

# Conditions of sale and delivery

## 1. Applicability

1.1 These General Conditions of Sale and Delivery are applicable for all supplies, deliveries and services and the associated performance thereof, between Schulz & Sohn GmbH (Inc.), Höherweg 327, 40231 Düsseldorf, Germany (hereinafter referred to as 'Schulz & Sohn') and its customer (hereinafter referred to as the 'Customer'), when the Customer is a registered business (comp. Sec. 14 of the German 'BGB – Bürgerliches Gesetzbuch' (Civil Law Code), public law incorporated legal person and a special assets public law corporate entity. These present General Conditions of Sale and Delivery are the only conditions of sale for contracts with Schulz & Sohn. Any contradictory or supplementary conditions of the Customer – in particular conditions of purchase – of the Customer will not be recognised by Schulz & Sohn, unless Schulz & Sohn has expressly agreed to their application in writing for individual cases. The foregoing requirement of agreement is to continue to apply in any event, even when Schulz & Sohn unconditionally proceeds to supply and deliver goods and render services, or accept a payment, whilst in the knowledge of any such contradictory conditions of purchase of the Customer.

1.2 These present General Conditions of Sale are also applicable for all future contracts with the same Customer, without the necessity of Schulz & Sohn having to refer to their application in any one individual case.

1.3 The performance of the agreements may require the processing of personal data, as set forth in the privacy-information, available at <https://schulzchemie.com/datenschutz/>.

## 2. Offer and acceptance

2.1 Our offers are subject to change and are non-binding. Offers in advertising brochures, catalogues, price lists or on the internet constitute a non-binding invitation to order goods from us.

2.2 After receipt of the Customer's order (offer), we shall check the availability of the desired goods. We are entitled to accept orders of the buyer within 7 working days, e.g., by sending an order confirmation (acceptance). After fruitless expiry of this period, the Customer's order shall be deemed to have been rejected, i.e., the Customer shall no longer be bound by its offer.

2.3 The contract language is German.

## 3. Purchasing price and payment

3.1 So long as no alternative agreement is reached, our prices shall apply 'ex works' (EXW), plus additional costs such as freight, customs and packaging costs. The charges for packing are not included. As definitive for the calculation of the prices for goods supplied and services rendered, are the current valid prices of Schulz & Sohn plus the current statutory rate of value-added tax. Should however Schulz & Sohn generally increase its prices between the date of the conclusion of the contract and the date of the supply of a product or the rendering of services, then the Customer is to be entitled to withdraw from the contract for the still undelivered volume under the contract, within 14 days of notification of the price increases.

3.2 In the event that material prices have demonstrably risen or fallen by more than 5% after a period of more than three months since the date of the binding offer, Schulz & Sohn and the Customer shall negotiate a corresponding adjustment of the agreed prices.

3.3 The purchasing price is to be paid net cash upon ordering the goods, if no alternative agreement has been made and by bank transfer or in accordance with the agreed terms and conditions of Schulz & Sohn stated on the order confirmation or invoice.

3.4 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. Any discounts agreed may only be deducted when the Customer is not in arrears of settlement of any other matured invoiced amounts of Schulz & Sohn. Advance and deposit payments are to be made plus value-added tax. Payments are only then to be considered as settlements when these are credited to a bank account of Schulz & Sohn for its ultimate availability.

3.5 In cases of payments of the Customer in arrears, Schulz & Sohn is to be entitled to charge interest in an amount of 9 percent over the current interest rate of the central bank, plus an additional processing all-inclusive amount of EUR 40.00. Schulz & Sohn can also reserve the right of asserting further indemnities for loss or damage.

3.6 The Customer may only offset its financial claims on Schulz & Sohn when such are undisputed or judicially determined. The exercise of any refusal of performance and retention rights of the Customer are not excluded.

3.7 Schulz & Sohn is to be entitled to revoke any granted terms of payment and to require advance payment or sureties for further deliveries in case of any justified doubt as to the solvency or creditworthiness of the Customer, and to reserve the entitlement to impose any other such requirements.

3.8 Schulz & Sohn retains full ownership and copyrights on data sheets, figures, drawings, calculations, samples, and similar documents. Regarding the right of ownership, this shall only apply subject to the agreed scope of delivery.

3.9 Unless otherwise agreed, the characteristics of the goods supplied are only to be the characteristics in the product specifications, the product descriptions, and the designations of Schulz & Sohn. Neither any agreement on a relative contractual characteristic of the goods nor any specific employment of the goods under the contract, are to replace the pertinent identified employment of the goods in accordance with the European Chemical Ordinance 'REACH'. The characteristics of samples and trials are only to be legally binding when these are expressly agreed as the characteristics of the goods involved.

3.10 A warranty agreement is to require the written form and is only then to be effective when the contents of the warranty, the duration, and the extent of the area of validity of the protection granted, is sufficiently described.

## 4. Delivery, Transportation, Delay

4.1 The beginning of the delivery period as given by us depends on the timely and correct fulfilment of the Customer's duties and obligations. The right to object to unfulfilled contracts is reserved. Deliveries to the Customer on the part of Schulz & Sohn, are to be subject to the correct and timely receipt of deliveries from its own suppliers.

4.2 The delivery of goods and services is affected in accordance with the commercial clause laid down in each individual contract of sale, for whose interpretation the Incoterms are applicable in the version valid at the date of the conclusion of the contract. The contractual performance is agreed as ex works unless any other divergent terms and conditions are expressly agreed.

4.3 Unless otherwise agreed, Schulz & Sohn is to be entitled to determine the form of the consignment itself (in particular the type of delivery, the packing, the consignment route, and the carrier). The connection charges for tank wagons, cartage at the place of destination, any agreed freight charges and supplementary freight charges for express delivery and air freight shall in each case be borne by Customer. Freight reimbursements with respect to self-pick up by Customer shall be calculated according to the freight rates most favourable at the time to Schulz & Sohn.

4.4 Unless otherwise agreed, the Customer is to be responsible for observing statutory and administrative regulations concerning imports, transportation, warehousing, and the application of the goods.

4.5 The agreed delivery period is to commence, unless otherwise agreed, with the issuance of the order confirmation, but not however before the provision by the Customer of the requisite acquired information, documentation, permits and approvals. Schulz & Sohn is to be entitled to conduct partial deliveries when these represent at least 25% of the ordered volume. Deliveries of 10% less or more than the contractual quantities are permitted. Should an agreed delivery time period or performance date be exceeded, or any other sundry contractual duties of Schulz & Sohn not be completed in due time, then the Customer is to set Schulz & Sohn a subsequent reasonable time period for compliance of at least 2 weeks. Should then the delivery or service not be completed by the expiry of the subsequent time period, and should the Customer require to exercise its entitlement of withdrawal from contract or require indemnities for loss or damage instead of performance, then the Customer is to be under a contractual duty to notify Schulz & Sohn of such and set an additional reasonable time for compliance in writing for the completion of the delivery or service. The Customer is then to be under a further contractual to declare in writing, upon the demand of Schulz & Sohn within a reasonable time period thereafter, whether it wishes to withdraw from contract because of the delay and/or assert indemnities for loss or damage instead of the performance, or whether it still insists on the delivery/ service.

4.6 Should the Customer enter 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.

4.7 In case of a delay in delivery attributable to the Customer, Schulz & Sohn's claims for damages thereby caused shall be limited to an amount of 0,5 % for each full week of delay up to a maximum of 5 % of the net price for the delayed part of the delivery. This shall not apply in case of wilful

misconduct or gross negligence of Customer, in case of death, injury or detriment of health or other mandatory liability. Nothing in the foregoing shall constitute a change in the burden of proof.

## 5. Packaging

5.1 Insofar as our deliveries are carried out in returnable packaging, these are to be returned to us by the Customer within not more than 30 days at the latest after the Customer has received them. The returned containers must be empty and in excellent condition and returned at the Customer's expense or upon delivery, and subject to sufficient transport capacity, to be returned by our employees against confirmation of receipt.

5.2 If the Customer does not fulfil the obligation according to 5.1 in due time, we are authorised to claim compensation for damages.

5.3 Fixed labels and markings on packaging are not to be removed. Returnable packaging may neither be exchanged nor refilled with other goods. The Customer 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.

5.4 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 Customer undertakes to pay us for a replacement or to pay compensation.

5.5 The return acceptance of packaging materials, which are not hired-out materials, is subject to the statutory requirements of the German Federal 'VerpackV – Verpackungsverordnung' (Packaging Ordinance) in the version valid for time being as well as any supplementarily agreed agreements or regulations. There is to be no obligation upon Schulz & Sohn to accept back packaging materials, which are not in the application range of the foregoing Packaging Ordinance.

## 6. Force majeure

Should negative occurrences or circumstances arise, which are outside of the sphere of influence of Schulz & Sohn, such as for example natural occurrences, war, industrial labour action, any unforeseeable disruptions due to the effects of workforce labour, raw materials, energy, lack of accessory materials, traffic and operational conditions, and due to fire and explosion loss or damage, strikes, lockouts, war, political unrest, acts of terror, ordinances of the authorities as well as any other sundry effects of force majeure (Act of God), which reduce the availability of the goods ordered from the plant, from which Schulz & Sohn obtains these, so that Schulz & Sohn is unable to complete its contractual duties (under proportionate consideration of other internal and external delivery obligations), then Schulz & Sohn is to be relieved of its contractual duties for the duration of and to the extent of the continuance of the negative effects, and not to be obliged to obtain the same goods from third parties. The foregoing stipulation is also to apply when the negative occurrences and circumstances render the execution of the affected business consistently uneconomic for Schulz & Sohn or the reasons for the disruptions are with the subcontractors of Schulz & Sohn. Should the negative occurrences and circumstances last for more than 3 months, then Schulz & Sohn is to be entitled to withdraw from contract. In cases of short time period disruptions, the delivery time periods for goods and services will be extended or become postponed by the short time period of the disruption, plus a reasonable start-up time period.

## 7. Retention of title

7.1 The goods delivered remain in the ownership of Schulz & Sohn until full payment is made of all open amounts to do with the mutual item of business. When the business is conducted on an account current basis with the Customer, then the reservation will apply until the financial claim of the balance on the account is settled.

7.2 When the goods under reservation of ownership rights are processed by the Customer, then Schulz & Sohn becomes the manufacturer of the new products thus generated and obtains the ownership rights. Should the Customer undertake processing, conjunction or mixing of the goods under reservation with goods in third-party ownership, then Schulz & Sohn is to obtain joint ownership rights in the new products thus generated up to the ratio which the invoice value of the reservation goods of Schulz & Sohn bears to the third-party materials. Should the Customer undertake processing, conjunction or mixing of the goods under reservation, with a principal subject matter in the ownership of the Customer, then the Customer is to cede its ownership rights and/or co-ownership rights in the new subject matter, to Schulz & Sohn here and now in advance.

7.3 The Customer is to be entitled to sell the goods subject to the reservation of the ownership rights of Schulz & Sohn in normal day-to-day business if it fulfils its contractual duties towards Schulz & Sohn under the business relationship in due time. All financial claims from the sale of the goods under reservation of the ownership rights of Schulz & Sohn, are to be ceded to Schulz & Sohn already at the point in time of the conclusion of the contract with Schulz & Sohn. When Schulz & Sohn obtains joint ownership reservation rights in cases of processing, conjunction, and mixing, then the cession is to be made in the ratio of the value of the reservation goods of Schulz & Sohn to the value of the reservation goods of the third party. All recognisable balances of financial claims under account current agreements are to be ceded to Schulz & Sohn at the point in time already of the conclusion of the contract with Schulz & Sohn, in an amount of the unpaid financial claims of Schulz & Sohn. The Customer is however not entitled to mortgage the reservation goods or the ceded financial claim to third parties or to make such available as surety.

7.4 The Customer is under a contractual duty, to treat the goods of Schulz & Sohn subject to the reservation of ownership rights with all the due care of a registered trader at its own expense and to insure such against the usual warehousing risks. The Customer here and now cedes its claim rights under the insurance to Schulz & Sohn already.

7.5 When the value of the cessions of the financial claims of Schulz & Sohn as surety exceed the actual total financial claims of Schulz & Sohn by more than 15%, then Schulz & Sohn will waive any further sureties in this regard.

7.6 The Customer is to notify Schulz & Sohn with immediate effect of any mortgaging or any other encroachments on the rights of Schulz & Sohn by third parties in the goods subject to the reservation of ownership rights, or attachment of its financial claims in this regard. Upon the first demand of Schulz & Sohn, the Customer is to inform the third party with immediate effect in writing of the reservation of ownership rights in the goods, and a debtor of the cession of the financial claim with immediate effect in writing.

## 8. Passing of Risk

The perils of destruction, diminution and the loss of the goods is to pass to the Customer in accordance with the agreed Incoterms.

## 9. Warranty, inspection and notification of defects, Liability

9.1 Upon the receipt of the goods delivered, the Customer is to inspect these and to report any deficiencies, wrong delivery, or divergences in volume with immediate effect in writing, and at the latest within one week of receipt. This obligation of the Customer also refers to all partial deliveries and each individual partial volume. Any hidden deficiencies are to be reported of immediate effect after the discovery of a deficiency within twelve months of the date of delivery.

9.2 Any applicatory technical advisories on the part of Schulz & Sohn, is not to relieve the Customer from inspecting the products for their suitability for the intended purpose. It is also the sole responsibility of the Customer to comply with any statutory requirements, technical standards and guidelines during the processing and application of the deliveries.

9.3 Should a data sheet be agreed and provided by Schulz & Sohn with a delivery as a basis, then such a data sheet is to be definitive for the conditions mentioned in the specifications.

9.4 The Customer is under a contractual duty to provide Schulz & Sohn with samples of complaints at its own expense. When samples are taken at the point of loading by third-party samplers, then these are to be definitive for an expert assessment of the goods supplied and delivered. Such samples taken by third parties are to be equivalent to any existent original residual volumes of goods at the premises of the Customer, which originate from the relative delivery made by Schulz & Sohn. The same is also to apply to any residual volumes from the production batch at the premises of Schulz & Sohn, from which the complained-of delivery originates.

9.5 A complaint is not to entitle the Customer to keep back any matured payments or to reject acceptance of further deliveries.

9.6 When complaints are reported in due time, then the deficiency claims of the Customer are initially to be restricted to subsequent fulfilment. Schulz & Sohn is to be entitled within the scope of any subsequent fulfilment, to select between a new supply or improvement. When a subsequent fulfilment on the part of Schulz & Sohn fails, then the Customer is to be entitled to reduce the purchase price or select to withdraw from contract. All indemnities for loss or damage are not

affected by this present stipulation. A warranty period is one year from the date of the delivery of the goods/ services, unless mandatory statutory requirements provide for a longer statute-barring limitation time period.

9.7 Schulz & Sohn can adopt no liability for the product being unaffected by patents or by any other sundry protection rights of third parties.

9.8 Schulz & Sohn is liable for indemnities for loss or damage, no matter on whatsoever legal grounds, where an indemnity claim of the Customer for delay in delivery is to be governed by 4.7 hereof, and otherwise only in the following cases of:

- premeditation;
- gross negligence whereby liability for gross negligence is limited to contractually typical, foreseeable loss or damage;
- liability under guarantee or warranty;
- death or injury to persons and encroachment upon their health;
- liability under the German Federal product liability legislation;
- culpable infringement of a material contractual duty going to the root of the agreement.

Any contractual and extra-contractual indemnity claims of the Customer on grounds of slight negligent infringements by Schulz & Sohn, by its executive employees or by its vicarious agents, are excluded. This is not to apply when a contractual duty is infringed which is material for the contractual purpose. The liability of Schulz & Sohn in such cases will be limited however to contractually typical, foreseeable loss or damage. The foregoing limitations do not apply to death or injury to persons or encroachment upon their health. All mandatory statutory liability requirements are to remain unaffected by the foregoing.

#### **10. Confidentiality**

10.1 The Customer is obligated to maintain confidentiality over and refrain from making public or accessible to third parties, in particular competitors of Schulz & Sohn, all technical and commercial information concerning the good and the technical/chemical processes taking place therein and, the technical documentation of the supplied goods (e.g. compositions, drawings, applications, methods, chemical formulas, recipes, etc.) and other information, including technical and commercial trade secrets which are either classified as confidential or should be considered confidential due to the circumstances under which they were made available or made known to the Customer (referred to hereinafter as 'Know-How'). Through this confidentiality clause, the Customer specifically obligates themselves to

- refrain from passing Know-How to third parties or making it accessible to third parties, in particular competitors of Schulz & Sohn, by showing them layouts, diagrams, specifications, chemical formulas, recipes, or other documentation containing Know-How; and
- to refrain from revealing the goods and their functions to third parties, in particular competitors of Schulz & Sohn, by allowing the goods to be inspected or presented while opened or with parts removed or in any other manner. The Customer will take all the appropriate and necessary measures to protect the Know-How from illegal inspection (including reverse engineering), transmission, distribution, and use. The Customer will only make the Know-How available to employees or agents who work with the goods and need the Know-How for this work. Before the Customer makes the Know-How available to their employees or agents, the customer will inform them that the Know-How is confidential and must be treated with the same care as proprietary Know-How and will require them to maintain confidentiality in at least the same manner and to the same extent as specified in Clause 10.

10.2 This confidentiality agreement does not cover any information which

- was demonstrably already known to the Customer through written materials, documentation, or other evidence at the time it was made available to them by Schulz & Sohn, unless this knowledge was based on the violation of confidentiality agreements or
- was publicly available without the Customer's intervention or
- had been given to the Customer by a third party without a confidentiality obligation that did not obtain this information directly or indirectly from Schulz & Sohn.

10.3 The Customer may not copy or use reverse engineering to analyse the composition of the goods or of parts of the goods either directly or indirectly.

10.4 Schulz & Sohn reserves all rights to the Know-How.

10.5 This confidentiality agreement will still stand once the contractual obligations between the Customer and Schulz & Sohn have been fulfilled.

10.6 The Customer is obligated to protect Schulz & Sohn and their business activity and agrees that the provision of damage compensation would only inadequately compensate for a violation of the confidentiality agreement of Clause 10. Furthermore, the Customer accepts and confirms that an existing or threatening violation of this confidentiality agreement would cause Schulz & Sohn irreparable damage and that Schulz & Sohn would therefore be entitled to all the legal and other claims to obtain an interim injunction against the existing or impending violation of this confidentiality agreement if Schulz & Sohn can demonstrate that the violation can result in damage without being required to prove actual damage.

#### **11. Place of jurisdiction, applicable law, severability clause**

11.1 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 (United Nations Convention on Contracts for the International Sale of Goods, CISG, dated 11.04.1980). Commercial clauses are to be interpreted in accordance with the Incoterms 2020.

11.2 The place of jurisdiction is to be the court of law competent for the corporate domicile (registered office) of Schulz & Sohn.

11.3 Should any one of the foregoing stipulations be ineffective in whole or in part, then the effectiveness of the remaining stipulations shall not be affected thereby.