

**Georg Oest Mineralölwerk GmbH & Co. KG**  
**72250 Freudenstadt**  
**General Terms and Conditions of Sale and Delivery (GTCS)**  
**Valid from August 2<sup>nd</sup> 2010**

**All our quotations and deliveries are based on these GTCS. Any conditions of the purchaser which deviate from these shall only be valid if we have expressly consented to them in writing.**  
**Any collateral agreements, amendments or additions made orally or by telephone must be confirmed by us in writing to be valid.**

**I. Conclusion of Contract, Prices**

- Our offers are non-binding and subject to confirmation. Supply agreements are only concluded if we accept or execute the order.
- We shall invoice the price which is valid on the date of dispatch. Our prices shall be "ex works" plus VAT, charges and levies at the statutory rates.
- In the event that a price reduction is agreed with the purchaser for a specific order volume and the purchaser does not purchase the order volume in full within the time period agreed then the list price on the date of the conclusion of the agreement shall apply for the amount delivered. If the purchaser requests part deliveries, then the purchaser shall bear any additional costs which result therefrom.

**II. Delivery / Passage of Risk**

- The risk shall be transferred on handover of the goods by us at our works or when delay in acceptance occurs. If part deliveries are made this shall also apply to the respective part delivery.
- In the event that we assume transport in an individual case then the purchaser shall bear the risk and the costs of such transport. This shall also apply in case of transport by our employees or with our transport vehicles. Selection of the freight carrier shall be made at our due discretion.
- If the purchaser so wishes, we will insure the delivery with transport insurance. The purchaser shall bear any costs incurred for such insurance.
- Analysis data and key figures for our products are determined in accordance with the respective DIN standards. Samples provided and typical key figures provide an indication of the quality of the goods to be delivered within the usual tolerances.
- The amount of goods delivered can deviate from the amount ordered within the range customary in the trade. When ascertaining the amount of liquid goods delivered: if delivered in transport vehicles with calibrated measuring devices, then the recording of such calibrated measurement shall be decisive. In all other cases our amounts or weights shall apply or those of our plant from which the goods are dispatched, if delivered directly from the plant.
- We shall be liable in accordance with statutory provisions, provided the contract is based on a transaction where delivery is by a fixed date. In such a case, if we have not acted with intent, our liability is restricted to foreseeable damage typical of this type of contract.
- Under statutory provisions we are also liable if the purchaser is able to justify that, as a result of a delay in delivery for which we are responsible, it has no further interest in fulfilment of the contract. In such a case, if we have not acted with intent, liability is restricted to foreseeable damage typical of this type of contract.
- In the event of a delay in delivery the purchaser can demand not only delivery but also reimbursement of any loss incurred by the delay. However, provided we have not acted with intent or gross negligence, this claim is restricted to 0.5 % of the delivery value of the delivery in delay per week of delay and to a maximum of 5 % of the value of the merchandise to be delivered. The right of the purchaser to rescind the agreement once a reasonable subsequent deadline has expired and/or to compensation owing to non-performance in accordance with these GTCS shall remain unaffected.

**III. Period of Performance, Interruption of Services**

- Delivery dates and deadlines do not become legally binding until we have confirmed them in writing.
- Our observance of the delivery dates and deadlines stated is contingent on proper and punctual fulfilment of all obligations incumbent upon the purchaser.
- Part deliveries are permissible to the extent that they can be reasonably acceptable for the purchaser.
- Observance of the delivery periods and dates is also subject to us having been supplied in a correct and timely manner. Should it become apparent that delays are likely the purchaser will be notified as soon as possible.
- Force majeure, industrial disputes, unrest, official measures and other external events which have no operational connection, are unforeseeable and unavoidable despite the application of due care shall release the contractual partners from their performance obligations for the period of the disturbance and the scope of their implications. As far as can be reasonably expected, the parties shall provide whatever information is necessary without undue delay and adjust their obligations to the changed circumstances in good faith. If an event of force majeure lasts for more than eight weeks each party to the contract is entitled to rescind the agreement. The purchaser shall not be entitled to compensation in such cases.
- If there is a shortage of goods based on force majeure we shall be entitled to reduce deliveries (part deliveries). With regard to the scope of such part deliveries, to the extent possible we shall take into account the significance of our deliveries for the purchaser.

**IV. Claims Arising from Defects**

- If delivery is incomplete or if there is obvious external transport damage the purchaser shall notify the transport company of this on receipt of the goods. Transport damage which is not detectable from the outside shall be reported to the transport company in writing at the latest within seven days after delivery. We shall definitely be informed of this by written notification.
- The purchaser shall only be entitled to redress for defects if it has duly complied with its duties to inspect the goods and report defects under § 377 of the Commercial Code (Handelsgesetzbuch). Complaints regarding defects shall be in writing and require that we are provided with a sample for the purpose of retesting of at least one kg, or for fuel and propellants five litres, of the delivered goods, in particular of the goods already used. We shall be entitled to obtain the sample ourselves or to observe on location that the sample is taken in an orderly manner in accordance with the relevant norms. If this is not the case, or if the deadlines for complaints are not observed then warranty claims shall be excluded. The contractually owed quality of the goods shall be set out exclusively in our product specifications which prevail at delivery. Properties of samples and typical key figures are only binding in as far as they have specifically been agreed in writing as a quality of the goods. Information as to quality and product life and other information shall only be considered to be guarantees if they have been specified as such and agreed in writing with our management.
- If defective goods are delivered and proper complaint is made at our discretion we will remedy the defect or deliver goods which are free of defects.
- Claims as to defects shall not exist if the defect results from inappropriate or unsuitable use or storage, inappropriate or unsuitable transport, faulty or negligent handling or a change based on environmental conditions particular to the nature of the goods.
- Claims arising from defects, rights of rescission or reduction shall become statute-barred after expiry of 1 year after the delivery. This shall not apply if we have caused the defect intentionally, fraudulently concealed a defect or guaranteed a specific quality. In the latter case the extent of liability depends on the guarantee declaration.

**V. Other Liability**

- We shall be liable for intent and gross negligence and intent and gross negligence on the part of our legal representatives and vicarious agents. If we or our legal representative or vicarious agents has (have) not acted with intent, liability is restricted to foreseeable damage typical for this type of contract.
- Also we shall be liable in the event of negligent injury to life, body and health caused by us, our legal representative or vicarious agents and in the event of a fraudulently concealed defect or of assumption of a guarantee. In the latter case the extent of liability depends on the guarantee declaration.
- We shall also be liable if we, our legal representatives or vicarious agents negligently breach duties which are material for fulfilling the contract and which the purchaser relies on or is entitled to rely on being fulfilled. If we or our legal representative or vicarious agents has (have) not acted with intent, liability is restricted to foreseeable damage typical for this type of contract.
- We shall also be liable in instances of mandatory statutory liability, for example pursuant to the Product Liability Act.

- Otherwise liability is excluded irrespective of the legal grounds.

- The purchaser shall notify and consult us comprehensively in writing and without undue delay if it intends to seek legal recourse in accordance with the aforementioned provisions. The purchaser shall provide us with an opportunity to examine the allegations.

**VI. Transport and Storage of the Purchaser, Returnable Containers**

- We are not required to inspect means of transport and containers for storage provided by the purchaser to ensure they are suitable and clean before filling them. It is the duty of the purchaser to designate the correct containers and/or connections to our delivery personnel. We shall not be liable for damage which results from unsuitable storage containers or connections which are labelled falsely by the purchaser or its personnel. The purchaser shall indemnify us from third party damages claims in such cases.
- Returnable containers used to deliver goods shall remain our property. The purchaser shall store the returnable containers free of charge and return them to us freight free, completely empty, cleaned at its cost and re-sealed, unless we indicate another means of return in an individual case. The containers may not be used for purposes other than storing and extracting our products. If returnable containers remain with the purchaser for more than three months for reasons for which we are not responsible we may demand adequate compensation for use. We shall be entitled to compensation if returnable containers are not returned despite written warning and setting of a subsequent deadline, or if returned in a condition which no longer allows that they are used for the previous purpose. The purchaser shall reimburse the costs for cleaning if the container is excessively dirty.

**VII. Payment**

- Net payment of invoices is due immediately upon receipt and performance. If an agreement is made regarding payment terms the term shall commence on the delivery date. The payment shall be made so that we are free to dispose over the amount due on the due date; payment shall be by bank transfer, cash or cheque. Cheques are only accepted as a form of payment.
- The purchaser is automatically in default of payment 7 days after the due date and receipt of the invoice, unless it is not responsible for non-payment. If payment by instalments has been agreed and if the purchaser defaults on payment of an instalment the residual debt from the contractual relationship shall be due for payment immediately. The assertion of any further loss shall not be excluded hereby.
- If the asset situation of the purchaser deteriorates after conclusion of the contract or if a deterioration in assets only becomes noticeable once the contract has been concluded so that our payment claim is at jeopardy we may, subject to any further claims, revoke payment terms granted and make further deliveries dependent on advanced payment for the grant of other securities. This shall apply accordingly for default on payment or other material changes in the economic or legal situation of the purchaser (e.g. closure of business, change of owner, change of legal form).
- If justifiable doubts arise subsequently with regard to the creditworthiness of the purchaser and these put our claims against the purchaser at risk we shall be entitled to rescind unless we receive security or cash upon delivery before handover or filling the goods into containers of the purchaser.
- The purchaser shall not be entitled to offset our claims to payment with counter-claims or to exercise a right of retention unless the counter-claim or the right of retention is undisputed or confirmed by a final and absolute decision.

**VIII. Reservation of Title**

- We retain title in the goods delivered until we have received full payment of all – also future – claims in connection with the business relationship from the purchaser (reserved goods). In the event of a current account, retention of title shall serve as security for amounts due to us.
- In case of serious breaches of contract, in particular default of payment, or a substantial deterioration of the financial situation of the purchaser, the purchaser shall be required upon request to return to us at its cost all reserved goods in its possession. In this case the purchaser hereby permits us to pump the respective goods from its stock into our means of transport.
- The purchaser shall treat the reserved goods with care; in particular it shall insure them sufficiently against fire, water and theft at reinstatement value at its own cost. The purchaser shall provide proof that insurance policies have been concluded upon request and hereby assigns the claims from these insurance policies to us in advance.
- The processing of or alteration to reserved goods shall always be carried out for us by the purchaser. If the goods are processed using other items which do not belong to us, we shall acquire co-ownership of the new item in the ratio of the value of our goods to the other processed items at the time of processing. If the purchaser combines or mixes any goods in which we have retained title with other items to form a new single item in such a way that one of the other items must be regarded as the main item, the purchaser hereby assigns to us pro rata (co-)title in the new item created, such (co-)title being the ratio of the reserved goods to the value of the combined or mixed items at the time of such combining or mixing. We hereby accept such transfer.
- Until revocation of this authorisation, the purchaser may sell the goods owned or co-owned by us in the ordinary course of business, however they may not be pledged or used as security. The purchaser hereby assigns to us as security its claims which result from re-sale of reserved goods until all of our claims due at the time of sale have been settled in full. If resold together with other goods, e.g. after processing, combining, connecting, mixing or blending, the advance assignment shall be in the amount of our co-ownership share. If the reserved goods or the goods after processing, combining, mixing or blending are incorporated in the property of a third party, or if we lose ownership in the goods due to other legal transactions of the purchaser then the claims from the legal transaction shall be transferred to us as a security in the amount of the invoice value of the reserved goods or our co-ownership share.
- The purchaser shall remain entitled to collect the claim, irrespective of the transfer stipulated under 5, as long as it fulfils its obligations to us, composition or insolvency proceedings have not been filed and there is no cessation of payment. At our reasonable request the purchaser shall notify third-party purchasers of the assignment and provide us with any information and documents which we need to assert our rights.
- If the realisable value of the assignments and securities due to us exceeds our claims by more than 10 % we will release securities – at our discretion – at the request of the purchaser.
- If reserved goods or other securities granted to us under the above provisions are jeopardised by third party execution measures or otherwise, the purchaser will inform the third party about our rights and inform us in writing without delay by providing the documents and information required for intervention. If the third party is unable to reimburse the costs incurred by us in court and out of court related to a claim pursuant to § 771 of the German Code of Civil Procedure, the purchaser is liable for the damages incurred by us hereby.

**IX. Final Provisions**

- The agreement shall be subject to German law excluding the United Nations Convention on Contracts for the International Sale of Goods. In addition the Incoterms shall apply for our foreign transactions in the version which is valid upon conclusion of the agreement insofar as they do not contradict these GTCS nor any special agreements.
- If a provision in these GTCS and any further agreements concluded should be or become invalid, this shall not affect the validity of the remaining provisions in the agreement. The contractual partners are obliged to replace the invalid provision with a provision which reflects as closely as possible the economic purpose of the respective provision. The above shall also apply in case of an omission.
- Place of performance for all obligations under the contract shall be Freudenstadt.
- Exclusive place of jurisdiction for all disputes arising from or in connection with this agreement and its validity shall be Freudenstadt. However, we are also entitled at our discretion to assert claims with the court at the registered office of the purchaser.