

**1. Scope/governing law/legal venue**

(1) The following terms and conditions shall apply to all deliveries and services rendered by Schiller Apparatebau GmbH in business commerce with its customers (uniformly referred to in the following as "customers" as well) if such do not involve transactions with consumers. These Terms and Conditions shall also apply if mounting and/or fitting services and/or services in connection with commissioning are rendered.

(2) Solely these Terms and Conditions shall apply. Any Terms and Conditions of the customer shall not be part of the agreement.

(3) To the extent allowed by law, solely the court having jurisdiction over our registered office shall have jurisdiction over all disputes emanating from or in connection with the agreement concluded – including the effectiveness of the agreement itself. By way of deviation from this, however, we shall alternatively also be entitled to press claims against the supplier at the court having jurisdiction over its registered office if we so see fit.

(4) Solely German law shall apply to all mutual claims and rights emanating from or in connection with the agreement concluded. The UN Convention on Contracts for the International Sale of Goods (CISG) from 11 April 1980 and the Rules of Conflict of Law for German International Private Law are excluded.

**2. Remuneration/payments**

(1) Solely the prices stated in our confirmation of order shall apply. If nothing to the contrary has been expressly agreed upon, our prices are deemed to be ex works from our plant in Mülheim/Essen (EXW Incoterms 2010) not including loading. Packaging and freight costs, customs, fees and public levies on export consignments shipped are not included in the agreed upon prices unless such have been expressly agreed upon. Separate remuneration shall be provided for additional services or changes in services subsequently ordered by the customer.

(2) All prices are net prices if nothing to the contrary is expressly agreed upon. Payments shall be effected by the customer purely net and without any deductions in accordance with contractual terms and conditions of payment. Checks and bills of exchange are only accepted on account of performance.

(3) The customer shall only be entitled to set off amounts if its claims are undisputed, have been recognized by law or are ready for decision.

(4) Claims of the customer may only be assigned to third parties with our consent. This shall not affect § 354a German Commercial Code (HGB).

(5) If we are hired to perform mounting services for an hourly wage, our traveling times shall also be deemed to constitute working time.

**3. Delivery/delivery dates/self-delivery proviso**

(1) If nothing to the contrary is expressly agreed upon, we shall solely effect delivery ex works (EXW Incoterms 2010) without loading.

(2) Delivery periods shall only be deemed to be binding in the case of express individual written agreements. The agreed upon delivery periods shall be deemed to have been met when we become ready to effect delivery and provide notification thereof or – if we have assumed the task of shipping in addition – when the goods leave our plant in due time.

Adherence to delivery and performance deadlines requires that all technical issues be resolved in advance. These include in particular receipt of all documents to be produced by the customer in due time, any releases and approvals required and adherence to the agreed upon terms and conditions of payment and any other obligations on the part of the customer. If the aforementioned conditions have not been met, periods and deadlines shall be extended commensurately; this shall not apply if we are responsible for the delay.

(3) We shall be entitled to effect partial deliveries and partial service if such is reasonable for the customer to accept in the specific case.

(4) If we do not receive delivery ourselves from our suppliers even though we have placed commensurate orders to perform the contract with such suppliers, we shall be freed from our performance obligation and may withdraw from the agreement. We shall be obligated to notify the customer that a service is not available and shall reimburse the customer for any counter-performance it has already rendered.

(5) If nothing to the contrary has been expressly agreed upon, any shipping shall be at the risk of the customer. Risk shall be transferred to the customer upon the handing over of the goods to the transporter/shipper. If the customer is in delay with acceptance, we shall be entitled to demand compensation for any expenses we incur as a result thereof. Moreover the risk of accidental destruction and accidental deterioration of the goods shall be transferred to the customer if it comes into delay in acceptance.

(6) Contractual penalty arrangements in the event of late deliveries of our goods or our services are not part of the agreement.

(7) If we come into delay with our delivery, the customer shall have a claim to compensation for the damage that it demonstrates it has incurred. Our liability shall be limited in terms of the amount, however, to damage which was foreseeable upon the conclusion of the agreement and is typical of such contracts unless there has been a wilful or grossly negligent violation of obligation or damage associated with a fatality, personal injury or impairment of health and we or parties hired by us to carry out the agreement are responsible for the violation of obligation that caused such. We shall also only be liable for forgone profit on the part of the customer in the event of wilful or grossly negligent violation of an obligation.

**4. Reservation of title**

(1) We reserve title to the goods delivered by us until complete satisfaction of all claims emanating from the legal relationship upon which the delivery is based (goods subject to reservation). Until such point the customer shall not be entitled to pledge the goods or transfer such as collateral.

(2) The customer shall only be entitled to process the goods supplied in regular business operations or to combine such with other objects or mix or sell such. Regular business operations in the meaning of this condition shall not be deemed to be present if the customer is excluded from assigning its claims to third parties in the case of sales by the customer or any other disposals by it in favour of third parties.

(3) In the event of sales as well as processing, linking or mixing, the customer here and now assigns any claims attained against third parties as a result to us in the amount of the purchase price of the goods subject to reservation without such requiring any separate agreement in each individual case. We accept said assignment here and now.

(4) If the value of the collateral provided to us exceeds the secured claims by a total of more than 10%, we shall be obligated to release such collateral as we see fit if the customer requests such.

## **5. Mounting services**

If we have also been hired to mount the goods sold, the following additional terms and conditions of this section 5 shall apply:

(1) If nothing has been agreed upon to the contrary, the customer shall provide us the necessary storage space and workplaces at the construction site, access routes that are available, rail sidings and hook-ups available for water and energy in the quantity and quality required free of charge for our use or co-use. The customer shall bear the costs of water and electrical power use.

(2) The customer shall be responsible for maintaining general order at the construction site and for the interaction and cooperation between the various companies. It shall obtain the required public-law approvals and permits – for example, as stipulated by construction law, road safety law, water law or commercial law.

(3) Agreed upon mounting deadlines shall be extended if an impediment is related to a circumstance lying within the domain of risk of the customer and/or force majeure or any other circumstances we cannot avoid. Extension of deadlines shall be calculated commensurately with the period of the impediment with a reasonable run-up time for resumption of work.

(4) If the focus of the services we have been hired for is on mounting, we may demand acceptance of our performances by the customer. The customer shall perform acceptance within 12 working days after receiving our request for acceptance if no other deadline is expressly agreed upon. If we do not request any acceptance, our service shall be deemed to have been accepted upon the expiration of 12 working days after written notice that our services have been completed.

(5) If a defect is due to orders issued by the customer, materials that it has supplied or prescribed or the components or the quality of upstream services by another company, we shall not be liable if we have expressed misgivings regarding such before execution of our services.

## **6. Limitation on liability**

(1) We shall be liable in accordance with statutory provisions for any defects to the goods supplied by us within the agreed upon warranty periods if nothing to the contrary is stipulated in the following.

(2) Any claims to defect on the part of the customer shall be subject, however, to the customer inspecting the goods supplied by us without undue delay after delivery and, if a defect is found, notifying us hereof without undue delay. If the customer fails to notify us hereof, our goods shall be deemed to have been approved unless there is a defect that was not recognizable upon the inspection. If such a defect appears later, notification hereof must be provided without undue delay after it is discovered. Otherwise the good shall be deemed to have been approved in awareness of such defect.

(3) If nothing to the contrary is stipulated in the foregoing or hereafter, we shall bear liability in accordance with statutory provisions for all damage we are responsible for that occurs in rendering our contractual service ourselves or by parties we hire to carry out the agreement. Our liability shall always be limited in terms of the amount to the damage foreseeable upon the conclusion of the agreement and typical of such agreements, however, unless there has been a wilful or grossly negligent violation of obligation or damage which has caused a fatality, personal injury or impairment of health and for which violation of the obligation underlying such we or parties hired by us to perform the contract are responsible. This shall not affect any claims under the German Product Liability Act, nor shall the preceding stipulation affect the right of the customer to subsequent performance, reduction of price or withdrawal.

(4) The statute of limitations for defects to the goods supplied by us which are not properly mounted in a building structure shall be 12 months unless there has been a wilful or grossly negligent violation of obligation or fatality, personal injury or health impairment resulting from defects for which we or parties hired by us to carry out the agreement are responsible. This shall not affect §§ 438, section 1, subsection 2, 634a, section 1, subsection 2 German Civil Code.

(5) We shall acquire title to any parts exchanged within the framework of subsequent performance. The customer shall thus be obligated to transfer title back to us.

## **7. Business secrets**

The customer shall be obligated to treat all business and technical details relating to the contracting as business secrets. We shall retain exclusive title to any concepts, prototypes, designs, software, drawings, tools, samples, models, marks or similar produced by us which we provide to the customer and such may only be passed on to third parties with our express written consent.

## **8. Ethical standards/Code of Conduct**

We are aware of our social responsibility in our entire business activities and affirm and uphold the principles of the Global Compact Initiative of the United Nations ([www.unglobalcompact.org](http://www.unglobalcompact.org)) along with the ILO Declaration on Fundamental Principles and Rights at the Jobsite ([www.ilo.org/declaration](http://www.ilo.org/declaration)).