

IMPREGLON Surface Engineering GmbH

Processing Terms & Conditions, updated January 2016

§ 1 General

1. As we only contract with businesses enterprises, these Terms & Conditions apply exclusively to businesses, and not to consumers.
2. These Terms & Conditions apply to all current and future business transactions.
3. Differing, conflicting or other additional terms and conditions – known or unknown – shall not apply to contracts concluded unless expressly accepted in writing. We reserve the right to amend or supplement these Terms & Conditions at any time, including any annexes thereto. Orders received prior to the implementation of amendments or supplements will be processed according to the terms and conditions valid at order placement.

§ 2 Contract Conclusion

1. All our offers made are subject to confirmation. We reserve the right to implement technical changes within reasonable limits.
2. Upon ordering/order placement, the Customer firm places binding instructions to have the contracted work (coatings/refinement) carried out.

We have two weeks after order receipt to accept the contract offer implicit in the order/order placement. Acceptance may be declared in writing, or occur in the form of execution of the work.

§ 3 Technical Advice

1. Technical and chemical specifications we provide serve solely as a general description of coatings performed by IMPREGLON. They do not represent any guarantee of properties/characteristics or durability, and do not release the ordering Customer from the obligation to conduct independent inspections, testing and analysis.
2. Technical advice we provide according to the best of our knowledge, is not binding and does not release the Customer from the obligation to inspect every single delivery for suitability for the intended use before further processing or utilization.

§ 4 Materials Delivery and Properties, Receipt of Goods

1. A purchase order or delivery note must be attached to any workpieces (in the following also 'processing pieces') provided for coating/processing/refinement, stating the following information:
 - a) Piece description, quantity, value, net weight, specific features, deadlines and packaging type
 - b) Material quality (standard designation)
 - c) **Explicit notice if any piece is not suitable for heat treatment at 430°C.**

Please note the advisories under § 10 and 11!

2. The following information is additionally required on a pro forma invoice for all deliveries from foreign countries: unit price and total value, number of packages, gross and net weight, country of origin of the goods, mode of transport for delivery and requested transport mode for return.
3. The ordering Customer bears all risk concerning the suitability of workpieces/materials delivered by the ordering Customer or procured by us as specified by the ordering Customer for processing, save for willful intent or gross negligence on our part.
4. The ordering Customer must deliver workpieces to be processed promptly by the agreed date in a condition ready for processing (see § 10).
5. Unless specifically instructed or required to do so by the ordering Customer, IMPREGLON is not obligated to specially inspect workpieces to be processed.

§ 5 Ownership, Lien and Right of Withholding

1. IMPREGLON processes workpieces exclusively on behalf of the ordering Customer. The workpieces remain the property of the ordering Customer at all times.
2. Our claims under the contract give us a lien on the Customer's property entrusted to us. IMPREGLON reserves its statutory lien and withholding rights.
3. A lien may also be asserted for claims arising from previously conducted work, deliveries of replacement parts and other products/services connected with the contracted work. A lien may be asserted for other claims arising from the business relationship that are uncontested or upheld by final and binding legal judgment.

§ 6 Payment and Cost Estimates

1. Prices are quoted in euros ex works, not including VAT at the applicable rate and any packaging costs.
2. The ordering Customer shall pay the work remuneration amount within 14 days upon receipt of the workpieces and the corresponding invoice. Thereafter the ordering Customer shall be deemed in arrears.
3. The ordering Customer may only offset counterclaims that have been upheld by final and binding court judgment or accepted by us. The ordering Customer may only withhold payment on claims arising from one and the same transaction contract.
4. When a non-binding cost estimate has been provided, IMPREGLON will immediately notify the ordering Customer should it become evident in processing that estimated cost will be substantially exceeded. A cost estimate will be deemed substantially exceeded if the difference is greater than 15% of the estimated cost.

§ 7 Uncompletable Work

In the event we are unable to complete work for reasons beyond our control, the ordering Customer still owes fair compensation for our expenditure. Liability for damage to workpieces, violation of collateral contractual obligations and for damage not directly affecting the workpiece itself is excluded in such case, save for willful intent or gross negligence on the part of our managerial personnel.

§ 8 Shipping, Transfer of Risk

1. The ordering Customer bears the risk of accidental loss or deterioration of the workpieces, irrespective of whether such occurs during transport to or from IMPREGLON facilities. The ordering Customer bears the cost of workpiece transport both ways. At the ordering Customer's request and expense we will insure transport to and/or from our facilities against insurable transport risks such as theft, breakage and fire.
2. There is no insurance coverage during processing at IMPREGLON facilities. The ordering Customer must ensure that any existing insurance covering the processing piece against fire, water or storm damage for example is maintained. IMPREGLON will only obtain insurance for these risks at the ordering Customer's express request and expense.
3. Delivery dates and periods are non-binding unless expressly agreed otherwise in writing.
4. The delivery period begins when the parties have resolved all details of execution and the Customer firm has provided all data/information required for processing and the workpieces to be processed.
5. The following applies if a binding delivery period or time is expressly agreed in writing: in the event of force majeure events or operational disruptions affecting us or our suppliers – such as riots, strikes or lockouts – preventing us temporarily from delivering on time without our own fault, the agreed delivery date or deadline extends by a period equal to the duration of the disruption caused by such circumstances.

§ 9 Acceptance of Processing Work

1. The Customer shall inspect the workpieces immediately upon redelivery, providing immediate notice of problems or defects in terms of delivery contents/quantity, properties or quality. Coated products not finished by IMPREGLON shall be deemed accepted in defect-free condition if the Customer fails to file a written defect complaint within seven (7) days of delivery. This provision also applies to coatings for which no subsequent processing is necessary or intended. Workpieces subsequently processed by the Customer or third parties are not covered under any warranty or guarantee due to the inability to monitor processing. IMPREGLON has the right to attempt to remedy any material defects due to which the Customer refuses to accept the workpieces. IMPREGLON may refuse to provide remedy if the quality of the coating is appropriate for the stated and expectable purpose based on IMPREGLON's technological experience. Acceptance shall be deemed to have occurred upon handover and usage of processed workpieces without complaint, as well as upon the ordering Customer's rendering payment.
2. Acceptance-related costs shall be borne by the ordering Customer required to provide acceptance.
3. Should the ordering Customer be late in providing acceptance, said party shall bear any resulting storage costs. If late in providing acceptance, acceptance shall be deemed to have occurred two weeks from receipt by the ordering Customer of the notice of completion.

§ 10 Substrate Properties, Warranty

1. IMPREGLON provides warranty that its processing/coating work conforms with contractual specifications and the scope contracted services.
2. IMPREGLON will remedy any defects covered under warranty upon receiving written notification thereof from the ordering Customer. The Customer bears the full burden of proof regarding any claim prerequisites, particularly as pertains to the nature of the defect, the time of discovery and

compliance with the applicable deadline in providing notification. If an attempt of subsequent fulfillment fails and the Customer opts to receive damages, the amount of damages shall be strictly limited to the value of our coating services (§ 11 paragraphs 2 - 4 apply accordingly).

3. The warranty period for processing is twelve (12) months from the date of acceptance. The statutory warranty period per Section 634 (1) no. 2 BGB remains thereby unaffected.
4. The IMPREGLON product description shall apply exclusively regarding the properties. Public statements, promotion and advertisement by IMPREGLON do not constitute contractually specified properties.
5. Written notice of defects must in particular include: piece description, defect description, quantity, delivery date, delivery note number, order number and final inspection ID.
6. The Customer enjoys no guarantees from us in a legal sense. Manufacturer warranties are thereby unaffected. In no case do we provide warranty/guarantees of suitability for extraordinary stress resistance. Liability is excluded for damage caused by factors that were unknown at the time of work execution or the later impact of which was unforeseeable in degree, and for damage resulting from improper handling or mechanical stress.
7. As the protective effect of coatings is significantly influenced by the properties of the workpiece concerned, the Customer must ensure that these are delivered in a condition suitable for coating. Sweat residues, lamination, flash, cracks etc. are to be avoided or removed in particular. The Customer shall be responsible for damage resulting from workpieces supplied to us not in suitable condition for coating. The same applies if our coatings do not adhere or sufficiently adhere to the workpiece due to poorly soluble preservatives, drawing compounds or oxide layers, unless such were evident to us. We shall furthermore not be liable for damage resulting from the use of raw material of a quality other than that provided to us for trial coating. Color specifications based on RAL for example and viscosity and gloss specifications are always only approximate, even if confirmed by IMPREGLON. Deviations in color, gloss or flow properties within industry-typical tolerance limits shall not justify a defect complaint, nor deliveries based on samples.
8. The Customer is responsible for determining whether a coating can withstand foreseeable atypical stress conditions caused by sea water, chemicals, high temperatures etc.
9. We shall not be liable for any deformation, measurement deviations, lack of fit, cracks etc. resulting from processing treatment. Liability is excluded for small-piece reject volume and missing volume up to 3%.
10. Setup/equipment costs incurred by us on the basis of the Customer's specified unit volume are charged for if the specified volume is not met calculated on the basis of a remaining amount. Special order-related setup implements/equipment such as covers and coating machinery is charged for at cost only.
11. Notwithstanding the above, defect complaints are not recognized in the following cases:
 - a) Damage resulting from transport or assembly/installation, or incurred through repair work conducted by the ordering Customer without the parties having agreed in advance that the ordering Customer is authorized to perform such repair work.
 - b) Damage caused by contact with sealers, sealants, cleansing agents or cleansing processes (e.g. autoclaves, steam radiators); damage caused by blanks being contaminated with silicone-containing or similar products, or by excessive greasing, oiling, etc.

- c) Improper design or design unsuitable for coating.
- d) If the processed workpieces are kept in areas under the direct influence of salt water, industrial chemicals or other sources of aggressive emissions of harmful substances.
- e) Utilization contrary to the proper use agreed with IMPREGLON; improper handling of the workpiece in cutting, bending or other forming processes; processing using inadequate tools or by unqualified personnel. Unless otherwise expressly agreed in writing, proper use shall be as outlined in the IMPREGLON product description.
- f) Workpieces delivered by the ordering Customer that are defective by virtue of being rusty or oxidized, for example with laser-cut edges. The ordering Customer must pay any additional costs accruing on top of the contractual payment amount for defective workpieces supplied by the ordering Customer requiring additional work by IMPREGLON beyond the scope of contracted services.
- g) IMPREGLON applies coatings to undercoats, castings and galvanized workpieces exclusively at the buyer's risk regardless of their origin, due to having no influence on the substrate.
- h) No liability is assumed for processing rejects resulting from deformation, cracks etc. affecting the precise measurements or fit of moving parts.
- i) Gas emissions, adhesion problems and surface roughness resulting from substrate properties.
- j) The ordering Customer may only assert warranty claims based on excessive air and/or dust inclusions for workpieces in new condition and such with surface properties allowing error-free coating. No liability is assumed for surface defects.

§ 11 Limitations of Liability

1. IMPREGLON assumes no liability for the suitability of an ordered coating for the ordering Customer's intended purpose. The ordering Customer bears all risk associated with the use of coated parts in safety-relevant functions of equipment/machinery and vehicles. The ordering Customer is responsible for compliance with regulations governing the approval of parts used in vehicles and equipment/machinery. The ordering Customer is responsible for obtaining and complying with operational permits for vehicle parts coated by IMPREGLON. IMPREGLON shall not be liable for any damage caused by the use of coated parts in equipment/machinery, vehicles or aircraft. IMPREGLON shall not be liable for damage caused by chemical, thermal and mechanical influences on coatings. This includes damage caused by bearings or seals.
2. For contract violations caused by slight negligence, our liability is limited in amount to the average direct damages foreseeable as to the kind of the workpiece and typical for this kind of contract. The same applies to contract violations caused by slight negligence on the part of our legal representatives or agents.
3. Liability is excluded for violations of non-primary contract obligations caused by slight negligence.
4. The above liability limitations do not apply to Customer product liability claims. These liability limitations likewise do not apply to loss of life or personal injury suffered by the ordering Customer if attributable to us.
5. Customer damage claims due to defects expire one year after delivery of the workpieces. This does not apply in cases of malice.
6. The ordering Customer bears all usage risk associated with workpieces processed by us. We shall not be liable for damage occurring in processing or through other use of workpieces supplied. Nor

are we liable concerning the suitability of processing work for the ordering Customer's intended purposes.

§ 12 Concluding Provisions

1. The law of the Federal Republic of Germany applies. The UN Convention on Contracts for the International Sale of Goods (CISG) is disappplied.
2. The exclusive place of jurisdiction for any disputes arising from this contract shall be that of our registered office if the ordering Customer is a business entity, legal person under public law or a public-law fund. The same applies if the ordering Customer has no general place of jurisdiction in Germany, or the Customer's domicile or regular place of residence are not known when suit is filed.
3. The full or partial invalidity of individual provisions of contracts with the ordering Customer or of these Terms & Conditions shall not affect the validity of any other provisions. Invalid or partially invalid provisions shall be replaced by such that will effect the originally intended economic outcome to the closest possible extent.
4. The ordering Customer authorizes us to process, store and analyze data received in connection with the business relationship within the meaning of the Data Privacy Act. Our data privacy practices conform with the Federal Data Privacy Act. We store and use Customers' personal data to process orders and any complaints. Personal Customer data is not forwarded to third parties. The ordering Customer has the right to know what data concerning the Customer is stored, and to have such data corrected, blocked against access or deleted. Requests may be sent to the following address: **kaufbeuren@impreglon.de**.

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