

# Terms of delivery

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## Article 1: General

1. These General Terms and Conditions use the following definitions:

**Supplier:**  
Prokol Protective Coatings BV, established in Helmond.

**Customer:**  
The contractual counterparty of Prokol Protective Coatings BV or the party to whom Prokol Protective Coatings BV has addressed its offer or order confirmation.

**Instruction:**  
The activities to be determined in mutual consultation between the Supplier and the Customer (the delivery of goods and/or the provision of advice) that must be performed by the Supplier and the conditions under which this must be done.

**Ex Warehouse:**  
Pick up at the warehouses of Prokol Protective Coatings BV.

**Carriage Paid Delivery Address:**  
The delivery address specified by the Customer where the goods are presented by the carrier of the Supplier.

2. These General Terms and Conditions apply to all offers made and agreements concluded by the Supplier insofar as they have not been deviated from in writing. The Customer accepts the applicability of these General Terms and Conditions by the mere fact of its instruction, even if the Customer's terms and conditions would read otherwise. The applicability of any general terms and conditions of the Customer is hereby explicitly excluded. The applicability of the Vienna Convention of 11 April 1980 (Convention on the International Sale of Goods) is excluded in its entirety.
3. Deviations from these General Terms and Conditions are subject to the express written confirmation of the Supplier.
4. Specific clauses in agreements in which these General Terms and Conditions have been declared applicable will prevail over the provisions of these General Terms and Conditions.
5. If one or more of the provisions of these General Terms and Conditions are void or voidable, all the remaining provisions of these General Terms and Conditions will remain in full force. In that case, the Supplier and the Customer will consult in order to reach agreement on new provisions to replace the void or voidable provisions, taking into consideration as much as possible the objective and purport of the original provision.

## Article 2: Offers, data provided

1. All offers made by the Supplier are without any obligation. The Supplier is only bound after it has accepted an instruction in writing. The Supplier is entitled not to accept instructions, in which case it is obliged to notify the Customer of this in writing within 30 days. Representatives and agents do not have the power to conclude contracts.
2. All information regarding colours, colour combinations, applications, prices, etc., included in sales brochures, advertisements, price lists and other descriptions provided by the Supplier are only indicative and are therefore not binding on the Supplier. The same applies to samples shown or provided.

## Article 3: Prices and price adjustments

1. For orders with a value of less than € 1,250 excluding VAT or otherwise agreed on in writing, the prices quoted are based on delivery Ex Warehouse in Helmond. Any freight and/or handling costs will be charged separately. For orders with a value of € 1,250 excluding VAT or otherwise agreed on in writing, or more, the prices are based on delivery Carriage Paid Delivery Address within the Benelux as stated on the order.
2. If one or more cost price factors increase after the order confirmation – even if this occurs as a result of foreseeable circumstances – the Supplier is entitled to adjust the agreed prices accordingly. The Supplier will inform the Customer of its intention to increase the prices in writing. In addition, the Supplier must state the scope of the increase and the effective date.

## Article 4: Delivery, acceptance, delivery time and returns

1. The Supplier has fulfilled its obligation to deliver and the goods have therefore been delivered if it presents the goods to the Customer at the agreed time. In the case of delivery Ex Warehouse, the notification that the goods are ready for acceptance applies as such; in the case of delivery Carriage Paid Delivery Address, the delivery report of the carrier applies as such.
2. If the Customer refuses to take delivery of the goods, the costs of the return freight, storage and other necessary costs will be borne by the Customer. In such a case, the Supplier will store the goods for a maximum period of 30 days after presentation and notify the Customer in writing that it can collect the goods against cash payment. After the expiry of this term, the Supplier

will be entitled to dissolve the agreement by means of a written statement addressed to the Customer. In that case, the Customer is obliged to pay compensation. This compensation is determined on the basis of the sales price of the goods not received.

3. The Supplier is entitled to deliver in parts. The Customer will be informed of this in advance by the Supplier.
4. The stated delivery time is an indication and commences on the day on which the Supplier has accepted the instruction in writing. The delivery time is not a strict deadline; the mere exceeding thereof does not constitute default.
5. Return deliveries are always made in consultation. We reserve the right to withhold a percentage for costs incurred. Unfortunately, products that have been customized for you in terms of colour or size can no longer be returned.

## Article 5: Cancellation

1. Both parties can unilaterally terminate the agreement within 24 hours.
2. Early termination must be motivated and confirmed in writing.
3. In the event of early termination by the Customer, the Supplier is entitled to compensation for the costs already incurred.

## Article 6: Suspension and dissolution

The Supplier is entitled to suspend fulfilment of its obligations or to dissolve the instruction if:

1. The Customer fails to fulfil its obligations under the instruction or fails to do so in full or, after conclusion of the agreement, the Supplier, on the basis of information it has become aware of, has good reason to believe the Customer will not fulfil its obligations. In the event of justifiable reason to assume that the Customer will not perform fully or properly, suspension will be permitted if and insofar as justified by the shortcoming.
2. Upon concluding the instruction, the Customer was asked to provide security for the fulfilment of its obligations under the instruction and such security has not been forthcoming or has proven to be insufficient.
3. Furthermore, the Supplier is entitled to dissolve the instruction in the event of circumstances the nature of which is such that fulfilment of the instruction is no longer possible or, in accordance with criteria of reasonableness and fairness, can no longer be demanded, or in the event of any other circumstance the nature of which nature is such that the unaltered continuation of the instruction cannot reasonably be expected.
4. The claims of the Supplier against the Customer will become immediately due and payable upon dissolution of the instruction. If the Supplier suspends the fulfilment of the obligations, it will not affect its statutory rights or any entitlements stipulated by the instruction.
5. The Supplier at all times reserves the right to claim compensation.

## Article 7: Retention of title and security

1. Ownership of the goods only transfers to the Consumer once it has fulfilled all its obligations under the agreement concluded with the Supplier regarding the sale of these or other goods.
2. The Customer is not entitled to alienate, encumber, pledge the goods or otherwise bring the goods under the control of third parties in any form whatsoever without the written consent of the Supplier, as long as the ownership has not transferred to the Customer.
3. As long as the retention of title is in force, the Supplier will be entitled to unimpeded access to the goods. The Customer will provide the Supplier with every cooperation in order to enable the Supplier to exercise the retention of title referred to in paragraph 1 by taking back the goods.
4. If third parties wish to attach or exercise any rights with regard to the goods delivered under retention of title, the Customer is obliged to notify the Supplier thereof as soon as is reasonably possible.
5. At the Supplier's first request, the Customer undertakes to pledge the claims the Customer has against its customers due to the delivery and/or processing of the goods delivered under retention of title to the Supplier in the manner prescribed in Section 3:239 of the Dutch Civil Code.
6. The Customer is obliged to cooperate with all reasonable measures the Supplier wishes to take to protect its property rights with regard to the goods and which do not unreasonably hinder the Customer in the normal course of its business.
7. Before and during the execution of its agreement with the Customer, the Supplier – if it has good reasons to fear the Customer will not be able to fulfil its payment obligations towards the Supplier – is entitled to set further payment conditions or to suspend the fulfilment of its obligations until the Customer has provided sufficient security for the fulfilment of its payment obligations within the term set for this purpose. If the Customer fails to do so, the Supplier has fulfilled its obligation to deliver by presenting the goods to the Customer against simultaneous payment.

## Article 8: Transfer of risk

In the case of delivery Ex Warehouse, the goods are at the expense and risk of the Customer from the moment they are ready for transport at the



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Supplier and the Customer has been notified of this in writing. In case of delivery Carriage Paid Delivery Address, the goods are at the expense and risk of the Customer from the moment of delivery, as appears from the delivery report of the carrier.

## Article 9: Payment and collection

1. Unless otherwise agreed in writing, all payments must be made without any deduction, discount or settlement within 30 days of the invoice date into a bank account in the Netherlands to be specified by the Supplier.
2. Any payments made by the Customer will first be applied to settle all interest and costs payable and secondly to settle outstanding invoices that have been payable for the longest time, even though the Customer has stated that the payment relates to a later invoice.
3. The Customer, from the due date, owes interest on an overdue instalment amounting to 1.25% per month or a part thereof, without a notice of default being required, as well as the judicial and extrajudicial collection costs related to the collection, the latter being determined at 15% of the relevant amount, with a minimum of €225, excluding VAT.
4. The provisions of the previous paragraph do not deprive the Supplier of its power to suspend further performance of the agreement or to dissolve it, insofar as it has not yet been performed, by means of a written statement, without prejudice to its right to claim compensation.
5. In the event of bankruptcy or suspension of payments on the part of the Customer or the shutdown or liquidation of its enterprise, all claims of the Supplier against the Customer are immediately due and payable.

## Article 10: Complaints and warranty

1. Complaints regarding the delivered goods can only be handled if the Customer has followed all applicable user instructions, including compliance with any hazard designations. Complaints cannot be processed if the Customer has proceeded to processing or onward delivery while it could have easily discovered the alleged defect. Nor can complaints be processed on the basis of technically unavoidable deviations in colours and properties of the product.
2. Complaints regarding incorrect layout, weights, numbers or packaging, etc. must be submitted in writing and by registered letter within 8 days of delivery of the goods, failing which the Customer is deemed to have approved the goods in question.
3. Complaints regarding the quality of the delivered goods must be submitted in writing and by registered letter within 14 days of the Customer discovering the defectiveness of the delivered goods, but in no case later than 6 months after delivery of the goods. If an expiry date is stated on the packaging, the complaints must in any case be submitted before that date.
4. Complaints about colour deviations can no longer be considered after application.
5. Complaints of whatever nature do not suspend the Customer's payment obligations.
6. The Supplier guarantees the soundness of the products it supplies in the sense that these products meet the specifications specified by the Supplier in this regard.
7. Unless the Supplier immediately acknowledges the complaint in writing, the Customer is obliged to instruct TNO, COT or BDA Dakadvies within 8 days of submitting the complaint to analyze the delivered product. If the analysis shows that the product does not have the properties that it should have according to the product description, the Supplier will reimburse the costs of the investigation in full.
8. The Customer has to prove that the goods to which the complaint relates are the same as those delivered by the Supplier. If the Customer uses a product from the Supplier for a purpose other than that for which it is suitable according to the product description, any warranty lapses. In that case, the Customer uses the product entirely at its own risk.
9. For a product developed by the Supplier for a specific purpose at the request of the Customer, the Supplier will state the specifications of the product in detail. In that case, the Supplier guarantees for a period of five years after delivery that the product meets the specified specifications, provided that the Supplier has advised this product to solve the problem formulated by the Customer.
10. If it appears that the products delivered by the Supplier do not meet the specifications stated by the Supplier, the Supplier will owe the Customer a fine of twice the invoice amount for the defective product, with the exclusion of Section 6:94(2) of the Dutch Civil Code, with a maximum of €10,000, excluding VAT.

## Article 11: Liability

1. The liability of the Supplier is expressly limited to the fulfilment of its warranty obligations as stated in Article 10. Any claim for loss of profits and/or other forms of indirect or consequential loss is excluded.

2. The Customer is not permitted to use, trade or put into circulation packaging originating from or delivered through the Supplier other than with the original contents which were supplied to the Customer.

## Article 12: Force majeure

1. The Supplier has the right to invoke force majeure, which is understood to mean circumstances that prevent the fulfilment of the agreement with the Customer and which cannot be attributed to the Supplier. Force majeure includes, but is not limited to, government measures, a virus outbreak or pandemic, strikes, factory sit-ins, a lack of necessary raw materials and other items or services required to achieve the agreed performance, unforeseeable stagnation at suppliers or other third parties on which the Supplier depends and all other matters and issues beyond the Supplier's control.
2. During the force majeure, the Supplier's obligations to deliver and other obligations will be postponed. If the force majeure period lasts longer than 6 months, both parties are entitled to dissolve the agreement without there being any obligation to pay compensation in that case.
3. If the Supplier has already performed in part, it is entitled to a reasonable compensation for the costs of that performance which it has incurred until the moment of the occurrence of the force majeure.

## Article 13: Confidentiality

1. Either party will be under the obligation to keep secret all confidential information obtained from the other party or from another source in the course of their instruction. Information is considered confidential if the other party has communicated its confidential nature or if such confidentiality ensues from the nature of the information.
2. If the Supplier is under an obligation, either pursuant to a statutory provision or a court order, to disclose confidential information to any third parties designated by law or by the competent court, and the Supplier cannot invoke any privilege, either statutory or recognized or permitted by the competent court, the Supplier will not be under any obligation to pay compensation or indemnification and the other party will not be entitled to dissolve the instruction on account of any resulting damage.

## Article 14: Applicable law and disputes

1. All legal relationships to which these General Terms and Conditions apply and all agreements resulting therefrom are exclusively governed by Dutch law.
2. All disputes between the Supplier and the Customer – including those that are regarded as such by only one party – will be settled by the competent court in 's-Hertogenbosch. If the other party is a natural person who does not act in the course of his profession or business, the Customer – within one month of the Supplier notifying the Customer that the case will be submitted to the court – may make it known that it opts for settlement of the dispute by the legally competent court.

## Article 15: Changes

These General Terms and Conditions have been filed with the Chamber of Commerce in whose district the Supplier has its registered office. The most recently filed version or the version that applied when the instruction was concluded applies.



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