

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

## **I. Scope of Application**

1 Our following General Terms and Conditions of Sale and Delivery ("General Terms") shall apply to all offers, estimates, orders, order confirmations, invoices or agreements between HOBUM Oleochemicals GmbH, registered with the Local Court of Hamburg under HRB 8792 ("HOBUM") and its customers ("Buyer"), unless otherwise agreed in writing between the parties. In the event of any conflict between these General Terms and Conditions and any more specific terms and conditions agreed in writing between the parties ("Specific Terms"), the Specific Terms shall prevail.

2 We hereby object to any deviating terms and conditions of the customer also for future transactions; they shall only be binding on us if we expressly accept them in writing in an individual case.

## **II. Offers, Orders and Delivery**

1 Unless otherwise stated in the offer, our offers are valid for a period of 7 calendar days. An agreement shall only be concluded between HOBUM and the Purchaser when the Purchaser has accepted HOBUM's offer in writing or, if no prior offer has been made by us, when we have issued a written order confirmation.

2 Any order placed by the Purchaser with us must be in writing and shall be deemed final and irrevocable.

3 For repeat orders, the prices of the previous transaction shall only apply if we expressly confirm them.

4 Delivery of the Products shall be made in accordance with the Incoterms (latest version) specified in the Special Conditions.

5 The Buyer accepts customary deviations of +/- 10% compared to the ordered quantity due to safety considerations or filling methods for deliveries in assembled tanks, tank trucks and silo vehicles and the Buyer accepts that the invoice amount will be increased or decreased accordingly.

6 We will use our best endeavours to fulfil each order on the confirmed delivery date and to avoid or limit delays. In the event of a (threatened) delay in delivery, we will inform the Buyer thereof without undue delay and the parties will consult on the best way to remedy the adverse consequences resulting therefrom. We are entitled to suspend delivery as long as the Buyer has not yet fulfilled his obligations towards us.

7. The Buyer is obliged to take possession of the ordered Products on the agreed delivery dates. If the Buyer fails to take possession of the Products on the delivery date for any reason other than defects in the Products delivered, (i) the Products shall be deemed delivered; (ii) the risk in respect of the Products shall pass to the Buyer; and (iii) we shall be entitled to store the Products at the Buyer's expense. This protective measure shall not release the Buyer from its payment obligation.

8 Pallets, containers, tank trucks, assembled tanks and other equipment, parts and units used during transport which are not intended for single use (the "Transport Unit") shall in any case remain the property of HOBUM, even if a deposit is claimed from the Buyer for the Transport Unit, unless the Transport Unit is invoiced to the Buyer. The Buyer is obliged to return the transport unit to us in an undamaged condition upon first request. Should we receive the transport unit back in a damaged condition, the Buyer shall compensate HOBUM for any resulting damage.

### **III. Delivery Disruptions**

1 Circumstances and events for which we are not responsible and which prevent or significantly impede delivery shall release us from our obligation to deliver for the duration of their effects. This shall also apply if our upstream suppliers are wholly or partially released from their delivery obligation or if the normal procurement and transport possibilities are no longer available. In such cases, even if we were already in default, we shall be entitled to deliver with a corresponding delay, including a reasonable start-up period. In addition, if the delivery periods are exceeded by more than 4 weeks, we are also entitled, at our discretion, to withdraw from the contract immediately or later, in whole or in part. After the expiry of 4 weeks, the Buyer can set us a reasonable period of grace with the indication that he will refuse delivery after the expiry of the period of grace. After unsuccessful expiry of the period, the Buyer shall be entitled to withdraw from the purchase contract by means of a written declaration or, in the event of a delay in delivery for which we are responsible, to claim damages for non-performance in accordance with Clause VII, Sections 7, 9 and 10.

2 If, in the cases of para. 1 of this clause, the quantities of goods available to us are not sufficient to satisfy all Buyers, we shall be entitled to make equal reductions in all delivery obligations; in addition, we shall be released from delivery obligations.

### **IV. Trademarks, Product Designations**

The Buyer shall not use any trademarks, logos or other product identifications of HOBUM on any unpackaged or processed material as well as on its websites and social media or in any other way, unless this has been expressly agreed between the parties concerned.

### **V. Price and Terms of Payment**

1 The prices and conditions applicable to the Supplies shall be those set out in the Order Confirmation or in the Special Conditions.

2 Unless otherwise agreed, HOBUM's invoices shall be payable within 14 calendar days from the date of the invoice by bank transfer to the bank account specified in the invoice (including all costs, taxes, duties and other charges). Objections to the invoice must be notified in writing by the Buyer within 10 working days of receipt of the invoice. Upon expiry of this period, the relevant invoice shall be deemed to have been accepted by the Purchaser and HOBUM shall not recognise any subsequent invoice objections.

3 In the event of (partial) non-payment of an invoice by the due date, we shall automatically and without prior reminder be entitled to charge the (applicable) statutory default interest, without prejudice to our right to claim higher compensation in the event of damage incurred. All extrajudicial and judicial costs incurred by us in enforcing claims against the Buyer shall be borne by the Buyer.

4 In the event of (partial) non-payment of an invoice by the due date, we reserve the right to suspend the execution of all outstanding orders without prior notice; no compensation shall be payable for this.

5 An increase in the prices stated in the contract is permissible if the agreed delivery period is more than 4 months. The increase may be up to 3% for delivery periods of up to 6 months, and no more than 6% for longer delivery periods. The prerequisite for a price increase is an increase in the cost price (e.g. increase in material costs and wages, increase in import duties and taxes). If the price increase is more than 5 %, the customer may withdraw from the contract by written declaration within 3 weeks of receipt of the notification of the price increase. In the case of reduced purchases, the scale price applicable to the quantity purchased shall apply.

6 In deviation from para. 5 of this clause, the following shall apply: Unless a price has been agreed in writing as a fixed price, we shall be entitled to charge our prices generally applicable on the day of delivery. If costs (including public charges, e.g. tolls) incurred on the production, turnover and transport of the goods are increased or newly established by that date, the purchase price to be paid by the customer shall also increase if these costs are not charged separately in addition to the price. If the passing on of the cost increase to the customer is prohibited by law, we are entitled to withdraw from the contract.

## **VI. Retention of Title and Transfer of Risk**

1 The Products sold remain our property until full payment of the purchase price (including all ancillary services) and all other liabilities of the Buyer to HOBUM arising from the business relationship. If amounts due are not paid on time, this may result in the Products being reclaimed. Until the purchase price has been paid in full (i) the Purchaser shall hold the Products for HOBUM, (ii) the Purchaser shall not use the Products as currency or pledge or otherwise dispose of them and (iii) the Purchaser shall store the Products in such a manner that they are clearly identifiable as HOBUM's property. However, the Buyer may use them in its own production process or sell the Products in the ordinary course of business at their full market value to its own customers, provided that in doing so it simultaneously transfers title to the (finished or reworked) Product to us or assigns to us its claim against the customer arising from the resale in the amount of the purchase price claim secured by the retention of title. The Buyer shall be entitled, if necessary, to collect the claims arising from the sale of the Products until the Buyer's right to possession of the Products ends in accordance with paragraph 3 of this clause.

2 The retention of title does not affect the transfer of risk to the Buyer from the time of delivery; from then on, the Buyer bears the risk and all burdens of storage.

3 The Buyer's right to possession of the Products subject to retention of title shall terminate and the Buyer shall notify us immediately (i) if the Products are seized by a third party; (ii) if the Buyer is in breach of one or more of its obligations under this Agreement, unless such breach has been remedied by the Buyer within 7 calendar days after written demand by us; (iii) if the Buyer enters into any composition or similar general arrangement (formal or informal) with its creditors or is unable to pay its debts as they fall due, any reorganisation or insolvency proceedings are commenced in respect of the Buyer's assets or the commencement of such proceedings is refused for want of assets, its winding up is determined or applied for or its ex officio deletion is effected; or (iv) if the Buyer ceases to carry on business. In the event of seizure, insolvency or inability to pay, the Buyer shall inform the competent insolvency administrator or enforcement body or the third party of this retention of title clause and provide HOBUM with all documents relating to the Products required to enforce the property rights.

## **VII. Warranty and Joint and Several liability**

1 We warrant that the Products will be free from third party rights and encumbrances, will conform to the Product specifications and will comply with all applicable laws and the terms of this Agreement. We make no other representations or warranties, express or implied, as to the Products, their merchantability or fitness for a particular purpose, or any other representations or warranties which are hereby expressly disclaimed.

2 We shall not be liable for warranty claims under paragraph 1 of this clause if and to the extent that (i) the Purchaser continues to use the Products complained of after giving notice of defects under paragraph 3 of this clause, (ii) the Purchaser has not complied with the Product documentation and/or instructions regarding the storage, use or handling of the Products, or (iii) the Purchaser modifies such Products without HOBUM's written consent.

3 Upon delivery of the Products, the Purchaser shall immediately inspect and examine the delivered Products. The Purchaser shall immediately notify us in writing of any obvious defects (e.g. transport damage and quantity discrepancies), stating the defects. The Buyer must notify us in writing of hidden defects within 7 days of discovery, giving precise details of the defects. If no notification of defects is made within the aforementioned period, the Buyer shall lose his warranty claims in this respect.

4 Without prejudice to the mandatory applicable statutory provisions, in the event of a complaint recognised by us as justified, the Buyer shall be entitled to demand a replacement delivery or a refund of the agreed price, provided that the Buyer returns the Products to us. No Products may be returned or destroyed without our prior written consent.

5 As a matter of principle, only the product description shall be deemed to be agreed as the quality of the goods delivered by us. Public statements do not constitute a contractual description of the quality of the goods.

6 In the event of a defect for which we are responsible, we shall be obliged, at our own discretion, to rectify the service or delivery free of charge, to make a new delivery or to provide a new service. In the event of rectification of the defect, the Buyer shall grant us the time and opportunity reasonably required.

7 If we fail to meet our obligation to rectify the defect or make a replacement delivery despite a reasonable grace period, the Buyer may, at his discretion, withdraw from the contract or demand a corresponding reduction in the remuneration (abatement). This shall also apply if the subsequent performance has failed or is unreasonable for the Buyer. A subsequent improvement shall be deemed to have failed after the unsuccessful third attempt, unless something else arises in particular from the nature of the item or the defect or the other circumstances.

8 Further claims of the Buyer against us for breach of duty or tort are excluded. This exemption from liability shall not apply in the event of fraudulent intent, intent or gross negligence or in the event of negligent breach of a material contractual obligation. Furthermore, it does not apply to claims arising from the Product Liability Act, for damages arising from injury to life, body or health and insofar as we have assumed a guarantee of quality.

9 In the event of liability, our obligation to pay compensation is limited to the foreseeable, typical damage, unless the damage is based on an intentional or grossly negligent breach of duty. We shall only be liable for damage based on the absence of a guaranteed quality but which does not occur directly to the goods if the risk of such damage is obviously covered by the guarantee of quality.

10 Warranty and/or liability claims of the Buyer due to a breach of duty consisting in a defect of the purchased item shall become statute-barred in all cases after one year from the time of the transfer of risk.

11 Insofar as our liability is excluded and limited, this shall also apply to the personal liability of our legal representatives and vicarious agents.

### **VIII. Advice on Application Technology**

The Buyer decides on his own responsibility about the use of the goods delivered or services rendered by us. Unless we confirm specific properties and suitability for a contractually determined purpose in writing, technical application advice is non-binding in any case.

## **IX. Anti-corruption and Export Control Regulations**

In doing business with HOBUM, the Buyer shall comply with and cause its directors, officers, employees, agents and representatives (the "Representatives") to comply with our Code of Conduct (available at [www.hobum.de](http://www.hobum.de)), all applicable anti-corruption laws and any local or international export control regulations. In particular, the Buyer and its Representatives shall not: (i) make any payment or give any other inducement that would be considered a bribe or kickback under any currently applicable European Laws or any other applicable anti-corruption laws; and (ii) violate any diplomatic, economic or military sanction or restrictive measure imposed on any particular country, person or entity by the United Nations or any governmental authority or agency of the European Union or the United States of America applicable to any (proposed) transaction under this Agreement.

## **X. Place of Performance, Jurisdiction, Applicable Law**

1 The place of performance for all obligations arising from the business relationship is our registered office.

2 The law of the Federal Republic of Germany shall apply exclusively to all legal relationships between the Buyer and us. The application of the uniform UN Convention on Contracts for the International Sale of Goods (CISG—"Vienna Sales Convention") is excluded.

## **XI. Severability Clause**

Even if individual provisions of the contract are invalid, the remaining provisions of the contract shall remain valid. The invalid provision shall be replaced by a provision which, as far as legally possible, comes as close as possible to the economic intention of the invalid provision. The same applies to the filling of gaps.

HOBUM Oleochemicals GmbH, 01.05.2021