

I. **General Terms and Conditions for Special Coatings, Germany (as of August 31, 2018)**

II.

1. **General information**

- 1.1 These General Terms and Conditions for Special Coatings, Germany ("GTC") apply to all deliveries and services ("Contractual Item") of Special Coatings GmbH & Co KG and Special Coatings Systems GmbH ("Special Coatings") to their customers ("Customer").
- 1.2 The legal relationship between Special Coatings and the customer is governed exclusively by these GTC. Deviations, amendments and supplements must be made in text form; this also applies to deviations from this text form requirement. Conflicting, supplementary or deviating conditions of the Customer may only become part of the contract if Special Coatings expressly acknowledges this in text form. The GTC also apply if Special Coatings performs the service to the Customer without reservation in the knowledge of conflicting or deviating conditions of the Customer.
- 1.3 Unless otherwise agreed, these GTC also apply to future contracts with the Customer, even if no express reference is made to these GTC in individual cases.
- 1.4 These GTC apply only to companies (§ 14 German Civil Code [Bürgerliches Gesetzbuch – BGB]), legal entities under public law or special funds under public law within the meaning of § 310 (1) sentence 1 BGB.

2. **Offers and offer documents**

- 2.1 Offers from Special Coatings are subject to change and are non-binding, unless expressly stated otherwise. The contract itself, as well as assurances, additions, changes or ancillary agreements must be confirmed by Special Coatings in text form to become effective. Silence on the part of Special Coatings shall under no circumstances be deemed consent.
- 2.2 Information and data contained in offer documents such as technical descriptions, illustrations, drawings, data, programs, dimensions and weights are not binding, unless expressly stated otherwise. The information provided in the offer and in offer documents is the intellectual property of Special Coatings and may not be reproduced or made accessible to third parties without the consent of Special Coatings. These materials must be returned to Special Coatings or destroyed at the request of Special Coatings.

3. **Prices and terms of payment**

- 3.1 All prices are ex works (EXW) Gilching (Incoterms 2010) excluding all ancillary costs such as statutory value added tax, if applicable, packaging, customs, freight and insurance.
- 3.2 Invoices are deemed accepted if the Customer does not object to them within 10 calendar days of the invoice date. The prices are due for payment without deduction within 10 calendar days after the invoice date. The timeliness of the payment depends on the receipt of payment. Special Coatings is entitled to offset payments initially against older, outstanding invoices, even if the Customer specifies a different repayment provision. If costs and interest have already been incurred, Special Coatings is entitled to offset payments first against the costs, then against the interest and finally against the principal claim.
- 3.3 The Customer is only entitled to offsetting, retention or reduction if and to the extent that its counterclaims are legally established, undisputed or acknowledged by Special Coatings. With regard to purchase contracts, contracts for work and services or contracts for work and materials, this restriction does not apply to claims by the Customer for defects or for partial non-fulfilment of the contract, provided that these claims result from the same legal relationship as the claims of Special Coatings.
- 3.4 If, after conclusion of the contract, Special Coatings becomes aware of facts that call the solvency of the Customer into question, Special Coatings is entitled to demand advance payments or provision of security or, in the case of agreed partial payment, to make the entire remaining debt due.

4. **Execution of orders**

- 4.1 All orders, including those placed orally by the Customer, are binding on the Customer.
- 4.2 Dates and deadlines stated by Special Coatings are non-binding unless otherwise expressly agreed in text form.
- 4.3 Before placing the order, the Customer shall name all laws, standards and other regulations and provide all data, documents and other information in written form on the basis of which the service is to be performed.
- 4.4 Changes and additions to the services of Special Coatings require an agreement in text form.
- 4.5 Compliance with an agreed delivery time presupposes that the Customer has fulfilled all its obligations on time. Agreed delivery dates are subject to the correct and timely performance of subcontractors, unless Special Coatings is responsible for the incorrect or delayed performance of subcontractors. Special Coatings shall inform the Customer immediately of any apparent delays.
- 4.6 Special Coatings is entitled, if this is reasonable for the Customer, to partial deliveries and services as well as to performance before due date.
- 4.7 If Special Coatings finds a service significantly more difficult or impossible due to force majeure or other events beyond the control of Special Coatings, Special Coatings shall be released from performance for as long as the impediment to performance continues plus a reasonable start-up time. Force majeure includes in particular war events, natural disasters, no-fault operational disruptions or unforeseeable, strikes, lockouts, subsequent shortages of materials, energy or personnel. If these impediments persist for more than four (4) months, Special Coatings is entitled to withdraw from the contract. This also applies if these events occur at suppliers of Special Coatings or its subcontractors. The aforementioned circumstances are also not the responsibility of Special Coatings if they occur during an already existing delay. Special Coatings shall inform the Customer of the beginning and end of such impediments without undue delay.
- 4.8 If the Customer defaults in acceptance or violates other obligations to cooperate, Special Coatings is entitled to store the C Items appropriately at the Customer's risk and expense. The storage costs are 0.5% of the net price of the Contractual Items to be stored per full week unless the actual storage costs are higher.

5. **Transfer of risk, acceptance, packaging**

- 5.1 Deliveries are ex works (EXW) Gilching (Incoterms 2010). The Customer is obliged to collect the Contractual Item within seven calendar days after receipt of the notification of availability or the invoice. This also applies to partial deliveries or performance before the due date or if Special Coatings has assumed other services, e.g. shipping costs or delivery and installation.
- 5.2 The risk of destruction of the Contractual Item passes to the Customer as soon as Special Coatings has made the Contractual Item available and informed the Customer thereof or has handed over the Contractual Item to the person performing the transport, at the latest, however, when the Contractual Item leaves the works. The risk of loss of supplies shall pass to Special Coatings as soon as they have been handed over to Special Coatings at its place of business but at the earliest on the date of supply.

6. **Retention of title**

- 6.1 Special Coatings retains title to the Contractual Item until receipt of all existing or future payments from the business relationship with the Customer, including balance claims from current accounts.

- 6.2 Any processing of the Contractual Item subject to retention of title ("Reserved Goods") by the Customer or third parties shall be carried out for Special Coatings. In the event of processing or inseparable combination or mixing of the Reserved Goods with third-party goods, Special Coatings will acquire co-ownership of the new item in the ratio of the value of the reserved goods to the value of the other goods at the time of processing, combination or mixing. In all other respects, the same shall apply to the new item resulting from processing, combination or mixing as to the Reserved Goods. If the Reserved Goods are combined or mixed in such a way that the Customer's item is to be regarded as the main item, the Customer and Special Coatings agree that the Customer transfers co-ownership of the new item to Special Coatings. The Customer undertakes to hold the sole ownership or co-ownership of Special Coatings thus created in safe custody for Special Coatings.
- 6.3 The Customer shall treat the Reserved Goods with care. Any necessary maintenance and inspection work shall be carried out by the Customer at its own expense and in good time. The Customer is obliged to insure the Reserved Goods against insurable damage at its own expense. Upon placing the order, the Customer assigns to Special Coatings by way of security any claims for insurance benefits in the amount of the order price. Special Coatings accepts this assignment. The Customer shall notify the insurer of the assignment and inform Special Coatings thereof. With the fulfilment of all payment claims of Special Coatings, reassignment is deemed to have taken place.
- 6.4 The Customer may neither pledge the Reserved Goods nor assign them by way of security. In the event of seizure, confiscation or other endangerment of property by third parties, the Customer must point out the property of Special Coatings and inform Special Coatings immediately in text form, making copies of the relevant documents available.
- 6.5 The Customer is entitled to resell the Reserved Goods in the ordinary course of business as long as it is not in default of payment. In the event that the Customer sells the Reserved Goods without in turn receiving the agreed consideration in full, it must agree a retention of title with the purchaser in accordance with these conditions. Upon placing the order, the Customer assigns to Special Coatings by way of security its claims for payment from the resale as well as all claims relating to the Reserved Goods which arise against its customer or third parties for any other legal reason in the amount of the outstanding claims of Special Coatings including balance claims from current accounts. Special Coatings accepts the assignment. As long as the Customer properly fulfils its payment and other obligations towards Special Coatings, it may collect the assigned claims for its own account in its own name for Special Coatings. At the request of Special Coatings, the Customer must notify the debtors of the assigned claims. If the Customer does not properly fulfil its payment and other obligations towards Special Coatings, it must notify the debtors of the assigned claims at its own expense of the assignment and keep collected claims separate from its own assets.
- 6.6 If the value of the securities existing for Special Coatings exceeds its claims by more than 10 % in total, Special Coatings shall release or reassign securities exceeding this value at the request of the Customer at its discretion.

7. Inspection and approval

If the type of service requires acceptance, the Customer is obliged to accept the service in text form without undue delay, drawing up an acceptance protocol. If the Customer does not accept the services within 14 calendar days of delivery and does not give notice of any defects during this period which would hinder acceptance, the service shall be deemed to have been accepted.

8. Warranty

- 8.1 Warranty claims presuppose that the contractual relationship is not a service contract and that the Customer has fulfilled its duty to inspection and given notice of defects in accordance with § 377 German Commercial Code (Handelsgesetzbuch – HGB). Poor performance, to which § 377 German Commercial Code does not apply, must be reported within seven calendar days from the recognition of the poor performance. Complaints or notifications must be made in text form.
- 8.2 Warranty claims do not exist in the case of (a) only insignificant deviation from the agreed quality, (b) only insignificant impairment of usability, (c) natural wear and tear, and (c) damage due to incorrect handling, excessive strain, improper maintenance work carried out by the Customer or third parties, modifications, replacement of parts or use of consumables that do not correspond to the original specification.
- 8.3 If there is a defect in the Contractual Item, Special Coatings shall, at its discretion, supply a replacement or rectify the defect (both "Subsequent Performance"). Replaced parts become the property of Special Coatings. In the event of rectification, Special Coatings shall bear the necessary expenses, in particular transport, travel, material and labor costs, but only insofar as these are not increased by the Contractual Item being taken to a place other than the place of performance. If the Subsequent Performance fails twice, the Customer may, at its discretion, demand a reduction in the disposal (reduction) or cancellation of the contract (withdrawal).
- 8.4 If Special Coatings has claims against a supplier in connection with a defect, the warranty of Special Coatings is initially limited to the assignment of these warranty claims. If the claims against the supplier of Special Coatings are not enforceable, the Customer is entitled to warranty claims in accordance with this clause 8.

9. Liability

- 9.1 Special Coatings is liable, irrespective of the legal basis and in particular also in the case of contractual indemnification obligations, (a) in the case of intentional or grossly negligent acts, (b) in the case of injury to life, body or health, (c) in the case of legally mandatory liability, and (d) in the case of violation of a material contractual obligation. Material contractual obligations are such obligations whose fulfilment is essential for the proper performance of the contract and on whose compliance the contractual partner regularly relies and may rely. In the event of breach of material contractual obligations due to simple negligence, liability is limited to typically foreseeable damage arising from such breaches of obligations.
- 9.2 The liability of Special Coatings for indirect and/or indirect damages, in particular for lost profit and damages from business interruption, regardless of the legal basis and in particular also in the case of contractual indemnification obligations, is excluded, except in the case of intent. The liability of Special Coatings for lost profit and damages from business interruption is also excluded if the applicable law qualifies such damages in individual cases as direct and/or immediate damages.
- 9.3 The aforementioned exclusions and limitations of liability also apply accordingly to the liability of legal representatives and vicarious agents of Special Coatings.

10. Statute of limitations

- 10.1 Warranty claims become statute-barred after 12 months, in the case of used goods after 6 months, in each case after the transfer of risk. Warranty claims for parts replaced within the scope of the warranty or repair become statute-barred after 6 months from the transfer of risk, but at the earliest upon expiry of the original warranty period for the Contractual Item.
- 10.2 All other claims of the Customer become statute-barred 12 months after the transfer of risk.
- 10.3 Mandatory statutory statute of limitations or liability provisions remain unaffected.

11. Industrial property rights

Unless expressly agreed otherwise in writing, Special Coatings is obliged to effect delivery free of industrial property rights and copyrights of third parties only in the country of the place of delivery.

12. Withdrawal, termination

- 12.1 The Customer has no statutory right of withdrawal if Special Coatings does not provide a delivery or service in accordance with the contract or in the case of defects in the Contractual Item, if Special Coatings is not responsible for the breach of duty or the defect. This shall not apply if special agreements give the Customer the right to withdraw from the contract irrespective of fault.
- 12.2 If the Customer terminates the contract, Special Coatings is entitled to the agreed price less expenses saved due to premature termination of the contract.
- 12.3 Special Coatings is entitled to withdraw from the contract if the Customer acts in breach of contract.

13. Export control

- 13.1 The Contractual Item may be subject to restrictions on export. In the event of export of Contractual Items, the Customer shall inform Special Coatings in text form of the intended use, the country of destination and the final recipient in order to enable Special Coatings to carry out an export control check.
- 13.2 The Customer undertakes to provide all information and documents required by Special Coatings for export.
- 13.3 If necessary approvals are not granted or if the delivery and/or service cannot be approved or if the required approval is delayed, claims for compensation on the part of the Customer are excluded on whatever legal grounds, unless Special Coatings is responsible for the non-issue or delayed issue of the approval with regard to the approval process.
- 13.4 If customers, suppliers, and other persons directly or indirectly involved in the execution of the contract are listed on sanction lists, Special Coatings has the right of withdrawal or termination. In the event of such termination, claims for compensation against Special Coatings are excluded.
- 13.5 When passing on the deliveries and services provided by Special Coatings to third parties in Germany and abroad, the Customer must comply with the applicable provisions of export control law.

14. Transfer of rights and obligations

To the extent permitted by law, the Customer may only transfer rights and obligations under the contract to third parties in written form with the consent of Special Coatings.

15. Other

- 15.1 The place of performance for the service is the registered office of Special Coatings.
- 15.2 The place of jurisdiction for all disputes arising directly or indirectly from or in connection with the contract is, as far as legally permissible, the locally competent court at the registered office of Special Coatings. Furthermore, Special Coatings is entitled to assert its claims at the general place of jurisdiction of the Customer.
- 15.3 The contractual relationship between the parties and these General Terms and Conditions is governed by the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).
- 15.4 If one of the provisions of these GTC is or becomes invalid, this shall not affect the validity of the remaining provisions. Ineffective provisions shall be replaced by such provisions which come as close as possible to the intended economic purpose of the ineffective provision and are effective.
- 15.5 The German-language version of these GTC shall apply to all offers and order confirmations of Special Coatings in German language. The English-language version of these GTC shall apply to all offers and order confirmations of Special Coatings in other languages.