

# General Conditions of Sale

## TAS Schäfer GmbH Technik für Antrieb und Steuerung

### I. Scope.

Our current and future commercial relationships including all deliveries and services shall be exclusively regulated by the following General Conditions of Sale as well as any individual contractual agreements. Any conditions of our customer which are at variance shall apply only if and to the extent that we expressly accept such in writing.

### II. Offer and Confirmation of Order.

All our offers are non-binding. An order shall be deemed to be accepted only if we confirm acceptance in writing or if the goods are delivered by us.

### III. Samples, Descriptions, Pictures, Drawings, Brochures etc.

Any descriptions of our products by way of sample, description, picture, drawing, brochure etc. are approximate guides only unless such are expressly stated by us to be binding. Normal variations of the trade, in particular manufacturing variations, shall be permitted. Guarantees as to quality or durability shall only exist if provided by us expressly in the confirmation of order. Any sample, specimen, tools or documentation, e.g. calculations, drawings etc., made available by us to the customer in connection with any order shall remain our property and we reserve all industrial property rights as well as copyright. Third parties shall not be allowed access to such materials and such may only be used for the commercial relationship with us.

### IV. Prices.

Only those prices confirmed by us in writing shall apply. All prices shall be subject to VAT (Mehrwertsteuer) at the applicable rate. Unless otherwise agreed, all prices are ex works. Any deduction or discounts are only permitted after prior agreement.

### V. Payment.

Invoices are due for payment at once and are payable no later than 10 days after the date of invoice. Bills of exchange and cheques will be taken by us only on the basis of an express written agreement and in any event only as payment. The costs and expenses of discounting shall be borne by the customer. In the event that the customer is in default in accepting goods or in payment, upon the occurrence of such default all amounts owing by the customer shall immediately become due. The same shall apply if the customer ceases payments, if the commencement of insolvency proceedings is applied for in relation to the assets of the customer or if enforcement measures occur in relation to the assets of the customer. In such cases we are permitted to provide further deliveries only after advanced payment. The retention of any payment by the customer or set-off in relation to any claims by the customer is only permitted if such claim is undisputed or has been finally determined by the courts. Furthermore, any rights of retention may only be exercised if such relate to the same contractual relationship.

### VI. Delivery, Delivery Time, Delay in Delivery

The delivery time results from the agreements between us and our customers. Compliance with such presupposes that all commercial and technical questions arising between the contractual parties have been clarified and that our customer has fulfilled all its duties, such as e.g. providing of any necessary official certificates or permits or payment of a deposit. We may supply part deliveries. Such shall be invoiced and paid for separately. Any compliance with delivery deadlines shall be subject to proper and timely delivery to us. The delivery deadline shall be met if the goods for delivery left our warehouse by the deadline or if we have given notice of the readiness for despatch. Insofar as any acceptance is to take place, the acceptance date shall be the relevant date except in cases of justified refusal of acceptance, and alternatively the notification of readiness for acceptance shall apply. In cases of force majeure, such as storm and natural catastrophes, as well as in all cases of mobilisation, war, internal unrest, strikes, lock-outs, disruptions of operation, limited supplies and unavailability of raw materials and operating supplies and any similar events which are beyond our control, the delivery time shall be extended by the period of the hindrance and a reasonable run-up time after the ending of the hindrance. If the performance of the contract becomes unreasonable for one of the parties as a result of such event, that party may withdraw from the contract in this respect. Any claims for damages on the part of our customer are excluded. In relation to delivery deadlines and dates which are not exclusively designated as fixed in the confirmation of delivery, our customer may set a reasonable period for delivery of at least one week two weeks after the expiry of the delivery deadlines and dates. Only after the expiry of this subsequent deadline shall we be in default. Our customer may withdraw from the contract without setting a deadline if the total performance is finally impossible for us before the transfer of risk. In addition our customer may withdraw from the contract if in relation to one order the performance of a part of the delivery becomes impossible and the customer has a justified interest in the refusal of part delivery. If this is not the case the customer shall pay the contractual price for the part delivery. The same shall apply to our inability to deliver and perform. In addition, section X shall apply. In the event that the impossibility or inability occurs during the delay in acceptance or if our customer is solely or substantially responsible for such circumstances, the customer shall be obliged to provide counter performance.

### VII. Despatch.

Despatch and transport shall always be at the risk of the customer and at its cost. Risk shall transfer to our customer, even for part deliveries as soon as the delivery is given

to the person conducting the transport or as soon as it leaves our warehouse or, in the case of delivery ex works, as soon as it leaves our works. Insurance of the goods for transport damage and other risks shall take place only at the express request of the customer and at the expense of the customer. If the customer instructs us to take the transport, we reserve the right to choose the means of transport and the transport route taking into account the wishes of our customer.

### VIII. Retention of Title.

All goods delivered shall remain our property (hereinafter called "Retention Goods") until all claims against our customer have been fulfilled, regardless of the legal basis, including all future conditional claims from later contracts or contracts concluded at the same time. This shall also apply if payments for specially designated claims are made. We are authorised to insure the goods for delivery at the expense of our customer against theft, damage, fire, water and other damage insofar as our customer does not itself take out and maintain such insurance and has not notified the existence of such to us without any need for us to demand proof. Processing of the Retention Goods shall take place for us as manufacturer in terms of § 950 German Civil Code (BGB) without being subject to any duty. The processed goods shall be deemed to be Retention Goods in terms of these provisions. In case of processing, combining and mixing of the Retention Goods with other goods by the customer, property to the newly produced object shall be maintained by us in proportion to the invoice value of the Retention Goods to the invoice value of the other goods used. If our property is extinguished by combining or mixing, the customer shall transfer to us now any property rights available to the customer in relation to the new stock or the object to the extent of the invoice value of the Retention Goods and the customer shall keep such safe at no expense to us. Any resulting rights of co-ownership shall be deemed to be Retention Goods in terms of these provisions. Customer may only sell the Retention Goods, process such, combine such with other objects or install such (hereinafter referred to as "Further Sale") in terms of normal business operations and insofar as it is not in default. Any attachment or other steps undertaken by third parties in relation to the Retention Goods shall be notified to us immediately. Any costs related to intervention shall be borne by the customer insofar as such cannot be obtained from the third party (party opposing the execution of judgment) and the action opposing the execution of judgment is justifiably brought. If the customer allows its purchaser a delay in paying the purchase price, the customer shall reserve a title to the Retention Goods subject to the same conditions under which we have retained title to the goods upon the delivery of the Retention Goods. However, the customer is not obliged to retain title in relation to any future claims against the purchaser. Otherwise, the customer is not authorised to conduct any Further Sale. Any claims of the customer arising from Further Sale of the Retention Goods are hereby assigned to us. They shall serve us to the same extent to provide security, as with the Retention Goods. The customer is authorised to undertake Further Sale if it is ensured that any claims arising to the customer out of such Further Sale are transferred to us. If the Retention Goods are subject to Further Sale by the customer together with other goods not delivered by us for a total price, the assignment of the claim for the Further Sale shall be made to us to the amount of the invoice value of the respective Retention Goods sold by us. If the assigned claims are included in an account current, the customer hereby assigns to us the amount of this claim in accordance with the respective part of the balance including the final balance of the current account. Until such time as we revoke authority to do so, the customer is authorised to collect the claims assigned to us. We may revoke such authority if the customer does not duly fulfil its duties of payment arising from the business connection with us or if we become aware of circumstances which may substantially reduce the creditworthiness of the customer. In the event that the pre-conditions for the exercising of the right of revocation exist, the customer shall immediately inform us at our request of any assigned claims and the respective debtors as well as all necessary information to collect the claims and shall further provide to us the related documentation and shall notify the debtors of such assignment. We are also authorised to notify the debtor of assignment ourselves. In the event that the realisable value of our securities exceeds the secured claims by a total amount of more than 20 to 100, we shall be obliged, at the request of the customer, to release securities to the required extent at our choice. If we seek to enforce any retention of title, such shall only be deemed to be a withdrawal from the contract if we declare such expressly in writing. The right of the customer to possess the Retention Goods shall extinguish if the customer does not fulfil its duties arising out of this or any other contract. Any application for the commencement of insolvency proceedings in relation to the assets of our customer shall entitle us to withdraw from the contract and to demand the immediate return of delivered goods.

### IX. Claims for Defects.

In relation to any defects of quality as well as defects of title of the delivery, we guarantee, to the exclusion of any further claims, subject to section X, as follows:

1. Defects as to Title: The guarantee for services provided by us and for goods delivered by us shall be limited according to type and scope to the services and the goods agreed in the order confirmation and in accordance with the provisions contained in the technical rules and regulations expressly agreed to in writing for the contractual relationship. Any complaints as to defects or complaints in relation to inadequate quantities or incorrect deliveries are subject to the customer having exercised its duties to inspect and complain in terms of §§ 377, 378 of the German Commercial Code (HGB). Any complaints must be made immediately with details of the reasons and provided to us in writing within no later than eight days

after the receipt of the goods at the destination or, if such relate to hidden defects, no later than eight days after the discovery of such. In each case of complaint, we shall have the right to inspect and test the goods, deliveries and services complained of in an unchanged form. All those parts which are defective as a result of circumstances existing before the transfer of risk shall, at our choice, be rectified or replaced. Any discovery of such defects shall be notified to us immediately in writing. Any replaced parts shall be our property. The customer shall in consultation with us provide the necessary time and opportunity to undertake all necessary improvements and replacement deliveries. If this is not the case we shall be released for any liability for the resulting consequences. Only in urgent cases of danger to the operational safety or to prevent disproportionate damage (in which case we should also be notified) has the customer the right to rectify the defect itself or by way of a third party. In relation to the immediate costs resulting from the rectification or replacement delivery, and insofar as any complaint results are justified, we shall bear the costs for any replacement parts including delivery. We shall also bear the cost of disassembling and installing as well as the cost of any necessary ordering of necessary technicians and personnel including travel expenses insofar as no disproportionate burden arises for us. The customer shall, in terms of the legal provisions, have a right to withdraw from the contract if we, having regard to the statutory exceptions, allow a reasonable deadline for rectification or substitute delivery to expire without due performance, such deadline having been set as a result of defects in quality. If only a minor defect exists, the customer shall have only the right to reduce the contractual price. The right to reduce the contractual price shall otherwise be excluded. Any further claims of the customer shall be determined in accordance with section X of these conditions. No guarantee will be accepted in particular in relation to the following cases: unsuitable or incorrect use, defective assembly or bringing into operation by the ordering party or a third party, natural wear and tear, defective or negligent use, incorrect servicing, unsuitable operational materials, defective construction work, unsuitable foundation, chemical, electro-chemical or electrical influences, insofar as such is not the responsibility of the supplier. If the customer or any third party makes any improper corrections or improvements we shall not be liable for any resulting consequences. The same shall apply for any changes to the goods for delivery undertaken without our prior approval.

2. Defects as to Title: In the event that the use of the goods for delivery leads to a breach of any industrial property rights or copyright domestically, we shall generally seek to obtain for our customer the right to further use the goods or we shall modify the goods for our customer in a suitably acceptable form so that the breach of proprietary rights no longer exists. If such is not possible in terms of economically reasonable conditions or within a reasonable period of time, our customer may withdraw from the contract. Subject to the above named conditions we reserve the right to withdraw from the contract. In addition we shall indemnify our customer against any undisputed or legally-binding claims of the respective owner of the proprietary rights.
3. Proprietary Rights and Copyright: Our duties named in paragraphs (1) and (2) above are, subject to section X, exclusive in terms of breaches of proprietary rights and copyright. Such duties shall only exist if our customer informs us immediately of any claims made in relation to breaches of proprietary rights or copyright and if our customer supports us to a reasonable extent in defending such claims or if the customer allows the supplier to undertake the modifications in accordance with paragraphs (1) and (2), if all defence measures including any out-of-court settlements are retained for us and if the defect of title does not relate to a direction of our customer and if the legal breach is not caused by the ordering party changing the goods for delivery itself or using the goods in a manner not agreed in the contract.

#### X. Liability.

If the goods for delivery cannot be used by our customer in accordance with the contract resulting from omissions or defective performance of suggestions and consultations before or after the conclusion of the contract or as a result of a breach of any other contractual secondary liabilities, in particular the directions for the use and servicing of the goods for delivery, the rules of section IX shall apply accordingly to the exclusion of any other claims of the ordering party. In relation to any damage not occurring to the goods for delivery themselves, we shall be liable, regardless of the legal basis, only for intentional or grossly negligent acts by the owner, organs or management as well as for culpable injury to life, body, health or for any defects which we maliciously conceal or in relation to which we have guaranteed their non-existence and for defects to goods for delivery in accordance with the Product Liability Law for persons or for damage to property to privately used objects. In the event of a culpable breach of substantial contractual duties we shall be liable also in cases of gross negligence of non-management personnel and in cases of slight negligence, the latter being limited to contractually typical and reasonably foreseeable damage. Any further claims are excluded.

#### XI. Limitation.

All claims of the ordering party, regardless of the legal basis, shall expire within 12 months. In terms of the claims for damages in accordance with section X the statutory limitation periods shall apply. They shall also apply for any defects in the structure or for goods for delivery which, according to their normal use, are used in a structure and which caused the defective nature of such.

#### XII. Applicable Law, Jurisdiction.

In relation to all legal relationships between us and our customer the law of the Federal Republic of Germany shall apply in terms of the legal relationships between domestic parties. The United Nations Law on the Sale of Goods (CISG) as well as any other agreements between states, even after their incorporation into German law, shall not apply. In terms of all commercial clauses, INCOTERMS shall apply. If our customer is a registered merchant or a public corporation or a special entity of public law, the following shall apply: in relation to payments the place of performance shall be our seat and the place of jurisdiction for all disputes in connection with delivery transactions shall, at our choice, be the place of our seat exclusively and statutory provisions as to exclusive jurisdiction shall remain unaffected.

#### XIII. Closing Provisions.

In the event that any provision of our General Sales and Delivery Conditions or other agreements is ineffective, impracticable or incomplete, we and our customer shall be obliged to agree to reasonable and for both parties objectively fair conditions to replace the ineffective or impracticable provision or to complete any omission. The customer has been informed that data connected with the business conditions will be stored and processed by us.

Date: March 14, 2006

TAS Schäfer GmbH