

General Terms of Sale and Delivery for Foreign Business of GESA Gemüsesaft GmbH with registered office in Neuenstadt am Kocher, Germany

1. General, Scope of Application

- 1.1 Sales, deliveries and other services by GESA Gemüsesaft GmbH („GESA“) to customers named in Section 1.2 shall be made exclusively on the basis of these General Terms of Sale and Delivery for Foreign Business ("Terms of Delivery"), which shall be accepted by the Customer by the placing of an order or the receipt of delivery. These Terms of Delivery shall also apply to all future transactions with the Customer. The Customer's conflicting or supplementary general terms and conditions shall not apply, even if GESA does not expressly object to such terms, unless other arrangements have been made.
- 1.2 The Terms of Delivery shall only apply to customers domiciled outside of the Federal Republic of Germany. GESA's „Allgemeinen Verkaufs- und Lieferbedingungen für Inlandsgeschäfte“ shall apply to all customers domiciled within the Federal Republic of Germany.

2. Conclusion, Content of the Contract

- 2.1 Our quotations are non-binding. A contract shall not become effective until it has been expressly confirmed by GESA in a written confirmation of order and shall be governed exclusively by the contents of the confirmation of order and these Terms of Delivery. Oral agreements or promises as well as changes to confirmed orders are only valid if they have been confirmed by GESA in writing.
- 2.2 A free right of termination of the customer is excluded.

3. Description of Goods, Offer Documents, Reservation of Right of Modification

- 3.1 Information provided in sales catalogues, price lists, brochures and any other informative literature provided by GESA to the Customer as well as any other descriptions of the goods to be delivered ("Goods") shall under no circumstances constitute a guarantee for any specific quality of the Goods; such specific guarantees must explicitly be agreed in writing.
- 3.2 All documents and items, especially cost estimates and samples handed over to the Customer by GESA shall be kept confidential vis-à-vis third parties, even after the termination of the contract. The duty to keep confidential shall only expire if and insofar as the knowledge contained in the documents and items handed over becomes part of the public domain.

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3.3 GESA retains the right to modify Goods to the extent the agreed function and optical appearance is not changed hereby and the modifications are acceptable for the Customer.

4. Delivery and Performance Periods and Dates

4.1 Delivery and performance periods and dates are only binding if they have been expressly confirmed.

4.2 Any agreed delivery and performance periods shall commence upon conclusion of the contract, however, not until the Customer has produced all documents, and releases to be provided by it and has resolved any product-related questions to be answered by it and has stated any details that the Customer must submit in relation to the requested services.

4.3 Delivery and performance periods are deemed complied with if all circumstances effecting the passing of risk have occurred before they expire. The same shall apply to the compliance with delivery and performance dates. If delivery is delayed due to reasons for which GESA is responsible, GESA shall only be liable to the extent specified under Section 9.

4.4 In case of unforeseeable, unavoidable events that are beyond GESA's control, and for which GESA does not bear responsibility, such as events of force majeure or labor disputes, the delivery and performance periods and dates shall be extended or postponed, also during a delay, by the duration of such event. GESA shall inform the Customer as soon as possible about the beginning and the end of the disturbance. If the disturbance continues for more than three months or if it has been established that it will continue for more than three months, both contracting parties may rescind the contract. With regard to any Goods that GESA does not produce itself, the correct and timely self-supply shall be reserved.

4.5 If the Customer does not accept the delivered Goods in time, GESA shall be entitled to charge to the Customer any costs, in particular storage costs, that have incurred because the delivered Goods were not accepted in time. If the Goods are stored at GESA's premises, storage costs in the amount of 2% of the market price of the Goods shall be charged per month.

5. Scope of Delivery, Shipment, Passing of Risk, Transport Insurance

5.1 GESA may make partial deliveries and/or may render partial services for good reasons provided this is reasonable for the Customer.

5.2 The place of delivery shall be subject to the delivery terms agreed between GESA and the Customer, which are to be interpreted according to the

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Incoterms, as amended from time to time. Unless specific delivery terms have been agreed upon, delivery shall always be made EXW at GESAs registered office according to the Incoterms, as amended from time to time. If the Goods are delivered to the Customer, risk shall pass to the Customer. The registered office of GESA is also the place of performance for the delivery and any subsequent performance.

- 5.3 Risk shall pass to the Customer at the time that the Goods are made available to it. If the Goods are transported to the Customer, the risk shall pass to the Customer at the latest at the time when the Goods are handed over to the first carrier for transmission to the Customer. If the carriage of the Goods should be delayed as a result of circumstances beyond GESA's control, then risk shall pass to the Customer at the time when GESA's readiness for dispatch is communicated to it. The choice of the type and route of dispatch shall be at the discretion of GESA.

6. Prices

All prices are quoted in accordance with the agreed Incoterms. Payment must be made in the currency specified in GESA's offer or confirmation of offer.

7. Payment Terms, Credit Standing of Customer

- 7.1 Unless agreed otherwise, invoices by GESA shall be due for payment by the Customer without any deductions within 30 days from the date of invoice. Payment shall only be deemed to have been effected once GESA is able to dispose of the full amount (receipt of payment). Nevertheless GESA is entitled at any time - also within the duration of an ongoing business relationship - to make a delivery only against prepayment. A corresponding reservation shall be declared at the latest with the order confirmation.
- 7.2 GESA shall be entitled to issue separate invoices for partial deliveries and/or partial services.
- 7.3 The Customer is only entitled to a set-off and is only entitled to assert a right of retention if its counterclaim is uncontested, acknowledged, or has been finally adjudicated.
- 7.4 If the Customer is in default of payment, GESA shall be entitled, irrespective of any other remedies it may have, to demand default interest in the amount of 7 % p.a. The assertion of a claim for further damages due to default shall remain unaffected.

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- 7.5 If, after conclusion for the contract, GESA learns of circumstances that justify reasonable doubt as regards the Customer's solvency or credit standing and due to which GESA's payment claim under the contract may be jeopardized, GESA shall be entitled to perform outstanding deliveries and/or render services only if the Customer makes prepayment or furnishes a security and the Customer has paid any other amounts due under the business relationship that are economically related to the contract. Furthermore, GESA shall be entitled to rescind the contract in full or in part and to request damages unless the Customer has fulfilled its obligations mentioned in sentence 1 above within a reasonable time period.
- 7.6 Unless agreed otherwise, any payments by the Customer received by GESA shall redeem the Customer's debts in the order of their due date.

8. Duty to Inspect the Goods, Defectiveness, Notice of Defect, Customer's Rights in case of Defects

- 8.1 The Customer must inspect the Goods without undue delay upon delivery and must notify GESA of any defects that are obvious upon delivery of the Goods in writing and without undue delay, but not later than one week following delivery, whereby the type of the defect must be specified in detail. The Customer must notify GESA in writing of any hidden defects within a period of one week after having detected or having been able to detect the respective defect. Otherwise, the Customer shall lose its warranty claims with regard to these defects, notwithstanding the reasons the Customer may have for not adhering to these requirements. The aforementioned one-week period is deemed complied with if the Customer has sent the written notice of defect in due time, provided that GESA has actually received the notice of defect sent in due time.
- 8.2 Unless agreed otherwise in the contract, a defect does not already exist due to that fact that the Goods do not fulfill technical and other standards applicable in the country of destination or that the Goods are not suitable for purposes for which comparable goods are usually used. Variations of surface, structure and color of individual Goods do not constitute a defect as far as they relate to production technique and are acceptable.
- 8.3 If, after the Customer has given a notice of defect, a defect of the Goods cannot be found, the Customer must reimburse to GESA all costs having incurred in relation to the inspection of the Goods.
- 8.4 If the Goods are defective, GESA shall be entitled to remedy the defect by subsequent performance or delivery of a replacement.

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- 8.5 If the defect of the Goods is not remedied by subsequent performance or delivery of a replacement within a reasonable time period, the Customer may request a reduction of the purchase price.
- 8.6 If the Goods are defective, the Customer shall not be entitled to rescind the contract instead of claiming a reduction of the purchase price according to Section 8.5, unless the defect constitutes a material breach of duty. No material breach of contract shall exist if GESA remedies the lack of conformity within a reasonable period to be fixed by the Customer but which shall not be less than six (6) weeks.
- 8.7 The Customer's rights in case of defects of the Goods shall become statute-barred within twelve months after delivery of the Goods to the Customer.

9. Liability, Damages

- 9.1 GESA shall be liable for damages vis-à-vis the Customer, in particular for consequential economic loss due to delayed delivery and/or performance or defectiveness of the Goods, only in the event of gross negligence or intent.
- 9.2 Subject to the provision in Section 9.3 and in Section 11.2, GESA shall be liable according to the statutory and contractually unchangeable provisions in case of product liability, data breaches and physical injury.
- 9.3 If a third party, which has purchased the Goods from the Customer or from another or several intermediate dealers of the retail chain, asserts claims vis-à-vis GESA under the provisions of a foreign law due to an alleged product defect of the Goods, the Customer undertakes to indemnify GESA within their interior relationship from any claims of the third party asserted in or out of court, provided that the Goods were in compliance with the technical and other standards with regard to product safety applicable in the Federal Republic of Germany and thus, the Goods were not defective within the relationship with the Customer.

10. Retention of Title

- 10.1 GESA shall retain title to the Goods unless the Customer has paid the purchase price in full as defined in Section 7.1.
- 10.2 The goods subject to retention of title may neither be pledged to third parties nor assigned as collateral before the full payment of the secured claims. The customer must notify GESA, without undue delay and in writing, if and to the extent that third parties attempt to seize or attach the goods that are property of GESA or if an application for the initiation of insolvency proceedings is filed.

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10.3 The Customer is obliged to take all measures necessary for compliance with the retention of title according to Section 10.1 or for serving the purpose of a functionally equivalent security right accepted in the country of destination (domicile of the Customer). The breach of this obligation by the Customer constitutes a material breach of contract.

11. Privacy Policy

11.1 GESA shall collect process or use personal data only within the scope of data protection regulations. For details, please refer to the Privacy Policy of GESA, which you can access under <https://gemuesesaft.de/en/privacy-policy/> or request from GESA at any time.

11.2 Unless otherwise provided in these Terms of Delivery, GESA shall be liable for infringement of data protection in accordance with legal provisions. For damages GESA is only liable in the event of intent or gross negligence.

12. Legal Venue, Applicable Law

12.1 The courts in Heilbronn (Federal Republic of Germany) shall have exclusive jurisdiction over all disputes arising out of this contract. Notwithstanding sentence 1 we are also entitled to take the purchaser to court in his place of business.

12.2 The laws of Switzerland including the UN Convention on Contracts for the International Sale of Goods (CISG) of April 11, 1980 shall apply to these Terms of Delivery and the contractual relationship of the contracting parties.

13. Final Provisions

13.1 If one or several provisions of the contract and/or these Terms of Delivery shall be or become invalid or unenforceable, the validity of the remaining provisions of the contract and/or the Terms of Delivery shall not be affected hereby. In such case, the contracting parties undertake to replace the invalid or unenforceable provision by such valid and enforceable provision that comes closest to the intended economic purpose. The same shall apply if the contract is incomplete.

13.2 The contracting parties mutually undertake to take all reasonable measures necessary for achieving the purpose of the contract and to refrain from any act that may affect the fulfillment and performance of the contract.

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