buyer's sole risk; and
    - b. Insurance is the Buyer's responsibility.
  - 3.3 The Seller may choose the carrier and the method of transport, unless otherwise agreed by the Seller in writing.
  - 3.4 The Seller may choose to deliver by instalments and may treat each delivery as a separate contract.
  - 3.5 If the Seller has made an error or delivered too little or too much, then the Buyer must notify the Seller of this in writing within seven days of the delivery and must give the Seller a reasonable opportunity to investigate. If this is not done, the Buyer will be regarded as having accepted the delivery.
  - 3.6 If the Seller believes that the Buyer may not make any payment when due, then the Seller may suspend or cancel any delivery.
4. **RETENTION OF TITLE**
  - 4.1 Property in any goods delivered by the Seller to the Buyer does not pass (and the Buyer is a bailee only in respect of those goods) until the Buyer has paid in full for those goods, and for any other goods delivered by the Seller. Until property has passed, the Buyer will:
    - a. Not charge the goods in any way nor give any interest in the goods and
    - b. Store all goods in such a way that they are clearly identifiable as the property of the Seller.
  - 4.2 Prior to the Buyer acquiring property in any goods the Seller or the Seller's agents may at any time enter upon any land, premises or property where it believes such goods may be to view and inspect them, and if the Buyer has not made all payments then due in full, to retake possession of the goods. (Upon the Seller giving notice or retaking possession the rights of the Buyer to obtain ownership or any other interests in the goods shall cease). The Buyer will indemnify the Seller on demand in respect of any costs or liabilities incurred by the Seller in exercising its rights under this clause 4.2.
5. **EXPRESS WARRANTY**
  - 5.1 The Seller warrants:
    - a. That the goods are free of substantial defects caused by faulty workmanship and/or materials; and
    - b. That the goods are substantially of a consistent quality with goods of the same description previously supplied by the Seller.These warranties remain in force for the period of three months immediately following delivery.
  - 5.2 No claim may be made by the Buyer under these warranties unless:
    - a. The claim is received by the Seller within three months after delivery or seven days of the defect complained of becoming apparent, whichever is the earlier;
    - b. The claim is confirmed in writing; and
    - c. The Seller is given a reasonable opportunity to inspect and verify the claim.
- 5.3 The liability of the Seller under the warranties in this clause 5 is, in all cases, limited to the amount of the contract price of the goods in respect of which the warranties are given. The Seller may perform these warranties by doing any one of the following at its option:
    - a. Replace the goods, or supply equivalent goods; or
    - b. Repair the goods, or supply workmanship; or
    - c. Bring the goods or workmanship into conformity with specifications; or
    - d. Pay the reasonable costs of a, b or c; or
    - e. Give a credit for or refund the purchase price.
  - 5.4 The Buyer is responsible for ensuring that the goods, as ordered, are fit and suitable for the purpose and any specific conditions for which they are required. The Seller gives no warranty that the goods will be fit and suitable for any purpose or any specific conditions, whether that purpose or those conditions have been made known to the Seller or not.
  - 5.5 The Seller may choose to give a specific written warranty in addition or substitution to those in this clause.
  - 5.6 Notwithstanding any other provision of these standard terms and conditions of sale, where the provisions of the Consumer Guarantees Act 1993 apply, the provisions of these standard terms and conditions will be read subject to the application of that Act and in the case of any conflict, the provisions of that Act will prevail.
6. **LIMITATION OF LIABILITY**
  - 6.1 The Seller has given the express warranties set out in clause 5. In this clause 6, the Seller now excludes all other representations, warranties and liabilities. This clause 6 is subject to clause 5.6.
  - 6.2 The Seller excludes all representations and warranties (whether express or implied) not expressly set out in clause 5.
  - 6.3 The Seller will not be liable for any loss or damage caused to the Buyer, or to any other person, by any delay in delivery however that delay is caused.
  - 6.4 The Seller will not be liable to the Buyer, or to any other person, in respect of any loss or damage arising directly or indirectly from the goods or their use, any services provided by the Seller, or any breach by the Seller of any of its obligations under this contract.
  - 6.5 The Seller shall not be liable for any consequential, indirect or special damages or loss of any kind of the Buyer or of any other person.
  - 6.6 If the Seller is ever liable to the Buyer, or any other person, and the Seller cannot rely on the exclusions of representations, warranties or liabilities set out above, then the liability of the Seller is in all cases limited to the amount of the contract price of the goods.
  - 6.7 The Seller will not be liable for any loss or damage caused to the Buyer, or to any other person, by the Seller manufacturing or supplying goods in accordance with specifications supplied by the Buyer or any other person.
7. **ADVICE AND INFORMATION**
  - The Buyer agrees that all advice and information, in whatever form, given by or on behalf of the Seller, has been given gratuitously, is not a representation or warranty and the Seller has no responsibility or liability in respect of that advice and information.
  8. **GENERAL**
  - 8.1 These standard terms and conditions are the full agreement between the Seller and the Buyer.
  - 8.2 The Seller may, and the Buyer may not, vary these standard terms and conditions. To be effective, a variation must be in writing.
  - 8.3 To be effective, any waiver by the Seller must be in writing.
  - 8.4 If the Buyer has agreed to be bound by the Seller's terms of business, then those terms are included in these standard terms and conditions.
  - 8.5 The Seller is not bound by any error or omission on any invoice, order form or other document or statement issued by the Seller.
  - 8.6 Any contract between the Seller and the Buyer is governed by the law of New Zealand.
  - 8.7 The Buyer will indemnify the Seller against and will at its cost defend or settle any claim, suit, action, or proceeding (the "Action") bought against the Seller to the extent that the Action is based on a claim that the Seller's use of a design, specification or any other information supplied to the Seller by or on behalf of the Buyer constitutes a breach or infringement of any patent, copyright, trademark, registered design or other proprietary right of a third party.
  - 8.8 All intellectual property rights in the goods shall be owned by the Seller.
  - 8.9 All intellectual property rights arising from or developed in the course of any contract between the Seller and the Buyer shall vest in or remain with the Seller for its sole and unrestricted use.
9. **HAZARDOUS SUBSTANCES**
  - The Buyer acknowledges that the goods may contain hazardous substances. The Buyer will only use the goods strictly as directed and in accordance with all laws and the best safety and environmental standards. The Buyer will indemnify the Seller on demand in respect of any breach of the Buyer's obligations under this clause.