

General Purchase Conditions of Schüco Interior Systems KG

Karolinenstraße 1 - 15, D-33609 Bielefeld, Germany (hereinafter referred to as „Schüco“)

1. Scope

All purchase orders shall be subject exclusively to the present General Conditions of Purchase which shall be deemed as accepted, without express acknowledgment, upon acceptance of our purchase order or its – even partial – processing. They shall also apply in the event that Schüco, with full knowledge of any contrary stipulations or any supplier's conditions conflicting with present General Purchase Conditions, does accept incoming goods without reservation. Divergent order confirmations, agreements or terms and conditions of Supplier require Schüco's express written consent to become effective.

2. Conclusion of Contract

2.1. All quotations are to be submitted free of charge. Unless otherwise agreed, they shall be made in writing.

2.2. Only written Schüco purchase orders shall be legally binding. Emails are considered not to satisfy the written form requirement. Any purchase orders placed orally, by phone, or email shall not be valid unless confirmed by Schüco's subsequently submitted written purchase order. The same shall apply to any oral subsidiary agreements and/or contract amendments.

2.3. Purchase orders are to be confirmed by Supplier within 3 days stating the Schüco purchase order number. Failing to submit such confirmation within 14 days after the issue of such purchase order, Schüco shall no longer be bound to said purchase order.

3. Prices

3.1. Agreed prices are considered firm prices and to exclude any type of subsequent claims. Unless otherwise agreed, prices are deemed to be inclusive of VAT. This does not apply to the Import Turnover Tax which, unless otherwise agreed, is to be paid by Schüco.

3.2. Agreed prices shall be understood to be free domicile including freight, cartage and packaging. Subject pricing shall be considered not to prejudice the agreed place of delivery.

4. Delivery

4.1. Except with regard to invoices (see subparagraph 8.1), the entire correspondence is to be conducted between Supplier and the ordering purchase department of Schüco. Supplier agrees to state both the Schüco purchase order number and the purchase order date in all correspondence, invoices, and shipping documents. In addition, particulars as to the point of unloading shall be included upon request. If, as a result of voluntary non-observance of the aforementioned details, additional expenses are incurred, any such additional costs shall be on Supplier's account.

4.2. Each shipment is to be accompanied by a delivery note on which the number and date of the purchase order, the product number, the quantity and the exact place of delivery are to be stated. Furthermore, a shipping note for each and every consignment is to be sent to Schüco. Invoices shall not be accepted as delivery notes.

4.3. Schüco shall reserve the right to accept excess or short deliveries.

4.4. Supplier shall be held liable by Schüco to ensure that any consignments which are subject to labelling requirements be labelled accordingly. Such labelling is also to appear on all order confirmations and shipping documents.

4.5. Supplier agrees to promptly and without further request issue to Schüco once a year by way of a long-term declaration or for each shipment any required documentary evidence of origin (e.g. supplier's declarations, movement certificates or declarations of origin on the invoice in line with the EZ preferential trade agreements, certificates of origin in accordance with the non-preferential rules of origin) including all required information and in duly signed form.

4.6. If, due to any legal regulations, Supplier is required to submit any certificates of compliance, Supplier agrees to promptly issue to Schüco any such documents upon request. In the event that Schüco needs Supplier's assistance in conjunction with said certificates of compliance, Supplier agrees to immediately provide any required assistance, in particular as regards the issue of declarations.

4.7. In case of drop shipments from Supplier directly to a Schüco customer, Supplier agrees, upon Schüco's request, to only use shipping documents which do not disclose Supplier or which identify Schüco as Supplier to the customer. Schüco agrees to submit Schüco delivery notes to Supplier as and when required.

4.8. As far as drop shipments are concerned, Supplier agrees to keep all shipping documents filed in accordance with any applicable legal regulations and, upon Schüco's request, to immediately release them to Schüco.

4.9. Supplier agrees to ensure the goods to be immediately unloaded at the agreed place of destination. Any assistance of Schüco's employees in unloading the goods shall be at the sole risk and charge of Supplier.

4.10. Upon completion of the unloading and acceptance of the consignment by Schüco and/or at the agreed place of destination, the risk shall pass to Schüco. This shall also apply if the goods are taken over by Supplier's forwarding agent or carrier. If Schüco agrees to collect the goods at Supplier's premises or if the goods remain at Supplier's premises after acceptance by Schüco, Supplier is deemed to assume responsibility for the incidental deterioration or loss of the goods until the goods have reached their place of destination and have been unloaded.

4.11. Prior to the shipment of parts and/or items which required to be manufactured in accordance with Schüco drawings or details, type samples are to be sent to Schüco for approval.

5. Delivery Dates

5.1. All delivery dates scheduled in the purchase order shall be binding.

5.2. The delivery term shall start on the date of the purchase order. In case of any expected or apparent delays, Supplier agrees to immediately report such delays to Schüco.

5.3. Partial shipments shall at no time be deemed to be independent business transactions.

5.4. Schüco shall have no obligation of acceptance prior to the scheduled date of delivery.

5.5. Upon Supplier's default, Schüco shall be entitled to claim a flat indemnification of 1% of the net purchase value per commenced week, however not exceeding 5% of the net purchase value of the entire consignment, and/or to cancel the contract. The flat indemnification shall be set off against an actual claim for damages. Supplier shall be at liberty to prove that Schüco has incurred a lesser damage or no damage at all.

6. Liability for Defects

6.1. Supplier hereby warrants that all of his goods comply with any of the applicable legal requirements, product safety regulations, relevant regulations of the respective authorities and professional associations (including accident prevention regulations), regulations and rules prevailing in the particular countries in which the goods are manufactured and stored or through which they are transported or in which they are used. Supplier further warrants that the goods fulfil the latest state-of-art requirements and that they are suited for their intended use.

6.2. Schüco may demand of Supplier reimbursement of the expenses which Schüco had to bear in relation to his consumer under section 439 para. (2) and (3) BGB and section 475 para. (4) and (6) BGB, if the defect asserted by the consumer already existed upon the passing of the risk to Schüco. The claims of Schüco for supplier recourse also apply, if the defective good has been processed according to its nature and purpose by Schüco or another person. Processing in the aforementioned sense also means creating a new thing by processing, installing in other goods or attaching to other things.

6.3. The obligation to examine and to notify apparent defects or deviations in quantity shall at all events, even if the consignment has passed into Schüco's property or has been handed over to the forwarding agent, carrier or any other person duly authorized by Schüco, only upon receipt of the duly issued delivery note and arrival of the goods at Schüco. It is understood that Schüco shall be obliged to open the packages and to spot-check the goods on a random basis only. Any defects which are not apparent due to the type of packaging or are not detected during random checking shall be considered hidden defects. As regards apparent defects, the notification period shall be 10 work-days after receipt of the goods at Schüco, in case of hidden defects 14 days after their detection. The notification period is deemed observed if the notice of defect has been dispatched by Schüco within this period.

6.4. The limitation period for rights arising from product defects is 3 years. Notwithstanding the aforementioned period, the limitation period for defects of products which are ordinarily used in buildings and whose faultiness are the cause of their defectiveness, is 5 years.

6.5. In the event of defects, Schüco shall be entitled to exercise, without restriction, any of its legal rights arising from product defects.

6.6. In the event that Schüco agrees to keep the rejected goods in a safe place, Schüco can only be held responsible for not applying the same diligence as for its own affairs. If, in spite of a reminder, Supplier refuses acceptance of the returned goods, Schüco shall be entitled to have the goods stored at Supplier's costs at a forwarding agent's facility.

6.7. Supplier agrees to hold Schüco harmless of any third party claims in conjunction with the Product Liability Act, the Extended Manufacturer's Liability and/or other applicable regulations inasmuch as the supplier is to be held accountable for the defect causing the liability to arise.

6.8. Complementary to the aforementioned stipulations, the legal regulations regarding the liability for defects shall apply.

7. General Liability for Damages

In cases of liability for damages which do not result from faulty delivery/performance, the legal regulations shall apply.

8. Invoices, Terms of Payment

8.1. It is understood that Supplier shall issue his invoices in conformity with applicable legal provisions. Unless otherwise agreed, the invoices are to be mailed to Schüco's accounts payable department stating Schüco purchase order number, Schüco product number, Schüco item number, Schüco supplier number, invoiced quantities, unit prices and date of purchase order as well as the name of the ordering Schüco employee. Invoices must not contain more than 20 items and must not accompany the consignment. In case of shipments to different Schüco warehouses, a separate invoice is to be issued for each shipping address. Partial shipment/performance are to be identified accordingly in the invoice.

8.2. Payments shall be effected only upon full receipt of the faultless goods and/or entirely faultless performance and after receipt of a duly issued invoice. Unless otherwise agreed, Schüco agrees to effect payment within 30 days after delivery and receipt of the original invoice less 3% discount or within 60 days net. Any delays resulting from incorrect or incomplete invoices shall have no effect on the applicable discount periods.

8.3. Any payments effected by Schüco shall not be deemed to constitute the acceptance of a statement or a delivered item. Upon payment of the purchase price, the goods shall pass into Schüco's property.

8.4. Schüco shall be entitled to exercise its legal rights of retention without restriction of any kind. Schüco shall without restriction be entitled to setoff within the legally admissible scope.

8.5. Irrespective of his right of assignment according to § 354 a HGB [German Commercial Code], Supplier shall not be entitled to assign his purchase price claim without Schüco's prior consent. Schüco agrees not to unreasonably withhold its consent.

9. Industrial Property Rights, Drawings, and other Documentation

9.1. Schüco shall be entitled to safeguard its intellectual and industrial property rights to all drawings, calculations, and other pertaining documents as may have been transferred to Supplier. Such documents may not be made available to any third party without Schüco's express written consent. Such documents are exclusively intended for manufacturing purposes in conjunction with a purchase order. After completion of the purchase order they are to be returned to Schüco without further request and to be kept secret from any third party.

9.2. It is understood that Supplier is prepared to recognize any Schüco industrial property rights and patents evidenced by the applicable documents.

9.3. Supplier agrees to keep in a safe place all goods as may have been ordered by Schüco and whose manufacture, modification or specific design he may have started upon Schüco's request or in conformity with Schüco's drawings or descriptions, irrespective of the question whether or not they are protected by any industrial property rights, and not to supply them to any third party without Schüco's prior written consent.

9.4. Supplier further agrees to adhere to any of the tolerances stated on Schüco drawings. Any modification of such tolerances requires Schüco's prior written consent in each individual case. It is understood that Schüco's approval of and/or the transfer for use of drawings or other documents shall in no way relieve Supplier of his sole responsibility for delivery.

10. Other Provisions

10.1. Place of performance for deliveries shall be Bielefeld, Germany.

10.2. The exclusive place of jurisdiction for all disputes arising from or in conjunction with any transactions based on subject Purchase Conditions shall be Bielefeld, Germany.

10.3. All relations between Schüco and its supplier shall be exclusively governed by the laws of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.