

Conditions of sale and delivery

Recital clause

The following conditions of sale and delivery of Schulz & Sohn GmbH chemical products, Höherweg 327, 40231 Düsseldorf apply to all Customers' (hereinafter also: Buyers or Purchasers) contracts, with the exception of orders and contracts, which are placed or drawn up via our internet shop and are subject to our special terms and conditions (see homepage). Any terms and conditions proposed by the Buyer which oppose or deviate from our terms and conditions will not be admitted.

§ 1 Offer and acceptance

- Our offers are subject to change without notice and are non-binding. Offers in promotional brochures, catalogues, price lists or on the internet represent an unbinding prompt to order goods from us.
- Upon receipt of the the Buyer's order (offer) we shall check the availability of the required goods. We are entitled to accept customer orders within 7 working days, e.g. by sending confirmation of the order (acceptance). Should this period lapse without such confirmation being received, the customer order shall be deemed rejected, that is, the buyer shall no longer be bound to their offer.
- The contractual language is German.

§ 2 Purchasing price and payment

- So long as no alternative agreement is reached, our prices shall apply ex warehouse, plus additional costs such as freight, customs and packaging costs. Prices for individual consumers include VAT as applicable by law. Prices for companies and traders do not include VAT as applicable by law.
- The purchasing price is to be paid net cash upon ordering the goods, as long as no alternative agreement has been made.
- The payment deadline stated on the order confirmation or the invoice, in particular the deadline for cash discount deductions, will be calculated as of the date on the invoice.
- Should payment deadlines, which are determined by or can be calculated on the calendar, fail to be met, the buyer shall without warning enter default. We are entitled to apply interest for default at the legal rate (§ 288 German Civil Code).
- Offsetting with counter claims is only permitted in the legally designated cases, unless the parties to the contract have agreed otherwise.
- Bills of exchange and cheques will only be accepted on account of performance; they shall be deemed valid as payment if they can be redeemed without reservations.

§ 3 Delivery

- The beginning of the delivery period as given by us depends on the timely and correct fulfilment of the purchaser's duties and obligations. The right to object to unfulfilled contracts is reserved. The condition of correct and punctual deliveries to us as the supplier remains reserved, unless we are responsible for failed delivery.
- In the case of deliveries made in tank containers, fixed tanks or silo vehicles, amounts delivered may vary by up to +/- 10%, as long as said variations are for safety or filling purposes, in accordance with the contract. Such variations shall be fully taken into account on the invoice, decreasing or increasing the amount correspondingly.
- Should the purchaser enter into default of acceptance or culpably fail to comply with any of their duties to cooperate, we are entitled to request compensation for any damages that may arise, including any additional expenditure. We reserve the right to make further claims. If the above conditions apply, the risk of accidental loss or accidental degradation of the item purchased transfers to the customer at the point at which the customer enters into default of acceptance or payment.
- In the event of it being impossible to carry out a service in the event of Force Majeure from outside the company, which is unforeseen and does not enter into our sphere of interest, which is not taken into consideration upon drawing up the contract and which, even where all reasonable care has been taken by us, can neither be avoided nor rendered harmless (e.g. natural catastrophes, storms, flooding, fire, hostage-taking, war, sabotage, strikes by third parties, etc), we shall be exonerated from our duty to deliver said services for the duration of said event. We undertake to inform the buyer of such events immediately. Any rights that the customer may have to withdraw from the contract shall remain unaffected.

§ 4 Despatch and acceptance

- Transport risks from the point of delivery shall be at the expense of the buyer, even in the case of carriage free deliveries or free deliveries ex works. Moreover, the transfer of risk shall be subject to the legal provisions.
- When collecting deliveries from the point of delivery, the loading and unloading of the vehicle and observation of legal provisions, e.g. concerning the transportation of dangerous goods, is incumbent upon the buyer or their agent.
- Unloading and storage of the goods is the Buyer's responsibility, unless agreed otherwise.
- In the case of deliveries in tankers and tank containers, the receiver is to ensure that their tanks or other storage containers are in perfect condition and is also responsible for the filling connections to their own storage system.
- Unloading or the emptying of tanks is the Buyer's responsibility, unless agreed otherwise.
- The above mentioned regulations apply accordingly to deliveries made by third party carriers.

§ 5 Packaging

- Insofar as our deliveries are carried out in returnable packaging, these are to be returned to us by the Buyer within not more than 30 days at the latest after the Buyer has received them. The returned containers must be empty and in excellent condition and returned at the Buyer's expense or upon delivery, and subject to sufficient transport capacity, to be returned by our employees against confirmation of receipt.
- If the Buyer does not fulfil the obligation according to a) in due time we are authorised to claim compensation for damages.
- Fixed labels and markings on packaging are not to be removed. Returnable packaging may neither be exchanged nor refilled with other goods. The Buyer shall be held liable for culpable deterioration of value, substitution or loss in accordance with the legal provisions. The use of packaging as storage space or passing it on to third parties is forbidden, unless agreed otherwise.
- If an agreement has been reached to deliver the goods on pallets, we are willing to deliver goods on Euro-pallets measuring 800 x 1200 mm. Delivery shall only take place against counter-exchange, i.e. for the pallets delivered with the products, the same number of undamaged, empty pallets (in each case only Euro-pallets) must be furnished in exchange. Damaged but repairable pallets which we receive back shall be invoiced for the respective repair costs, and non-repairable pallets shall be invoiced for the respective replacement costs. In the case that they should be responsible for any pallets going missing, the Buyer undertakes to pay us for a replacement or to pay compensation.

§ 6 Retention of title

- All goods delivered shall remain our property until all claims arising from the delivery contract have been paid in full. This also applies to all future deliveries, even if we do not constantly and expressly refer to this fact. In the event of breach of the Contract by the Purchaser, we shall be entitled to take back the goods supplied.
- The Buyer shall be obliged to handle the object of purchase with due care until the title passes to the Buyer. In the case of high-value goods, the Buyer undertakes to insure said goods at their own expense against fire, theft and water damage in order to cover the cost of replacement goods. Should maintenance and inspection work need to be carried out on the purchased goods, the Buyer is to carry out said work in good time and at their own expense. Until such time as the property ownership has been transferred, the Buyer is to inform the supplier immediately in writing if the delivered goods are impounded or exposed to other third party interventions. Unless third parties are incapable of reimbursing us judicial and extrajudicial costs for an action as per § 771 of the German Code of Civil Procedure, the Buyer shall be liable for any expenses incurred by our company.

- The buyer is only entitled to resell the retained goods in the correct course of business. The Buyer shall now assign to us any claims he may have arising from the sale of the goods subject to retention for the amount agreed with us in the final invoice (including value-added tax). This assignment applies irrespective of whether the purchased goods are resold before or after processing. The Buyer will remain entitled to enforce the claim even after assignment. Our authority to collect claims ourselves shall remain unaffected hereby. We will not exercise our collection claims, however, as long as the Buyer fulfils their payment obligations from the proceeds collected in due time and in particular, as long as no petition for opening insolvency proceedings has been filed and payments have not been ceased.
- If facts come to our knowledge which indicate a significant deterioration in the Buyer's financial situation, then, upon our request, the Buyer must inform their customers of the assignment, refrain from disposing of the debts in any way and give us all the necessary information about the condition of the goods in our retention of title and the claims which have been assigned to us. The customer must inform us immediately of any claims that third parties may have to the reserved goods and assigned claims.
- The processing or reworking of the goods by the Buyer shall always be on behalf and by order of us. In this case expectancy rights of the customer continue for the ordered goods during the reworking process. In the event that the goods supplied are processed with other items which do not belong to us, we will acquire proportional joint ownership of the new item based on the ratio of the objective value of our sale item to the value of the other items processed at the time of processing. The same applies in the case of any amalgamation. If the goods are mixed in such a manner that the Buyer's item is regarded as the main item, the parties hereby agree that the Buyer shall transfer proportionate co-ownership to us and retain the sole ownership or co-ownership generated in this way for us. In order to secure our claims against the Buyer, the Buyer shall also assign us those claims to third parties which result from the connection of the reserved goods with real estate; we hereby accept this assignment.
- We undertake to release the securities we are entitled to upon the Buyer's request, insofar as the value of our securities exceeds the claims to be secured by more than 20%.

§ 7 Warranty, inspection and notification of defects

- If the Buyer is a trader in the context of the German Commercial Code (HGB), they are obliged to inspect the purchased item within a certain period of time following delivery by the Vendor to ensure that nothing is missing and that there are no deviations in quality and quantity and undertake to immediately notify the Vendor of any defects. Should the Buyer fail to provide notification, the goods shall be deemed to be approved, unless it is a matter of missing items which were not detectable upon inspection. Should such a defect become apparent at a later date, notification must be made forthwith after its discovery; otherwise the product shall be deemed to have been accepted. Timely sending of the notification is sufficient to protect the Buyer's rights. The Vendor cannot invoke these regulations if they have fraudulently concealed the defect. If the Buyer is a business owner, their claims for defects will lapse after one year from the receipt of the goods. Exceptions to this regulation are damage compensation claims, claims for defects, which we have fraudulently concealed, and claims arising from a guarantee which we have adopted to ensure the quality of the goods. The right of recourse pursuant to Section 478 of the German Civil Code is also excluded. The statutory periods of limitations apply to these excluded claims.
- If the Buyer is a consumer, their claims for defects in the case of used goods will lapse within one year of delivery of the purchased goods. Exceptions to this regulation are damage compensation claims, claims for defects, which we have fraudulently concealed and claims arising from a guarantee which we have adopted to ensure the quality of the goods. The statutory periods of limitations apply to these excluded claims.
- In the event of defects, the buyer is liable for damages in accordance with § 8 below.
- Moreover, the warranty rights shall be subject to the legal provisions.

§ 8 Liability for damage

- The Vendor assumes unlimited liability for damages arising from injury to life, limb or health, caused by a breach of duty by the Vendor, a legal representative or a vicarious agent of the Vendor.
- The Vendor is liable without limitation for damages caused either intentionally or by gross negligence on the part of the Vendor themselves or a legal representative or vicarious agent of the Vendor, as well as for damages arising from the absence of guaranteed quality or fraudulent behaviour.
- In the case of damages caused by carelessness to any obligations under the contract the Vendor shall be deemed liable except in the cases set out under § 8a for the amount which is limited to the foreseeable damages typical to the contract. Material contractual obligations are obligations whose fulfilment is a prerequisite for enabling the proper fulfilment of the contract in the first place and on whose adherence the contractual parties may regularly rely. To the fundamental contractual obligations under a sale contract, belongs the obligation to deliver the goods to the Buyer, assign ownership to them and to supply the goods free from defects as to quality and title.
- Any legally compulsory and not mandatory liability, particularly in accordance with the law on product liability, shall remain unaffected. All further liability for compensation is excluded, particularly liability without culpability.

§ 9 Place of jurisdiction, applicable law, severability clause

- For contracts and any other relationships between the parties, as well as any disputes related thereto, exclusively the law of the Federal Republic of Germany shall apply, excluding the UN purchasing regulations in the version current at the time (United Nations Convention on Contracts for the International Sale of Goods, CISG, dated 11.04.1980). This also applies to disputes concerning the choice of law. For any consumer, this choice of law applies only to the extent that the protection granted by the mandatory provisions of the law of the country of the consumer's usual residence is not deprived (benefit-of-the-doubt principle).
- If the contractual partner is a trader, a legal entity under public law or a contractual partner of a special fund under public law, the place of jurisdiction for all disputes shall be our place of business.