

## **General Terms of Sale, Delivery and Payment of Hägele GmbH**

### **1. scope of application, form**

1.1 These General Terms and Conditions of Sale, Delivery and Payment (hereinafter referred to as "GTC") apply to all our business relations with our customers (hereinafter referred to as "Buyer"). The GTC shall only apply if the Buyer is an entrepreneur within the meaning of § 14 BGB (German Civil Code), a legal entity under public law or a special fund under public law.

1.2 These General Terms and Conditions shall apply in particular to contracts for the sale and/or delivery of movable goods (hereinafter: "Goods"), irrespective of whether we manufacture the Goods ourselves or purchase them from suppliers (§§ 433, 650 BGB).

1.3 Unless otherwise agreed, these GTC shall apply in the version valid at the time of the Buyer's order or, in any case, in the version most recently communicated to him in text form as a framework agreement also for similar future contracts, without us having to refer to them again in each individual case.

1.4 Our GTC apply exclusively. Deviating, conflicting or supplementary General Terms and Conditions of Business of the Buyer shall only become part of the contract if and to the extent that we have expressly agreed to their validity. This requirement of consent shall apply in any case, e.g. even if we carry out the delivery to the Buyer without reservation in the knowledge of the Buyer's General Terms and Conditions of Business.

1.5 Individual agreements made with the Buyer in individual cases (including collateral agreements, supplements and amendments) shall in any case take precedence over these GTC. Subject to proof to the contrary, a written contract or our written confirmation shall be decisive for the content of such agreements.

1.6 Legally relevant declarations and notifications of the Buyer in relation to a contract, e.g. for setting a deadline, notification of defects, withdrawal or reduction, must be made in writing, i.e. in accordance with § 127 BGB in written or text form, e.g. in a letter, e-mail or fax. Statutory formal requirements and further evidence, especially in case of doubt about the legitimacy of the declarant, remain unaffected.

1.7 References to the validity of legal regulations only have a clarifying meaning. Even without such clarification, the statutory provisions shall therefore apply, unless they are directly amended or expressly excluded in these GTC.

### **2. conclusion of contract**

2.1 Your contract comes with the

#### **Hägele GmbH**

At Niederfeld 13, DE-73614 Schorndorf,  
vert. d. d. GF Karl Hägele, Benjamin Hägele, Steffen Hägele

Phone: +49 7181 96988-0

fax: +49 7181 96988-80

E-mail: [info@cleanfix.org](mailto:info@cleanfix.org)

Seat Schorndorf

Local court Stuttgart HRB 280915

Sales tax Id no.: DE 146 625 401

is achieved. Contract language is German.

2.2 Our offers are subject to change and non-binding. This shall also apply if we have provided the Buyer with catalogs, technical documentation, such as drawings, plans, calculations, calculations, references to DIN standards, other product descriptions

or documents - also in electronic form - to which we reserve ownership rights and copyrights.

2.3 The order of the goods by the Buyer shall be deemed a binding offer of contract. Unless otherwise stated in the order, we shall be entitled to accept this contractual offer within one month of its receipt by us.

2.4 Acceptance may be declared either in writing, e.g. by our order confirmation, or by delivery of the goods to the Buyer.

### **3. delivery period and delay in delivery**

3.1 The delivery period shall be agreed individually or specified by us when the order is accepted. If this is not the case, the delivery period shall be approx. 45 calendar days from conclusion of the contract.

3.2 If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of the service), we shall inform the Buyer of this immediately and at the same time inform him of the expected new delivery deadline. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately reimburse any consideration already paid by the Buyer. The case of non-availability of the service in this sense is especially the non-timely self-supply by our supplier, if we have concluded a congruent hedging transaction, neither we nor our supplier are at fault or we are not obligated to procure in individual cases.

3.3 The occurrence of our delay in delivery shall be determined in accordance with the statutory provisions. In any case, however, a reminder by the Buyer is required. If we are in default of delivery, the Buyer may demand lump-sum compensation for the damage caused by the delay. The lump-sum compensation shall amount to 0.5% of the net price (delivery value) for each completed calendar week of the delay, but in total not more than 5% of the delivery value of the delayed goods. We reserve the right to prove that the buyer has not incurred any damage or only a significantly lower damage than the above lump sum.

3.4 The rights of the Buyer pursuant to Section 8 of these GTC and our statutory rights, in particular in the event of an exclusion of the obligation to perform, for example due to impossibility or unreasonableness of performance and/or subsequent performance, shall remain unaffected.

### **4. delivery, transfer of risk, acceptance, default of acceptance**

4.1 Delivery shall be ex works or warehouse. Unless otherwise provided in these GTC, the provisions of Incoterms 2020 Ex Works (EXW) shall apply ex our works or warehouse.

4.2 Our factory is also the place of performance for all deliveries and services and any subsequent performance.

4.3 At the request and expense of the Buyer, the goods shall be shipped to another destination (sale to destination).

4.4 Unless otherwise agreed, we shall be entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves.

4.5 The risk of accidental loss and accidental deterioration of the goods shall pass to the Buyer at the latest upon delivery. In the case of mail order purchases, however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass to the buyer upon delivery of the

goods to the forwarding agent, carrier or other person or institution designated to carry out the shipment. If acceptance has been agreed, this shall be decisive for the passing of risk. The statutory provisions of the law on contracts for work and services shall also apply accordingly to an agreed acceptance. If the Buyer is in default of acceptance, it shall be deemed equivalent to handover or acceptance.

4.6 If the Buyer is in default of acceptance, fails to cooperate or if our delivery is delayed for other reasons for which the Buyer is responsible, we shall be entitled to demand compensation for the resulting damage, including additional expenses, such as storage costs. For this purpose, we shall charge a lump-sum compensation amounting to 0.5% of the net price (delivery value) per calendar day of default of acceptance, but not exceeding a total of 10% of the delivery value of the goods affected by the default of acceptance, starting with the delivery deadline or - in the absence of a delivery deadline - with the notification of readiness for dispatch of the goods. The proof of higher damages and our statutory claims (in particular compensation for additional expenses, reasonable compensation, termination) shall remain unaffected. However, the lump-sum compensation shall be set off against further monetary claims. The buyer is entitled to prove that we have not incurred any damage at all or that the damage incurred by us is significantly lower than the above lump sum.

## **5. prices and terms of payment**

5.1 Unless otherwise agreed in individual cases, our prices valid at the time of conclusion of the contract shall apply ex works or ex warehouse, plus the statutory value added tax applicable at the time.

5.2 The prices quoted by us correspond to the previous cost situation and calculation. Since we are dependent on raw material prices in the supply chain, such as metal and crude oil prices, and since these are subject to strong fluctuations, the prices quoted by us apply under the conditions that the orders can be executed without hindrance and that our wage and material costs also remain the same. Should there be any changes in costs between the conclusion of the contract and the delivery of the goods, we are entitled, but not obliged, to charge the prices valid at the time of delivery. Should a possible price increase associated with this significantly exceed the general cost of living, the buyer may withdraw from the contract. If no businessman is involved in the transaction, this only applies if the delivery is made later than four months after the conclusion of the contract.

5.3 In the case of sale by delivery to a place other than the place of performance (see Section 4.3), the Buyer shall bear the transport costs ex works or warehouse and the costs of any transport insurance requested by the Buyer.

5.4 Any customs duties, fees, taxes and other public charges shall be borne by the Buyer.

5.5 The purchase price is due and payable within 14 calendar days of invoicing and delivery or acceptance of the goods.

5.6 Notwithstanding the foregoing Section 5.5, we are, however, entitled at any time, even within the scope of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. We declare a corresponding reservation at the latest with the order confirmation.

5.7 Upon expiration of the payment period contained in clause 5.5, the Buyer shall be in default. During

the period of default, interest shall be charged on the purchase price at the statutory default interest rate applicable at the time. We reserve the right to assert further damages caused by default. In relation to merchants, our claim to the commercial due date interest (§ 353 HGB) remains unaffected.

5.8 The Buyer shall only be entitled to rights of set-off or retention to the extent that his claim has been legally established or is undisputed. In the event of defects in the delivery, the Buyer's counter rights, in particular in accordance with Section 7.8, Sentence 2 of these General Terms and Conditions, shall remain unaffected.

5.9 If it becomes apparent after conclusion of the contract, e.g. through an application to open insolvency proceedings, that our claim to the purchase price is endangered by the Buyer's lack of ability to pay, we shall be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract (§ 321 BGB). In the case of contracts for the manufacture of unacceptable goods (custom-made products), we may declare our withdrawal from the contract immediately. This shall not affect the statutory provisions on the dispensability of setting a deadline.

## **6. reservation of title**

6.1 We reserve title to the goods sold (hereinafter also referred to as "reserved goods") until all our present and future claims arising from the purchase contract and an ongoing business relationship (secured claims) have been paid in full.

6.2 Reserved goods may not be pledged to third parties or assigned as security before the secured claims have been paid in full. The buyer must inform us immediately in writing if an application for the opening of insolvency proceedings is filed or if third parties have access to our reserved goods, e.g. through seizure.

6.3 If the Buyer acts in breach of contract, in particular if he fails to pay the due purchase price, we shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the return of the reserved goods. The demand for return does not at the same time include the declaration of withdrawal. Rather, we are entitled to demand the return of only the reserved goods and to additionally reserve the right to withdraw from the contract. If the buyer does not pay the due purchase price, we may only assert these rights if we have previously set the buyer a reasonable deadline for payment without success or if such a deadline is dispensable according to the statutory provisions.

6.4 Until revocation, the Buyer shall be authorized in accordance with Section 6.4.3 below to resell and/or process the reserved goods in the ordinary course of business. In this case the following provisions shall apply in addition:

6.4.1 The reservation of title shall extend to the full value of the products resulting from the processing, mixing or combination of our reserved goods, whereby we shall be deemed to be the manufacturer. If, in the event of processing, mixing or combination with goods of third parties, their right of ownership remains, we shall acquire co-ownership in the ratio of the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the reserved goods.

6.4.3 The Buyer hereby assigns to us by way of security all claims against third parties arising from the resale of the reserved goods or the product, in total

or in the amount of our possible co-ownership share in accordance with the preceding paragraph. We hereby accept the assignment. The Buyer's obligations as set out in clause 6.2 shall also apply with regard to the assigned claims.

6.4.3 In addition to us, the Buyer shall remain authorized to collect the claim. We undertake not to collect the claim as long as the Buyer meets his payment obligations to us, there is no lack of his ability to pay and we do not assert the reservation of title by exercising a right in accordance with Section 6.3. If this is the case, however, we can demand that the buyer informs us of the assigned claims and their debtors, provides us with all information necessary for collection, hands over to us the relevant documents and informs the debtors (third parties) of the assignment. Furthermore, in this case we shall be entitled to revoke the Buyer's authority to further sell and process the reserved goods.

6.4.4 If the realizable value of the securities exceeds our claims by more than 10%, we shall release securities of our choice at the Buyer's request.

## **7. claims for defects of the buyer**

7.1 The rights of the Buyer in the event of material defects and defects of title (including wrong and short delivery as well as improper assembly or faulty assembly instructions) shall be governed by the statutory provisions, unless otherwise provided below.

7.2 In all cases, the statutory special provisions shall remain unaffected in the case of final delivery of the unprocessed goods to a consumer, even if the consumer has processed them further (supplier recourse according to §§ 478 BGB).

7.3 Claims arising from supplier recourse are excluded if the defective goods have been further processed by the Buyer or another entrepreneur, for example by incorporation into another product.

7.4 The basis of our liability for defects is above all the agreement reached on the quality of the goods. All product descriptions and manufacturer's details which are the subject of the individual contract or which were made public by us (in particular in catalogs or on our Internet homepage) at the time of conclusion of the contract shall be deemed to be an agreement on the quality of the goods.

7.5 If the quality has not been agreed upon, the statutory provisions shall apply to assess whether or not a defect exists (§ 434 para. 1 p. 2 and 3 BGB). However, we do not assume any liability for public statements made by the manufacturer or other third parties, for example advertising statements, which the Buyer has not pointed out to us as being decisive for his purchase.

7.6 We are generally not liable for defects which the Buyer is aware of at the time of the conclusion of the contract or which he is not aware of due to gross negligence (§ 442 BGB). Furthermore, the Buyer's claims for defects presuppose that he has fulfilled his statutory obligations to inspect and give notice of defects (§§ 377, 381 HGB). In the case of goods that are intended for installation or other further processing, an inspection must in any case be carried out immediately before processing. If a defect is discovered during delivery, inspection or at any later time, the buyer must inform us immediately in writing. In any case, obvious defects must be reported in writing within 3 working days (Monday to Friday) from delivery and defects not detectable during inspection within the same period from discovery. If the buyer fails to carry out the proper inspection and/or report defects, our liability for the

defect not reported or not reported in time or not properly is excluded according to the legal regulations.

7.7 If the delivered goods are defective, we may initially choose whether we provide subsequent performance by eliminating the defect (rectification of defects) or by delivering a defect-free item (replacement delivery). Our right to refuse subsequent performance under the statutory conditions remains unaffected.

7.8 We are entitled to make the subsequent performance owed dependent on the Buyer paying the purchase price due. However, the Buyer shall be entitled to retain a reasonable part of the purchase price in proportion to the defect.

7.9 The Buyer shall give us the time and opportunity necessary for the subsequent performance owed, in particular to hand over the rejected goods for inspection purposes. In the event of a replacement delivery, the Buyer shall return the defective item to us in accordance with the statutory provisions. Subsequent performance does not include the removal of the defective item or the reinstallation if we were not originally obliged to install it.

7.10 We shall bear or reimburse the expenses necessary for the purpose of testing and subsequent performance, in particular transport, travel, labour and material costs and, if applicable, dismantling and installation costs, in accordance with the statutory provisions if a defect actually exists. Otherwise, we may demand reimbursement from the Buyer of the costs incurred as a result of the unjustified demand for the removal of defects, in particular also the costs of testing and transport, unless the lack of defect was not apparent to the Buyer.

7.11 In urgent cases, e.g. in case of danger to operational safety or to prevent disproportionate damage, the Buyer shall have the right to remedy the defect himself and to demand from us reimbursement of the expenses objectively required for this purpose. We shall be notified immediately of such self-remedy, if possible in advance. The right of self-remedy does not exist if we would be entitled to refuse a corresponding subsequent performance according to the statutory provisions.

7.12 If the supplementary performance has failed or a reasonable period of time to be set by the Buyer for the supplementary performance has expired without success or is dispensable according to the statutory provisions, the Buyer may withdraw from the purchase contract or reduce the purchase price. In the case of an insignificant defect, however, there is no right to withdraw from the contract.

7.13 The Buyer's claims for damages or compensation for futile expenses shall exist only in accordance with Section 8, even in the case of defects, and shall be excluded in all other respects.

## **8. other liability**

8.1 Unless otherwise provided for in these GTC including the following provisions, we shall be liable for any breach of contractual and non-contractual obligations in accordance with the statutory provisions.

8.2 We shall be liable for damages - irrespective of the legal grounds - within the scope of liability for culpability in the case of intent and gross negligence. In the case of simple negligence, we shall only be liable, subject to statutory limitations of liability, such as care in our own affairs and insignificant breaches of duty

8.2.1 for damages resulting from injury to life, body or health,

8.2.2 for damages resulting from the breach of a material contractual obligation, i.e. an obligation whose fulfilment is essential for the proper performance of the contract and on whose compliance the contractual partner regularly relies and may rely. In this case, however, our liability shall be limited to compensation for the foreseeable, typically occurring damage.

8.3 The limitations of liability resulting from clause 8.2 shall also apply to breaches of duty by or in favour of persons whose fault we are responsible for under statutory provisions. They shall not apply if we have fraudulently concealed a defect or have assumed a guarantee for the quality of the goods and for claims of the Buyer under the Product Liability Act.

8.4 Due to a breach of duty which does not consist of a defect, the Buyer may only withdraw or terminate the contract if we are responsible for the breach of duty. A free right of termination by the Buyer (in particular pursuant to §§ 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

### **9. statute of limitations**

9.1 Notwithstanding § 438 para. 1 No. 3 BGB (German Civil Code), the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. If acceptance has been agreed, the limitation period shall commence upon acceptance.

9.2 If, however, the goods are a building or an object that has been used for a building in accordance with its usual purpose and has caused its defectiveness (building material), the limitation period shall be 5 years from delivery in accordance with the statutory provisions (§ 438 para. 1 No. 2 BGB). Other statutory special regulations on the statute of limitations (in particular § 438 Para. 1 No. 1, Para. 3, §§ 444, 445b BGB) remain unaffected.

9.3 The aforementioned limitation periods of the law on the sale of goods shall also apply to contractual and non-contractual claims for damages of the Buyer based on a defect of the goods, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in individual cases. However, claims for damages by the Buyer pursuant to Section 8.2 Sentence 1 and Section 8.2.1 as well as under the Product Liability Act shall become statute-barred exclusively according to the statutory limitation periods.

### **10. choice of law and place of jurisdiction**

10.1 These GTC and the contractual relationship between us and the Buyer shall be governed by the law of the Federal Republic of Germany, excluding international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods (CISG).

10.2 If the Buyer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in Schorndorf. The same applies if the buyer is an entrepreneur as defined in § 14 BGB. In all cases, however, we are also entitled to bring an action at the place of performance of the delivery obligation

in accordance with these General Terms and Conditions or a prior individual agreement or at the general place of jurisdiction of the Buyer. Priority statutory provisions, in particular those relating to exclusive jurisdiction, shall remain unaffected.

Status: October 2020