

GENERAL CONDITIONS OF SALE FOR THE USA

1. BUYER'S ACCEPTANCE OF SELLER'S GENERAL CONDITIONS OF SALE

These General Conditions of Sale shall apply to every Contract of COEM S.p.A. ("Seller") for the sale of goods or articles ("Merchandise") to any person who has purchased or agreed to purchase Merchandise from Seller (the "Buyer"), unless Seller otherwise specifically agrees in writing. By placing any order for Merchandise, the Buyer agrees to these General Conditions of Sale. Any other terms or conditions which may at any time be indicated by the Buyer, in the Buyer's order form or otherwise (whether oral, typed, written or printed) shall be null and void and of no effect, even if not expressly objected to by Seller.

2. ACCEPTANCE AND CONFIRMATION OF ORDER

Any order of the Buyer may be accepted by Seller in whole or in part. A partial acceptance by Seller of any such order shall not constitute an acceptance of any other part of the order. No order of the Buyer will be binding upon Seller unless accepted by Seller on Seller's form of Order Confirmation, signed by an officer or employee of Seller duly authorized to sign on behalf of Seller, and then only as and to the extent set forth in such Order Confirmation. Any term, condition or provision set forth in Seller's Order Confirmation which is not objected to by the Buyer in writing within ten days after the date thereof will conclusively be deemed to have been accepted by the Buyer. Seller's Order Confirmation shall be controlling regarding the Merchandise and quantities sold or required to be sold by Seller to the Buyer. Every order of the Buyer will be binding on the Buyer unless and until it is rejected in writing by Seller, and may not be cancelled, withdrawn or modified by the Buyer; however, in the event of a partial acceptance by Seller, the Buyer will no longer be bound with respect to the parts of the order not accepted by Seller.

3. PRICES

Unless otherwise specifically agreed by Seller in writing, the Buyer will pay the prices of Seller for the Merchandise in effect at the time of shipment and all prices quoted or invoiced by Seller are for delivery Ex-factory, excluding transportation and shipping charges, taxes, fees and custom duties. Packaging materials, such as boxes; crates, etc. are invoiced at the cost price and are not returnable. Seller's prices may, at Seller's option, be increased, after Seller's acceptance of the Buyer's order, to reflect any increases in Seller's materials, taxes, fees and customs duties, labor or other costs. When, on the Purchaser's request, goods available and ready for shipment remain at the suppliers factory, the invoice is issued as though the shipment had taken place and the materials are Kept in the warehouse at the purchaser's risk and expense.

4. DISCOUNTS AND ALLOWANCES

Except as expressly provided in Seller's Order Confirmation, the Buyer will not be entitled to any discount, allowance, commission or rebate of any kind, directly or indirectly. Any discount granted by Seller for prepayment of any invoice will be allowed only if the full amount specified in the invoice is received by Seller on or before the due date of the invoice.

5. TIME OF DELIVERY

Any delivery dates specified by Seller will be deemed to be estimates only, unless specific commitments are made in writing by Seller. In no event is the time of delivery of the Merchandise of the essence. Seller reserves the right to cancel, in whole or in part, or to suspend or delay, in whole or in part any orders due to (i) the unusually large size of an order (ii) exigencies of Seller's production or delivery schedule, (iii) shortages of, or failures of Seller's suppliers to deliver, or delays of Seller's suppliers in delivering materials, (iv) work stoppages or other labor troubles, (v) acts of God or (vi) any event in the nature of force majeure or beyond Seller's control. Delivery dates will be extended by the amount of any additional time required by Seller to make delivery as a result of any such condition or event or any change in the Contract. Seller also reserves the right to discontinue particular Merchandise or lines of Products, or to substitute other Merchandise or lines, in response to production and market requirements and demands. The Buyer waives any and all claims and rights which the Buyer might otherwise have arising out of or in connection with or relating to any delay in delivery of the Merchandise for any reason whatsoever or any failure of Seller to deliver by reason of the exercise by Seller of any of its rights pursuant to these General Conditions of Sale, including, without limitation, any and all claims for or rights to direct, indirect, incidental, consequential or other damages or compensation, and any and all rights to terminate or cancel the Contract, in whole or in part.

6. TERMS OF SALE, RISK OF LOSS

Buyer Will take delivery of the Merchandise at the Seller's premises ("Ex factory").

Unless otherwise specifically agreed by Seller in writing:

- (i) all risk of loss or damage to the Merchandise shall pass to the Buyer upon delivery of the Merchandise by Seller to a carrier;
- (ii) Seller shall not be required to procure insurance to cover the Merchandise during transportation in shipment;

(iii) any shipping arrangements made by Seller with carriers or forwarding agents at the Buyer's request shall be made solely on the Buyer's behalf and at the Buyer's sole cost and risk; (iv) any agent appointed for such shipment shall be solely the Buyer's agent for all purposes; (v) the Buyer shall be responsible for all the unloading and receipt of the Merchandise at its destination; and (vi) any claim for loss or damage shall be made by the Buyer solely against the carrier.

7. TERMS OF PAYMENT

(a) The Buyer shall make all payments in accordance with the provisions of the Contract, notwithstanding any claim for any alleged defect, fault or irregularity in the Merchandise. Unless otherwise specifically agreed by Seller in writing, payment by the Buyer is due upon receipt of Seller's invoice. Payment for all Merchandise specified in the invoice shall be made; in the currency stated in the invoice, at Seller's Administrative Headquarters in Roteglia di Castellarano. The acceptance by Seller of any check, draft, promissory note or other instrument shall not constitute a change in or novation of the Contract or an agreement by Seller that payment may be made at the place where such check, draft, promissory note or other instrument is drawn, issued or payable.

Moreover, acceptance by Seller of any check, draft, promissory note or other instrument will not constitute payment until Seller has collected the full amount in cash at Seller's place of business. In the event of any delay in payment, Seller shall have the right to suspend deliveries and may, at its option (i) require immediate payment of all or any part of any and all sums owed by the Buyer, irrespective of any credit terms previously agreed to, and (ii) terminate the Contract (as well as any and all other contracts with the Buyer) in whole or in part, and hold the Buyer liable for damages. In the event Seller does not receive any payment by the due date, the Buyer shall pay to Seller interest on the unpaid amount, from the due date to the date payment is actually received by Seller, at the annual rate of interest of ten percent (10%). Seller's right to such interest shall be in addition to, and not in lieu of, all other rights and remedies arising by reason of such nonpayment. In the event of any delay in payment, Seller may, at its option, among other things, cancel or terminate the Contract, in whole or in part, and hold the Buyer liable for damages. Any payment received by Seller may be applied to any outstanding balance owed by the Buyer to Seller, as Seller, in its sole discretion, may determine, any instructions of the Buyer to the contrary notwithstanding.

(b) Irrespective of any payment or credit terms specified or agreed to by Seller, Seller may, in its sole discretion, at any time and from time to time, require payment in cash before shipment of any or all of the Merchandise, or require payment in advance of any or all amounts due or to become due under the contract. If Seller believes in good faith that the Buyer's ability to make the payment required by the Contract is or may become impaired, Seller may, in its sole discretion, cancel or terminate the Contract, in whole or in part, the Buyer remaining liable to pay for any Merchandise already shipped.

8. WARRANTIES, COLOR, TONE AND SHADE VARIATIONS

(a) Except for such express written, warranties as may be made by seller to the buyer, seller makes no warranty or representation, express or implied, with respect to the merchandise; including, without limitation, any warranty of merchantability or fitness for any particular purpose.

Under no circumstances does Seller make, or shall Seller be deemed to have made, any warranty or representation, express or implied, with respect to the uniformity of the color, tone or shade of the Merchandise or the conformity of the Merchandise to the color, tone or shade of any sample. In particular, and without limitation, under no circumstances does Seller make, or shall Seller be deemed to have made, any such warranty or representation, or any other warranty or representation, express or implied, by reason of any statement, description or illustration in any brochure or other literature or by reason of having furnished a sample of any Merchandise. Moreover, any written warranty made by Seller to Buyer with respect to any Merchandise (i) applies only to Merchandise which is of first quality, and does not apply to second or lesser quality Merchandise, and (ii) is subject to a tolerance of approximately five percent. In the event of any breach of warranty, Seller may, at its election, either (i) replace the Merchandise affected or (ii) cancel or terminate the Contract, in whole or in part, without any obligation to replace any Merchandise. The Buyer waives any and all other claims and rights which the Buyer might otherwise have arising out of or in connection with or relating to any such breach of warranty or arising out of or in connection with or relating to any defect, fault or irregularity in the Merchandise, including, without limitation, any and all claims for or rights to direct, indirect, incidental, consequential or other compensation or damages, and any and all rights to terminate or cancel the Contract, in whole or in part.

(b) The Buyer takes full and complete responsibility for ascertaining whether the Merchandise meet the requirements of or is suitable for the Buyer's intended use, regardless of any suggestions or directions given by Seller with respect to the Merchandise or the use thereof.

(c) The Buyer acknowledges that variations in color, tone and shades of the Merchandise are inherent and unavoidable, that Seller does not warrant uniformity in color, tone or shade of the Merchandise and that the Merchandise may not match the color, tone or shade of any sample.

(d) The Buyer shall not test or have any test performed on the Merchandise unless the Buyer has previously advised Seller of the proposed test in writing, specifying the time and place of the proposed test and the identity of the person proposed to perform such test, and afforded Seller a sufficient opportunity to participate in the proposed test to such extent as Seller deems advisable. Any test performed in the absence of such advice and participation shall be of no effect with respect to any claim or right of the Buyer.

9. TITLE TO AND SECURITY INTEREST IN MERCHANDISE

Until Seller collects in full all amounts required to be paid by the Buyer for the Merchandise, as well as any and all other amounts owed by the Buyer to Seller, Seller retains title to the Merchandise; and Seller shall have a security interest in the Merchandise, under the Uniform Commercial Code as in effect in the United States, to secure the payment of all such amounts. By placing an order with Seller, the Buyer appoints Seller as its attorney-in-fact to sign and file any and all financing statements with respect to such security interest which Seller may deem necessary or desirable, or to file such financing statements without the signature of the Buyer to the extent permitted by law. The Buyer shall, at the request of Seller, execute any and all financing statements and other documents which the Seller may request to perfect or evidence such title and such security interest.

10. COSTS OF COLLECTION

In the event Seller retains a collection agency to collect any amount owed by the Buyer, or institutes proceedings to collect such amount or to enforce any right under the Contract, including enforcement of any security interest granted to Seller, the Buyer shall reimburse Seller for all collection agency fees and costs, or all costs incurred in such legal proceedings, including reasonable attorneys' fees.

11. CLAIMS

(a) Any claim by the Buyer of any and every kind must be made in a writing dispatched to Seller, by registered mail, return receipt requested, not later than thirty days from the date of shipment of the Merchandise with respect to which the claim is made. Failure to make any claim in such manner or within such thirty day period shall constitute an irrevocable acceptance of the Merchandise and an admission by the Buyer that the Merchandise fully comply with all the terms, conditions and specifications of the Contract.

(b) The Buyer may not accept only a part of the Merchandise delivered. Acceptance of any part of the Merchandise ordered shall constitute acceptance of all of the ordered Merchandise, whether or not the Merchandise is all tendered in one shipment.

(c) No Merchandise may be returned by the Buyer without the prior written authorization of the Seller. All returns shall be subject to verification on arrival at the location specified, in such written authorization, for the return of the Merchandise.

12. PROPRIETARY RIGHTS

All rights in designs, trade names, trademarks and copyrights of Seller used on or in connection with the Merchandise are proprietary and shall remain the exclusive property of Seller, and the Buyer shall have no right or interest therein or with respect thereto. The Buyer shall not reproduce or simulate, or cause or allow anyone to reproduce or simulate, either directly or indirectly, any such design, trade name, trademark or copyright.

13. TERMINATION OF THE CONTRACT

Seller shall have the right to cancel or terminate the Contract, in whole or in part (i) within one hundred twenty days from the date of Seller's Order Confirmation, in Seller's sole discretion; or (ii) at any time, in the event Seller experiences difficulties in obtaining regular or sufficient supplies of materials. The Buyer waives any and all claims and rights which the Buyer otherwise might have, including, without limitation, any and all claims for or rights to direct, indirect, incidental, consequential or other damages or compensation, arising out of or in connection with or relating to any cancellation or termination, in whole or in part, pursuant to this or any other paragraph of these General Conditions of Sale, of the Contract or any other contract between Seller and the Buyer.

14. APPLICABLE LAW

The Contract shall be governed by and construed in accordance with the law of Italy, without giving effect to conflict of laws principles, except that (a) if the Seller decides to sue the Buyer as indicated in paragraph 15, the law of the state where the action is prosecuted will govern, including the Uniform Commercial Code; and (b) the rights of Seller pursuant to its security interest in the Merchandise shall be governed by and construed in accordance with the Uniform Commercial Code as in effect in the United States.

15. JURISDICTION

All litigation arising out of or in connection with the Contract or the Merchandise shall be conducted before the Courts of Reggio Emilia, Italy, except that Seller, at its option, may commence and prosecute such litigation in any jurisdiction in which the Buyer may be located or found or may do or transact any business. The Buyer consents to the jurisdiction of the courts of the Reggio Emilia, and agrees that any and all process may be served upon the Buyer outside Reggio Emilia with the same force and effect as if such service had been made in Reggio Emilia.

16. MODIFICATIONS

The Contract cannot be orally changed, modified, amended or discharged, in whole or in part. Any change, modification, amendment or discharge, to be effective, must be in writing, signed by an officer or employee of seller duly authorized to sign on behalf of Seller.

17. PRIVACY POLICY

Pursuant to art. 13 of the European Regulation no. 2016/679 on the protection of personal data, the Supplier, in their capacity as Data Controller, shall process the data of the Purchaser for contractual purposes and to comply with legal obligations.

To exercise the rights of the interested party (from art. 15 to art. 21) and to receive the full data protection information, please ask COEM S.p.A.