

**General terms and conditions of sale and delivery of  
Gustav Heess Oleochemische Erzeugnisse GmbH**

**1. General**

- 1.1 These terms and conditions of sale and delivery apply exclusively to all, even prospective contract formations; conflicting or deviating conditions of the buyer shall not be recognised by us, unless the application is expressly agreed in writing. The exclusive application does not preclude that we carry out the delivery without reservation when we are aware of conflicting or deviating conditions of the buyer. The terms and conditions of sale and delivery apply only to entrepreneurs within the meaning of § 14 German Civil Code, legal entities under the public law and public law special funds.
- 1.2 All offers are subject to change and are non-binding. We are authorised to alter our assortment at all times and without notification.

**2. Delivery**

- 2.1 Agreements on the binding delivery periods must be in writing. Unless otherwise agreed explicitly, the delivery shall be made within the agreed delivery period at our discretion. The buyer shall be notified of the day of delivery at least three working days in advance, where the day of notification is not included. If the delivery period is several months, then the delivery will be made in approximately equal quantities per month, unless otherwise explicitly agreed upon.
- 2.2 If the delivery is across several months, we may, unless otherwise explicitly agreed upon, deliver the goods for acceptance during the delivery period at our discretion. The buyer must issue a release order in executable form for the acceptance of the goods in case of delivery within five working days after the receipt of the delivery. If we do not use our pre-emption right and the buyer has not issued any release order till the end of the delivery period or till the release order date, we can deliver the goods even after the expiry of the delivery period, as long as we have not withdrawn from the contract. We can set an appropriate grace period for the buyer in any case for fulfilling his obligations. After this grace period has elapsed, we can withdraw from the contract or from its unfulfilled part and/or can claim compensation instead of the service.
- 2.3 We are authorised to refuse the execution of the relevant order, as long as the buyer is in default with the acceptance or receipt of a delivery or with a payment from any contract concluded with us.

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- 2.4 The fulfilment and compliance with the delivery obligations by us requires the correct and timely self-delivery to us. We are entitled to part deliveries or part performances insofar as this is reasonable to the buyer.
- 2.5 If, after the conclusion of a contract, its fulfilment is prevented by force majeure, import or export bans domestically or internationally, official measures or other circumstances that are not caused by a contracting party, the contract or, if it is fulfilled partly, its unfulfilled part is repealed. The relevant other contracting party must be informed about the aforementioned circumstances immediately after they have come to light.
- 2.6 If the fulfilment is hindered by basic events or by turmoil, strike, lockout, a shipment blockade or other equivalent circumstances, the fulfilment period is extended by the duration of the hindrance, if we show the hindrance to the buyer immediately after learning about it or at the beginning of the fulfilment period. No events in the aforementioned context are those, which have been negligently caused by us. The buyer may withdraw from the contract as soon as and if he cannot reasonably be expected to wait further beyond the deferred fulfilment period.

### 3. Shipment/Weighing

- 3.1 The buyer is entitled to be present or have himself represented by someone during the shipment for verifying the weight or for sampling. The weight verified at the place of departure is decisive for ascertaining the weight.
- 3.2 The shipment is carried out EXW (ex works) according to the Incoterms 2010, unless otherwise explicitly agreed under the contract.
- 3.3 If the transport is carried out in containers provided by the buyer, we are not obligated to check the suitability of these containers for transport. The same holds true if the goods are examined by a third party on behalf of the buyer (shipping agent, transport and freight carrier). We shall not be responsible for any contamination or other damage to the goods due to uncleanness or other defects or ineptness of the means of transport provided by the buyer.

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**4. Weight**

The agreed amount by weight may exceed or deceed up to 5% by us. Shortfalls/exceedances will be calculated precisely at the agreed price.

**5. Packaging**

Our means of transport must be emptied immediately after arrival, the buyer shall bear any incurred demurrage / roadstead. Returnable packaging (barrels, containers etc.) will be provided to the buyer free of charge. We will take back every packaging that was previously filled with our products free of cost in fulfilment of the packaging regulations. The collection point for this packaging is the location in Germany that is decided by us. The packaging must be delivered there carriage paid. The buyer shall bear the costs incurred by the disposal of the remaining quantities or by packaging that is contaminated due to external products.

**6. Quality**

- 6.1 The quality of the goods to be delivered is determined according to the contractual agreements. If no agreement is made regarding the quality of the goods in question, then sound, customary goods of medium type and quality must be delivered.
- 6.2 If sold by sample, the properties of the sample are said to be guaranteed only if this is explicitly agreed in writing.
- 6.3 The buyer is responsible for ascertaining the suitability of the delivered goods for the use intended by him. This also holds true for the admissibility of any sale in a certain geographical area.

**7. Warranty**

- 7.1 Warranty rights require the buyer to fulfil his obligation to inspect and complain according to § 377 German Commercial Code. We must display defects immediately upon arrival such that we can verify the complaint. For this purpose, the rejected goods are to be left in the shipping containers, unless we have waived this explicitly in writing and the buyer ensures the separate safekeeping of the rejected goods and their non-processing. In case of a defect, we are authorised to eliminate it or to substitute delivery at our discretion. We shall not reimburse any additional expenses for the supplementary performance, which are incurred by the transportation of the rejected goods to a destination other than the one agreed for delivery.

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- 7.2 The buyer is obligated to clarify prior processing whether the delivered goods are suitable for his intended use with the help of tests appropriate to the scope and methods. We shall not be liable for any damages to the other goods of the buyer, if the buyer omits examinations that are necessary, reasonable and customary in this regard.
- 7.3 Warranty claims of the buyer against defects of the delivered goods as per § 437 German Civil Code shall lapse within a term of one year. The term starts with the delivery of the goods. This does not apply if longer periods are mandatory by law, i.e. particularly in the vases of §§ 438 Sec. 1 no. 2, 478, 479 German Civil Code.

## 8. Non-liability

- 8.1 Within the framework of the statutory provisions, we shall be liable for compensation, if the damage is based on intent or gross negligence on our part, our representatives or agents. We, our representatives or agents shall not be liable for ordinary negligence. This does not apply if a fundamental contractual obligation has been violated or life, body or health of a person is endangered or if there is a mandatory liability based on the provision of the product liability act. Fundamental contractual obligations are those arising from the nature of the relevant contract and the violation of which endangers the achievement of the contractual purpose.
- 8.2 Compensation claims of the buyer are limited to the typical foreseeable damages, provided that these are not based on intent or gross negligence on our part, our legal representatives or agents. The limitation also does not apply to liability for damage from injury to life, body and health of a person in cases of a mandatory liability as per the provisions of the product liability law.

## 9. Offset/Liens

The buyer is only entitled to offset or exercise liens under contracts for other deliveries, if the claim made for offsetting or for the assertion of the lien has been accepted by us in writing or has been legally established.

## 10. Retention of title

- 10.1 The delivered goods shall continue to remain our property until all claims arising from the business relationship with the buyer have been met. This also holds true if our claims are included in a current account and balances are drawn and recognised.

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- 10.2 The buyer may process and sell the delivered goods in the regular course of business as long as he is not in default. In case of resale to his customer, the buyer shall also reserve the ownership to the reserved goods until full payment of the purchase price. He is not entitled to pledge or surrender the reserved goods for security. The buyer shall hereby assign the third-party claims arising from the resale or from another legal basis related to the reserved goods to us in the invoiced amount for the reserved goods as a way of security. We shall accept the assignment.
- 10.3 The buyer shall process and finish the reserved goods for us. If the reserved goods are processed with other objects or with the goods of the buyer or are inseparably mixed, then we shall acquire co-ownership of the new good in proportion of the invoice value of the reserved goods to the other goods at the time of processing or mixing. If the object of the buyer is said to be the main item due to the mixing, the buyer shall transfer the proportional co-ownership to us. The buyer shall store the goods for us with regard to the resulting sole or co-ownership. The above regulations apply to the reserved goods for the goods resulting from processing, connection or mixing.
- 10.4 If the value of the securities permanently exceeds our claims by more than 10%, then we shall release securities of our choice at the buyer's request.
11. **Confidentiality:** This applies only to those contracts, which are concluded with our laboratory!
- 11.1 We shall bear the responsibility for handling all the information that has been obtained or created while performing the laboratory activities. We shall inform the customer beforehand about which information we intend to make freely accessible. All the other information shall be considered as protected information and must be treated as confidential. This does not apply if the customer has made the information accessible to the public or if there is a deviating contractual agreement.
- 11.2 If we are legally obligated or are authorised by contracts to disclose confidential information, the relevant customer or the person concerned will be instructed on the provided information unless prohibited by law.
12. **Place of performance, place of jurisdiction, governing law**
- 12.1 The place of performance for the delivery and payment is Leonberg.

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- 12.2 The contractual relationship between us and the buyer shall be governed exclusively by the German law. The UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 12.3 The exclusive place of jurisdiction for all legal disputes arising from the legal relationship between us and the buyer is our place of business. However, we are entitled to sue the buyer even at his general place of jurisdiction (place of business).

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