



## General Terms and Conditions

### § 1

#### General/Area of Applicability

**1.1** All orders or contracts received by Schoellershammer (the Company) shall be exclusively subject to our General Terms of Sale and Delivery as stated below.

Purchase conditions of the Purchaser shall only be binding on us if we accept explicitly their applicability in writing. This shall also apply in cases where we receive a letter of confirmation from the ordering party listing differing terms of business.

**1.2** Our conditions shall apply to all future business with the ordering party.

### § 2 Offer

**2.1** Our offers are not binding. They are subject to our written Acknowledgement and confirmation which exclusively defines the product quality and price, payment and delivery conditions of the order.

**2.2** Verbal/collateral agreements require our written confirmation to become legally effective.

### § 3

#### Delivery/Delivery Schedule/Transfer of Risk

**3.1** It shall be within our discretion to determine the shipping method. Unless stated otherwise in the acknowledgement, delivery will be ex works.

**3.2** The dispatch date shall commence with the sending of the Order Acknowledgement, providing the Purchaser has procured the required documents, approvals, releases and has agreed payment terms. In the case of advanced payment, monies must be received before shipment terms become effective.

Unless previously agreed, the dispatch date shall be regarded as being adhered to if the goods have left the factory before such date expires or if readiness for dispatch has been advised.

**3.3** Delivery periods and delivery dates shall be extended by the period the ordering party is in arrears with his obligations towards us. In case of acts of God they shall be extended by the duration of such obstructions.

The same shall apply in cases of strikes, lockouts, blockades, ban on imports and exports, traffic blocks, shortages of energy and raw material, regardless whether they occur in our company or at the premises of a supplier.

**3.4** In case of delay in dispatch the ordering party shall be entitled to withdraw from the contract after he has granted us in writing an appropriate extension of the delivery period of at least 6 weeks explaining that he will refuse acceptance of the delivery after expiration of this period; as far as legally allowed, claims for damages shall be excluded.

**3.5** As soon as the goods have left the supplying company the risk of damage, destruction or deterioration of the goods shall be transferred to the ordering party, even in such cases where partial deliveries are made or the supplier has assumed other services such as dispatch cost or carriage and freight costs. Transfer of risk shall also take place where the ordering party delays the dispatch of the goods ready for shipment and we store them.

In this case the risk shall be transferred to the ordering party from the date when the goods were ready for dispatch.

**3.6** The delivery quantity shall be determined by our written Acknowledgement. Changes due to an improved technique or to legal regulations are reserved during the delivery period insofar as the delivery items are not considerably changed and the changes are reasonable for the ordering party.

### § 4

#### Warranty

**4.1** The ordering party has to examine the goods immediately upon receipt. Obvious defects including missing warranted Characteristics have to be claimed immediately within 10 days after arrival of the goods and prior to using them; hidden defects have to be claimed immediately upon their discovery. If the ordering party does not report any defects the goods shall be considered as being accepted.

**4.2** The warranty period is 6 months as of transfer of risk.

**4.3** Where a defect is discovered we shall be entitled to either repair or replace the goods. Remedy of defects may be realized by sorting or partial subsequent delivery as well as by allowance of typographic additional expenditures which may remedy the defect. If we are not prepared or in a position to realize the remedy of defects or a partial delivery as stated above, especially if such measures are delayed beyond reasonable periods or if the remedy of defects or a replacement delivery fails because of other reasons the ordering party shall at his discretion be entitled to claim redhibitory actions or abatement.

### 4.4

Unless otherwise agreed further claims especially consequential loss caused by a defect - on the part of the Purchaser or the Purchasers customer, shall be excluded.

For this reason, the Company shall not be responsible for damages which did not occur to the delivery item itself; in particular we shall not be liable for lost profit or other financial losses.

**4.5** With regard to further claims and rights we shall only be liable in the event of intent or gross negligence. For the rest liability shall be excluded.

### § 5

#### Retention of Title

**5.1** We reserve ownership of all goods supplied by us until the ordering party has paid all debts arising out of the business relationship in particular any outstanding current account balance; in the case of payments by check or draft until such a check or draft has been honored. All orders shall be regarded as an integrated business transaction. The ordering party shall not be entitled to pledge the goods or to assign them as security. The ordering party shall be obliged to notify us immediately of attachments by third parties by transmitting a copy of the record of attachment.

**5.2** Any conversion or processing of the supplied goods by the ordering party or his agents shall take place in our favor contrary to provision of § 950 BGB.

The parties agree already now that unlimited ownership of the converted or processed goods shall pass on to us and that the ordering party shall continue to store such goods for us until their authorized and customary resale. Where goods are attached to or mixed with goods not belonging to the ordering party we shall acquire joint ownership according to §§ 947, 948BGB.

In the event of the resale of the goods owned by us the ordering party already now agrees to assign his purchase price claims against his customer to us as a security until all his debts to us have been settled, without a special declaration being required in each individual case.

On request, the ordering party shall be obliged to declare such an assignment in a special document and to disclose his debtors.

If the value of the security assigned to us exceeds his claims for the goods by more than 20% in total, we shall, at ordering parties request, be obliged to retransfer the debts to the ordering party in the amount of such excess value.

The ordering party shall only be entitled to collect the pledged debts if he fulfills his obligations to us.

**5.3** In case of cessation of payment or the opening of insolvency proceedings the ordering party shall on no account be entitled to collect the pledged debts.

The ordering party shall be obliged to inform us of the stock and amount of debts assigned to us in accordance with the condition as aforesaid and, on demand, to provide us with information about the identities of the debtors and to allow us or the agent appointed by us to look at the accounts involved. In the event of default of payment the ordering party shall be obliged to provide within 3 days, on demand, information regarding the stock of goods owned by us and to insure that such goods will not be processed or disposed of. Following the settlement of all claims the ownership rights shall be transferred to the ordering party. Simultaneously, the receivables from the extended retention of title shall be retransferred to the ordering party.

**5.4** Where customers of the ordering party have made payments directly to us following notification of assignment those payments which exceed the amount needed to cover our debts shall be paid to the ordering party. The ordering party shall be obliged to insure the goods against theft and fire until the final payment of our claims.

### § 6

#### Price/Terms of Payment

**6.1** The purchase price and charges for auxiliary services are payable on delivery of the goods. Apart from that - unless otherwise agreed in writing - the following shall apply:

Payment net within 30 days of date of invoice  
Payment less 2% cash discount within 14 days of date of invoice

**6.2** Checks and drafts shall only be accepted as payment after they have been honored. The acceptance of drafts requires our prior written agreement.

If we honor drafts fees will be charged with interest which have to be paid in cash immediately.

**6.3** Default interest will be charged with 10% per year.

### 6.4

In case the ordering party qualifies as a merchant, a legal entity or a trust under German public law the retention of payments because of any counterclaims of the ordering party which have not been accepted by us is not permissible, nor to set them off.

### § 7

#### Price Changes

In case the wages, the material costs or the acquisition prices customary in the market shall be raised until the delivery has taken place, we shall be entitled to raise the price reasonably in accordance with the cost increases.

The ordering party shall only be entitled to withdraw if the price increase between order and delivery exceeds considerably the increase of the general cost of living.

In case the ordering party is a merchant, a corporate body or special assets under public law, price changes according to the regulation as aforesaid are admissible if there are more than 6 weeks between contract conclusion and agreed delivery date.

### § 8

#### Cancellation Cost

If the ordering party withdraws from the order without good reason we shall be entitled, irrespective of the possibility of claiming a higher actual loss, to claim 10% of the purchase price to cover the cost resulting from the execution of the order as well as for the lost profit.

The ordering party shall be granted the right to prove a minor loss.

### § 9

#### Compensation/Restriction of Liability

**9.1** Claims for compensation shall be excluded irrespective of the legal grounds. This shall not apply in the event of intent and gross negligence.

**9.2** In the event of liability our duty of replacement shall be restricted to the typical predictable damage.

**9.3** The ordering party shall not be entitled to claims for compensation other than conceded in these provisions, in particular he shall not be entitled to claims for compensation resulting from non-contractual liability or other rights because of possible disadvantages regardless of the legal ground the ordering party is appealing to.

This restriction of liability shall not apply in cases of intent, gross negligence of the owner or an executive nor in the event of culpable breaches of essential contractual obligations. In the case of culpable breaches of essential contractual obligations we assume liability only for the typical and predictable damage, except for cases of intent and gross negligence of the owner or an executive.

### § 10

#### Subrogation

**10.1** We are entitled to assign our claims without Purchaser's consent.

### § 11

#### Final provisions

**11.1** Place of performance shall be Dueren.

**11.2** Legal domicile shall be Dueren insofar as the ordering party qualifies as a merchant, a legal entity or a trust under German public law.

**11.3** The laws of the Federal Republic of Germany shall apply exclusively. The application of the standard UN Purchase Law (CISG) shall be excluded.

**11.4** In the event of individual provisions of the contract being invalid this shall not affect the validity of the contract. In place of the invalid provision such a provision shall be valid as approximates most closely within the legal framework to what was commercially intended in accordance with the intent and purpose of the invalid clause.

This shall also apply in the case of any loopholes.

**11.5** In addition the „General Terms and Conditions of Sale of the Paper and Cardboard Manufacturers of the EC“ (CEPAC), version of 1991, shall apply if nothing else has been agreed upon.