

Terms and Conditions of Sale and Delivery

Article 1 - General Provisions

Unless it is or will be otherwise agreed-upon the following Terms and Conditions of Sale and Delivery shall exclusively apply. Any and all terms or conditions which are contrary thereto or any other of any one Buyer's provisions which differ from Schuco's Terms and Conditions of Sale and Delivery will not be accepted by Schuco unless Schuco will have agreed to their applicability and acceptance separately and in writing. Moreover any orders which will be placed by the Buyer either orally or in writing and/or the acceptance of any of Schuco's deliveries shall be deemed to be and constitute acceptance of Schuco's Terms and Conditions of Sale and Delivery.

Article 2 - Offers

Schuco's offers are at all times submitted subject to change without notice. Any and all orders passed to Schuco shall be deemed to have been accepted by Schuco, if and when Schuco either confirms the same in writing or executes the same.

Article 3 - Prices and Payments

All prices are to be understood as being net prices to which any and all applicable taxes, levies or charges will have to be added. Unless it is or will be otherwise agreed upon, such prices shall be valid and apply for delivery of the goods ex works, payment to be made net cash after receipt of the goods. Costs which will accrue for the Buyer in view of eventual materials disposal requirements were already taken into account as the sales price was determined and fixed. In the case of minimal orders amounting to less than 100.00 Euros Schuco shall be entitled to charge a handling fee in the amount of 10.00 Euros.

Schuco is and shall be entitled to, within a term of four months after an invoice will have been written, additionally charge and invoice any and all additionally accrued increases of customs duties, taxes or other statutory charges and levies which do not come under Schuco's responsibility, but which are usually part of the company's pricing, provided that it is for a commercial business transaction.

Checks and bank debit entries shall not be deemed to constitute payment unless and until they will have been honoured and will have been credited to Schuco's bank account. Discount charges and other costs and expenses shall be borne by the buyer.

The Buyer shall not be entitled to any set-offs, unless and to the extent only where the Buyer's counterclaims will have been determined by way of a nonappealable Court ruling or are uncontested. The Buyer shall not be permitted to exercise any right or rights of retention derived from any preceding or other business transactions which are or were part of the parties' current business relations.

The Buyer will be in default of payment at the latest by the time which is stipulated as a deadline under statutory provisions.

Whenever the time period granted for payment will not be respected and complied with, Schuco shall be entitled to make further deliveries of goods against either payment in cash or advance payments only. If and in the event where any circumstances were to arise which are adapted to affect or diminish the Buyer's creditworthiness, Schuco may either rescind the delivery contract or assert an extraordinary right to terminate the contract for exceptional reasons, unless the Buyer will provide security within a time period or term which will be determined by Schuco.

Article 4 – Force Majeure

In cases of force majeure or acts of God or other disturbances which are impairing Schuco's ability to deliver without Schuco being responsible for the same – which are considered to be circumstances and events or incidents which cannot be prevented by the due care and diligence which is incumbent upon any prudent business management – Schuco shall be released from its obligation to deliver without this giving rise to a liability for damages or compensation. The following shall, amongst other things, be deemed to constitute events of force majeure: transport impediments, delay or defectiveness or inadequacy of the supply of raw materials, administrative or governmental measures, all forms of labour disputes or industrial conflicts. The Buyer may revoke and cancel its order, if Schuco will be unable to deliver or perform within an appropriate additional period of time or grace granted to it by the Buyer.

Article 5 - Deliveries

Time periods and deadlines granted for deliveries shall not begin to run unless and until all of the information and documentation required for the processing and handling of any one order will have been fully received.

Regardless of all the efforts which Schuco will make in order to respect and comply with given delivery dates and deadlines, its promises to deliver by a certain date shall be non-binding unless they will have been defined as "binding" or "fixed". In case of force majeure or of other disturbances or impediments to Schuco's abilities to deliver, for which Schuco will not be responsible, the time period allowed for delivery shall be extended by that particular length of time during which such disturbance or impediment will persist. The Buyer shall immediately be notified of both the onset and the probable time period during which such disturbance or impediment will be continuing. Either one of the parties may rescind or cancel any one individual order without this giving rise to any right of indemnification, if and when a delivery will be delayed for more than one month.

Unless it will have been otherwise agreed upon the type or mode of packing, the type of transport and the forwarding and shipping route shall be chosen by Schuco at Schuco's discretion. Variations in quantities which are customary in this type of business and trade shall be permitted. Schuco reserves the right to increase or to reduce orders so that they will conform to original packing unit sizes. Invoices will at all times be set up and written on the basis of the quantity or quantities which were actually delivered.

Regardless of what the underlying reason for returns may be, no such returns shall be made unless and until Schuco will have given its written consent thereto.

All risks shall pass to the Buyer once the merchandise will have left the loading ramp, regardless of whether the delivery will be made by Schuco's own vehicles or by vehicles travelling and transporting the goods upon instructions and by order of Schuco, or whether the goods will be collected by the Buyer or by any vehicles which will transport the goods for and on behalf of the Buyer.

Article 6 – Default in taking delivery

In the event where the Buyer will be in default in taking delivery of the goods, Schuco may rescind the contract after a grace period of an additional 14 days at the most will have been granted and Schuco may then assert claims for damages. Schuco shall be entitled to charge a lump sum of 5 % of the loss of net sales in terms of claims for damages without having to provide supporting evidence. Further or additional claims for damages shall remain unaffected thereby. In cases of belated acceptance of the goods ordered and if the current market price will have meanwhile gone up, Schuco shall be entitled to invoice such higher current market price to the Buyer.

Article 7 - Warranty

The Buyer shall inspect and examine the goods delivered to the Buyer immediately and in reasonable depth, detail or extent after the Buyer will have received the same. In the event where any defects or deficiencies are to be noted the Buyer shall notify Schuco in writing of its complaints within a time period of 5 work days after receipt of the goods, or as soon as the Buyer will have become aware of the outcome of analyses which the Buyer shall have to order to be done forthwith.

Schuco's goods shall be deemed to be free from any material defects if and when such goods comply with the agreed-upon specification at the time of the passing of the risks. If Schuco and the Buyer did not make any specific agreements concerning any particular specification for the goods, the goods shall be deemed to be free from material defects or deficiencies if such goods are and will, at the time of the passing of risks, be of a nature and quality which is customary for goods of the same type and which the Buyer can expect in view of the specific type of goods or merchandise concerned. Schuco's sample material shall not be deemed to stand for or constitute any guarantee, but is to represent nothing but the general nature or quality of a species or variety of goods for the reason that products of the land will always tend to be marked by certain variations in quality and flavour. Schuco shall not be obliged to perform in any way other than the delivery of goods which are not affected by any defects or deficiencies.

All that the Buyer may demand in terms of remedy or replacement is and shall be the delivery of non-defective or non-deficient goods. If a delivery of goods in replacement of defective or deficient goods will turn out to be either impossible or a failure, or if a replacement delivery is or will be refused mala fide or if it is unduly delayed by Schuco's fault, the Buyer is and shall be entitled to, at its option, either lower the purchase price or rescind the contract.

If any of the goods delivered by Schuco were to be affected by any material defect or deficiency, then this shall not be considered to be a nonobservance of a contractual obligation for which Schuco shall be responsible, if and as long as Schuco shall have properly produced or traded such goods in line with Schuco's quality management provisions according to the DIN EN ISO 9001:2000 standards or if the material defect or deficiency is or will be due to any one failure occurring within either one or several phases of the production process and if such failure could not be avoided or prevented by the due care and diligence which is incumbent upon a prudent business management.

Unless any one damage was caused by Schuco either wilfully or by gross negligence, Schuco shall be liable for damage to the extent only and within the limits of and in line with the coverage provided by the business liability and product liability insurances which Schuco has taken out for an appropriate insured amount.

The statutory period of limitation shall be applicable and governing for Schuco's warranty.

In so far as any of Schuco's personnel will assist in unloading and where they will be engaged in any activity or work in the Buyer's plant or facility areas they will be acting at said Buyer's risk and peril. The same shall also apply if the company to which delivery is to be made will provide Schuco's staff member with machinery, equipment or vehicles which are to be used for such unloading purposes.

Article 8 – Retention of Title

Schuco will retain the ownership title in and to the goods delivered by it up to such time where all of Schuco's claims resulting from the business relationship with the Buyer will have been fully satisfied. The transfer of individual receivables or claims to a current account as well as the balancing and the recognition thereof shall not affect nor detract from this right of retention of title. Any and all such goods which are subject to such retention of title or property lien can only be used, sold, pledged or disposed of by transfer of the ownership title within the limits of the Buyer's regular and due course of business. Any and all claims arising therefrom in relation to any third party or parties shall be transferred, ceded and assigned to Schuco in order to thus furnish security. If and when the goods concerned will be resold for payment in cash, Schuco shall directly be entitled to the proceeds so obtained and the proceeds of such sale shall directly and forthwith be handed over and surrendered to Schuco. Any and all attachments which will be made by any third party or parties with respect to any such merchandise or goods which are subject to Schuco's retention of title and ownership shall immediately be reported to Schuco.

This retention of title shall also include and cover any and all products which are or will be created by the processing, mixing or incorporation of Schuco's products with third party products, covering the full value of the Schuco products. In cases where Schuco's products are or will be processed, mixed with or incorporated in third parties' products and such third parties' ownership title is prevailing, Schuco shall acquire a co-ownership title in and to the newly created products at the ratio of the invoice values of such processed Schuco products. If the Buyer will have produced a new movable product by the processing of Schuco's goods with other substances, and if Schuco will thus have lost the ownership title thereto Schuco shall be ceded and assigned claims which have been created on account of disposals such as use, sale or pledge of such new product at the ratio of the invoice value which the Schuco products have in relation to the other processed goods, the maximum to be the amount of the sales price of Schuco's goods.

Any and all pleas, defences and objections against the right of restitution to which Schuco is or will be entitled or the claims which were transferred, ceded and assigned to Schuco hereunder shall be barred and precluded. Schuco shall be entitled to either itself or by any authorized agent or agents have access to and enter the Buyer's warehouses in order to find out and determine any such goods which are subject to Schuco's retention of title.

Schuco agrees and obliges itself to, at Schuco's option, in so far release existing collateral, as the value thereof will by 20 % exceed those claims or receivables which are so to be secured.

Article 9 – Severability Clause

If any of the provisions of the Agreement concluded between Schuco and the Buyer were to be or become invalid or contestable, the other provisions hereof shall not be affected thereby. If and in so far as any of the provisions of the General Terms and Conditions of Sale and Delivery is or will be invalid or contestable, the other remaining provisions hereof shall be understood and construed in line with the economic objectives which were hat in mind and which were pursued with the invalid or contestable provision.

Article 10 – Place of Venue and Jurisdiction

The place of performance for any and all payments shall be Nuernberg. If the Buyer is a merchant or a company doing business under German commercial law, then the place of venue and jurisdiction shall be either Nuernberg or, at Schuco's option, the Buyer's general place of jurisdiction and venue. Nuernberg shall be the sole and exclusive place of jurisdiction and venue for any and all claims which will have to be asserted against any one buyer who or which will, following the conclusion of contract, transfer his/her or its place of residence or company headquarters or its usual residence or domicile out of the territory where the German Code of Civil Procedure is valid and applicable, or the place of business or domicile or usual place of residence of which or of whom is or will be unknown at the time when Schuco's claims against such buyer will have to be asserted by way of legal action.

The only laws which shall be applicable and governing shall be the laws of the Federal Republic of Germany. In case of doubt the German version of these Terms and Conditions shall be valid and governing.

Schulze GmbH & Co. KG „Schuco-Gewürze“, Nuernberg

Effective date: 01.12.2019