

General Terms and Conditions (GTC) for coating services of Oerlikon Balzers Coating (Vietnam) Co., Ltd.**1. Terms and Conditions**

Terms and conditions set forth herein shall apply to any and all services to be performed by Oerlikon Balzers Coating (Thailand) Co., Ltd. (Oerlikon) and comprise all of the terms and conditions between Oerlikon and its Customers. No other or different terms and conditions shall be applicable unless contained in a separate writing and signed by an authorized representative of Oerlikon

2. Offer and Acceptance

Quotation shall be construed as an offer to provide services upon the terms and conditions set forth herein, and shall be subject to withdrawal at any time prior to acceptance by Customer as provided for herein. Acceptance by Customer of the quotation by Oerlikon, and these terms and conditions shall be deemed to have been made upon the receipt of the materials of the Customer upon which the work by Oerlikon is to be performed. The use of any documentation or instruments by Customer to indicate acceptance or confirmation shall be considered for the convenience of the Customer only, and any items and conditions therein shall be of no force or affect whatever.

3. Prices

The prices quoted are valid for ninety (90) days, except as may be adjusted for as provided for herein, except otherwise mentioned or another price updated is approved from both parties.

4. Taxes and Fees

Any and all taxes or fees with respect to this transaction, and any and all duties, tariffs shall be paid by the Customer. In the event, that Oerlikon pays such taxes, fees or otherwise Customer shall reimburse Oerlikon.

5. Terms of Payment

- 5.1** Cash on Delivery (COD) or 100% Advanced Payment (ADV) are applied to new and irregular Customers.
- 5.2** Regular Customers shall pay Oerlikon no later than „net 30 days“ after the date of Oerlikon' invoices.
- 5.3** Bank transfer credited on the due date with no bank charges to Oerlikon is the normal method of payment for regular Customers.
- 5.4** If checks are used to pay Oerlikon, they have to be made available at Oerlikon' office 2 working days prior the due date.
- 5.5** Cost for cash or check collection will be charged to the Customers.

6. Delivery of Material to Oerlikon

- 6.1** Customer is responsible for shipping charges to and from the Oerlikon' plant.
- 6.2** Packaging for shipment to Oerlikon: Secure packaging of the material shipped to Oerlikon is the responsibility of the Customer and Oerlikon will not be liable for any in transit damage caused by improper packaging. Oerlikon will promptly notify the Customer of any damage caused during shipment.
- 6.3** Packaging for return to the Customer: The cost of normal packaging of the material is included in the price and the method of packaging shall be at the sole discretion of Oerlikon. Should Customer specify any special packaging or handling, any additional cost shall be added to the price.

7. Time of Delivery: Installments

7.1 Oerlikon shall delivery as submitted quotation or confirmed after receive the material. Oerlikon shall not be liable for any delays or default by reason of any occurrences beyond its control, including without limitation fire, flood, embargo, strike, failure to secure materials or labor from usual sources of supply, governmental restrictions considered "force majeure" or any other circumstances beyond Oerlikon control.

7.2 Oerlikon reserves the right to make deliverables in installments and all such installments shall be separately invoiced and paid for when due per invoice without regard to subsequent deliveries.

8. Termination

If Customer for any reason terminates this agreement in whole or in part, the notice of termination must be in writing to Oerlikon. Oerlikon shall then cease all work and hold Customers materials, whether completed in full or in part, and Customer shall then pay to Oerlikon an amount equal to:

- 8.1** the percentage of the price that is equal to the percentage of work completed plus
- 8.2** actual expenditures made by Oerlikon in connection with the uncompleted portion of the work, including without limitation all cancellation charges paid by Oerlikon for commitments made with respect to this order.

9. Inspection by Customer: Limitation of Liability; Warranty

- 9.1** The Customer acknowledges that it will inspect the materials immediately upon receipt from Oerlikon and shall notify Oerlikon within ten (10) working days of the delivery by Oerlikon, and in any event prior to the time any further processing, assembly or other work has been done on or with such materials, of any alleged damage, shortage deficit or otherwise. Failure by Customer to make any claim within such time shall constitute acceptance of the materials and waiver of all such claims. No items shall be returned to Oerlikon without the prior approval of Oerlikon.
- 9.2** Oerlikon shall not be liable for:
- 9.2.1** any shrinkage, expansion, deformity or rupture of materials,
- 9.2.2** damage resulting from hidden contamination in the materials,
- 9.2.3** coating applied to areas on the material where it was not specifically defined as non-coating area,
- 9.2.4** unless previously agreed to in writing, damage to materials as the result of hardness tests,
- 9.2.5** any chipping or other damage on solid carbide tools caused by handling or the coating process or, breakage of carbide tipped tools at the braze joint after coating.
- 9.2.6** Discoloration of the coating due to shadowing of the substrate geometry
- 9.3** Oerlikon will carry out its standard inspection procedures prior to the return of the materials. Oerlikon does not warrant that all items are within the specification limits of coating thickness or hardness unless a 100% inspection test is requested in writing by the Customer for which there shall be an additional charge.
- 9.4** Except as otherwise provided for herein, Oerlikon agrees to recoat any of the materials sent by Customer for coating if it is determined that any coating applied by Oerlikon is defective in accordance with pre-determined specifications. This warranty will extend for a period of 30 days from the date the materials are shipped to the Customer by Oerlikon.
- This warranty is in lieu of any other warranties whether express or implied, including without limitation the implied warranties of merchantability and suitability.

9.5 The sole and exclusive remedies of the Customer shall be those as specifically set forth in this Section 9. Oerlikon' maximum liability for any and all claims shall not in the aggregate exceed the price the Customer has paid to Oerlikon pursuant to this agreement. Under no circumstances shall Oerlikon be liable to the Customer or any third party for loss of business or profit or any other economic loss, or any incidental, special, indirect or consequential damages.

9.6 The customer shall not retain or deduct payments of issued invoices due to open liability claims described set forth in this Section 9.

10. Indemnifications

Customer shall indemnify and hold Oerlikon harmless from and against any and all actions, claims, demands, losses, damages or otherwise arising out of or in any way connected with the use of the materials which are the subject of this agreement including those based in whole or in part on the default or negligence of Oerlikon.

11. Additional Provisions

- 11.1** If during the period of this agreement the financial condition of Customer, in the sole opinion of Oerlikon, so warrants, Oerlikon may require cash payment or additional security from Customer in advance before proceeding or shipment, may accelerate the date of any payment and may withhold performance or cancel this agreement, all without prejudice to any other lawful remedies. If shipment by Oerlikon is delayed by Customer, payment shall be due in full when Oerlikon is prepared to make shipment.
- 11.2** Until Customer makes full payment of the price, Oerlikon shall retain a security interest in the materials and may, at its option and without further agreement or signature by Customer, file evidence of such security interest pursuant to Thailand Civil & Commercial Code , section 224.
- 11.3** The Customer and Oerlikon mutually agree that the agreement growing out of this transaction, regardless of the place of its physical execution, shall be treated and interpreted within the purview of the laws and statutes of Thailand.
- 11.4** This agreement shall be binding upon the representative, successors and assigns of each of the parties hereto.
- 11.5** Customer shall adhere to all applicable export control regulations relating to transmittal and handling of all material and information provided under these terms and conditions. Customer shall assure that the material containing information carries sufficient warning of its export controlled nature.
- 11.6** In no event shall seller be liable to the buyer for any indirect, punitive, special, incidental or consequential damages in connection with this contract, including but not limited to, loss of profits or interruption of production, loss of opportunity or business.

12 Confidentiality & Intellectual Property

- 12.1** Each party shall keep confidential the manufacturing and business secrets as well as any other proprietary information received from the other party and shall neither directly nor indirectly disclose the same to any third party whomsoever nor publish them in any manner whatsoever nor use them for any other purpose, in particular but without limitation for the reproduction or replication of services, machines, systems, components and parts thereof.
- 12.2** Digital and printed technical information are not binding unless expressly guaranteed. Oerlikon reserves all rights to modify without prior written consent any information and documentation supplied to the Customer.