

## Papierfabrik Julius Schulte Söhne GmbH & Co. KG: Terms & Conditions of Sale

### 1. Scope/Applicable provisions

1.1 These Terms & Conditions of Sale (TCS) apply to all business relationships between Papierfabrik Julius Schulte Söhne GmbH & Co. KG (hereinafter referred to as "SCHULTE") and its customers (hereinafter referred to individually as "the Buyer"). They apply in particular to contracts for the sale and/or delivery of movable goods, regardless of whether SCHULTE manufactures the goods itself or purchases them from suppliers (Sections 433, 651 of the German Civil Code, BGB).

1.2 These TCS shall only apply if the Buyer is an entrepreneur (14 BGB), a legal entity under public law or a special fund under public law.

1.3 Unless otherwise agreed, these TCS as applicable at the time of order shall also apply as a framework agreement to future, similar orders, albeit in the version most recently communicated to the Buyer in text form, without SCHULTE having to draw attention to them in each case. SCHULTE will inform the Buyer of any changes to these TCS.

1.4 These TCS apply exclusively. Differing, conflicting or additional terms and conditions on the part of the Buyer shall only become part of the contract if and to the extent to which SCHULTE has expressly consented to their validity. This requirement for consent shall apply in every case, including for instance if SCHULTE unreservedly executes deliveries to the Buyer despite being aware of the latter's terms and conditions.

1.5 Individual arrangements made with the Buyer in individual cases (including ancillary agreements, supplements and amendments) shall always take precedence over these TCS. Unless evidence to the contrary is furnished, the content of such arrangements shall depend entirely on a written arrangement or written confirmation by SCHULTE.

1.6 In order to be effective, any legally relevant declarations and notifications which must be submitted by the Buyer to SCHULTE after conclusion of the contract (e.g. deadlines, notification of defects, declaration of withdrawal or reduction of price) must be submitted in writing.

1.7 SCHULTE conducts its business relationships and all other legal relationships on the basis of the company's guiding principles and compliance provisions. The Buyer recognises that SCHULTE is bound by these guiding principles and provisions, which can be viewed or requested from SCHULTE at any time.

### 2 Offer and conclusion of contract

2.1 SCHULTE's offers are subject to change and non-binding, unless they are expressly described as binding.

2.2 Unless otherwise stated, SCHULTE shall be bound by the conditions and prices contained in an offer expressly described as binding or fixed for 14 days from when the offer is issued.

2.3 Apart from in exceptional cases where SCHULTE has made an offer described as binding, the Buyer's ordering of the goods shall be considered a binding offer to enter into a contract. Unless otherwise agreed, SCHULTE has two weeks to accept the Buyer's offer. Notification of acceptance may occur expressly (e.g. by confirming the order in writing or text form) or through action implying intention (e.g. delivery of the goods).

2.4 Unless it has been expressly agreed in writing that a certain condition forms a binding part of the contract, information about what is being delivered and the scope of the delivery (e.g. dimensions, weights, technical data) in catalogues, brochures or other representations (e.g. current versions of data sheets), shall only amount to approximate, non-authoritative service descriptions.

2.5 SCHULTE shall only guarantee that the goods have a certain condition if this is expressly recorded in writing.

2.6 SCHULTE's field staff, employees, independent commercial representatives and other members of the company are not authorised to make verbal ancillary agreements or provide verbal commitments or assurances which go beyond the content of the written contract.

2.7 SCHULTE reserves all copyright and ownership rights to offer documents, drawings, descriptions, samples and cost estimates. These may not be passed on, published, copied or otherwise made accessible to third parties without SCHULTE's express consent. If so requested by SCHULTE, the Buyer must return documents and data carriers and may not retain any copies.

### 3 Delivery/Delivery period/Delayed delivery

3.1 In the absence of any other agreement, deliveries by SCHULTE are shipped Ex Works (EXW) in the sense of the current INCOTERMS.

3.2 Unless expressly agreed as binding, delivery dates or periods specified by SCHULTE are non-binding. If binding delivery periods have been agreed and these cannot be observed for reasons for which SCHULTE is not responsible (unavailability of performance), SCHULTE shall inform the Buyer of this without delay, notifying it of the expected new delivery period. If performance is not available during the new delivery period either, SCHULTE shall be entitled to either withdraw in part or fully from the contract, or to postpone the delivery for the duration of the hindrance. In the case of withdrawal, the Buyer shall be reimbursed for any (partial) payments already made. In this respect, cases of unavailability of performance include in particular the non-timely supply of goods to SCHULTE by suppliers, if SCHULTE has not concluded a congruent hedging transaction, neither SCHULTE nor the supplier is at fault and SCHULTE is not obliged to procure the goods in the individual case, as well as such circumstances which SCHULTE cannot avert with due care reasonable under the circumstances of the case and which it cannot foresee when concluding the contract, e.g. war, developments in monetary or trade policy or other sovereign activities, internal unrest, terrorist attacks, the forces of nature, fire, strikes, lockouts, an involuntary lack of supply of raw materials, transport and operational disruptions and other cases of force majeure.

3.3 If the originally agreed delivery period is exceeded by more than two months for reasons for which SCHULTE is not responsible, the Buyer shall be entitled to withdraw with regard to the non-fulfilled part of the contract. In order to exercise this right, the Buyer must notify SCHULTE in writing at least 14 days in advance of its intention to exercise its right of withdrawal. This right of withdrawal shall not apply if delivery occurs during this period.

3.4 If the delivery date is postponed in accordance with the above provisions or if SCHULTE is released from its obligation, the Buyer shall not be entitled to derive any claims for damages from this.

3.5 This does not affect statutory rights of withdrawal in cases where SCHULTE is to blame for the delivery period having been exceeded. A delay in delivery by SCHULTE shall be subject to the statutory provisions, although in every case the Buyer must submit a reminder setting an appropriate deadline.

3.6 If SCHULTE is in default of delivery and SCHULTE is to blame, the Buyer may demand a lump sum as compensation for the damage caused by the delay. The lump-sum compensation shall amount to 0.5% of the net price of the goods delivered late (delivery value) for every complete calendar week of the delay, although no more in total than 5% of the delivery value of the goods delivered late. SCHULTE reserves the right to prove that the Buyer has incurred no damages, or significantly lower damages than the above-mentioned lump sum. SCHULTE shall be entitled to effect partial deliveries and partial performance, provided the partial delivery or partial performance is reasonable for the Buyer and the latter has no obvious interest in not receiving partial deliveries.

3.7 SCHULTE's observance of any agreed obligations to deliver or perform is subject to the Buyer first fulfilling its obligations, and all of the conditions for which the Buyer is responsible, in a timely and proper manner.

3.8 If the Buyer is in default of acceptance, SCHULTE shall be entitled to demand compensation for the damage it incurs as a result. SCHULTE can then store the goods at the Buyer's expense and demand reasonable storage costs, even if the storage occurs in its own warehouse. In such cases, SCHULTE shall charge a lump sum of €500 per heavy goods vehicle for the initial removal and 0.50 euros per day and tonne, beginning on the agreed delivery date or – in the absence of a delivery date – when notification is sent out that the goods are ready for shipment. This shall not affect the option of proving that the actual damages were higher, or our statutory claims (in particular compensation for additional expenses, reasonable compensation, termination); any further monetary claims shall however be offset against the lump sum. The Buyer is free to prove that SCHULTE has incurred no damages, or significantly lower damages than the above-mentioned lump sum. Once the Buyer is in default of acceptance, the risk of accidental deterioration and accidental loss passes to the Buyer.

3.9 If SCHULTE uses pallets for transportation purposes, the Buyer shall be obliged to exchange these for the same number of pallets, of the same quality, from its own stock. It shall otherwise be required to pay damages.

3.10 This does not affect the rights of the Buyer as described in Article 9 of these TCS or the legal rights of SCHULTE, in particular in cases where a performance obligation is excluded (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance).

#### 4 Passing of risk

4.1 In the case of deliveries Ex Works, the risk passes to the Buyer as soon as the consignment has been handed over to the person carrying out the transport or the consignment has left SCHULTE's warehouse for shipment.

4.2 If shipment is delayed or not carried out at the request or due to the fault of the Buyer, the risk shall pass to the Buyer when notification is sent out that the goods are ready for shipment.

#### 5 Prices

5.1 Unless otherwise agreed, the prices are stated in EUROS Ex Works (duty unpaid) and include loading on our premises, but excluding packaging and, if applicable, statutory value added tax.

5.2 If there are more than 4 months between conclusion of the contract and the agreed or actual delivery date and SCHULTE is not responsible for the latter, SCHULTE shall be entitled to adjust the price, if its own costs rise by more than 5%, in particular as a result of increases in material prices or transport costs and wage increases. If the price rises by more than 10%, the Buyer shall be entitled to withdraw from the contract. This does not apply if a fixed price agreement has been concluded for the period in question.

5.3 If partial payment or instalment agreements have been concluded, the entire amount covered will become due if the Buyer is delayed by more than 10 days in settling a partial payment.

5.4 If, after the contract has been concluded, public levies and charges (e.g. duties, import and export charges) are introduced or raised, SCHULTE shall be entitled to add such additional costs to the price.

#### 6 Guarantee

6.1 The primary basis of any claims for defects shall be the agreement reached concerning the condition of the goods. An agreement concerning the condition of the goods means the product descriptions described as such which were made available to the Buyer before it placed its order or were included in the contract in the same way as these TCS. Claims for defects shall not be justified in cases of only insignificant deviation from the agreed condition or only insignificant impairment of serviceability.

6.2 Apart from when expressly agreed otherwise or when product data sheets state specific tolerances, with regard to tolerances for quantities, dimensions, thickness, squareness, basis weight and counting accuracy etc. for paper and cardboard and for other properties and test methods, Articles 12 to 20 of the General Conditions of Sale of Paper and Board Manufacturers in EEC, as recommended by the European Federation of the Pulp, Paper and Board Industry (CEPAC), shall apply; published in 1991 before updated versions were issued, these are available from SCHULTE for reference purposes.

6.3 In any case, dimensional and weight deviations are permissible within the scope of standard commercial tolerances and relevant DIN regulations. In addition, SCHULTE reserves the right to make dimensional and weight changes in the context of technical development, standardisation work and manufacturing possibilities, provided this does not adversely affect the contractual usability.

6.4 Calculations depend on the delivery weights and quantities determined by SCHULTE.

6.5 Damage caused to the first five layers of the respective paper roll during transport are not a defect entitling the Buyer to assert claims for defects.

6.6 SCHULTE reserves the right to deliver goods of a better quality than agreed upon; this shall not entitle the Buyer to always be supplied with the better quality.

6.7 The period for asserting claims for defects shall be 1 year from the beginning of the statutory period of limitation. This period does not apply where the law prescribes longer periods, in particular for recourse claims (Section 479 Para. 1 BGB) or in cases or intent, the fraudulent concealment of a defect and failure to fulfil a condition-related

guarantee. This does not affect the statutory provisions on suspension of expiry, suspension and recommencement of limitation.

6.8 Claims for defects presuppose that the Buyer inspects the products on receipt in accordance with Section 377 of the German Commercial Code (HGB).

6.9 SCHULTE must be informed in writing of any defects as follows:

- a) in cases of transport damage and obvious deviations with regard to quality/type, quantities or agreed conditions, without delay upon discovery, but not later than one week after receipt of the products delivered; externally visible damage must be reported and also documented in an appropriate manner on the shipping documents, if present, in order to narrow down the point in time when the damage occurred,
- b) in the case of defects which can be detected by superficial inspection or simple and random checks, without delay upon discovery, but not later than two weeks after receipt of the products delivered,
- c) in the case of all other latent defects, without delay upon discovery.

It is sufficient for the complaint to be submitted punctually in order to comply with the specified deadlines. Failure to comply with obligations to notify SCHULTE of defects will result in the loss of claims.

6.10 SCHULTE shall decide whether to repair the defective goods or deliver a replacement. If SCHULTE fails to deliver a replacement or repair the defective goods within a reasonable period of time, or if the improved or subsequently delivered products are also defective, the Buyer shall have the right to demand a reduction in the purchase price or demand rescission of the contract.

6.11 If only part of the goods is defective, the Buyer shall not be entitled to fully rescind the contract.

6.12 The Buyer shall not be entitled to assert any claims arising from the expenses necessary to enable subsequent performance, in particular transport, travel, labour and material costs, as far as the expenses increase because what has been delivered has subsequently been transferred to a place other than the Buyer's premises or the originally agreed place of delivery, unless such transfer is in accordance with the thing's intended use.

6.13 If a model, a sample or a batch of goods delivered by SCHULTE displays a particular property that is so crucial for continued use by the Buyer or its customers that this property is certainly one of the primary reasons for the (subsequent) order, the Buyer shall be obliged to notify SCHULTE separately of this fact and of the specially requested property or condition. If this notification is not given and if the (subsequent) order does not display the desired property when the risk passes to the Buyer, SCHULTE shall not be liable for this.

6.14 If the Buyer intends to put one of SCHULTE's products it already uses to a new use, the Buyer shall test this new use in advance. Failure to do so will result in any claims for defects being void.

## 7 Retention of title

7.1 The delivered goods shall remain the property of SCHULTE until full settlement of all of SCHULTE's claims (including all current account claims) against the Buyer due now or in future for any legal reason.

7.2 SCHULTE shall be required to release this security upon the Buyer's request, provided that its realisable value persistently exceeds the claims to be secured by more than 10%.

7.3 Provided it is not in default, the Buyer shall be entitled to process and sell goods which are still subject to retention of title by SCHULTE. Other dispositions, in particular pledges or assignments as security, are prohibited.

7.4 Processing or modifications shall always be carried out for SCHULTE as the manufacturer, albeit without the emergence of new obligations. If any processing, mixing or combining occurs with third-party goods and the third party continues to hold ownership rights, SCHULTE shall acquire co-ownership rights proportional to the invoice values of the processed, mixed or combined goods. The Buyer shall keep the goods (jointly) owned by SCHULTE free of charge. Goods which SCHULTE (jointly) owns under Article 7 are referred to in the following as 'retained goods'.

7.5 To compensate for the loss of the (joint) ownership of the retained goods and as security for SCHULTE, the Buyer hereby already assigns to SCHULTE claims involving the retained goods which arise from resale or for any other legal reason (insurance, unlawful acts) (including securities and ancillary rights), in full or proportionally to SCHULTE's co-ownership share. SCHULTE hereby accepts this assignment. SCHULTE grants the Buyer the revocable right to collect a claim assigned to SCHULTE for its account in its own name. This authorisation to collect can only be revoked if the Buyer does not properly fulfil its payment obligations.

7.6 If the Buyer integrates claims resulting from the resale of the retained goods into an existing current account relationship with its customer, the Buyer hereby already assigns to SCHULTE the amount of the recognised balance or final balance in its favour which corresponds to the total amount of the claims included in the current account relationship resulting from the resale of the retained goods. SCHULTE hereby accepts this assignment.

7.7 If third parties gain access to the retained goods – in particular if they are seized – the Buyer shall point out that they are the property of SCHULTE and inform the latter without delay so that SCHULTE can enforce its ownership rights. If the third party is unable to compensate SCHULTE for judicial or extra-judicial costs incurred in this context, the Buyer shall be liable for these.

7.8 If the Buyer has already assigned claims arising from the resale of the retained goods to third parties, in particular due to non-recourse or recourse factoring, or made any other arrangements which could impair SCHULTE's security rights now or in the future, it must notify SCHULTE of this without delay. In the event of recourse factoring, SCHULTE shall be entitled to withdraw from the contract and demand that the retained goods be returned; the same applies to non-recourse factoring, provided the Buyer is not contractually entitled to freely dispose of the purchase price for the claim.

7.9 In the event of a culpable breach of essential contractual obligations – in particular default of payment and in the cases specified in these TCS – SCHULTE shall be entitled to demand the retained goods. In such cases the Buyer shall be obliged to surrender the retained goods. The taking back of the retained goods or the assertion of retention of title shall only constitute a withdrawal from the contract if SCHULTE expressly declares this or this is legally mandatory.

7.10 If SCHULTE takes back goods that have come into being as a result of the further processing of retained goods and sells these to

third parties, then if the proceeds from the sale of these goods exceed the secured claim, SCHULTE shall pay the difference to the Buyer.

7.11 The Buyer is obliged to store the retained goods properly and to insure them, in accordance with customary practice, at its own expense against theft as well as fire, water, transport and other damage. The Buyer hereby assigns to SCHULTE its insurance claims up to the value of the retained goods or of SCHULTE's co-ownership share. SCHULTE hereby accepts this assignment.

## 8 Payment terms

8.1 Unless otherwise agreed, SCHULTE's invoices shall be due and payable within 14 calendar days after the invoice date, but not later than 30 days after delivery. SCHULTE shall however be entitled at any time – including during an existing business relationship – to carry out a delivery in whole or in part only in return for advance payment. Any such condition must be pointed out by SCHULTE no later than when confirming the order.

8.2 Payment shall not be considered to have been made until SCHULTE can freely dispose of the amount paid. In the case of cheques, payment shall be considered to have been made when the cheque is cashed.

8.3 Once the deadlines specified under Article 8.1 have passed, the Buyer shall be in default. If the Buyer is in default, SCHULTE shall be entitled to demand default interest at the legal rate (currently 9 percentage points above the base rate). SCHULTE is permitted to prove that the damage caused by the default is higher.

8.4 If, after conclusion of the contract, SCHULTE becomes aware of circumstances which call into question the creditworthiness of the Buyer, in particular a significant deterioration of its financial situation (e.g. execution of judgment, bankruptcy, inability to cash cheques, suspension of payments or if the Buyer repeatedly fails to settle invoices despite being reminded), then if the circumstances may be capable of jeopardising entitlements to consideration, SCHULTE shall be entitled to refuse performance and call in all outstanding debt, even if it has accepted cheques. In such cases, SCHULTE shall also be entitled to demand advance payments or security payments. The right to refuse performance shall only exist if the Buyer is not prepared, despite being requested, to perform reciprocally and simultaneously or to pay a security payment.

8.5 The Buyer shall only be entitled to offset or exercise a right of retention if its counterclaims are legally binding or not disputed by SCHULTE.

## 9 Liability

9.1 Unless otherwise specified in these TCS, including the following provisions, in the event of a breach of contractual and non-contractual obligations SCHULTE shall be liable in accordance with statutory provisions.

9.2 As regards fault-based liability, SCHULTE shall in principle only be liable for damages in cases of intent or gross negligence, whatever the legal grounds.

9.3 In the case of slight negligence, then unless a more lenient standard of liability applies SCHULTE shall – irrespective of the legal grounds of the damages – only be liable in accordance with the legal provisions (e.g. standard of care in one's own affairs)

a) for damage arising from injury to life, limb or health and

b) for damage arising from the not insignificant breach of an essential contractual obligation (an obligation whose fulfilment makes possible the correct execution of the contract in the first place and on compliance with which the party to the contract regularly relies and may rely); however, in such cases SCHULTE's liability shall be limited to the foreseeable damage which must typically be expected.

9.4 In the absence of a threat to the contractual purpose, SCHULTE shall not be liable for gross fault on the part of its vicarious agents, provided that this does not involve fault on the part of senior vicarious agents or senior employees and provided there is no other serious negligence on the part of the organisation.

9.5 The limitations and exclusions of liability described in the above paragraphs shall not apply if SCHULTE has fraudulently concealed a defect or provided a guarantee concerning the condition of the goods. Nor do they apply to claims under the German Product Liability Act.

9.6 As far as SCHULTE's liability is excluded or limited under Articles 9.2 and 9.3, this shall apply accordingly to SCHULTE's, organs, employees, legal representatives and other vicarious agents.

## 10 Applicable law/Place of jurisdiction

10.1 These Terms & Conditions of Sale and all legal relationships between SCHULTE and the Buyer are subject to the law of the Federal Republic of Germany, excluding uniform international law, in particular the UN CISG. The requirements and effects of the retention of title as described in Article 7 are subject to the law of the respective storage location of the goods, inasmuch as the choice of German law is inadmissible or ineffective.

10.2 Düsseldorf shall be the sole place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship, provided that a sole place of jurisdiction is not already prescribed by statutory provisions. SCHULTE shall however also be entitled to sue the Buyer at its registered office.

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