

**GENERAL TERMS OF SALE**

**OF**

**Commanditaire Vennootschap  
Superior Coatings & Concrete Trading**

**Swaeftenstraat 8  
7415 EC Deventer**

**March 2009**

## ARTICLE 1: APPLICABILITY

a) The terms hereinafter stated shall be applicable to all offers made by, orders accepted by and deliveries to third parties by Superior Coatings & Concrete Trading, hereafter to be named Superior Coatings, and to all operations executed by Superior Coatings by order of third parties, and also to all contracts in the broadest sense of the word concluded between Superior Coatings and third parties.

b) The present terms shall apply inside as well as outside the Netherlands, without regard to place of residence or business of the parties concerned in any agreement, and also without regard to the place where the agreement has been affected, or should have been implemented.

c) If buyer or customer uses purchase terms these shall have no binding force upon Superior Coatings as far as they deviate from the present terms of delivery.

d) Possible deviations from the present terms, applied/accorded by Superior Coatings for the benefit of buyer's or customer's at any time shall never entitle the last-mentioned to appeal thereto afterwards or to claim the application of such a deviation as being incontestable for him/her.

## ARTICLE 2: OFFERS

a) All offers and price quotations shall be made without any engagement, unless expressly stipulated otherwise. They have been made by Superior Coatings in best of conscience and are based on data eventually submitted when inquiring.

b) Statements with regard to measure, capacity, performance colour, texture of material, finishing or resultants, provided by Superior Coatings in illustrations, catalogues, brochures, drawings or in any other way, are deemed to have been provided by approximation and without engagement.

Superior Coatings shall not be bound to this statement and consequently shall not be liable for any inaccuracies in these data.

## ARTICLE 3: ORDERS/CONTRACTS

a) By order is meant: every contract concluded with Superior Coatings, irrespective of whether she undertakes to start activities, or to lend personnel, material or room, or to carry out any other performance, all this in the broadest sense.

b) All contracts concluded with Superior Coatings shall not become binding until after having been confirmed in writing by Superior Coatings or through Superior Coatings having begun the execution of the order. Possible supplements or deviations in the contracts referred to above shall be binding upon Superior Coatings only after and in so far as they have been accepted and confirmed in writing by Superior Coatings. Buyer/customer is deemed to have acknowledged supplements or deviations in the contracts concluded with Superior Coatings, unless buyer/customer has objected to this supplement and/or deviation in writing within 8 days after he/she took or could have taken note of the supplement/deviation. Buyer/customer is deemed to have taken note of the said supplement/deviation the moment Superior Coatings shall have started the activities the supplement/deviation refers to. Only the board and possible he/she who has been explicitly authorised thereto by

the board, can and is allowed to conclude contracts by order of Superior Coatings.

c) Unless otherwise is explicitly agreed in writing, Superior Coatings shall at all times be entitled to have the order wholly or partially executed by third parties, in which case the present terms shall also apply in favour of these parties, on the condition though, that Superior Coatings shall authorise them in writing and if necessary afterwards, to appeal to the present terms, without this authorisation making it possible to create any obligations to Superior Coatings.

#### ARTICLE 4: LIABILITY

a) Superior Coatings is not liable for any harm or damage, directly or indirectly with the exception of the stated in article 9 of these terms. Superior Coatings shall only be liable for malice or comparable guilt by herself, by her employees or by other persons under their liability.

b) Should Superior Coatings because of any other reason with regard to the agreement be liable for damages, the damages due to be paid by her shall always be limited up to the invoice amount (exclusive of value added tax) relating to the goods and/or services and such up to a maximum of Euro 11.500,00 (in words; eleven thousand five hundred).

c) Any appeal to the present terms being made, buyer's or customer's obligation towards Superior Coatings to pay shall not be suspended.

#### ARTICLE 5: TIME AND PLACE OF DELIVERY

a) All delivery times stated in quotations, confirmations and contracts shall be considered as having been stated to the best knowledge and shall be complied with as far as possible, yet shall have no binding force upon Superior Coatings.

b) Exceeding the times of delivery stated, irrespective of cause, shall never entitle buyer or customer to any damages, to rescission of the contract or to non-fulfilment of any obligations which derives from the contract in question or of any other contract whether or not related to the present contract.

c) In case of the delivery time being excessively overdue, such however to be judged by Superior Coatings, Superior Coatings shall enter into further consultation with buyer or customer.

d) Delivery shall be effected ex company of Superior Coatings or ex any other place to be stipulated by Superior Coatings.

e) In case goods, sold by or services, offered by Superior Coatings, after having been presented to buyer or customer, shall be rejected by the same, they shall be at the disposal of buyer's or customer's during a period of three weeks. During that period goods shall be stored for account of buyer's or customer's. That period having expired, the total amount due on delivery or fulfilment and increased by any consequential costs and interests, can be claimed from buyer or customer, even if delivery of the goods or services in question should not have taken place. Payment shall in that case be considered as having been made as a compensation to Superior Coatings.

f) If buyer or customer should not fulfil one or more obligations resulting from this or any other agreement related to the contract, or

if he/she should not fulfil same by the time stipulated, Superior Coatings shall be entitled to delay the execution, after having declared buyer or customer to be in default in writing - without judicial intervention - without Superior Coatings being liable for any damages.

#### ARTICLE 6: TRANSPORT AND TRANSPORT RISK

- a) The choice of means of transport shall be up to Superior Coatings.
- b) Transport of goods ordered from Superior Coatings shall be affected for buyer's or customer's account.
- c) All goods ordered from Superior Coatings shall travel at buyer's or customer's risk from the moment of forwarding. Also, in case free delivery should have been agreed buyer or customer shall be liable for any damage occurred during the transport.
- d) The goods shall be exclusively delivered parterre. Should goods have to be delivered other than parterre, the supplementary costs and risks involved shall be fully for buyer's or customer's account.
- e) On arrival of the goods buyer or customer shall be obliged to convince himself of the condition of the goods. Should then appear that damage has been caused to goods or material, he/she shall be obliged to take all steps to obtain an indemnification from the transporter. By signing the receipt, supplied by or by order of Superior Coatings, buyer/customer declares to have received the goods in good condition.

#### ARTICLE 7: PRICES AND COSTS

- a) For each contract Superior Coatings states a separate price or rate. This price or rate only is referred to as being the amount due for activities to be effected by Superior Coatings, including the costs generally involved. The prices stated in the quotation are based on the then current cost price factors, rates, wages taxes, duties, charges, freight, and so on. In case of an increase in any of these factors Superior Coatings is entitled to change the quoted (selling)price accordingly.
- b) Consequently the price or rate does not cover taxes imposes by the government or other authorities, incorporated penalties, insurance premiums, etc.
- c) Superior Coatings is entitled to require payments casu quo deposit or security (by means of a bank guarantee).
- d) Superior Coatings is entitled to charge costs of dispatch for deliveries.

#### ARTICLE 8: TERMS OF PAYMENT

- a) Unless expressly agreed otherwise in writing, payment of the invoices sent by Superior Coatings shall be made within 8 (eight) days after date of invoice, not incorporated deduction of discounts or any form of set-off.
- b) Supplier is entitled to an extra charge for credit squeeze of 2 % (this in accordance with Dutch rules), however this has to be explicitly stated on the invoice. This extra charge can be subtracted from the

invoice amount, when the invoice is paid within 8 (eight) days of the invoice date.

c) All payments, not incorporated deduction or set-off, shall be made at the offices of Superior Coatings or by means of transfer to a banking or giro account specified by Superior Coatings.

d) Discounts can only be given after mutual agreement between Superior Coatings and buyer/customer. Unless agreed in writing otherwise, discounts are deemed to be given only once. New transactions to be concluded, no appeal can be done to former discounts.

#### ARTICLE 9: COMPLAINTS

a) Complaints, if made, with regard to the delivery of the goods, as well as regarding services rendered or invoice-amounts, shall be lodged with Superior Coatings within eight days after receipt of the products or services or of the invoices concerned, in writing and registered, with a detailed specification of the facts the complaints refer to. Buyer or customer is not entitled to claim damages for goods manufactured by him or in his name.

b) Complaints with regard to the conditions in the present terms, as among other things stated in the Burgerlijk Wetboek (Civil Code), article 6:233 sub a. (nullity with regard to one or more conditions on the ground of being onerous beyond reason), should as well be lodged with Superior Coatings within eight days after reading the present terms or the moment by which these terms could reasonably have been read, in writing and registered with a detailed specification of the facts the complaints refer to. The right to lodge a complaint shall be due the moment the agreement has been made. The other party shall renounce to appeal afterwards to one or more of the conditions in the present terms as being onerous beyond reason, insofar as the conditions considered as being onerous beyond reason, if any, have not been made imperative by the law.

c) If complaints lodged do not comply with the foregoing, they can not be acknowledged anymore and buyer or customer shall be deemed to have agreed to the delivered and/or rendered. In case Superior Coatings is of the opinion that a complaint is well-grounded, she shall be entitled to either pay an amount -assessed by mutual agreement- as damages to buyer or customer, or to start another delivery, maintaining the present contract, such under the obligation of buyer's or customer's to return the by Superior Coatings faulty or defective delivered free domicile; all this at the option of Superior Coatings.

d) Superior Coatings shall not be bound to take note of lodged complaint until buyer or customer concerned integrally fulfilled all his subsistent obligations resulting from any contract whatsoever and wherever they may consist of towards Superior Coatings, at the moment of lodging his complaints.

e) Goods returned, not or insufficiently prepaid or packed, shall be refused by Superior Coatings. All goods shall be returned for account and risk of buyers' or customers'.

#### ARTICLE 10: ANNULMENTS AND SUSPENSION

a. If buyer or customer remains in default in any way on her obligations concerning earlier by Superior Coatings made deliveries, operations executed, or from any other means Superior Coatings has the right to delay her obligations to buyer or customer or partly or completely annul the underlying agreement. This without the possibility by buyer or customer to hold Superior Coatings liable for any damages or harm undiminished the rights of superior coatings.

Superior coatings has also this right in case buyer or customer goes bankrupt, suspension of payment (surseance van betaling), any form of debt restructuring (e.g. WSNP), liquidation of the company or business activities or by the standards of Superior Coatings threats of these circumstances. All claims by Superior Coatings on buyer or customer are immediately claimable.

b. If buyer or customer wishes to annul the agreement(s) made with Superior Coatings, than Superior Coatings has the right to insist on fulfilment of the made agreement(s) or buyer or customer is due to pay annulment costs of at least 30% of market value all at the option of Superior Coatings.

#### ARTICLE 11: INDEMNIFICATION IN CASE OF LATE OR NON-PAYMENT

If payment of the invoices sent by Superior Coatings should not have been effected within 8 (eight) days after date of invoice, buyer or customer shall be deemed to be in default by right and Superior Coatings shall be entitled, without any further notice of default being required, to charge buyer or customer a statutory interest arrears with a minimum of 1 % of the total invoice amount due per month or part of it, as per due date, without prejudice to, other rights Superior Coatings is entitled to, incorporated therein their right to claiming from buyer's or customer's any judicial and extra-judicial charges related to the recovery, these costs being beforehand fixed at 15 % of the amount to be claimed, with a minimum of EURO 250,00 (in words; two hundred and fifty).

#### ARTICLE 12: RESERVE OF OWNERSHIP

a1) Until such time as buyer or customer shall have paid to Superior Coatings the total amount due for the delivery of goods, parts, installations and/or activities performed in his favour by Superior Coatings, the goods delivered to him and/or materials shall remain the incontestable property of Superior Coatings, such for account and risk of buyer/customer concerned.

a2) In the countries where there is a legal basis or where it is commonly accepted, whether or not based on jurisprudence, the right of Superior Coatings to extended reserve of ownership applies. In circumstances as above mentioned at a1 when buyer or customer has sold or alienated the goods to a third party without the third party having paid to him the financial satisfaction.

b) If buyer or customer should not fulfil one or more of his obligations referred to and in the agreement and with regard to the goods purchased and/or activities performed, Superior Coatings is entitled to recover the goods or materials without any notice of default being required, in which case the agreement shall be cancelled without judicial intervention, without prejudice to the right of Superior Coatings, if need be, to indemnification of damages whether or not by legal process, for

damage, if sustain, or potential damage, incorporated therein: sustained loss, loss of profit, interests, transport costs, etc..

c) Superior Coatings shall reserve the right to actually retain goods, tools, materials, cars, supplies, securities (financial) documents, etc., she retains on behalf of buyer or customer under any title whatsoever, until buyer/customer has duly fulfilled his financial and other obligations towards Superior Coatings.

#### ARTICLE 13: FORCE MAJEURE

a) Force majeure shall relieve Superior Coatings of all obligations towards buyer/customer. Force majeure shall exist in case of such occurrences and situations which have a very apparent an immediate influence on the company of Superior Coatings, such as: serious disturbances in our production process, war, also outside the Netherlands, riot, epidemics, fire traffic jam, labour strike, exclusion, loss or damage during transport, casualties or illness of employees, import restrictions or other restrictions imposed by the government, etc.. Superior Coatings shall be relieved of her obligations regardless if the force majeure occurred in her own company, or wheresoever, such as in companies of ancillary suppliers, transporters, wholesalers, etc..

b) In case the execution of the contract should be prevented through force majeure, Superior Coatings shall be liable, without judicial intervention, either to suspend the execution of the contract for a period of six months at the most, or to cancel the contract wholly or partly, such to be judged by the decision of Superior Coatings taken in this respect, in writing.

#### ARTICLE 14: (PATENT) PROTECTION OF DESIGN

a) Superior Coatings wants to preserve the express copyright or any other immaterial protection rights with regard to all products made or services rendered in favour of buyer/customer. Use or alternative use of designs and/or ideas of Superior Coatings shall be strictly prohibited, unless Superior Coatings has authorised thereto expressly and in writing and until all terms stated by Superior Coatings shall have been fulfilled properly.

b) If buyer/customer should not comply with the statements pursuant to 14a Superior Coatings shall be entitled to a fine of EURO 11.500,00 (in words: eleven thousand five hundred Euro) per offence per day or that part of it, the offence shall last. This without prejudice her rights for compensation for any damage suffered direct or indirect.

#### ARTICLE 15: GUARANTEES

a) Superior Coatings solely give guarantees in accordance with the clauses of the warranty which are supplied with products. The guarantee in these cases only comes into effect after buyer or customer has informed Superior Coatings in writing by means of a registered letter of his request.

b) When Superior Coatings has supplied a guarantee but without a supplied guarantee clause the duration of the guarantee is a maximum of 6 months after delivery of the concerning products. Here also Superior Coatings has to be informed by buyer or customer in writing by means of a registered letter of his request.

c) The guarantee consist of a reparation or replacement of the delivered products such at the option of Superior Coatings. Calamity or disaster from outside can never lead to any obligated guarantee by Superior Coatings.

d) The goods taken in for reparations remains at buyer's or customer's risk with Superior Coatings or a fort his enlisted third party at risk

#### ARTICLE 16: CONSIGNMENTS ON APPROVAL

Solely if Superior Coatings shall have intimated so to buyer/customer beforehand in writing, the goods delivered by or on behalf of Superior Coatings can be considered as consignments on approval for the purpose of shows, exhibitions, fairs and/or other purposes to be indicated by Superior Coatings.

The present general terms are also applicable unabridged to consignments on approval.

#### ARTICLE 17: APPLICABLE LAW AN COMPETENT JUDGE

a) All offers made by, all orders accepted by and all contracts concluded with Superior Coatings shall be governed only by Dutch Law.

b) Any disputes shall be submitted to the judgement of the absolute competent judge in the district of Zwolle-Lelystad, or to the judgement of another authority with judicial power such however at the option of Superior Coatings.

c) Any article or sub-article of the present general conditions becoming void, this shall not affect the validity of other articles.