

## TERMS AND CONDITIONS OF SALE - NOF METAL COATINGS EUROPE S.A.

**GENERAL INFORMATION:** The present terms and conditions of sale, along with the scales and price lists of NOF METAL COATINGS EUROPE S.A. shall govern all sale contracts established, and generally the business relationship between NOF METAL COATINGS EUROPE S.A. and its licensed customers. These terms and conditions cancel the terms and conditions of purchase of the licensed customers and may not under any circumstances be set aside. The acceptance of any offer coming from NOF METAL COATINGS EUROPE S.A. is deemed as adherence to the present terms and conditions of sale. The present terms and conditions are provided without delay to any customer who requests them. In conformity with regulations in effect, NOF METAL COATINGS EUROPE S.A. reserves the right to waive certain clauses of the present terms and conditions of sale, based on the negotiations undertaken with the customer by the establishment of special terms and conditions.

**1 - ORDERS:** An order shall only be valid and the contract of sale shall only be deemed as established when they are accepted, either expressly in the form of confirmation of order receipt established by NOF METAL COATINGS EUROPE S.A., or tacitly by delivery of the products. In case of cancellation of the order by the customer after it has been accepted by NOF METAL COATINGS EUROPE S.A. for any reason at all outside of force majeure, an amount corresponding to 10% of the total invoice shall be due to NOF METAL COATINGS EUROPE S.A. as damages, to remedy the harm endured. No cancellation will be possible less than 5 business days before the expected date of delivery.

**2 - PRODUCTS:** The information provided in the printed commercial documents of NOF METAL COATINGS EUROPE S.A. (catalogues, brochures...) is provided for informational purposes and may not commit NOF METAL COATINGS EUROPE S.A., which reserves the right to make all modifications of layout, form, dimensions or materials to its products whose descriptions appear in its printed documents for informational purposes. The "Product Information" sheets are available on the Internet site of NOF METAL COATINGS EUROPE S.A. [www.nofmetalcoatings.com](http://www.nofmetalcoatings.com).

**3 - DELIVERY:** Regardless of the location of delivery of the products, the delivery and transfer of risks take place upon departure from the factories or warehouses of NOF METAL COATINGS EUROPE S.A., from its different sites, or from its subcontractors, by remittance of the products to the customer, to a transporter designated by the customer or otherwise, by NOF METAL COATINGS EUROPE S.A. In any event, the products are shipped at the risk and peril of the customer. In case the customer designates the transporter itself, it must make sure of the respect of transport regulations in effect as of the date of delivery, and make sure that the specific conditions described by NOF METAL COATINGS EUROPE S.A. are known by the transporter in order to preserve the quality of the products sold.

The delivery timeframes indicated by NOF METAL COATINGS EUROPE S.A. are provided for informational purposes and surpassing them may not result in the payment of damages or holdbacks or cancellation of orders in progress. However, if, one month after the expected date of delivery, the order has not been fulfilled, it may be cancelled by the customer without this latter party being able to claim indemnities from NOF METAL COATINGS EUROPE S.A. The products are placed in either disposable packaging on pallets, or in containers that are returnable at the customer's expense. Any reusable container must be returned to the agreed location within 30 days. NOF METAL COATINGS EUROPE S.A. reserves the right to bill for unreturned containers.

**4 - CONFORMITY:** It is the responsibility of the customer, in case of apparent defects or missing products, to state, on the delivery receipt, explicit reservations which clearly describe the nature of the defect or the quantity of products missing. These reservations must imperatively be confirmed to the transporter by registered letter with confirmation of receipt in the three (3) days following delivery. Furthermore, any complaint involving an obvious defect, or non-conformity of the product delivered, or missing products, shall be formulated and justified by email to the attention of the Quality Department of NOF METAL COATINGS EUROPE S.A. in the eight (8) days following delivery. Merchandise bearing a recognized lack of conformity, which has been pointed out within the indicated timeframe, is replaced or repaired, to the exclusion of any compensation, for any reason at all.

**5 - PRICE:** The prices appearing on the scales and price lists of NOF METAL COATINGS EUROPE S.A. do not include duties and taxes. The prices of certain products appearing in the scales and price lists of NOF METAL COATINGS EUROPE S.A. depend on the quantities ordered. For any customer order, NOF METAL COATINGS EUROPE S.A. will apply, by provision, the price corresponding to the volume of the product in question, ordered by the customer for the previous calendar year. However, this shall not be applicable if the customer is not up-to-date with its obligations; the price shall then be calculated based solely on the price list.

The price owed for all annual orders shall be definitively calculated based on the orders recorded between 1<sup>st</sup> January and 31<sup>st</sup> December of the year in question and shall result in payment (credit or additional invoice) during the first fifteen days of the month of February of the following year, as long as the customer is up-to-date with the payment of all amounts due to NOF METAL COATINGS EUROPE S.A.

Rebates, reductions, discounts: no rebates, reductions or discounts shall be granted outside of the special conditions signed between the customer and NOF METAL COATINGS EUROPE S.A.

### **6 - PAYMENT:**

a) The payment of invoices by the customer is done at 45 days end of month under the conditions stated in our price list, unless special negotiations have taken place. Payment is considered as having occurred upon effective receipt, i.e., recording to the bank account of NOF METAL COATINGS EUROPE S.A., of the amounts due. In case of insufficient solvency of the customer (credit facilities surpassed, for example), NOF METAL COATINGS EUROPE S.A. will be able to request immediate payment for the order. The absence of payment for a single invoice by the due date renders as immediately payable all the receivables of NOF METAL COATINGS EUROPE S.A., even those which have not yet come due. Furthermore, NOF METAL COATINGS EUROPE S.A. will be able to suspend any orders underway, without prejudice to any other course of action.

b) Late penalties: any late payment will be able to result in a penalty calculated on the basis of three times the REFI rate of the B.C.E. increased by ten (10) points and shall be calculated as of the first day following the due date, without formality or prior formal notice, as well as the payment, without notification of a set indemnity for collections expenses of 40 euros; without prejudice to any other action that NOF METAL COATINGS EUROPE S.A. could claim in this regard against the customer.

c) Conditions for discount: no discount is granted in case of early payment.

d) Compensation: the customer is formally prohibited from any illegal practices consisting of automatically debiting or billing NOF METAL COATINGS EUROPE S.A. for amounts that have not been explicitly recognized by it as being owed under its responsibility. Any automatic debit constitutes an outstanding debt resulting in application of the provisions relative to late payments and may be sanctioned under article L.442-6 I 8° of the Code of Commerce. Only compensation carried out under the conditions specified by the law are possible.

### **7 - TRANSFER OF OWNERSHIP: THE PRODUCTS DELIVERED REMAIN THE PROPERTY OF NOF METAL COATINGS EUROPE S.A. UNTIL PAYMENT IN FULL OF THE PRICE BY THE CUSTOMER ON THE DUE DATE. PAYMENT IS DEEMED AS EFFECTIVE UPON PAYMENT IN FULL OF THE PRICE. THE PRICE IS UNDERSTOOD AS THE INVOICE PRICE IN PRINCIPAL, WITH EXPENSES AND INTEREST.**

In case of non-payment of the price by the customer by the due date, NOF METAL COATINGS EUROPE S.A., without losing any of its other rights, will be able, by registered letter with confirmation of receipt, to require the immediate return of all products for which payment has not been received, at the risk and expense of the customer. The customer agrees to always make it possible to identify the products. Merchandise in stock is presumed as not having been paid for. In case of non-payment for a product which the customer has nonetheless sold, NOF METAL COATINGS EUROPE S.A. reserves the right to claim from the third-party buyer the price that it has not yet received from the customer.

The customer is obligated to insure all products against all risks subject to reservation of ownership. In case of total or partial destruction of a product, for any reason at all before payment in full, NOF METAL COATINGS EUROPE S.A. shall be subrogated in the rights of the customer with its insurer for the amounts remaining due, with mention of this subrogation being made in the insurance contract, to be presented to NOF METAL COATINGS EUROPE S.A. upon request.

In case of application of the present clause, the customer will pay NOF METAL COATINGS EUROPE S.A. an indemnity of devaluation of one and a half (1.5%) with respect to the price of the products concerned, per month of direct or indirect detention from delivery to the date of return to NOF METAL COATINGS EUROPE S.A. Generally, any expenses incurred due to application of the clause of reservation of ownership shall be the exclusive responsibility of the customer.

**8 - INTELLECTUAL PROPERTY:** In conformity with the provisions of the licence agreement established between NOF METAL COATINGS EUROPE S.A. and the customer, all intellectual property rights, as well as the know-how included in the documents sent, the products delivered and the services provided, remain the exclusive property of NOF METAL COATINGS EUROPE S.A.

**9 - CONFIDENTIALITY:** In conformity with the provisions of the license agreement established between NOF METAL COATINGS EUROPE S.A. and the customer, it is reminded that the customer accepts a general obligation of confidentiality related to all information provided to the customer by NOF METAL COATINGS EUROPE S.A. within the framework of the contract.

**10 - RESPONSIBILITY:** The responsibility of NOF METAL COATINGS EUROPE S.A. is strictly limited to the respect of the contractual specifications and shall be limited to the direct damage caused to the customer that results from faults attributable to NOF METAL COATINGS EUROPE S.A. due to execution of the contract of sale. NOF METAL COATINGS EUROPE S.A. shall not be required to indemnify consequential or indirect losses such as: operating losses, lost profits, loss of opportunity, lost business or lost earnings. NOF METAL COATINGS EUROPE S.A. is not required to remedy the harmful consequences of faults committed by the customer or third parties in relation to execution of the contract of sale. NOF METAL COATINGS EUROPE S.A. is not liable for damages resulting from the use by the licensed customer of technical documents, information or data coming from or imposed by the Customer.

The civil liability of NOF METAL COATINGS EUROPE S.A., all causes included, with the exception of bodily harm and gross misconduct, is limited to an amount ceilinging at the amount of the supply effectively received as of the day of the service. The customer guarantees the renunciation of recourse by its insurers or third parties with which it has a contractual relationship, against NOF METAL COATINGS EUROPE S.A. or its insurers beyond the limits and exclusions mentioned above.

**11 - FORCE MAJEURE:** In any event, NOF METAL COATINGS EUROPE S.A. is excused from delays or absences of delivery or execution, due to reasons beyond its control, notably in case of force majeure, actions of the customer, strikes or social movements, fire, floods, delays of delivery or supplies. In this case, timeframes for delivery or execution shall be extended by as much.

**12 - TERMINATION CLAUSE:** In case of non-fulfilment by the customer of one of its obligations and eight (8) days after formal notice to perform has been sent by registered letter with confirmation of receipt that has been to no avail during this period, the contract of sale shall be terminated without the requirement of formal notice from NOF METAL COATINGS EUROPE S.A. The products will have to be returned to it at the expense risk and peril of the customer, which is obligated to accept them, without prejudice to any damages due to NOF METAL COATINGS EUROPE S.A.

**13 - COMPETENCE - APPLICABLE LAW:** Any dispute relative to the present terms and conditions of sale shall be subject to the competence of the Commerce Court of Compiègne. Only French law shall be applicable.