



General Terms and Conditions of Business for the Coating & Hardening Division

1. Scope of application

- a) These General Terms and Conditions of Business apply to companies, other legal entities under private and public law and special funds under public law.
- b) The customer's general terms and conditions are hereby expressly rejected insofar as they conflict with the following provisions. Deviating, contradictory or supplementary terms and conditions of the customer will not form an integral part of the agreement, unless we expressly agree to their validity. This consent is also required, for example, if we, being aware of the customer's terms and conditions, deliver the order to the customer without reservation.

2. Conclusion of the contract

Our offer is non-binding and subject to change unless stated otherwise in the offer or explicitly declared in writing. A contract is only concluded once we have confirmed an order in writing or once we have fulfilled the order.

3. Pricing and payment terms

- a) Our prices are ex works plus packaging, freight, postage, insurance and VAT, unless otherwise agreed in writing in the order.
- b) If order-related costs change significantly after conclusion of the contract, each party to the contract will have the right to demand that the other party enter into supplementary contract negotiations. The purpose of these supplementary contract negotiations is to ensure that the contractually agreed prices appropriately reflect the changed costs.
- c) Unless otherwise agreed, our invoices are due and payable immediately and without deduction. The customer is only entitled to set off claims or withhold payments if their counterclaims are undisputed, accepted by us or legally established based on the principle of reciprocity.
- d) If we are obliged to make advance payment and if, after conclusion of the contract, we become aware of circumstances according to which our claim for payment is jeopardised by the customer's inability to pay, we shall be entitled to the rights regulated by law in this respect, in particular the defence of uncertainty pursuant to Section 321 BGB (German Civil Code). Our payment claims are considered to be at risk due to the deterioration in the customer's financial position if a reputable credit agency significantly downgrades the customer's creditworthiness compared to the rating at the time the contract was concluded or if such an agency identifies a credit issue. This applies even if the causes leading to the downgrade or credit issue were already present at the time of contract conclusion and we were aware of them.
- e) In the event of late payment, we may, after written notification, suspend fulfilment of our obligations until payment is received. In all other respects, the statutory provisions shall apply.
- f) Discounts are only granted if we have expressly agreed to them. Unless otherwise agreed, cash discount periods run from the invoice date, irrespective of the time of receipt or delivery. A cash discount period will only be deemed to have been observed if we can dispose of the amount paid within the period. Cheques must reach us three bank business days before the discount period expires. In case of a payment delay, any applicable discounts will be forfeited for all other outstanding payments, except when the overdue payment is clearly minor in nature. We hereby object to tacit agreements regarding changes to the discount terms, even in cases of long-standing practice. Unauthorised cash discounts do not preclude the subsequent assertion of overdue amounts. The limitation period for such claims is five years from the end of the calendar year in which the outstanding payment became due.
- g) To secure our claims, we are entitled to a contractual lien on the order items that have come into our possession. The contractual right of lien may also be asserted for claims arising from previously executed orders or other services, insofar as these claims are related to the subject matter of the order. We shall only be entitled to a contractual lien for further claims arising from the business relationship if these claims are undisputed or a legally binding title exists and the object of the order belongs to the customer.

4. Delivery dates

- a) Our delivery obligations are subject to proper and timely self-delivery, unless we ourselves are responsible for the incorrect or delayed self-delivery.



- b) The delivery period generally begins with the sending of the order confirmation, but not before any authorisations, approvals, material supplies, documents, etc. to be procured by the customer have been provided and any agreed down payment or advance payment has been received; it presupposes, among other things, the clarification of all technical questions.
- c) For procedural reasons, the deadlines specified by us are only intended to give the customer an approximate indication of the performance, unless we have expressly agreed a fixed date. A fixed-date transaction must also be designated as such in the event of an agreement. Our delivery and other performance period shall in any case be extended by a reasonable period if the customer is in arrears with its obligations to us, i.e., does not fulfil them properly itself.
- d) The delivery or execution deadline shall be deemed to have been met if the item to be delivered has left the factory or readiness for dispatch has been notified by the time it expires.
- e) The delivery period shall be extended in the event of force majeure, i.e., also in the event of industrial action, in particular strikes and lockouts, shortages of materials or energy, as well as in the event of unforeseen obstacles beyond our control, e.g., war, trade restrictions, operational disruptions and delays in the delivery of essential materials, in accordance with the duration of such measures and obstacles. This shall also apply if the circumstances occur at suppliers or other trading partners and delivery is delayed as a result.
- f) Deliveries before the end of the delivery period and partial deliveries are permitted, provided that this is of interest to the customer based on the intended use and the customer does not incur any significant additional expense as a result.

5. Default

- a) If we are in default of delivery, our liability for damages in lieu of performance shall be limited to compensation for the foreseeable damage typical of the contract in the event of slight negligence.
- b) For storage in our factory, we are entitled to charge at least 0.5% of the invoice amount for each month or part thereof, irrespective of the delay in payment, unless the customer can prove lower costs or we can prove higher costs.
- c) If the customer cancels the order without justification, we shall be entitled to claim 25% of the agreed total price for the costs incurred in processing the order and for loss of profit, without prejudice to the possibility of claiming higher damages. The customer reserves the right to provide evidence of lower damages and we reserve the right to provide evidence of higher damages.

6. Execution conditions

- a) All workpieces handed over by the customer for further processing must be accompanied by an order or delivery note containing the following information:
 - Description, quantity, net weight, estimated value of the parts and type of packaging,
 - Information on the material (standard designation or steel brand and steel manufacturer),
 - The desired treatment,
 - Details of the desired test method, the test centre and the test load (see DIN test standards),
 - Other information or regulations necessary for the success of the treatment (see DIN 6773, DIN EN 10 052, DIN 17021, DIN 17023),
 - Existing heat treatment condition and permissible dimensional tolerance for surface treatment.
- b) If partial hardening is required, drawings must be enclosed showing which areas must become hard or remain soft. If similar workpieces are manufactured from different steel melts, this must be specified. Similarly, special requirements for dimensional accuracy or surface condition must be noted on the order/delivery note.
- c) The customer shall make special reference to welded or soldered workpieces and to those containing hollow bodies.

7. Delivery and transfer of risk

- a) Delivery of the customer's workpieces shall be at the customer's expense and risk.
- b) Unless otherwise agreed between the parties, the customer shall collect these workpieces from us following further processing. If the customer does not collect the items within five working days of being requested to do so, we shall be entitled to charge storage costs (see Clause 5 b)) or to remove the items from storage at the customer's expense.
- c) If, however, we have been instructed to do so by the customer, we shall commission the dispatch of the workpieces following their further processing.
- d) We will only arrange standard transportation insurance for the respective delivery upon the express request of the customer; the associated costs shall be borne by the customer.



- e) The risk of accidental loss or accidental deterioration of the workpieces processed by us shall pass to the customer when the workpieces are handed over to the customer, forwarder, railway, post or other carrier, but at the latest when they leave our factory premises, even if partial deliveries are made or we have assumed other services, e.g., the assumption of the shipping costs or the transport itself.
- f) If shipping is delayed due to circumstances attributable to the customer, the risk will be transferred upon notification that the goods are ready for dispatch.
- g) The packaging of the workpieces and the choice of transport route and means of transport shall be at our reasonable discretion and with due diligence, unless the customer expressly issues shipping instructions to the contrary in writing. The acceptance of workpieces processed by us without complaint by the railway, post office, forwarding agents or other transport companies/carriers shall be deemed confirmation of the perfect condition of the packaging on dispatch and shall exclude our liability for any damage or loss occurring during transport due to improper packaging or loading. In the event of intent or gross negligence, the exclusion of liability does not apply.

8. Force majeure and other disruptions

- a) We are not liable in cases of force majeure. This includes all unforeseeable events, as well as events that – to the extent that they could have been foreseen – lie outside the parties' sphere of influence. This includes, but is not limited to the following events: Natural disasters such as floods, storm surges, hurricanes and typhoons, as well as other storms on the scale of a catastrophe, earthquakes, lightning, avalanches and landslides, fire, epidemics, pandemics, Epidemics and infectious diseases (insofar as such has been declared by the WHO or a ministry or a risk level of at least "moderate" has been determined by the Robert Koch Institute), war or warlike conditions, riots, revolution, military or civilian coup, insurrection, blockades, official and government orders, strikes and lockouts.
- b) If such an event of force majeure occurs, the affected party is obliged to notify the other party immediately, at the latest within 14 days of becoming aware of it, in writing or electronic form about the occurrence of the event and the consequences of its impact on their performance.
- c) In this case, we will be entitled to extend our delivery dates and deadlines depending on the extent and duration of the force majeure event and its consequences, without granting the customer the right to withdraw from the contract or to claim damages. We shall not be in default for the period of the justified extension of the delivery dates and deadlines.
- d) Both parties are obliged to do everything in their power and within reason to minimise the damage.
- e) If the interruption due to a force majeure event lasts longer than six weeks, both parties will be entitled to terminate the contract in whole or in part. In these cases, we will only be entitled to demand compensation for the part of the work completed up to the point of termination.

9. COVID-19

If we are hindered in fulfilling our obligations under the terms of the contract by effects that are directly or indirectly related to the COVID-19 pandemic or a mutation thereof, the provisions listed below under (a) to (d) will apply. We will be deemed to have been hindered in our performance due to the coronavirus pandemic or a mutation thereof in particular if:

- Quarantine measures are imposed on our operations or a significant part thereof,
 - Officially ordered company closures, curfews, travel bans or return-from-abroad orders are issued,
 - Required materials or services are not available, e.g., due to officially ordered entry bans or supply chains are interrupted due to official measures and/or
 - A significant number of our employees are in quarantine due to infection with the coronavirus or a mutation thereof.
- a) In the event of such a hindrance, we undertake to immediately inform the customer in writing or electronic form about the occurrence of the hindrance and its effects.
 - b) In such a case, we are entitled to extend our delivery dates and deadlines depending on the extent and duration of the hindrance and its consequences, without this giving the customer the right to withdraw from the contract and/or a claim for damages. In this case, we will not be in default as a result of extending our delivery dates and periods.
 - c) Both parties are obliged to do everything in their power and within reason to minimise the damage.
 - d) If the interruption due to the hindrance lasts longer than six weeks, both parties will be entitled to terminate the contract in whole or in part. In these cases, we will only be entitled to demand compensation for the part of the work completed up to the point of termination.

10. Acceptance/rights in the event of material defects and defects of title



- a) The customer is obliged to accept the work and/or service provided by us, unless acceptance is excluded by way of exception.
- b) The work and/or service shall be carried out with the necessary care on the basis of the specifications provided by the customer in accordance with Clause 6.
- c) The success of the processing, in particular a guarantee for freedom from distortion and cracks, surface hardness, hardening, through-hardening, coating, etc. cannot be guaranteed due to possible differences in the hardenability of the material used, hidden defects, unfavourable shaping or due to possible changes in the previous work process.
- d) If the processing of the workpiece does not lead to the agreed result without us being responsible, e.g., because
- the customer provided incorrect information as required in Clause 6,
 - we did not know and could not know about hidden defects in the workpiece before carrying out the processing or
 - properties of the material used, the moulding or the condition of the delivered workpieces have made successful treatment impossible, but the customer did not know and could not have known this,
- the agreed total price for the commissioned processing of the workpiece must still be paid. Any further processing required will be invoiced separately.
- e) In particular with regard to the intended purpose of use, the customer shall be responsible for proper design in compliance with any safety regulations, selection of the material and the necessary test procedures, correctness and completeness of the technical delivery specifications and the technical documents and drawings provided to us, as well as for the design of the production equipment provided, even if changes are proposed by us which are approved by the customer. Furthermore, the customer shall be responsible for ensuring that industrial property rights or other rights of third parties are not infringed as a result of its specifications. The time of the transfer of risk is decisive for the contractual condition of the workpieces.
- f) We shall not be liable for only insignificant deviations from the agreed quality, for only insignificant impairment of usability and for defects caused by unsuitable or improper use, incorrect assembly or commissioning and normal wear and tear. If the customer or third parties carry out improper modifications or repair work, we shall also not be liable for such work and the resulting consequences.
- g) The customer must inspect the service and/or work performed by us for defects immediately upon receipt. Recognisable defects in performance, incorrect or incomplete deliveries, defects or dimensional deviations, as well as transport and/or packaging damage must be noted by the customer on the consignment note or delivery note upon receipt and must be reported to us in writing immediately, but no later than 7 days after receipt. If the customer does not report a defect within this period, the service and/or work performed shall be deemed to have been accepted free of defects and in accordance with the contract.
- h) Defects that cannot be detected within the 7-day period despite careful inspection by the customer must be reported to us in writing without delay if they are detected later. The same applies to defects that occur during the agreed warranty period. If a defect is not reported in good time, any warranty shall lapse.
- i) We must be given the opportunity to establish the reported defect. In urgent cases where operational safety is jeopardised or where disproportionately large damage to the customer must be prevented, we shall immediately ascertain the reported defect. Workpieces that are subject to complaint must be returned to us immediately upon request. If the customer does not fulfil these obligations or if it makes changes to the workpieces already complained about without our consent, it loses any rights due to a material defect.
- j) In the event of a defect, the customer shall grant us the possibility of subsequent fulfilment within a reasonable processing period. If we fail to fulfil our warranty obligations or if we fail to do so within a reasonable period of time or if subsequent performance is initially unsuccessful, the customer may set a (final) deadline in writing by which we must fulfil our obligations. There is no need to set a deadline if this circumstance would be unreasonable for the customer. After an unsuccessful expiry of this period, the customer may, at its discretion, demand a reduction in the price, withdraw from the contract, carry out the necessary rectification itself or have it carried out by a third party at our expense and risk. If the rectification was successfully carried out by the customer or a third party, all claims of the customer shall be settled with reimbursement of the necessary costs it has incurred.
- k) Claims on the part of the customer for applications necessary for the purpose of subsequent fulfilment resulting from the fact that the goods are moved to another location after delivery are excluded insofar as they increase the expenses, unless the transfer corresponds to the intended use. We may demand compensation from the customer for the costs incurred as a result of the customer's request to remedy the defect if the request proves to be unjustified.
- l) The warranty periods and limitations shall also apply to any subsequent treatment of workpieces that



- have already undergone further processing.
m) The burden of proof of the existence of a defect lies with the customer.

11. General limitation of liability

- a) We shall only be liable for damages incurred if they are based on a breach of a material contractual obligation or on intentional or grossly negligent behaviour on the part of our legal representatives, executives or vicarious agents. If a material contractual obligation is breached due to simple negligence, our liability will be limited to the foreseeable typical damage. Material contractual obligations are obligations that are essential for the proper performance of the contract and the fulfilment of which the customer may routinely rely upon.
- b) Any further liability for damages is excluded. Liability for culpable injury to life, body or health in accordance with statutory provisions remains unaffected. This also applies to mandatory liability under the Produkthaftungsgesetz (German Product Liability Act). Liability for the absence of a guaranteed quality also remains unaffected insofar as the purpose of the guarantee is to protect the customer against damage that has not occurred to the delivered goods themselves.
- c) If we have excluded or limited our liability, this will also extend to the personal liability of our staff, employees, representatives and agents.
- d) The customer's claims for damages and material defects against us shall lapse one year after the transfer of risk to the customer. This does not apply if the law prescribes longer periods, in particular for defects in a building and in workpieces that have been used for a building in accordance with their normal use and have caused its defectiveness, as well as in cases of injury to life, limb or health, in the event of an intentional or grossly negligent breach of duty and in the event of fraudulent concealment of the defect. The statutory provisions on suspension of expiry, suspension and recommencement of time limits shall remain unaffected. Claims for damages under the Produkthaftungsgesetz (German Product Liability Act) are also subject to statutory limitation periods.

12. Partnership clause

When determining compensation payments and claims for damages in particular, the parties shall act in good faith and take into account the economic circumstances of the parties, the nature, extent and duration of the business relationship, as well as the value of the goods.

13. Confidentiality

- a) Either party will use the documents (this includes, but is not limited to samples, models and data) and knowledge they acquire in the course of the business relationship only for the jointly pursued purposes and will keep them secret from third parties with the same care as their own documents and knowledge, provided that the other party designates them as confidential or there is an obvious interest in keeping them confidential.
- b) This obligation shall commence upon the initial receipt of the documents or knowledge and it will continue for 36 months after the end of the business relationship.

14. Place of performance and jurisdiction

- a) The place of jurisdiction for all disputes arising from this contractual relationship is Gummersbach, Germany. However, we are also entitled to bring an action before the court at the location of the registered office of the customer.
- b) The place of fulfilment for all delivery obligations on our part and for the other contractual obligations of both parties is Runderoth (Engelskirchen), unless otherwise stated in the order confirmation.

15. Applicable law

The legal relationship between the parties shall be governed exclusively by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG). The application of the UN Convention on Contracts for the International Sale of Goods is rejected, in particular, on the basis of a specific agreement as a result of a provision to this effect in the terms and conditions of the customer.

16. Written form requirement



Any arrangements made between us and the customer to execute this contract must be made in writing. To be effective, any changes or additions to this contract must be made in writing. This also applies to the waiver of the written form requirement. The same applies to legally relevant declarations and notifications that the customer must make to us after the contract has been concluded (e.g., setting deadlines, notifications of defects, declarations of withdrawal or reduction in payments).

17. Severability

Should individual provisions of these General Terms and Conditions of Business be invalid or void in whole or in part, the contracting parties undertake to agree to a provision which fulfils the purpose of the invalid or void provision as far as possible.

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