

Schaller Automation Industrielle Automationstechnik GmbH & Co. KG, Blieskastel
General Terms and Conditions of Sale
valid for business-to-business transactions
as defined in Article 14 of the German Civil Code (BGB)
(Mai 2018)

1. Scope of Application and Conclusion of Contract

- 1.1 Our General Terms and Conditions (Terms) as detailed here shall exclusively govern all our business – including future business - with the customer (customer) unless otherwise agreed in writing. Any General Terms and Conditions of the customer shall under no circumstances apply, even if not explicitly objected to by us.
- 1.2 Any variation to these Terms shall only be binding if agreed in writing.
- 1.3 Our offers shall not be considered binding until a purchase order has been confirmed by us. Contracts shall only be deemed to be accepted upon submission of our written confirmation of order (including fax and email messages) or upon completion of delivery, the latter being based on the terms of our offer.

2. Delivery

- 2.1 All delivery periods shall remain non-binding unless otherwise confirmed by us in writing. A delivery period commences upon dispatch of our written confirmation of order to the customer.
- 2.2 We are entitled to carry out partial deliveries. Such partial deliveries will in each case constitute a separate transaction.
- 2.3 We deliver ex-works Blieskastel. All shipments shall be at the cost and expense as well as at the risk of the customer. The mode of dispatch shall be at our discretion.

3. Delays in delivery

- 3.1 Should a delay in delivery be attributable to us, and inasmuch as the customer proves damage incurred as a result of such a delay in delivery, the customer may demand compensation of a maximum of 0.5% of the value of the delayed delivery for each full week of default, however no more than a total of 5% of the value of the delayed delivery. The same shall apply if we are late in rendering services agreed upon. Other or more extensive claims for compensation asserted by the customer shall be excluded in all cases of delayed delivery, even following the expiry of a period of grace possibly granted us, unless our default is the result of intent or gross negligence.

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- 3.2 Should the customer wish to withdraw from a contract or demand compensation instead of performance of the contract, he must give us a reasonable period of time – at least 18 days – within which to complete the delivery. Should the customer have a right to compensation instead of performance of the contract, such a claim is in the case of simple negligence limited to a maximum of 25% of the agreed purchase price.
- 3.3 Further claims for compensation as a result of a delay in delivery are excluded in the case of simple negligence.
4. Prices and Terms of Payment
- 4.1 Prices confirmed in our confirmation of order or, if there is no order confirmation, the prices quoted by us in our offer shall apply. In all other cases our currently valid price list shall apply.
- 4.2 Our prices are ex-works Blieskastel. They do not include packaging, transport insurance or value-added tax.
- 4.3 Unless otherwise agreed, the invoiced sum shall fall due and be payable net without any deduction, fee or charge 30 days following the date of invoice. We are entitled to demand payment by letter of credit.
- 4.4 Customers may only offset against our claim for payment counter-claims which are undisputed, acknowledged or have final and binding effect as the result of a court decision. No right of retention may be asserted against our claims unless such a counter-claim is based on the same contract.
5. Retention of Title
- 5.1 We shall remain the owner of any goods delivered by us until all claims for payment arising from the business transaction with the customer have been settled in full.
- 5.2 On demand and at any time the customer shall be obliged to provide details concerning the whereabouts of any delivered goods which are under reservation of ownership in our favour.
6. Warranty
- 6.1 The period of warranty is for 12 months from the date on which the ordered goods are installed in the foreseen location or - whichever may be the sooner - for a maximum of 18 months from the date of delivery to the customer.
- 6.2 We guarantee that we shall – at our choice - remedy defects, re-deliver parts or re-perform services free of charge. Inasmuch as defects have not been remedied successfully within a reasonable period of time, the customer shall have the right to demand a full refund of the purchase price in exchange for the return of the defective or unserviceable part in question.

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- 6.3 Our goods are not for consumer use. However statutory provisions shall apply should either our contractual partner or we be subject to statutory claims arising as a result of a particular delivery of our goods to a consumer.
- 6.4 Should it be necessary to return defective parts to a location named by us on request, we shall reimburse reasonable freight costs providing we have not given instructions for the part to be scrapped, to be exchanged by us or by our agent, or to be repaired in situ.
- 6.4. The customer undertakes to give us the opportunity to inspect devices or parts which form the basis of a complaint.
7. Liability
- 7.1 Inasmuch as we have not acted with intent or with gross negligence, claims for damages by the customer against us are excluded irrespective of the type of failure to comply with our contractual obligations including tortuous acts.
- 7.2 In the case of essential contractual obligations being infringed we remain liable, however only to the level of the foreseeable damage. Claims for consequential damage such as (without prejudice to the generality of the foregoing) lost profits or third-party compensation claims can only be made inasmuch as we have guaranteed a characteristic feature of the product in question which would protect the customer from such damage.
- 7.3 The above limitations and exclusions to liability do not apply to claims arising as a result of fraudulent behaviour on our part or for claims resulting from taking over the risk of procurement, for claims under the terms of the Product Liability Act or for damage resulting from injury to life, body or health.
- 7.4 Liability for a guarantee covering the nature or durability of goods delivered shall only exist in accordance with the above provisions.
- 7.5 Exclusions and limitations to our liability shall apply also in favor of our legal representatives, vicarious agents, employees, workers and other staff members.
- 7.6 Inasmuch as we are not guilty of gross negligence and no cases of injury to life, body or health can be attributed to us, claims for damage made in connection with a breach of contractual duty are subject to a limitation period identical to that applicable to warranty (see point 6.1 above).
- 7.7 We are not responsible for any damage resulting from unauthorized modifications to our products. In the event of damage following modification to the measuring instruments or documentation functions of our devices, the claimant is required to prove that such damage results from an original malfunction of the device in question.
- 7.8 Claims made by the customer under the terms of §439 sections 2 and 3 and §635 Section 2 of the German Civil Code (BGB) and any claims to recourse by the customer as seller under the terms of §445a of the German Civil Code (BGB) remain unaffected by the limits to and exclusion of benefit claims and liability named in clauses 7 and 8 of these Terms and Conditions.

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8. Trademarks, Industrial Property Rights and Know-how

- 8.1 Many of the goods delivered by us are subject to one of our patents, trademarks or other industrial property rights. If these products are altered in any way – whether with or without our permission – our written permission must be obtained prior to using our trademarks or other industrial property rights for the changed product. This is valid for all stages in the manufacturing and sales process.
- 8.2 We would point out that changes to our devices or incorrect installation can result in the product in question ceasing to be usable as designed and in its approval by licensing authorities such as classification societies becoming null and void.
- 8.3 The resale of our devices is only permitted providing the distinguishing marks and serial numbers originally attached by us are retained.
- 8.4 All engineering ideas and know-how as well as all software remain our intellectual property. Payment of the purchase price only entitles the customer to use the machine within the framework of its designed purpose and together with any software delivered with the machine or purchased from us as an update at a later time.

9. Place of Performance, Governing Law and Place of Jurisdiction

- 9.1 Place of performance for all deliveries and services is Blieskastel.
- 9.2 All contracts are subject exclusively to the Law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall however not apply.
- 9.3 As long as no arbitration agreement has been finalised and providing the customer is a businessman, a corporation or a public law entity, the competent court in our place of business (head office) will have exclusive jurisdiction over all differences arising directly or indirectly out of any contractual relationship. The same applies in the case of the customer not having any general place of jurisdiction in the Federal Republic of Germany. In the latter case however we are also entitled to take legal action in the customer's general place of jurisdiction.

10. Special conditions relating to VISATRON devices, their accessories and components

- 10.1 Further to the above General Terms and Conditions of Sale, additional special conditions apply in the case of VISATRON devices, series VN 93, VN301, VN 87plus as well as their accessories and components.

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- 10.2 The devices mentioned in point 10.1 above are always manufactured and marketed as entire systems including a sampling system. Inasmuch as these devices are to be installed neither by us nor by persons or firms specifically authorised by us to do so, our installation instructions must be adhered to strictly. Written instructions must be obtained from us if the devices are to be installed into engines for which we have not yet issued a special installation manual.
- 10.3 A fundamental principle of the warranty covering the functionality of our devices is that neither the sampling system nor the system components may be altered without our explicit permission. The features described by us in connection with the device interfaces must be adhered to.
- 10.4 Any modification to our devices and any tampering with the memory and documentary functions of our devices shall render our warranty void inasmuch as the modification or tampering may have influenced the damage or its documentation.
11. Special Terms and Conditions for the delivery of capacitive sensors
- 11.1 In addition to our General Terms and Conditions of Sale and Delivery the following additional terms and conditions apply to the sale and delivery of capacitive sensors.
- 11.2 By entering into the purchase contract the customer assigns to us his purchase price claim vis-à-vis his own customer as a result of the resale of goods originally obtained from us. Should goods obtained from us be resold together with goods not formerly obtained from us, the value of the assigned claim versus the value of the goods sold alongside those obtained from us will be determined as a proportion of the total sum at the time of the resale. In the case of our goods being processed or installed, the proportion of our goods in the final product at the time of resale will determine the value of the assigned claim to us.
- We are entitled to cancel our customer's right to collect from his customer at any time. The customer is obliged to provide details on demand and at any time concerning the whereabouts of any delivered goods which are under reservation of ownership in favour of the seller or concerning claims resulting from the resale of goods.
- 11.3 The period of warranty is for 12 months from the date on which the ordered goods are delivered to the customer. Any defective parts should be returned to the factory in Blieskastel at the customer's initial expense following receipt of such written authorisation from us. We will refund reasonable costs for the return of goods from the initial place of delivery to Blieskastel providing we have not instructed the customer in writing to scrap the defective part.
- 11.4 The customer is obliged to inform us of any special use to which the sensors are to be put or of any extraordinary operational conditions involved, as well as of any specific risks involved in the installation.

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INDUSTRIELLE AUTOMATIONSTECHNIK GmbH & Co. KG

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