



Terms and Conditions

The following is solely an transcript of the German text for better understanding.
Legally binding is the German original.

1. General

- 1.1 The following terms and conditions apply to all deliveries and services of Coating Expert Service GmbH (CES). General terms and conditions of the customer are not valid.
- 1.2 All agreements and offers are based on our terms and conditions: they are recognised by placing the order or accepting the delivery.
- 1.3 Deviating conditions of the customer/buyer which we do not expressly recognise in writing are not binding for us, even if we do not expressly object to them.
- 1.4 Insofar as no provision is made in these Terms and Conditions of Sale, the General Terms and Conditions of Business of the Customer shall not apply, but rather the statutory provisions of the Federal Republic of Germany

2. Quotation/order confirmation

- 2.1 Unless a binding period is expressly mentioned, offers from CES are non-binding and the contract is only concluded when CES confirms the order.
- 2.2 Orders without a prior offer in accordance with section 2.1 only become binding for CES when CES confirms the order. The same applies if the customer modifies an offer from CES.
- 2.3 Orders are binding.

3. Documents

- 3.1 Information in catalogues and brochures as well as information in documents belonging to the offer are indications and as such non-binding, unless they are expressly designated as binding.
- 3.2 In individual cases, CES is authorised to make design modifications and, in the event of a shortage of raw materials, to use other materials if this does not conflict with any overriding interests of the customer known to CES.
- 3.3 CES reserves the property rights and copyrights to all documents provided by CES; they may not be used, reproduced or made accessible to third parties for any purpose other than that intended by CES.
- 3.4 All documents provided by CES must be returned immediately upon request. A request for return is not required if the order is not placed with CES.

4. Prices, Packing, Insurance

- 4.1 The prices are ex works or manufacturing plant (INCOTERMS® 2023) excluding packaging, installation and commissioning. Packaging is charged at cost price.
- 4.2 In addition, CES charges transaction taxes (VAT etc.) in accordance with the provisions applicable at the time of fulfilment of the contract.
- 4.3 Unless the customer expressly stipulates otherwise, CES insures the ordered goods against the usual transport risks, including breakage, at the customer's expense.
- 4.4 If the essential price factors of the subject matter of the contract (in particular raw materials, purchased parts) change by more than 5% within the first 4 months of the contractual relationship, the parties undertake to agree on an appropriate contractual price. If the parties are unable to reach an agreement, the arbitration board of the Chamber of Industry and Commerce (IHK) based at CES shall decide on an appropriate increase.
- 4.5 In the event of refusal of acceptance, the contractor/seller shall be entitled to claim damages.
- 4.6 If an order is cancelled by the customer, the latter must pay CES compensation of 25 percent of the net order value, without prejudice to the possible assertion of higher actual damages, unless the customer/buyer can prove that the damages were lower.
- 4.7 In the event of pro rata completion, the pro rata purchase price plus contractual penalty from 5.4. shall be paid up to a maximum amount of 100% of the purchase price, notwithstanding the possible assertion of higher actual damages.
- 4.8 Otherwise, the consequences of default of acceptance according to BGB §§ 293-299 shall apply. [BGB = German Civil Code]

5. Assembly and commissioning

- 5.1 In the event of assembly by the contractor's/seller's fitters, the costs shall be borne by the customer/buyer. Any labour required shall be provided by the customer/buyer free of charge.
- 5.2 The costs are based on the CES service rates.
- 5.3 In the case of assembly at a lump sum price, the cost estimate shall include all the individual items listed in Article 7 No. 1. However, if the duration of the installation is extended for any reason for which the customer/buyer or one of its suppliers is responsible, the waiting time, the additional working time, the total additional accommodation costs and the additional travelling expenses of the installation personnel shall be invoiced separately.

6. Transfer of risk

- 6.1 The risk shall pass to the customer in accordance with the agreed clause (INCOTERMS® 2023). In the absence of an agreement, the risk is transferred when the delivery item is handed over to the first carrier. This also applies to partial deliveries or if CES has assumed other services.
- 6.2 If dispatch is delayed due to circumstances for which CES is not responsible, the risk is transferred to the customer upon notification of readiness for dispatch.



7. Delivery Dates

- 7.1 The start of the delivery period is the day on which all commercial and technical requirements for the fulfilment of the order have been clarified with the customer, the documents to be provided by the customer have been received by CES, any necessary approvals and releases have been issued and agreed advance payments have been credited to a CES bank account.
- The delivery period is deemed to have been met if the delivery item has been handed over to the first carrier or the customer has been notified of readiness for dispatch by the end of the delivery period, provided that the customer has fulfilled its contractual obligations.
- Partial deliveries are permissible to a reasonable extent. Delivered items shall be accepted by the customer, even if they have minor defects; the delivery times shall be deemed to have been met in this respect.
- 7.2 If delivery is delayed due to force majeure, the delivery period shall be extended accordingly, but by no more than six months. Force majeure shall include, for example, strikes, lockouts, sabotage, operational disruptions for which we are not responsible, failure to obtain official authorisations or failure to obtain them in good time and all other unforeseen events.

8. Terms of Payment

- 8.1 payments must be made upon receipt of the invoice without deduction, unless otherwise stated in CES's offer/order confirmation. Partial deliveries entitle the customer to be invoiced for the corresponding part.
- 8.2 Payments must be made exclusively to one of CES's paying agents. They are to be made on the due date free of postage and charges without any deductions; any fees, charges or other costs incurred by CES as a result of the separately agreed acceptance of bills of exchange or cheques are to be borne by the customer. The due date is determined by the date of the invoice or the date of notification of readiness for dispatch. For payments of any kind, the date of fulfilment is the date on which CES can dispose of the amount.
- 8.3 The withholding of payments due to counterclaims and the offsetting of counterclaims is only permitted if the counterclaims are undisputed or have been recognised by declaratory judgement.

9. Retention of title

- 9.1 The delivery item remains the property of CES until full payment of all claims of any kind arising from the business relationship at the time of invoicing, including ancillary claims. If the customer defaults on payment, CES is entitled to take back the delivery item by way of security without issuing a reminder.
- The assertion of the retention of title and the seizure of the delivery item by CES are not deemed to be a cancellation of the contract, unless the Consumer Credit Act applies. If the validity of the retention of title is subject to special formal requirements or other conditions in the customer's country, the customer must ensure that these are fulfilled.
- 9.2 The customer is authorised to dispose of the delivery item in the ordinary course of business. Claims arising for the customer during the period of retention of title from such a disposal or from an unauthorised disposal are hereby assigned to CES. Subject to revocation at any time, the customer is authorised to collect the claims.
- 9.3 CES undertakes to release securities to which it is entitled at the request of the customer to the extent that their value exceeds the unpaid claims to be secured by more than 20%.
- 9.4 The customer shall process and finish the delivery item for CES without CES incurring any obligations as a result. If the delivery item is processed, combined, mixed or blended with items not belonging to CES (§§ 947 ff. BGB), CES is entitled to a co-ownership share in the new item in the ratio of the value of the delivery item to the other processed goods at the time before processing, combining, mixing or blending. If the customer acquires sole ownership by operation of law, it hereby grants CES a corresponding co-ownership share and stores the item for CES to this extent.
- The provisions of clause 9 also apply to the co-ownership share.
- 9.5 In the event of seizure or other interventions by third parties, the customer must inform CES immediately.
- 9.6 The customer is obliged to adequately insure the delivery item against theft, breakage, fire and water damage at its own expense during the period of retention of title and to provide evidence of this to CES on request. If the requested evidence is not submitted within a reasonable period of time, CES may insure the delivery item at the customer's expense.

10. Guarantee

- 10.1 In the event of defects in the delivery item which occur as a result of circumstances prior to the transfer of risk (e.g. design or material defects, lack of warranted characteristics), CES is entitled, at its own discretion, to repair or replace the item.
- 10.2 If the rectification or replacement delivery fails, the client may demand cancellation of the contract or a reduction in price.
- 10.3 Defects must be reported within 3 weeks of delivery. Notwithstanding the above, defects which are not recognisable even on inspection of the delivery item must be notified immediately after their discovery, at the latest after 5 working days. The complaint must state which defects were discovered and whether they were noticed immediately or only after further processing of the parts.
- CES is authorised to check the defectiveness by its own employees.
- 10.4 The warranty does not cover damage caused by natural wear and tear, improper use, improper handling, operation, maintenance and storage.
- 10.5 If, during the period of liability for defects, repair work or other modifications and/or processing is carried out by the customer/buyer or third parties on the contractual items supplied by CES without its consent, the liability for defects shall lapse.
- 10.5 After consultation with CES, the customer must give CES the necessary time and authorisation to carry out all repairs and replacement deliveries that CES deems necessary at its reasonable discretion, otherwise CES is released from liability for defects. Only in urgent cases where operational safety is jeopardised and to prevent disproportionately large damage, in which case CES must be notified immediately, or if CES is in default with the rectification of a defect, does the customer have the right to rectify the defect itself or have it rectified by a third party and to demand reimbursement of the necessary costs from CES.
- 10.6 Of the direct costs arising from the repair or replacement delivery, CES shall bear the costs of the replacement part, including the costs of dispatch and the reasonable costs of removal and installation of the defective part, insofar as the complaint proves to be justified and the complaint was made properly and in good time, if this can be reasonably demanded in the individual case. Otherwise, the customer shall bear the costs.
- 10.7 The limitation period for claims due to defects in the delivery item shall be 12 months from receipt of the goods, but no longer than 15 months from delivery or storage; it shall be extended by the duration of the interruption of productive use of the delivery item caused by rectification work.
- 10.8 Warranty claims with regard to the replacement part and the rectification of defects shall lapse after 3 months, but not before the expiry of the limitation period for the delivery item.
- 10.8 Section 12.2 shall apply in all other respects.



11. Liability for property right infringements

11.1 In the absence of any specific indication from CES, the delivery item is free from third-party industrial property rights according to its knowledge of the state of the art in the Federal Republic of Germany.

Should the delivery item or a part thereof nevertheless infringe an industrial property right already granted and published in the Federal Republic of Germany or, if the delivery item expressly includes a specific procedural right, a corresponding procedural right at the time the contract is concluded and legal proceedings have therefore been initiated against the customer, CES shall, at its own expense and at its discretion, either procure the right for the customer to continue using the delivery item or modify the delivery item or the relevant part or the procedure in such a way that the customer can continue using it within a reasonable period of time, or the relevant part or process in such a way that there is no longer any infringement of third party rights or withdraw from the contract. CES accepts no further liability, in particular for processes, applications, products, etc.

11.2 If third-party property rights are infringed by drawings or information provided by the customer, the customer is responsible for the infringement and must indemnify CES in the event of a claim.

11.3 Software

11.3.1 Insofar as CES provides the customer with software, in particular within the framework of purchase contracts, contracts for work and services or contracts for work and materials or in connection with the conclusion of software licence or software maintenance contracts, the following provisions apply:

11.3.2 The software is legally protected. Copyrights, patent rights, trademark rights and all other property rights to the software as well as to other objects which CES provides or makes accessible to the customer in the context of the initiation or execution of the contract are the exclusive property of CES (in the relationship between the contractual partners).

11.3.3 The customer acquires a non-exclusive right to use the software. The right of use is limited to the use of the software on the goods supplied by CES, which are located on the customer's premises and are in the customer's direct possession (hereinafter "installation locations").

11.3.4 Unless expressly agreed otherwise, Customer specifically agrees not to (i) transfer, lease or sublicense the Software; (ii) decompile, disassemble or reverse engineer the Software, in whole or in part, except as permitted by mandatory provisions of applicable law; (iii) disclose or permit the Software to be disclosed at locations other than the agreed installation locations; or (iv) write or develop derivative works or other programs based on Customer's Confidential Information.

11.3.5 The right to reproduce the SW is limited to the installation of the SW at the installation locations, to the required number of copies needed for the purpose of a security backup pursuant to §69d para. 2 UrhG [German Copyright Act] and to loading, displaying, executing, transferring and saving the SW and its content. The customer is not authorised to pass the copy on to third parties for backup purposes. Backup copies must be stored securely and, as far as technically possible, labelled with the copyright notice of the original data carrier or the online recording of the software. Copyright notices, trademarks and product labelling may not be deleted, changed or suppressed. Copies that are no longer required must be deleted or destroyed. Documentation and user manuals may only be copied for internal purposes.

11.3.6 If Customer materially breaches any provision of this Section 11, the rights granted to Customer hereunder shall automatically terminate and be assigned to CES with immediate effect without any further action being required. In addition, Customer shall, at its own expense, return all copies of the Software and confirm in writing that no copies of the Software have been retained and that any installed Software has been irrevocably deleted from Customer's systems.

11.3.7 If the software is not already pre-installed on the delivered goods and there is no agreement that the software will be installed by CES itself, CES will enable the installation by download or online installation together with the documentation on a date agreed between the parties. The parties agree that the place of fulfilment for the delivery of the SW shall be the registered office of CES. The customer shall bear all costs and risks associated with such delivery.

11.3.8 Unless otherwise agreed in writing, CES is not obliged to provide the customer with updated versions of the installed software.

12. Other liability of CES; right of the client to cancellation

12.1 If the customer suffers damage as a result of CES's delay, it is entitled to demand compensation for the delay. This amounts to 0.5 % for each full week of delay, but in total not more than 5 % of the value of that part of the total delivery which cannot be used on time or in accordance with the contract as a result of the delay.

12.2 Further claims against CES, including its representatives or vicarious agents, other than those expressly stated in these terms and conditions, irrespective of the legal grounds, in particular for loss of profit and consequential damages, are excluded, except in cases of wilful misconduct or gross negligence, breach of material contractual obligations or under the Product Liability Act for personal injury and damage to privately used items or in the absence of expressly warranted characteristics, if the purpose of the warranty is precisely to protect the customer against damage that has not occurred to the delivery item itself.

12.3 Liability for gross negligence is furthermore limited to the foreseeable damage typical of the contract. Further or other claims of the contractual partner, in particular for consequential damages, are excluded. This shall not apply in the event of injury to life, limb or health.

12.4 The client's statutory right of cancellation in the event of default and impossibility remains unaffected.

13. Place of performance, place of jurisdiction, applicable law

13.1 The place of fulfilment and jurisdiction is the competent court at the registered office of CES. CES is also authorised to take legal action at the customer's registered office.

13.2 The law of the Federal Republic of Germany shall additionally apply to all contractual agreements.

13.3 The application of the uniform UN Convention on Contracts for the International Sale of Goods (CISG) is excluded, as well as the international and German conflict of laws for contracts with foreign relationships.

13.4 Validity Should individual provisions of these terms and conditions be or become contestable or void, this shall not affect the legal validity of the remaining provisions.

Note in accordance with the German Federal Data Protection Act

It is pointed out that CES stores data of the client and that this data is processed. The deletion of the data takes place after expiry of the statutory retention periods.