



## **General Terms and Conditions of Sale**

### **1. Scope of Application and Conclusion of Contract**

- 1.1 Our General Terms and Conditions (hereinafter known as the "**Terms**") set out here below shall exclusively govern the delivery of goods (hereinafter known as the "**goods**" or the "**devices**") by us to the customer (hereinafter known as the "**Customer**"). These Terms also apply to all future business relationships between us and the Customer, unless otherwise agreed in writing between the Customer and us. Any other terms and conditions of the Customer shall not apply, even if not explicitly objected to by us. In addition to these Terms, special terms and conditions shall apply for specific goods, as set out in clauses 10 and 11 below. Our goods are not meant for individual consumers and these Terms shall not apply to consumers who are individuals. For the purposes of these Terms, the term "us" and "we" shall refer to Schaller Automation Pte. Ltd. (UEN no.: 200410681K), a private limited company incorporated in Singapore with its registered office address at 114 Lavender Street, #09-93 CT Hub 2, Singapore 338729.
- 1.2 Any variation to these Terms shall only be binding on us if agreed to in writing by our authorized personnel.
- 1.3 Our offers shall not be considered binding until a purchase order has been confirmed by us in writing (whether by letter, fax or electronic mail). Each purchase order so accepted or confirmed by us or a delivery of goods to the Customer shall be upon these Terms and shall constitute an individual legally binding contract between the Customer and us and such contract is hereinafter referred to as a "**Contract**".
- 1.4 All goods supplied by us shall be in accordance with the specifications set out in the purchase order issued by us and such further drawings, specifications or descriptions (if any) expressly agreed by us in writing. No other specification, descriptive material, written or oral representation, correspondence or marketing or sales literature shall form part of or be incorporated into the Contract.

### **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 Contract.
- 2.3 We deliver ex-works 114 Lavender Street, #09-93 CT Hub 2, Singapore 338729, Incoterms@2010 shall apply always. 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.
- 2.4 Risk of damage to or loss to the goods shall pass to the Customer at the time when the goods are dispatched at 114 Lavender Street, #09-93 CT Hub 2, Singapore 338729. Should dispatch be delayed, risk in the goods passes to the Customer upon our notification to the Customer that the goods are available for collection.
- 2.5 All delivery dates provided by us are estimates only. Accordingly, we shall not be held liable for any delay or failure to deliver which is not attributable to us or which is not within our reasonable control.
- 2.6 In the event that the delivery of the goods is delayed due to the fault of the Customer, the Customer shall bear the costs of storage and insurance, handling charges and incidental costs in connection with the storage of the goods and the Customer shall assume the risk of loss to or



damage of the goods.

### **3. Prices and Terms of Payment**

- 3.1 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. Where applicable, turnover tax, value added tax or goods and services tax (as the case may be) at the current statutory rate shall be added to these prices. Any additional deliveries and services shall be invoiced separately.
- 3.2 Our prices are ex-works 114 Lavender Street, #09-93 CT Hub 2, Singapore 338729, Incoterms®2010 shall apply always. Our prices do not include packaging, transport and insurance cost or turnover tax, value-added tax or goods and services tax.
- 3.3 Unless otherwise agreed by the Customer and us in writing, the invoiced sum shall fall due and be payable net without any deduction, fee or charge 30 days following the terms of payment of our invoice. We shall be entitled to demand that the Customer makes payment by way of a letter of credit.
- 3.4 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.

### **4. Retention of Title**

- 4.1 We shall retain title in the goods until all payments for each and every claim under every Contract has been received by us in full.
- 4.2 The Customer shall not sell, pledge, mortgage or otherwise deal with the goods as security.
- 4.3 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 favor.
- 4.4 In the event of a default by the Customer, the commencement of insolvency proceedings or seizure with respect to the Customer, we shall be entitled to recover the goods subject to the retention of title without the Customer being able to make any claims against us, e.g. trespassing of property. In the case of third parties obtaining access to the goods sold subject to the retention of title and in particular, in the case of levies of execution, seizures or other court orders, the Customer shall immediately draw attention to our ownership of the goods and inform us so as to enable us to enforce our right of ownership over the goods. The Customer shall be liable for all costs that may arise in connection with us enforcing our rights herein.

### **5. Warranty**

- 5.1 12 months warranty period from the date which the goods are delivered in accordance with Clause 2.3 above.
- 5.2 The Customer shall immediately notify us in writing of any defects in the goods. Claims by the Customer on account of any defect in the goods shall only be permitted provided the Customer notifies us in writing of such claims within the warranty period as described in Clause 5.1 above.
- 5.3 We guarantee that we shall, at our absolute discretion, remedy defects, re-deliver parts or re-perform services with no additional costs, provided that such defects shall have been found



to our reasonable satisfaction to have arisen from our faulty design, workmanship or materials.

- 5.4 Should it be necessary to return defective parts to a location named by us on request, we shall reimburse reasonable freight costs provided 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.
- 5.5 The Customer undertakes to give us the opportunity to inspect devices or parts which form the basis of a complaint.
- 5.6 Any repaired or replaced good shall be redelivered by us to the original designated place of delivery but otherwise in accordance with and subject to these Terms save that the warranty period referred to in Clause 5.1 shall be continued by the unexpired portion of that period only.
- 5.7 Except for the express representations and warranties set out herein, we do not make any other express or implied representations or warranties, in fact or in law, including without limitation, any express or implied warranties of quality or fitness for a particular purpose. Except as expressly provided herein, all representations, warranties, terms, conditions, undertakings or inducements whether express, implied, statutory, under common law or otherwise relating in any way to the goods, are hereby excluded to the fullest extent permitted by law.

## **6. Liability**

- 6.1 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 tortious acts.
- 6.2 In the case of contractual obligations being breached, we remain liable, however only to the extent that the damage is reasonably foreseeable. Save as provided herein, we shall not be liable to the Customer for loss of profit, or for any indirect, special or consequential loss, damage, costs, expenses or other claims for compensation whatsoever which arise out of or in connection with our supply of goods in accordance with these Terms or the use or resale of the goods by the Customer.
- 6.3 The above limitations and exclusions of liability shall remain in place for any possible claim arising even as result of fraudulent behavior on our part or for claims resulting from taking over the risk of procurement or for damages resulting from injury to life, body or health.
- 6.4 Liability for a guarantee covering the nature or durability of goods delivered shall only exist in accordance with the above provisions.
- 6.5 Exclusions and limitations to our liability set out herein in the Terms shall apply also in favor of our legal representatives, vicarious agents, directors, employees, workers and other staff members.
- 6.6 Inasmuch as we are not guilty of gross negligence and no cases of injury to life, body or health can be attributed to us, to the extent permitted by applicable law, the Customer undertakes that claims for damage made in connection with a breach of contractual duty are subject to a limitation period identical to that applicable to the warranty (see Clause 5.1 above).
- 6.7 We are in no way liable for damage resulting from unauthorized alterations to our devices. Should the memory or documentation functions of our devices have been tampered with in any way, the claimant shall be required to prove that any damage is the result of an original malfunction of the device in question.
- 6.8 We shall not be liable in respect of any delay in carrying out or failure to carry out any of our obligations herein caused by fire, power outage, strikes, acts of terrorism, riots, acts of government, default of suppliers or subcontractors, or any circumstances outside of our



reasonable control (hereinafter known as a “force majeure event”). We shall have the right to extend the estimated time for delivery of the goods by a reasonable period of time to take into account the force majeure event.

**7. Trademarks, Industrial Property Rights and Know-how**

- 7.1 Goods delivered by us are subject to 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.
- 7.2 Changes made to our goods 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.
- 7.3 The resale of our goods is only permitted provided the distinguishing marks and serial numbers originally attached by us are retained.
- 7.4 We retain ownership and intellectual property rights in all engineering ideas and know-how as well as all software in connection with our goods. 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 goods or purchased from us as an update at a later time.

**8. Miscellaneous Terms**

- 8.1 The invalidity, illegality or unenforceability for any reason of any part of these Terms shall not prejudice or affect the validity, legality or enforceability of the remaining terms.
- 8.2 No failure on the part of either party to exercise any rights, nor any delay in exercising any rights, under these Terms at any time shall constitute a waiver of these Terms nor shall any single or partial exercise of any right under these Terms preclude any other or further exercise of any other right.
- 8.3 Unless otherwise expressly stated, the election by either party of a particular remedy in the event of default by the other party shall not be exclusive of any other remedy and all rights and remedies of the parties hereto shall be cumulative and not exhaustive of any other rights or remedies provided by the law.
- 8.4 The Customer shall not without our prior written consent assign transfer or sub-contract the rights or obligations under these Terms or any part of these Terms.
- 8.5 We may assign transfer or sub-contract these Terms or any part thereof to any other person or company.
- 8.6 A person who is not a party to these Terms has no right under the Contracts (Rights of Third Parties) Act, Chapter 53B to enforce any term of these Terms but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

**9. Governing Law and Place of Jurisdiction**

- 9.1 These Terms shall be governed by and construed in accordance with the laws of Singapore. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply to these Terms.
- 9.2 The Customer and us hereby agree to submit to the non-exclusive jurisdiction of the Singapore



courts.

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

- 10.1 In addition to the Terms, the following special terms and conditions apply in the case of VISATRON devices, series VN93, VN301, VN87plus(EX)/EMC as well as their accessories and components.
- 10.2 The devices mentioned in Clause 10.1 above are 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 authorized by us to do so, the Customer shall adhere strictly to our installation instructions. 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 pre-condition for the application 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 the Terms, the following terms and conditions apply to the sale and delivery of capacitive sensors.
- 11.2 When the Customer enters into a purchase contract with its customer, the Customer shall ensure that the terms of such purchase contract has a provision that the Customer assigns to us its claim on the purchase price as a result of the resale of the goods to its customer. We hereby authorize the Customer to collect such claims for and on our behalf except that we are entitled at any time to revoke such an authorization. The Customer shall advise us of the assigned claims and the relevant debtors, provide notice to the relevant debtors of such assignment and provide all necessary information to us to effect collection of such claims.
- 11.3 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.
- 11.4 In general, the Customer shall provide us details on demand and at any time concerning the whereabouts of any delivered goods which are under reservation of ownership in our favor or concerning claims resulting from the resale of goods.
- 11.5 The period of warranty is for 12 months from the date on which the ordered goods are delivered to the Customer in accordance with Clause 2.3. Any defective parts should be returned to us at the Customer's initial expense following receipt of such written authorization from Schaller Automation Pte Ltd.
- 11.6 The Customer is obliged to inform us of any special use to which the capacitive sensors are to be put or of any extraordinary operational conditions involved, as well as of any specific risks involved in the installation.