



## General Terms and Conditions for Coating & Hardening

### I. General Conditions

- I.1 Place of performance, jurisdiction and applicable law.  
Place of performance and jurisdiction for all services, deliveries and payments is the location of the branch office of the contracting company. The contract is subject to the law of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (UN Sales Convention) of 11.04.1980 is excluded. In particular, application of the UN Convention on Contracts for the International Sale of Goods is rejected on the basis of a special agreement as a result of a provision to this effect in the buyer's general terms and conditions
- I.2 Terms of contract  
The offers of the contracting company are subject to change. Unless otherwise agreed in writing, all incoming orders will only be executed according to the following conditions. Formal purchasing conditions and other terms and conditions of business of the client are not recognised, even if they are not expressly contradicted. The contractual partners will immediately confirm verbal agreements in detail in writing.
- I.3 Pricing  
The prices are in EURO ex works excluding VAT and costs for any packaging. If significant changes in order-related costs occur after conclusion of the contract, each contracting party shall be entitled to demand an appropriate adjustment of prices taking these factors into account.
- I.4 Payment  
The invoices are to be paid immediately upon receipt without any deduction. In the event of overdue payment, the Contractor shall be entitled to charge interest on arrears in the amount of the base rate charged by the bank to the Contractor for current account overdrafts, but at least 8% above the respective base interest rate of the European Central Bank. The right of the contractor to withhold or offset is excluded, unless counterclaims are undisputed or have been recognised by declaratory judgement. If, after the conclusion of the contract, we become aware of circumstances which endanger our claim for payment due to the lack of ability to pay on the part of the purchaser, we shall be entitled to the statutory claims. In any event, the claim for payment shall be deemed to be endangered by lack of solvency if a credit assessment company which is regarded as decisive in legal transactions classifies the creditworthiness of the customer as significantly weaker than at the time of conclusion of the contract or if, from the point of view of such a company, there is a negative characteristic, even if the reasons for the worse classification or the negative characteristic were already present at conclusion of the contract and were known to us.
- I.5 Right of lien  
The contractor has a lien on the customer's workpieces for all present and future claims as soon as they are handed over for treatment. The legal consequences from the law §§ 1204 ff. BGB (German Civil Code) and the Insolvency Code shall apply accordingly.
- I.6 Payment terms for cash discounts  
We will only grant discounts if we have expressly agreed to them. Discount periods always run from the date of invoice, irrespective of the time of receipt or delivery. A cash discount period is only deemed to have been observed if we can dispose of the amount paid within the period. Cheques must be received by us three bank working days before the discount period expires. In the event of default in payment, any cash discount shall not be deducted for all other payments becoming due, unless the payment in arrears is obviously minor. We hereby object to any tacit agreements on a change in the discount conditions, even in cases of long-standing practice.



Tolerated unjustified discount deductions do not exclude the later assertion of outstanding amounts. The limitation period for such claims is five years from the end of the calendar year in which the outstanding payment became due.

## II. Terms of execution and delivery

### II.1 Data of the client

All workpieces that are handed over for treatment must be accompanied by an order or a delivery note that should contain the following information:

- a) description, number of pieces, net weight, value of the parts and type of packaging
- b) Information on the material (standard designation or steel brand and steel manufacturer)
- c) the desired treatment
- d) information on the desired test procedure, the test centre and the test load (see DIN test standards)
- e) other information or regulations necessary for the success of the treatment (see DIN 6773, DIN EN 10 052, DIN 17021, DIN 17023)
- f) existing heat treatment condition and permissible dimensional tolerance for surface treatment

If partial hardening is required, drawings must be enclosed showing which areas must become hard or remain soft. If similar workpieces are made from different steel melts, this must be indicated. Likewise, special requirements regarding dimensional accuracy or surface condition must be noted on the delivery papers.

The customer must make special reference to welded or soldered workpieces and to those containing hollow bodies.

The contractor shall check the information provided by the customer within the scope of his knowledge with regard to content and completeness. If there are justified doubts about successful treatment, the contractor shall inform the customer.

### II.2 Delivery time

The delivery period begins as soon as the contracting parties have clarified the order and the client has fulfilled all requirements.

For procedural reasons, the delivery time shall only be deemed to be agreed as approximate and shall be extended even within a delay in delivery - appropriately in the event of unforeseeable obstacles which the Contractor was unable to avert despite exercising reasonable care in accordance with the circumstances of the case. Unforeseeable hindrances are deemed to be any multiple treatments that were not initially recognizable, non-culpable and serious operational disruptions in the contractor's own business, which are caused, for example, by strike, lockout, accidents, transport difficulties, lack of operating materials, difficulties in energy supply as well as operational disruptions in the supplier's business. The contractor must provide proof of this.

If the Contractor can foresee that he will not be able to meet the delivery time, he will immediately inform the Client of this, inform him of the reasons for this and state a new possible delivery date.

### II.3 Transfer of risk

Unless otherwise agreed, the treated goods are to be delivered by the client at his own cost and risk and collected after completion.

The risk shall pass to the customer upon handover to the railway, forwarding agent or carrier or upon commencement of storage, but at the latest upon leaving the factory or warehouse, even if the contractor has undertaken delivery and collection with its own fleet of vehicles.



#### II. 4 Quality control

Before leaving the contractor's premises, the goods to be treated are inspected to the extent customary in the industry and, if necessary, according to the client's specifications. Further tests and analyses are only carried out on the basis of special agreements. The outgoing inspection does not release the client from his obligation to inspect incoming goods.

#### II. 5 Quality defects

The desired treatment will be carried out with the necessary care and suitable means after the order has been placed on the basis of the information in accordance with Section II.1 as a service.

No guarantee is given for the success of the treatment, e.g. for freedom from distortion and cracks, surface hardness, hardening, through hardening, coating etc., in particular because of possible differences in the hardenability of the material used, hidden defects, unfavourable shaping or because of possible changes in the previous work process.

If the treatment does not lead to success without the contractor being responsible for this, for example because

- a) the contracting entity has supplied incorrect information as required under II.1
- b) the contractor did not know and could not know hidden defects in the workpiece before the treatment was carried out or
- c) because the properties of the material used, the shape or the condition of the delivered workpieces made successful treatment impossible, but the contractor did not and could not know this,

the treatment fee must still be paid. Necessary follow-up treatments will be invoiced separately under the above-mentioned conditions.

Defects must be reported to the contractor in writing immediately after the transfer of risk. Hidden defects must be notified in writing immediately after discovery, but no later than 12 months after the transfer of risk. This period shall also apply to the statute of limitations for claims for material defects, unless longer periods are prescribed by law, in particular for defects in a building and in workpieces which were used for a building in accordance with their normal purpose of use and which caused its defectiveness.

The contractor must be given the opportunity for inspection and subsequent treatment for every complaint. If the contractor does not fulfil his obligation for subsequent treatment or does not do so within a reasonable period of time in accordance with the contract, the client may, after the unsuccessful expiry of a reasonable period of time set in writing, reduce the treatment fee, withdraw from the contract or carry out the necessary subsequent treatment himself or have it carried out by a third party at the expense of the contractor. For damage to the goods to be treated and for other damage caused by defects caused by the contractor, the contractor shall only be liable for reasonably foreseeable damage typical for the contract. The burden of proof of a defect lies with the contractor.

#### II.6 Liability

With regard to the treatment to be carried out, the customer shall be responsible for ensuring that the workpieces have been manufactured in accordance with the rules of technology, for the correctness and completeness of the required information in accordance with II.1 and for a treatment specification adapted to the later intended use. The contractor is not liable - unless mutual written agreements have been made - for damages resulting from a treatment proposed by him and approved by the customer.



The above limitations of liability shall not apply in the event of intent, gross negligence on the part of the legal representatives or senior employees of the contractor or in the event of culpable breach of material contractual obligations. In case of culpable violation of essential contractual obligations, the contractor is liable - except in cases of intent or gross negligence of his legal representatives or executive employees - only for typical contractual, reasonably foreseeable damages.

Furthermore, the limitation of liability shall not apply in cases in which liability for personal injury or property damage to privately used objects is assumed under the Product Liability Act in the event of defects in the delivered products. It also does not apply in the case of injury to life, body or health and in the case of defects of a guaranteed quality, if and insofar as the assurance or guarantee had the specific purpose of securing the contractual partner against damages that did not occur to the goods themselves.

Insofar as the liability of the contractor is excluded or limited, this also applies to the personal liability of his employees, workers, staff, legal representatives and vicarious agents. The legal regulations on the burden of proof shall remain unaffected by this.

#### II.7 Partnership clause

For all replacement services, in particular the amount of compensation, the customer shall be liable in good faith for and believe that the economic circumstances of the contractual partners, the type, scope and duration of the business relations, as well as the value of the treatment services are to be taken into account appropriately.

October 2017, Managing Directors