



## General Terms and Conditions of Sale of Hänel GmbH & Co. KG ("VTs & Cs of Sale")

Note: For simplicity's sake, Hänel GmbH & Co. KG is referred to below as Hänel. All references to persons include persons of any gender.

### § 1 Applicability and form

- (1) These Ts & Cs of Sale apply exclusively to businesses (Sec. 14 of the German Civil Code [BGB]), legal entities under public law, or a special fund (*Sondervermögen*) under public law within the meaning of Sec. 310 (1) of the Civil Code (hereinafter the "Client").
- (2) These Ts & Cs of Sale will apply, to the exclusion of all other terms and conditions; contrary or supplemental terms and conditions of the Client, or such terms and conditions that deviate from these Ts & Cs of Sale, will not apply unless Hänel gives its explicit written consent to their application. Confirmations to the contrary by the Client that refer to the Client's own terms and conditions of business or purchase are hereby rejected. These Ts & Cs of Sale will also apply if Hänel performs delivery to the Client, without stating reservations, in the knowledge of the existence of contrary terms and conditions of the Client, or of such terms and conditions that deviate from these Ts & Cs of Sale.
- (3) Individual agreements reached with the Client on a case-by-case basis (including side agreements, addenda and amendments) will in all cases take precedence over these Ts & Cs of Sale. Subject to proof to the contrary, a written contract or written confirmation from Hänel will be conclusive for the content of such agreements.
- (4) Legally material declarations and notices by the Client relating to the Contract (e. g., setting a deadline, notices of defects or withdrawal, or demands for price reductions) must be submitted in writing, i. e., in either paper or text form (e. g., letter, email, fax). The foregoing is without prejudice to statutory requirements of form and further documentation, including, without limitation, in case of doubt as to the declarant's legal authorization.
- (5) Unless agreed otherwise, these Ts & Cs of Sale will also apply as a master agreement to all further purchase and sale agreements, without need for us to refer to them again in each case individually.

### § 2 Offer and formation of contract

- (1) Offers from Hänel are non-binding, unless expressly identified in their text as legally binding for purposes of contract law. The same will apply if Hänel provides the Client with catalogs, technical documentation (drawings, plans, tallies, calculations), other product descriptions, or documents, including in electronic form.
- (2) Estimates for on-site assembly/installation costs / personnel expenses / travel expenses are likewise non-binding.
- (3) A Contract will be formed between Hänel and the Client either if Hänel validly accepts, without modifications, a binding order from the Client in response to a non-binding offer, or if the Client legally accepts, by written orders, likewise without modifications, an offer from Hänel expressly identified as contractually binding. Acceptance by Hänel may be declared either in writing or electronically (e. g., by sending an order confirmation or invoice having the same wording), or by delivering the goods to the Client.

### § 3 Supplied documentation

Hänel reserves rights of ownership and copyright in all documentation supplied to the Client in connection with the initiation of contract negotiations, including, without limitation, illustrations, drawings, calculations, etc. The foregoing in particular also applies to written documents identified as "confidential." No documentation may be made available to third parties unless Hänel gives the Client its express written consent. If Hänel does not accept the Client's offer within the time limit indicated in § 2(3) [sic], the documentation supplied in the course of the contract negotiations must be returned to Hänel promptly and without need for further request.

### § 4 Prices and payments

- (1) Unless agreed otherwise, all prices are understood to be "ex works," including loading at the plant/warehouse, shipping, shipping insurance and on-site assembly. The Client is to bear any customs duties, fees, taxes and other government charges.
- (2) Costs arising from installation work will likewise be billed in addition, at the agreed rates. Necessary auxiliary personnel and/or supplies will be either provided by the Client or billed separately by Hänel (cf. § 11 (1)).

- (3) The value added tax required by law is not included in Hänel's prices; it will be shown separately on the invoice in the amount required by law at the billing date.
- (4) The prices for all supplied goods are the list prices in effect at Hänel at the order date, unless indicated otherwise in Hänel's offer.
- (5) The purchase price is due and payable strictly net, without deductions, within 14 days after the delivery, and if required, assembly/installation of the goods. Punctuality of payment will be governed by the date of Hänel's receipt of the funds. The terms of law governing the consequences of delinquent payment will apply.
- (6) In the case of orders for a value of EUR 10,000.00 or more, exclusive of value added tax, 50 % of the purchase price will be payable upon formation of the Contract, and the remaining 50 % after delivery and, if required, assembly/installation, and each installment must be paid strictly net, without deductions, within 14 days after the due date. Irrespective of the order value, for new warehouse lifting systems, 50 % of the purchase price will be due on formation of the Contract, 40 % on delivery of the goods, and the remaining 10 % after assembly/installation and transfer to the Client, and each installment must be paid strictly net, without deductions, within 14 days after the due date.
- (7) After making a purchase agreement for an order value of less than EUR 10,000.00, Hänel will also be entitled to require advance payments if it becomes aware of the risk that the Client may be unable to perform.

### § 5 Rights of retention and offset

- (1) The Client is entitled to exercise a right of retention only insofar as its countering claim is founded on the same contractual relationship.
- (2) The Client will be entitled to an offset only if its countering claim has been upheld by a final court decision, is undisputed, or is acknowledged by Hänel.

### § 6 Delivery dates, scope of delivery, delinquent delivery

- (1) Delivery dates and the scope of delivery will be agreed upon individually or indicated by Hänel at the time of acceptance of the order. If all details of the order (including technical issues) are not clarified by the Client in good time or if all advance performance by the Client has not been completed in good time, the delivery dates will be extended accordingly. Timely shipment of the goods will suffice for compliance with deadlines.
- (2) The Client is liable for the correctness of the documentation it is to supply, including, without limitation, drawings.
- (3) Hänel is entitled to make partial deliveries if the Client can reasonably be expected to take them.
- (4) The Client must review the delivery slip and issue a receipt. Hänel must be notified promptly of any objections/deviations. Otherwise the delivered quantity indicated on the receipt will be deemed acknowledged, unless an eventual nonconformity was not recognizable by the Client.
- (5) All packaging for shipping and other packaging will be taken back by Hänel only insofar as required by law, particularly under the German Packaging Regulation (*Verpackungsverordnung*).
- (6) Hänel reserves the right prior to the delivery deadline to make changes in design and/or form that result from technical improvements and/or requirements of law, provided the item to be delivered or the agreed delivery is not materially altered and the Client can reasonably be expected to allow the changes.
- (7) If Hänel is impeded from fulfilling its obligation by an instance of force majeure or other unforeseeable extraordinary events that it could not avert despite taking all reasonable care given the circumstances of the particular case – including, without limitation, interventions by the authorities, disruptions of operations, labor conflicts or delays in suppliers' deliveries of essential raw materials and supplies – Hänel will notify the Client without undue delay and at the same time communicate the projected new delivery date. If performance is still not possible by the new delivery date, Hänel will be entitled to withdraw from the Contract in whole or in part, without entitling the Client to damages. We will promptly refund or return any consideration already provided by the Client.



(8) If the Client is delinquent in performing acceptance, or omits to perform an act of cooperation, or if delivery is delayed for other reasons within the Client's control, Hänel will be entitled to demand compensation for the resulting loss or damage, including for additional expenses (e.g., warehousing costs or second delivery attempts). Hänel reserves the right to assert further claims. In this case, the risk of accidental destruction or deterioration of the goods will be transferred to the Client at the date on which the Client becomes delinquent in performing acceptance, or the date of its other breach of obligations to cooperate.

## § 7 Transfer of risk during shipment

If the goods are shipped at the Client's request, the risk of accidental destruction or deterioration of the goods, as well as the risk of delay, will transfer to the Client upon consignment of the goods to the shipping agent, the freight carrier, or the person or entity otherwise designated to perform the shipment. The foregoing will apply irrespective of whether the goods are shipped from the place of performance, or who bears the costs of carriage.

## § 8 Reservation of ownership

- (1) Hänel reserves ownership of the sold goods until all present and future payments resulting from the current business connection with the Client have been received in full. In the event of conduct by the Client in breach of contract, particularly in the event of delinquent payment or breaches of other material obligations under § 8 (2), Hänel will be entitled to withdraw from the relevant purchase agreement and to demand surrender of the reserved goods. Upon retrieval of the reserved goods, Hänel will be entitled to sell them; the proceeds from the sale, less fair and reasonable selling costs, are to be credited toward the Client's obligations.
- (2) Until ownership is transferred to the Client, the Client must handle the goods with proper care. In particular, it must at its own expense insure them adequately, at replacement value, against theft, fire and water damage. If maintenance and inspection work must be performed, the Client must perform such work in good time at its own expense.
- (3) Until ownership is transferred, the Client must notify Hänel promptly in text form if the delivered item is attached or vulnerable to other interference by third parties, so that Hänel can file suit in accordance with Sec. 771 of the German Code of Civil Procedure (ZPO). If the third party is unable to reimburse Hänel for the costs, in and out of court, of an action under Sec. 771 of the Code of Civil Procedure, the Client will be liable for the loss incurred by Hänel.
- (4) Hänel agrees to release the security to which it is entitled, at the Client's request, to the extent that the realizable value of its security exceeds the secured claims by more than 10%; Hänel may choose at its discretion which security to release.

## § 9 Warranty against defects

- (1) In order for the Client to have warranty rights, the Client must have complied with its obligations to inspect and give notice of complaints as required under Sec. 377 of the German Commercial Code. If a defect becomes evident upon delivery, inspection, or at any other later time, Hänel must be notified promptly in writing. In any case, written notice of obvious defects must be given within five business days after delivery, and written notice of defects not detectable upon inspection must be given within the same time period after discovery. If the Client neglects to perform proper inspection and/or give proper notice of defects, Hänel's liability for a defect for which notice is not given, not given in good time, or not given properly, is excluded as provided by law.
- (2) If, despite all due care, the delivered goods have a defect that was already present at the time of transfer of risk, Hänel will, at its discretion, either repair or replace the goods, subject to timely notice of the defect. Hänel must always be given an opportunity to cure the defect within a fair and reasonable time. If a replacement is provided, the Client must return the defective item to Hänel as provided by law. Curing the defect will not include either uninstalling the defective item or reinstalling it, if Hänel was not required to install it originally.

(3) Hänel will bear or reimburse necessary expenses for purposes of inspection and curing a defect, including, without limitation, costs of shipping, road tolls, costs of labor and materials, and costs for dismantling and installation, subject to the terms provided by law, if in fact a defect is present and insofar as the expenses are not increased by the fact that the goods were transferred to a location other than the place of performance. Otherwise Hänel may demand reimbursement from the Client of the costs resulting from an unjustified demand to cure defects (including, without limitation, costs of inspection and shipping), unless the absence of a defect was undetectable by the Client

(4) The warranty period is twelve (12) months from delivery of the goods.

## § 10 Liability

- (1) In the event of willful misconduct or gross negligence on the part of Hänel or its vicarious agents, Hänel will be liable as provided by law; the same will apply to breaches of material contractual obligations. Unless the breach of contract is the result of willful misconduct, Hänel's liability for damages will be limited to the amount of foreseeable typical loss.
- (2) The foregoing is not to apply to liability for tortious injury to life, limb or health, or liability under the German Product Liability Act (*Produkthaftungsgesetz*).
- (3) Except as provided otherwise above, Hänel's liability is excluded.

## § 11 Commissioning, installation

- (1) If installation and/or commissioning by Hänel has been included in the agreement, the necessary assistants and supplies for this purpose (including the materials for adjustment and for the trial run of the supplied item) will either be provided by the Client or billed separately by Hänel. The Client will be informed in good time before the start of on-site assembly/installation as to the specific assistants and supplies needed.
- (2) The Client is to prepare the spaces at the beginning of on-site assembly/installation in such a way that Hänel can perform the work without impediment or delay. Preparation includes adequate lighting and the presence of the necessary power connections, if deliveries of electrically powered equipment are involved. Any structural preparations, such as foundations or fastening capabilities for equipment (per the EU Machinery Directive or the German Accident Insurance Regulation (UVV)), if the height of the equipment is more than five times its depth, must likewise be provided by the Client.
- (3) Details concerning commissioning and installation are provided in Hänel's terms and conditions of on-site installation in the version applicable to the specific goods.

## § 12 Applicable law, jurisdiction and venue, partial invalidity

- (1) These Ts & Cs of Sale and all legal relations between the Client and Hänel will be governed by the laws of the Federal Republic of Germany, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- (2) The place of performance will be Hänel's principal place of business, unless agreed otherwise.
- (3) Hänel's domicile will be the jurisdiction and venue for all disputes arising from the contractual relationship, to Hänel's benefit. However, Hänel is entitled to bring action against the Client in another jurisdiction.
- (4) If any provision of these Terms and Conditions is or becomes invalid, the validity of all other provisions and agreements between Hänel and the Client will be unaffected thereby.