

I. General information

1. The following general delivery, assembly, and payment conditions (GTCs in the following) of the Schiller Group shall apply exclusively to all transaction with customers.
2. The Schiller Group includes the companies Schiller Automatisierungstechnik GmbH and Schiller Engineering & Maschinenbau GmbH, which are located in Osterhofen, Germany.
3. We shall not acknowledge contrary or deviating conditions of the customer vis-a-vis the GTCs of the Schiller Group, unless the Schiller Group has approved their validity in writing. The GTCs of the Schiller Group shall also apply if the Schiller Group accepts the delivery or service of the customer without dispute in spite of its knowledge of the customer's own contradictory or deviating conditions.
4. All agreements made between the Schiller Group and customers must be made in writing.
5. The GTCs of the Schiller Group shall also apply to all future transactions with the customer. This shall also apply even in case this is not explicitly agreed to again.
6. These GTCs shall only apply to merchants and legal persons within the context of public law and public legal special assets within the context of Section 310 Para. 1 BGB.

II. Offer, acceptance

1. The offers provided by the Schiller Group are essentially subject to change and non-binding. Exceptions from this shall only apply to offers by the Schiller Group that feature which other regulations.
2. The customer shall be bound to his order until acceptance or rejection by the Schiller Group, however only for maximum four weeks.
3. The contract shall only become valid following written confirmation by the Schiller Group. This shall also apply if the customer's order relates to an offer provided by the Schiller Group. Sending an invoice is equivalent to confirming an order.
4. Dimensions, weight, and performance specifications, as well as photos, drawings, and corresponding information in cost approximations, offers, and other documents shall only be relevant if the Schiller Group.
5. Schiller Group reserves all property, patent, and ownership rights concerning all documents, patterns, photos, drawings, calculations, data storage devices, and documentation provided to the customer. They may not be used for any purpose other than those agreed to or provided to third parties without written approval from the Schiller Group. This applies to all documents and information provided, but especially to those marked as confidential. The Schiller Group shall be entitled to demand the release of documents at any time if confidentiality is not ensured. Further legal claims on behalf of the Schiller Group shall remain unaffected by this.

III. Prices, payment, deadline, delays, offsetting, retention rights, assignment

1. The prices apply plus legal sales tax for the scope of service and delivery listed in the order confirmations. Provided nothing else has been agreed to, costs for packaging, transport, transport insurance, customs formalities, and customs shall not be included in these prices and shall be invoiced separately (ex works).
2. Additional fees shall be charged for work outside of normal working time (night work, work on Sundays and holidays). The same applies to work under more difficult conditions. Travel and waiting times qualify as working time.
3. All payments must be made without any reductions in accordance with the order confirmation, provided no separate agreements have been made, and as follows:
 - 30% of the order value upon order confirmation in return for a bank guarantee for the total advance payment amount
 - 30% of the order value upon delivery or starting assembly
 - 30% of the order value upon commissioning
 - 10% of the order value following acceptance
4. The payment goal for all payments is 30 days net. After exceeding the payment goal, the customer shall be automatically in arrears without the need for any reminder. In case of a delay, the late interest shall be 8 percentage points above the basic interest rate. The enforcement of additional damages in case of delays shall remain unaffected by this.
5. The Schiller Group shall be entitled to adjust the agreed prices according to any cost increases that may have occurred between ordering and the delivery.
6. In case of deliveries and services inside the European Union, the customer must indicate proof of release from payment of sales tax by providing his sales tax ID number before completion of the contract. In case this notification is not provided completely and in good time, the Schiller Group reserves the right to invoice the corresponding applicable sales tax. In case of deliveries and services outside of the European Union, the Schiller Group shall be entitled to invoice the legal sales tax rate if the customer does not provide the Schiller Group proof of export within one month after the respective shipment is made.
7. Offsetting with counter-claims on behalf of the customer or withholding payments due to these claims shall only be permitted if the counterclaims are not disputed by the Schiller Group or if they are determined to be legally valid. The customer shall only permitted to exercise withholding rights if his counterclaim involves the same contractual relationship. The customer shall not be entitled to assign payment claims against the Schiller Group to third parties.

IV. Delivery or service period, delays, withdrawal

1. Delivery and service periods indicated by the Schiller Group are non-binding, unless the Schiller Group has confirmed the exact delivery and service deadline explicitly in writing.
2. Adherence to bindingly agreed delivery and service periods requires fulfilment of all obligations of the customer, especially adherence to the agreed payment conditions. Adherence to the delivery or service period is subject to correct and timely self-delivery. Impending delays that become clear must be indicated to the Schiller Group.
3. The delivery or service period qualifies as maintained, if the contractual object has left the works before expiry of the period or readiness for shipping has been indicated. If the service is provided at the customer's premises, the service period shall be met upon provision of the service.
4. The Schiller Group shall not be liable in case the delivery or service is impossible or in case of delays, provided this has been caused by force majeure (e.g. flood) or other unforeseeable events at the time of contract completion (e.g. operating interruptions, raw materials shortages, labour disputes, transport-related delays, or delays caused by official approvals) that the Schiller Group is not responsible for.

5. If events of this kind make delivery or the service significantly more difficult or impossible for the Schiller Group and the event is not only of a temporary duration, then the Schiller Group shall be entitled to withdraw from the contract and demand payment of a portion corresponding with the completed work.
6. If the Schiller Group is delayed providing a delivery or a service or if provision of a delivery or service becomes impossible for him, no matter for what reason, then the liability of the Schiller Group shall be limited to damage compensation according to item VIII of these GTCs.
7. If the customer's acceptance is delayed, then the Schiller Group shall be entitled to exercise existing legal rights, especially to demand replacement of the resulting additional costs and to withdraw from the contract after setting a suitable grace period and its consequent unsuccessful expiry. In case of delayed acceptance on behalf of the customer, the risk of potential destruction or accidental degradation of the contractual object shall transfer to the customer at the time when his acceptance was delayed.
8. In case of withdrawal from the contract due to the customer, the Schiller Group may demand flat-rate damage compensation from the customer in the amount of 25% of the gross order value that the withdrawal was declared for. The enforcement of damages that go beyond this shall remain reserved by the Schiller Group.

V. Delivery conditions, transport insurance, risk transfer, export

1. Provided nothing else results from the order confirmation, deliveries shall always be made ex works.
2. Partial deliveries shall be permitted insofar as this is reasonable for the customer.
3. Within the order and at the risk and cost of the customer, the Schiller Group shall insure all deliveries against damage and loss (transport insurance). If transport damage or transport-related damage results to the delivery and Schiller Group is therefore entitled to claims against the transport insurer and/or the courier, then the Schiller Group shall assign these claims to the customer upon request by the customer, with the exclusion of liability for the basis of the claims, and specifically step-by-step in return for payment of the total price agreed for the contractual object and all other costs that are owed. Claims against the Schiller Group that go beyond this due to transport damage or transport-related damages are excluded. This shall also apply in case the contract between the Schiller Group and the customer includes assembly services or setting up a turn-key system.
4. The risk shall transfer to the customer at the time the contractual object is provided to the courier, freight carrier, or other third party otherwise contracted to complete delivery. This shall also apply if partial deliveries are made or the Schiller Group has accepted other services (e.g. delivery or assembly).
5. If transport or pick-up of the contractual object by the customer is delayed on his request or for reasons he is responsible for, then the risk shall transfer to the customer beginning with the day on which the Schiller Group is ready for delivery and this is indicated to the customer.
6. Transport damages must be indicated in writing immediately to the Schiller Group and the third party contracted with delivery, however within five days at the latest.
7. The customer shall be obligated to export objects and technical information delivered to the Schiller Group in accordance with relevant export specifications only and to subject his purchasers to the same obligation.
8. All taxes, fees, and obligations in relation with the service outside of the Federal Republic of Germany must be borne by the customer and repaid to the Schiller Group as required.
9. Every change to the contractual object provided by the Schiller Group, especially its designation, which includes indication of the origin from the customer or a third party or creates the appearance that a product of the customer or a third party is involved shall not be permitted, unless the Schiller Group has previously provided written approval for this.

VI. Warranty in case of legal defects

1. If use of the contractual object leads to a violation of commercial property rights or domestic copyrights, the Schiller Group shall essentially provide the customer the right to continued use at its own cost or modify the contractual object for the customer in a reasonable way so that the violation of property rights is no longer present.
2. If this is not possible at appropriate commercial conditions or within a suitable period, the customer shall be entitled to withdraw from the contract. The Schiller Group shall also be entitled to withdraw from the contract under the circumstances above.
3. The previously indicated obligations of the Schiller Group only exist
 - if the customer informs the Schiller Group about claims enforced by third parties immediately in writing and,
 - if a violation is not acknowledged and the Schiller Group reserves the rights to all defensive measures,
 - the customer is not responsible for the property rights violation,
 - the violation was not caused by special information on behalf of the customer or an application that could not be foreseen by the Schiller Group, or the violation was caused by a change to the contractual object or use together with a product that was not delivered by the Schiller Group.

VII. Warranty in case of material defects

1. The customer must indicate material defects to the Schiller Group immediately in writing.
2. The Schiller Group is entitled to correct material damage at its own discretion by repairing the defect or providing a replacement delivery or service.
3. To complete the necessary subsequent improvements and replacement deliveries or services, the customer must grant the Schiller Group a suitable period of at least four weeks in writing. The customer has the right to correct the defects himself or through third parties in urgent cases only, e.g. danger to operating reliability or to defend against disproportionately high damages, including the right to demand compensation of the required expenses from the Schiller Group. In these cases, the Schiller Group must be informed immediately.
4. If subsequent fulfilment does not take place within the suitable period or if subsequent fulfilment is unsuccessful after three attempts and the Schiller Group is responsible for this, then the customer shall be entitled to withdraw from the contract. If only an insignificant material defect is present, then the customer shall only be entitled to a reduction. The right to a reduction shall otherwise remain excluded.

5. Returns for the purpose of subsequent fulfilment shall only be made following written approval from the Schiller Group. The customer shall bear the costs for this. The risk of accidental destruction and accidental degradation shall only transfer to the Schiller Group upon handover to the Schiller Group.

6. In case of replacement delivery or service for the purpose of subsequent delivery, the customer must grant return of the delivered item.

7. The warranty shall expire in case of changes to the contractual object that the customer makes himself or has made by third parties without the prior approval of the Schiller Group, unless the customer is able to prove that the changes made and the defect that has occurred are not connected. The same applies to defects that can be traced to a customer specification.

8. In case of goods deliveries, the customer shall only be entitled to possible warranty claims in accordance with legally required obligation to examine and notify regarding defects. During inspection, the goods shall be inspected according to the specifications agreed to with the Schiller Group. Obvious defects must be reported as such immediately, however within 8 days after receipt of the goods by the Schiller Group in writing.

9. Material defects claims are not present in the following cases: unsuitable or incorrect use, incorrect assembly or commissioning by the customer or third parties, natural wear or consumption, incorrect or negligent treatment, incorrect maintenance, use of unsuitable operating equipment, electrochemical or electrical influences, the presence of special influences that are not required after the contract, provided the cause is not the responsibility of the Schiller Group.

VIII. Liability, limitation period

1. The liability of the Schiller Group for damage compensation, no matter for whatever reason, but especially in case of impossibility, delay, defective or incorrect delivery, contractual violation, violation of obligations for contractual negotiations and impermissible actions, and provided this is based on culpability, shall be limited to the provision of this Paragraph VIII.

2. The Schiller Group shall not be liable

- in case of simple negligence of its institutions, legal representatives, employees, or other auxiliary agents,

- in case of gross negligence of its non-managing or other auxiliary agents, provided this does not involve violation of contractually significant obligations.

3. Provided the Schiller Group is essentially liable according to the provision of this Paragraph VIII for damage compensation, then this liability shall be limited to damages that the Schiller Group had foreseen upon contract completion as the possible consequence of a contractual violation or should have foreseen. Indirect damages and subsequent damages that are the result of defects of the delivery object or the service are only capable of being replaced if damages of these kind are typically expected in case of correct use of the delivery object or the service.

4. The liability of the Schiller Group for the typically foreseeable contractual damages shall be limited to the amount of the agreed purchase price.

5. In case of liability for simple negligence, the obligation of the Schiller Group to compensate for material and personal damages shall be limited to 10% of the price, however to a maximum amount of € 50,000.00 per damage case, even if violation of an important contractual obligation is involved.

6. In case impossibility becomes apparent, the Schiller Group shall only be liable in case the obstacle to performance was known or lack of knowledge was based on gross negligence.

7. Liability for the destruction of data shall be limited to costs that would be required for their reconstruction, provided these data would have been backed up properly by the customer.

8. Provided the liability of the Schiller Group is excluded or limited, this shall also apply to the personal liability of its employees, workers, representatives, and fulfilment agents.

9. The limitation period for defects and liability claims of the customer shall amount to one year.

10. The limitation period shall begin with transfer of risk and upon completion of assembly in case of an assembly obligation on behalf of the Schiller Group.

11. Unless otherwise agreed to in writing, the legal provisions concerning the beginning of the limitation period, expiry suspension, the suspension and restart of periods shall remain unaffected.

IX. Retention of title

1. The contractual object shall remain the Schiller Group until complete settlement of all claims against the customer. This shall also include claims from the continued business translation, provided additional transactions are completed with the customer before termination of retention of title.

2. The customer must treat the withheld item with care and to have necessary repairs completed by the Schiller Group or a technical company it has authorised for this. Furthermore, the customer must insure the contractual object sufficiently during this time at its original value and maintain a certificate of the complete insurance upon request.

3. In case of culpable behaviour contrary to the contract on behalf of the customer, the Schiller Group shall be entitled to recover the contractual object. Recovering the contractual object shall not represent withdrawal from the contract, unless the Schiller Group would have declared this explicitly in writing.

4. The customer may not pledge the contractual object nor assign it as a security before the property is transferred.

5. Processing or redesigning the contractual object by the customer shall always be completed for the Schiller Group. If the contractual object is processed or inseparably mixed with other objects that do not belong to the Schiller Group, then it shall acquire joint ownership of the new item commensurate with the value of the contractual object in relation to the other processed or mixed objects at the time of processing or mixing. If the goods are processed or mixed so that the item of the customer may be considered the main item, then it is assumed to be agreed that the customer shall transfer the Schiller Group proportionate joint ownership. The customer shall maintain sole ownership or joint ownership for the Schiller Group.

6. In case of pledging or other access by third parties to the sold goods, the customer shall indicate the property of the Schiller Group and notify the Schiller Group immediately to provide it the opportunity to intervene according to Section 771 ZPO.

X. Software

1. The Schiller Group grants the customer non-exclusive usage rights to the software included with the scope of delivery. The customer is entitled to use the software provided to him in relation to the contractual object only.

2. The customer may only reproduce, overhaul, translate or convert the object code into source code of the software within the scope permitted by Sections 69a ff. UrhG. The customer shall be obligated not to remove or change manufacturer information, e.g. copyright notices in particular, without prior explicit approval of the Schiller Group.

3. The customer shall not be entitled to transfer usage rights to third parties. Furthermore, the customer is not permitted to make the software and the associated user manuals provided to him available or accessible to a third party, not including his employees, neither temporarily nor free of charge.

4. All property, copyright, and other commercial protective rights to the software, updates, and the documentation are reserved exclusively by the Schiller Group.

XI. Additional provisions for installation and work services

1. The customer must instruct the employees of the Schiller Group at his own cost regarding safety regulations, provided this is important to the assembly personnel.

2. The employees of the Schiller Group shall support the completion of the work by the customer at his cost in the required scope. In particular, this applies to the provision of power and water. In this case, the aid of the customer must be ensured so that the work of the Schiller Group may begin immediately after the arrival of its personnel and may continue without delay until acceptance.

3. The customer is obligated to immediate commissioning and acceptance as soon as he has been informed about completion of assembly. The acceptance may only be rejected due to significant defects up to correction of these defects. Acceptance may also be completed via conclusive action on behalf of the customer. If the contractual object is essentially functional and if the ordering party uses it correctly, then the contractual object shall qualify as accepted by the customer following expiry of one month after the first confirmed correct use.

4. Items that are part of the assembly service owed by the Schiller Group shall remain the property of the Schiller Group until irrevocable, undisputed, and complete payment.

XII. Withdrawal clause, jurisdiction, place of fulfilment, applicable law, data storage, cancellation rights

1. If any provision of the GTCs of the Schiller Group is or becomes invalid, then this shall not affect the validity of the remaining provisions.

2. The headquarters of the Schiller Group in Osterhofen (Deggendorf District Court) shall be agreed as the jurisdiction for all disputes resulting from the business relationship. The Schiller Group is nevertheless entitled to sue the customer at his own headquarters, as well.

3. Provided nothing otherwise results from the agreement, the headquarters of the Schiller Group in Osterhofen shall also be the place of fulfilment. If a deviating place of fulfilment is agreed to, this shall not affect the jurisdiction.

4. The laws of the Republic of Germany shall apply. UN sales laws (agreement of the United Nations dated 11 April, 1980 regarding contracts for international sales of goods – CISG) shall not apply.

5. The Schiller Group shall be entitled to collect, store, change, transfer, and use data of the customer received via the business relationship within the context of the EU General Data Protection Regulation (GDPR) and the current version of the German Data Protection Act.

6. If the Schiller Group provides the contractual object to be delivered itself, then the customer may only cancel the contract prior to completion for an important reason.

Schiller Group

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