

# **HEFTER Cleantech GmbH**

## **General Terms and Conditions of Sale**

### **§ 1 Scope of application**

1. The following terms and conditions of sale are part of the contracts concluded between the customer and HEFTER Cleantech GmbH, Am Mühlbach 6, 83209 Prien am Chiemsee, Germany (hereinafter referred to as **HEFTER** or **HCT**) concerning the purchase of our products.
2. These terms and conditions of sale shall apply to entrepreneurs, legal entities under public law or special funds under public law within the meaning of § 310 paragraph 1 BGB (German Civil Code). We shall only recognise any terms and conditions of the customer which conflict with or deviate from our Terms and Conditions of Sale if we expressly agree to their validity in writing.
3. In the sense of these General Terms and Conditions of Sale, all persons listed in §1.2 shall be deemed to be buyers, unless a distinction is made below.
4. Entrepreneurs within the meaning of these General Terms and Conditions of Sale are natural or legal persons or a partnership with legal capacity which, when concluding a legal transaction, acts in the exercise of its commercial or independent professional activity. For the sake of simplicity, both entrepreneurs and legal entities under public law as well as special funds under public law are hereinafter uniformly referred to as entrepreneurs.
5. In individual cases, agreements made between the contracting parties (including collateral agreements, supplements and amendments) shall in any case take precedence over these Terms and Conditions of Sale.
6. These Terms and Conditions of Sale shall also apply to all future transactions with the buyer, insofar as these are legal transactions of a related nature.
7. By placing an order, the customer expressly agrees to the application of our terms and conditions of sale and waives the assertion of his own deviating terms and conditions of business or terms of purchase and payment.

### **§ 2 Offer and conclusion of contract**

1. Our information in brochures, catalogues, Internet or other advertising material is subject to change without notice, i.e. non-binding, and merely constitutes an invitation to the buyer to submit an offer.
2. Cost estimates and offers of HEFTER are also subject to change. Documents relating to individual as well as standard services (e.g. weight, dimensions, utility values, load

capacity, tolerances and technical data as well as drawings and illustrations) only give approximate dimensions unless dimensions are expressly designated as binding.

3. They are not guaranteed characteristics, but descriptions or identifications of the delivery or service. Deviations customary in the trade and deviations which are due to legal regulations or represent technical improvements, as well as the replacement of components by equivalent parts are permissible, provided they do not impair the usability for the contractually intended purpose.
4. With the order, the buyer submits an offer to conclude a contract. The buyer is bound to this order for 14 calendar days, for orders via the Internet for 3 days, after dispatch. We can accept the offer within this period. Our order confirmation to the buyer shall be deemed acceptance.
5. HEFTER is not liable for errors and defects which have their cause in documents and/or unclear or oral statements of the customer.

### **§ 3 Documents provided, industrial property rights, tools**

1. We reserve all property rights and copyrights to all documents handed over to the purchaser in connection with the placing of the order, such as calculations, drawings, samples. These documents may only be used by the buyer in the agreed form. These documents may not be made accessible to third parties unless we give our express written consent to the buyer to do so. If we do not accept the buyer's offer within the period of § 2 No. 2, these documents must be returned to us immediately.
2. We reserve all property rights and copyrights to all documents handed over to the purchaser in connection with the placing of the order, such as calculations, drawings, samples. These documents may only be used by the buyer in the agreed form. These documents may not be made accessible to third parties unless we give our express written consent to the buyer to do so. If we do not accept the buyer's offer within the period of § 2 No. 2, these documents must be returned to us immediately.
3. If we deliver products according to drawings, models and samples provided by the customer, he shall be liable to us for ensuring that industrial property rights and other rights of third parties are not infringed by their manufacture and delivery. The customer shall indemnify us against any claims by third parties for the infringement of industrial property rights and shall reimburse us for any damage incurred as well as our costs and expenses.
4. Moulds, tools or other devices manufactured or provided by us shall remain our property, even if the buyer has assumed part or all of the costs thereof.

### **§ 4 Prices and Payment**

1. Unless otherwise agreed, our prices shall be in Euro ex works plus value added tax, transport, packaging and insurance costs and, in the case of export deliveries, plus customs duties and other public charges. Costs for transport, packaging, insurance,

customs duties and other public charges shall be invoiced separately. Unless otherwise agreed, the prices valid at the time of the order shall apply. The price list contains only recommended end prices without value added tax.

2. Call deliveries are only possible after prior agreement - also with regard to costs.
3. Payment of the purchase price must be made exclusively to the account specified in the invoice. Unless otherwise agreed, the purchase price shall be due by the date stated in the invoice. If the invoice does not state a term of payment - unless otherwise agreed - the purchase price is payable within 10 days of the invoice date. Interest on arrears shall be charged at a rate of 9% p.a. above the respective base interest rate. The assertion of a higher damage caused by default remains reserved.
4. If the party liable to pay is in default, HEFTER is furthermore entitled to make payments immediately due and payable with regard to all open claims from the business relationship.
5. Bills of exchange and cheques will only be accepted after prior agreement.
6. If no fixed price agreement has been made with entrepreneurs, reasonable price changes due to changed wage, material and distribution costs for deliveries made after 4 months after conclusion of the contract are reserved.
7. For custom-made products, HEFTER's obligation to inform the customer directly or via its sales partner that custom-made products are excluded from return - except in cases of warranty. In addition, HEFTER has to inform the customer, if not expressly estimated performances become necessary. These services are to be remunerated separately. The same applies to the use of services, which are charged according to time and effort.
8. The following applies for dealers: For orders up to EUR 250.00 net goods value, a minimum quantity surcharge of EUR 30.00 applies.
9. The following applies for end users: The minimum order value for end users is EUR 50 net. For orders below the minimum order value, we charge a minimum quantity surcharge of EUR 10.00 plus VAT for end users.

## **§ 5 Rights of retention, offsetting**

1. The buyer shall only be entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.
2. The buyer shall only be entitled to set-off, if his claims have been legally established or are undisputed.
3. The assignment of rights, claims and demands requires our prior written consent, which will not be unreasonably withheld. This also applies to agreements of the customer with third parties, which exclude the transfer of claims to us in the event of the sale of goods subject to retention of title.

## **§ 6 Delivery time**

1. The delivery is made at the expense and risk of the customer.
2. Unless an expressly binding delivery date has been agreed, our delivery dates or delivery periods are exclusively non-binding information.
3. The start of the delivery period stated by us presupposes the timely and proper fulfilment of the obligations of the buyer. The defence of non-performance of the contract remains reserved.
4. If the buyer is in default of acceptance or culpably violates other obligations to cooperate, we shall be entitled to demand compensation for the damage incurred by us in this respect, including any additional expenses. We reserve the right to assert further claims. Insofar as the above conditions exist, the risk of accidental loss or accidental deterioration of the object of sale shall pass to the buyer at the point in time at which he is in default of acceptance or debtor's delay.
5. Force majeure and circumstances beyond our control, such as strikes, lockouts, operational disruptions, shortage of raw materials and operating resources, delayed delivery by upstream suppliers, delays in delivery by a forwarding agent or additional or changed services requested by the buyer shall extend the delivery times accordingly and release us from the obligation to deliver in the event of the resulting impossibility.
6. If we are in default with a delivery or if a delivery becomes impossible for any reason whatsoever, our liability shall be limited to damages in accordance with § 11 of these General Terms and Conditions of Sale.

## **§ 7 Custom-made products**

1. The buyer has the possibility to acquire custom-made products with regard to our product assortment. Custom-made products are special requests of the buyer which deviate from the products in our catalogue and require a new production.
2. For custom-made products we reserve the right to charge EUR 500.00 net in advance for feasibility studies, which will be credited again when the order is subsequently placed.
3. For custom-made products our offer prices refer to the quantity indicated in our offer. By placing an order, the buyer undertakes to accept the quantity stated in the offer.
4. If custom-made products include the production of labels, printing plates and/or covers our offer prices shall include the design and production of labels, printing plates and/or covers as well as 2 correction runs for the final coordination of the designs for labels, printing plates and/or covers. Any additional expenses incurred will be charged separately at an hourly rate of EUR 80.00 (net). Within the scope of buyer-specific

label production, we undertake to provide the minimum information required under the Product Liability Act. The buyer shall design the label texts and release the label for printing.

5. Custom-made products are excluded from return. This does not apply in cases of warranty.
6. Custom-made products are not produced exclusively for the buyer, but we reserve the right to make them available to other purchasers.

## **§ 8 Transfer of risk**

1. The risk shall pass to the buyer at the latest when the goods are handed over (whereby the start of the loading process shall be decisive) to the forwarding agent, carrier or other third party appointed to carry out the shipment. This shall also apply, if partial deliveries are made or if we have assumed further services, e.g. installations.
2. If dispatch or handover is delayed as a result of circumstances for which the buyer is responsible, the risk shall pass to the buyer from the day on which the goods are ready for dispatch and we have notified the buyer accordingly.

Storage costs after transfer of risk shall be borne by the buyer. In case of storage by us, the storage costs shall amount to 0.25% of the invoice amount of the delivery stocks to be stored per expired week. We reserve the right to assert and prove further or lower storage costs.

3. Mode of dispatch and packaging are subject to our dutiful discretion. We do not insure the goods against transport damage. The customer must report any damage or loss occurring during transport immediately.

## **§ 9 Retention of title**

1. We reserve the right of ownership of the delivered goods until all claims arising from the delivery relationship have been paid in full. This also applies to all future deliveries, even if we do not always expressly refer to this.
2. In the event of conduct on the part of the purchaser in breach of contract, we shall be entitled to take back the delivered items and the purchaser shall be obliged to surrender them. The customer shall bear the costs incurred in this connection.
3. The buyer is obliged to treat the object of sale with care as long as ownership has not yet been transferred to him. In particular, he is obliged to insure the goods at his own expense against theft, fire and water damage at replacement value. If maintenance and inspection work has to be carried out, the buyer must carry this out in good time at his own expense.
4. As long as ownership has not yet been transferred, the buyer must inform us immediately in writing if the delivered item is seized or subjected to other interventions

by third parties. Insofar as the third party is not in a position to reimburse us for the judicial and extrajudicial costs of an action pursuant to § 771 ZPO (Code of German Civil Procedure), the buyer shall be liable for the loss incurred by us.

5. The buyer is entitled to resell the reserved goods in the normal course of business. The buyer hereby assigns to us the claims against the buyers arising from the resale of the reserved goods. This assignment shall apply regardless of whether the object of sale has been resold without or after processing. The buyer remains revocably authorised to collect the claim even after the assignment. Our authority to collect the claim ourselves shall remain unaffected thereby. However, we shall not collect the claim as long as the buyer meets his payment obligations from the proceeds received, is not in default of payment and, in particular, has not filed for insolvency or suspended payments. We are to be informed immediately of third party dispositions concerning the reserved goods.
6. The treatment and processing or transformation of the object of sale by the buyer shall always be carried out in our name and on our behalf. In this case, the buyer's expectant right to the object of sale shall continue to apply to the transformed object. If the object of sale is processed with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio of the objective value of our object of sale to the other processed objects at the time of processing. The same shall apply in the event of mixing. If the mixing is carried out in such a way that the buyer's item is to be regarded as the main item, it shall be deemed agreed that the buyer transfers co-ownership to us on a pro rata basis and stores the resulting sole ownership or co-ownership for us. In order to secure our claims against the buyer, the buyer also assigns to us such claims which accrue to him against a third party through the combination of the reserved goods with a piece of land; we hereby accept this assignment.
7. We undertake to release the securities to which we are entitled at the request of the buyer if their value exceeds the claims to be secured by more than 20 %.
8. If the retention of title or assignment is not effective under the law of the country in which the goods are located, the security closest to the retention of title or assignment in that country shall be deemed agreed. If this requires the cooperation of the customer, the customer shall perform all legal acts necessary to establish and maintain such rights.

## **§ 10 Warranty and notice of defects as well as recourse/manufacturer's recourse, spare parts**

1. The warranty is based on the statutory provisions of the law on sales.
2. If the buyer requires the goods for special purposes, he must check their special suitability - also with regard to product safety - beforehand, in particular whether they comply with all relevant technical or official regulations. Claims for compensation resulting from the unsuitability are excluded without prior examination. We are not liable

for the suitability or permissibility of the desired materials or constructions in the case of material or construction regulations of the buyer and have no special duty to inspect in this respect.

3. Warranty rights of the buyer require that he has properly fulfilled his obligations to inspect and give notice of defects according to § 377 HGB (German Commercial Code). The customer is obliged to inspect the delivery item immediately. Any defects must be reported to us in writing within 2 working days (48 hours). A later notification of obvious defects is excluded. In the case of custom-made products, a claim for obvious defects is excluded after acceptance, even if they arise during operation of the device. Any intervention by third parties in the equipment provided excludes the warranty. In all other respects the statutory provisions shall apply.
4. Claims for defects shall become statute-barred 12 months after delivery of the goods delivered by us to our buyer. The warranty period for stainless steel chassis is 10 years. These periods do not apply to claims for damages by the buyer arising from injury to life, body or health or from intentional or grossly negligent breaches of duty on our part or on the part of our vicarious agents, which in each case become statute-barred in accordance with the statutory provisions. The regulations for the recourse of the entrepreneur according to § 478 BGB remain unaffected. Our consent must be obtained before any goods are returned.
5. If, despite all due care taken, the delivered goods exhibit a defect which existed at the time of transfer of risk, we shall, at our discretion and subject to timely notification of the defect, either repair the goods or deliver replacement goods. We shall always be given the opportunity to remedy the defect within a reasonable period of time. Recourse claims remain unaffected by the above regulation without restriction. We shall be entitled to make at least two attempts to rectify the defect before the statutory claims come into effect.
6. If the supplementary performance fails, the buyer may - without prejudice to any claims for damages - withdraw from the contract or reduce the remuneration.
7. There shall be no claims based on defects in the case of natural wear and tear, as in the case of damage occurring after the transfer of risk as a result of faulty or negligent handling, excessive strain, unsuitable operating resources (this includes the use of non-permitted or aggressive chemicals or the use of materials that are not approved for the machine as well as non-original parts and non-original spare parts such as brushes, suction lips, batteries, etc.) or due to special external influences not assumed under the contract. If improper repair work or modifications are carried out by the buyer or third parties, no claims based on defects shall exist either for these or the consequences arising therefrom. Furthermore, transport damage and damage caused by lack of care and maintenance as well as the use of batteries and chargers that have not been tested and approved by us are excluded from the warranty. All parts subject to wear and tear such as brushes, rollers, filters, sliders, suction lips, etc. are not covered by the warranty. Recourse claims of the buyer against us shall only exist insofar as the buyer has not made any agreements with his buyer which go beyond the

legally mandatory claims based on defects. Furthermore, paragraph 7 shall apply mutatis mutandis to the scope of the buyer's right of recourse against us.

8. In the event of rectification, the warranty shall only recommence with respect to the rectified part; otherwise, the original warranty period shall apply.
9. Warranty claims for accumulators and batteries require that a defect exists at the time of delivery. Reference is made to paragraph 3. Later defects are due to use and are not subject to warranty.
10. Our spare parts are to be used exclusively for the products sold by us.
11. The purchase of our products does not include their disposal, unless there is a legal obligation on our part (e.g. German Electrical Law).

## **§ 11 Liability**

1. Without prejudice to the above provisions and the following limitations of liability, we shall be liable without limitation for damages to life, limb and health resulting from a negligent or intentional breach of duty by our legal representatives or vicarious agents and for damages covered by liability under the German Product Liability Act and for all damages resulting from intentional or grossly negligent breaches of contract and fraudulent intent on the part of our legal representatives or vicarious agents.

Insofar as we have given a quality and/or durability guarantee for the goods or parts thereof, we shall also be liable within the scope of this guarantee. However, we shall only be liable for damage based on the absence of the guaranteed quality or durability, but which does not occur directly on the goods, if the risk of such damage is clearly covered by the quality and durability guarantee.

2. We shall also be liable for damages caused by simple negligence, insofar as this negligence concerns the breach of such contractual obligations, the observance of which is of particular importance for achieving the purpose of the contract (cardinal obligations). Essential to the contract are the obligations to deliver and install our goods on time, their freedom from defects of title as well as such material defects which impair their functionality or usability more than only insignificantly, as well as consulting, protection and care obligations which are intended to enable the buyer to use the goods in accordance with the contract or which are intended to protect the life and limb of the buyer's personnel or to protect his property from considerable damage. However, we shall only be liable to the extent that the damages are typically associated with the contract and are foreseeable.

We shall not be liable for simple negligent breaches of secondary obligations not essential to the contract.

3. Insofar as our liability is excluded or limited, this also applies to the personal liability of our employees, workers, staff, legal representatives and vicarious agents.

## **§ 12 Confidentiality**

The buyer shall keep secret from third parties all knowledge obtained from the business relationship with us which is not public knowledge.

## **§ 13 Data protection**

HEFTER may process and store the data disclosed by the customer to the extent necessary for the execution and performance of the contract and for as long as HEFTER is obliged to store such data by law. All personal data communicated by the customer will be used in accordance with the provisions of the applicable laws, in particular the German Federal Data Protection Act (BDSG) and the General Data Protection Regulation (GDPR). Details of this can be found in the data protection declaration on our website at <https://www.hefter-cleantech.com/en/privacy-policy-en.html>.

## **§ 14 Miscellaneous**

1. In the case of direct deliveries by us to the end customer, the general terms and conditions shall apply accordingly. In this case, HCT is entitled to have the rights of the customer arising from the GTCs carried out by its sales licence partner in the corresponding territory. The customer must allow this to be considered the place of performance by HCT.
2. This contract and all legal relations between the parties shall 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).
3. Place of performance and exclusive place of jurisdiction for all disputes arising from this contract is our registered office in Prien am Chiemsee, Germany, unless otherwise stated in the order confirmation.
4. This is the English translation of our German General Conditions of Sale. Should there be any discrepancies between the German and English versions, the German version shall apply.