

The translation of these General Terms & Conditions is intended purely as a courtesy. Only the German version is legally binding. In addition, only the German version forms part of the contract.

10. General Terms & Conditions: <https://www.gaugele.com/wp-content/uploads/2019/06/gaugele-agb-2018.pdf>

1. Applicability

1.1 Sale, delivery and assembly shall exclusively be subject to the following terms and conditions. With the placement of an order, the ordering party – hereinafter referred to as ‘buyer’ – has accepted these terms and conditions.

1.2 Divergent arrangements must be made in writing. This applies in particular to purchasing conditions of the buyer. These require Gaugele’s express written consent in order to become effective.

1.3 In case of continuing business relations, these conditions shall also apply to future transactions.

2. Quotation and conclusion of contract

2.1 Gaugele’s quotations are non-binding and subject to change. A contract shall only be concluded upon receipt of a written order confirmation by Gaugele. If Gaugele can prove by submission of a transmission report that this order confirmation has been sent by fax or telecommunications, it shall be assumed that the buyer has received the declaration.

2.2 The initial quotation shall be free of charge, unless – in exceptional cases – Gaugele has pointed out to the buyer before the submission of the quotation that costs are incurred, and the buyer has agreed to such provisions in writing.

2.3 Further quotes as well as design drafts are always subject to charge. Gaugele shall refrain from making these claims as long as a delivery contract is concluded and the buyer completely and timely fulfills his contractual obligations.

2.4 Cost estimates, drafts, drawings and calculations shall remain the property of Gaugele and must not be copied and/or made accessible to third parties without Gaugele’s consent. At Gaugele’s request, they shall be promptly returned to Gaugele if no contract is concluded. This also applies in cases where the buyer bears the costs for the preparation of the quotation.

3. Prices

3.1 Gaugele’s prices are subject to change.

3.2 Price changes are permissible if the period between closing of the contract and the agreed delivery date exceeds three months. If wages, material costs or market-related prices increase until the completion of the order, Gaugele reserves the right to adapt the price by a reasonable amount according to the increased costs. The buyer shall only be entitled to withdraw if the price increase exceeds the increase in the

general cost of living by more than 50 percent between the time the order was placed and the delivery.

3.3 Any additional work not included in the quotation but executed upon request of the buyer will be invoiced separately based on wages and material costs in accordance with Gaugele's current price list.

3.4 Fees and other costs related to the fulfillment of official requirements are the responsibility of the buyer.

3.5 The statutory value added tax is not included in the prices and shall be added in its respective amount.

4. Terms of payment

4.1 Invoices are payable purely net – without deduction – as follows:

- a) one third upon placing the order,
- b) one third after notification that supplies are ready for dispatch,
- c) one third within 20 days as of date of invoice.

4.2 Only claims which are uncontested or have been determined with legal validity shall entitle the buyer to offset payment.

4.3 Bills of exchange are permitted only with Gaugele's consent: their expenses and costs as well as the risk of timely presentation shall be borne by the buyer. Payment by bills of exchange will only be accepted on account of payment but not in lieu of payment.

4.4 If the payment period is exceeded, interest of at least eight percent above the current discount rate of the ECB shall be charged at the time of default, with a reservation of the right to assert further compensation claims.

4.5 In the event of default of payment and/or reasonable doubts regarding the buyer's solvency or creditworthiness – irrespective of other claims – Gaugele shall be entitled to demand securities or further advance payments for outstanding deliveries.

This shall not affect Gaugele's right – if the delivery has already taken place – to repossess machines and equipment delivered under reservation of title at the buyer's expense, if the buyer has not provided additional securities or fulfills the contractual obligations.

4.6 In case of defects, the buyer shall not be entitled to a right of retention unless the delivery is evidently defective or the buyer has an apparent right to refuse the acceptance of the delivery. In such a case, the buyer shall only be entitled to a right of retention to the extent that the amount withheld is in a reasonable proportion to the defects and the anticipated costs of the subsequent fulfillment (in particular the remedy of defects).

The buyer shall not be entitled to assert claims and rights relating to defects if he has not made due payments and the due amount (including any payments already made) is adequate in relation to the value of the delivery or work containing the deficiency.

5. Delivery period

5.1 Compliance with the agreed delivery date for goods and services is conditional upon the clarification of all technical details with regards to system design and upon the buyer's fulfilment of all (advance) payments pursuant to sec. 4 of these Terms & Conditions and all other contractual obligations. If this is not achieved, agreed delivery dates shall be proportionately extended. Similarly, in the event of reconstructions or changes requested by the buyer, delivery deadlines may be suspended until the changes have been made and a clearance of these changes have been issued by the buyer.

5.2 In case of a delay in delivery, the buyer shall not be entitled to the right to rescind from the contract: on the contrary, if the agreed delivery time has been exceeded, the buyer shall grant a reasonable period of grace.

5.3 Partial deliveries shall be permissible providing they do not result in any disadvantages with regard to use.

5.4 The delivery deadline is deemed to have been met:

a) in case of deliveries without assembly, when the respective order is ready for shipment and the buyer has been informed accordingly;

b) in case of deliveries with assembly, as soon as the unit is fully operational, has been made ready for operation, or has been put into operation.

5.5 If the delivery or the assembly is delayed due to the fault of the buyer, Gaugele shall be reimbursed for any costs incurred.

5.6 When a delivery is reported ready for shipment, it shall immediately be retrieved by the buyer. If no such request is made, Gaugele shall be entitled to store the goods at their discretion at the cost and risk of the buyer, and, after setting a period of acceptance and its expiry, to fully invoice the goods according to sec. 4.1.

5.7 In case of force majeure – these are circumstances and occurrences which cannot be prevented by diligence of proper business management (e.g. strikes, catastrophes, etc.) – the delivery period shall be extended by the duration of the delay. If delays caused hereby exceed a period of two months, both contractual parties shall have the right to withdraw from the contract.

In the event of such a termination, the buyer shall not be entitled to any compensation.

6. Shipping and transfer of risk

6.1 Unless otherwise stipulated in the order confirmation, delivery 'ex works' shall be deemed agreed. Shipment shall take place at the risk and expense of the buyer, who shall also bear all risks of loss and damage.

6.2 At the buyer's request, Gaugele shall insure the consignment at the expense of the buyer.

6.3 Following the arrival of the delivered goods at the place of destination – also before assembly – , the buyer shall be responsible for damage resulting from fire, explosions, theft, or water, frost and rust damage.

6.4 Damage occurring to goods during transportation are to be immediately reported to the responsible carrier, and Gaugele shall subsequently be notified with the confirmation issued by the carrier. In the case of damage having been incurred which entitles the buyer to compensation by the carrier, Gaugele herewith already assigns all claims to which they may be entitled to the buyer. Claims of the buyer against Gaugele shall be excluded. The buyer is informed that the carrier's confirmation regarding any transport damage is required as evidence of any claims against the carrier.

6.5 A preclusive period of eight days after receipt of the ordered machines and equipment shall apply for the notification of defects, as long as they are obvious and identifiable.

7. Installation and customer service

7.1 If the installation of the machines and equipment (system) is carried out by Gaugele and its technicians, the buyer shall only be obligated to notify the carrier of any obvious transport damages – until the arrival of the technicians.

7.2 All assemblies that are directly connected with the installation of the system shall be concluded with the trial run. The buyer shall be informed of the completion of installation and of the system functionality by a corresponding testing protocol.

7.3 The buyer shall receive a detailed operator's manual.

7.4 Installation and assembly services do not include additional work which may become necessary due to the system installation, such as masonry, carpentry or paintwork, the routing of electrical cables, or their fuse protection and connection to the equipment.

Such work is only to be carried out by the buyer's own qualified specialists according to Gaugele's specifications, assembly guidelines, and installation instructions.

7.5 On site, mounting frames and auxiliary personnel shall be provided in a sufficient number. If this is not done, Gaugele shall be entitled to refuse execution of the assembly while being granted full compensation by the buyer, and to invoice any additional costs resulting from the delay.

7.6 The working day of the installation personnel consists of eight hours. Should overtime be necessary at the request of the buyer, it shall be compensated with a premium of 25%. Nightly hours shall be paid at a premium of 50%, and work on Sundays or holidays at a premium of 100%. The work hours between 20:00 hrs and 6:00 hrs shall be considered night work. Preparation, travel and waiting time shall be considered and counted as working time.

These expenses shall not be applicable provided they are already calculated and stipulated as assembly costs in the quotation.

7.7 If installation or launch of the system is delayed – without Gaugele being at fault – the buyer shall bear all costs for waiting time and possibly additional required travels. The provisions as laid out in sec. 7.5 and 7.6 shall apply.

7.8 If assembly is charged at a fixed price, the amount has been calculated for work during normal weekly working hours. Possible work hours outside of ordinary weekly business operations, which become necessary as stated in sec. 7.4 and 7.5, shall be

at the expense of the customer, if these become necessary due to additional or supplementary contracts, or because the buyer has defaulted in his obligations to provide auxiliary personnel or external contractors for the preparation of assembly.

8. Warranty and liability

8.1 The warranty period for the following machines and equipment shall be one year from the notification on their operational readiness/acceptance:

- One year for control cabinets, control units, system control, IT devices for system monitoring, sensors/temperature-measuring instruments, cooling and ventilation units
- Five years for ventilation ducts and air valves installed by Gaugele

8.2 The warranty period of control cabinets, control units, and control and ventilation systems shall be extended to two years, if the following conditions are fulfilled: a continuous and central monitoring system provided by Gaugele is controlled by a computer system supplied by Gaugele; the computer system is continuously operating from the time of the system launch and periodically records all system processes; and maintenance of the system takes place on a regular basis according to a maintenance contract with Gaugele.

8.3 If component suppliers have provided Gaugele with accessory parts for the system, the warranty of which is longer than the period provided by Gaugele, the warranty of the manufacturer shall apply.

8.4 No warranty shall apply to electrical parts and supplies ordered by the buyer or contracted by him in the course of the assembly preparation.

8.5 After Gaugele has reported the operational readiness of the system, the buyer shall inspect the system without delay after commissioning, in order to ascertain the condition and the suitability for the intended purpose. Otherwise, the services shall be considered as being approved.

8.6 Notices of apparent defects and other claims shall be reported in writing and including corresponding documentation (description of defects) within eight working days after the detection of the defect.

8.7 The warranty extends to replacement or repair of the rejected parts.

8.8 Defect claims shall not apply if there is merely an insignificant divergence from the agreed condition or only minor impairment of the usability.

8.9 Irrespective of further claims from Gaugele, the buyer shall, in case of an unjustified notice of defects, reimburse Gaugele for any expenses incurred in examining and, if requested, in eliminating the defect.

8.10 The warranty in the form of removal of defects shall be fulfilled by Gaugele or by a recognized workshop authorized by Gaugele.

8.11 Gaugele shall have no liability for damages resulting from defective construction, insofar it has been carried out by contractors commissioned by the buyer for the installation of the system; natural wear and tear; worn seals; rust; chemical or electrical influences; incorrect operation; improper handling or forcible destruction; insufficient or neglected management of the system; and other breaches

of the recommendations and regulations in the operator's manual on the part of the buyer or his deployed personnel.

8.12 The claim for warranty shall also expire if work and modifications are performed to the system without Gaugele's consent or without having requested an improvement.

9. Limitations of liability

9.1 In cases of intent or gross negligence on the part of Gaugele or one of its representatives or vicarious agents, as well as in the case of injury to life, body, or health being caused by slight negligence, Gaugele shall be liable under the terms of the law. In cases of gross negligence, Gaugele's liability shall be limited to the foreseeable loss typical to the contract, unless any exceptions other than those in clause 1 or clause 3 of this section 9.1 have also occurred. In addition, Gaugele is only liable pursuant to the Product Liability Act or for the culpable infringement of significant contractual obligations.

Damage claims for the infringement of significant contractual obligations, however, shall be limited to the foreseeable loss typical to the contract, unless any exceptions other than those in clause 1 or clause 3 of this section have also occurred.

9.1.1 The provisions of the aforementioned section one shall apply to all damage claims (in particular for damages in addition to performance and damages in lieu of performance), irrespective of the legal grounds, in particular for defects, for breach of contractual obligations, or for inadmissible actions. They shall also apply to claims for the reimbursement of futile expenditure. The liability of delay, however, shall be determined in accordance with sec. 9.2 of these Terms & Conditions, and the liability of impossibility in accordance with sec 9.3 of these Terms & Conditions.

9.1.2 The above provisions do not constitute any change to the burden of proof to the disadvantage of the buyer.

9.2 In cases of intent or gross negligence on the part of Gaugele or one of its representatives or vicarious agents, as well as in the case of injury to life, body, or health being caused by slight negligence, Gaugele shall be liable for delay in performance under the terms of the law. In cases of gross negligence, however, Gaugele's liability shall be limited to the foreseeable loss typical to the contract. Apart from the cases as stated in clause 1, Gaugele's liability on account of delay for damages in addition to performance is limited to a total of 50 percent, and for damages in lieu of performance (including the reimbursement of futile expenditure) to a total of 25 percent of the consignment value.

Any further claims by the buyer – even after expiry of a performance period set for Gaugele – shall be excluded. This limitation shall not apply in the case of culpable breach of significant contractual obligations. Damage claims for the culpable breach of significant contractual obligations shall, however, be limited to foreseeable loss typical to the contract, unless a further case in accordance with clause 1 has occurred.

The buyer's right to withdraw from the contract shall remain unaffected. The above provisions do not constitute any change to the burden of proof to the disadvantage of the buyer.

9.3 In cases of intent or gross negligence on the part of Gaugele or one of its representatives or vicarious agents, as well as in the case of injury to life, body, or

health being caused by slight negligence, Gaugele shall be liable for impossibility of performance under the terms of the law. In cases of gross negligence, however, Gaugele's liability shall be limited to the foreseeable loss typical to the contract, unless any exceptions other than those stated in clause 1 have also occurred. Apart from the cases in clause 1, Gaugele's liability on account of impossibility is limited to damages and to the reimbursement of futile expenditure to a total of 50 percent of the consignment value.

Any further claims by the buyer for impossibility of performance – even after expiry of a performance period set for Gaugele – shall be excluded.

The buyer's right to withdraw from the contract shall remain unaffected. The above provisions do not constitute any change to the burden of proof to the disadvantage of the buyer.

10. Reservation of title

10.1 The delivered goods (equipment and machines) shall remain the property of Gaugele until the fulfillment of all claims owed to Gaugele by the buyer through their business relationship.

10.2 In the event of the sale of the delivered goods, or the sale of the system or the building in which the system is installed, the buyer herewith assigns by way of security all claims ensuing from the resale against its customer, along with all ancillary rights, to Gaugele. The assignment shall not exceed the amount that equals the value of the delivered goods as invoiced by Gaugele – less any prepayments made.

Gaugele herewith accepts this assignment.

10.3 As long as the reservation of title remains in effect, any pledging or assignment by way of security shall be prohibited. In the event of seizures, confiscation, or other interventions or actions by third parties, the buyer shall be obliged to inform Gaugele immediately.

In the event of a resale of the system or of the property on which the system is installed, the buyer shall be obliged to inform its customer that ownership is not acquired until all payments have been made to Gaugele.

In the event of a breach of duty by the buyer, in particular in case of default of payment, Gaugele shall have the right, even without setting a time limit, to reclaim possession of the system and the delivered goods and to withdraw from the contract. The buyer shall be obliged to return said objects.

Reclaiming of possession of the system and the delivered goods shall not constitute withdrawal from the contract by Gaugele, unless a withdrawal is expressly announced.

11. Place of jurisdiction, partial invalidity, and general regulations

11.1 Place of jurisdiction is the court having jurisdiction for the registered office of Gaugele, in this case the relevant competent district courts of Weilheim or Munich II. However, Gaugele shall reserve the right to pursue legal action against the buyer at any other admissible court of law.

11.2 If individual provisions of these General Terms and Conditions become invalid, the effectiveness of the remaining provisions shall not be affected thereof.

11.3 Any legal relations between the parties shall be governed by German Law, under the exemption of the UN Convention of Contracts for the International Sale of Goods.