



General Terms of Delivery aas GmbH Armaturen Anlagen Service

§ 1 Application

(1) All deliveries, services, and offers of aas GmbH Armaturen Anlagen Service, Rudolf-Diesel-Str. 105, 46485 Wesel, Germany (hereinafter referred to as "aas") are based exclusively on these General Terms of Delivery. They constitute an integral part of all contracts that aas concludes with their contractual partners (hereinafter also referred to as the "Client") concerning the deliveries or services offered by aas. They also apply to all future deliveries, services, or offers to the Client without having to be specifically agreed upon in each case.

(2) Any terms and conditions of the Client or third parties do not apply even if aas does not separately object to their validity in individual cases. Even if aas refers to correspondence that contains or refers to the terms and conditions of the Client or a third party, this does not constitute agreement with the validity of those terms and conditions.

§ 2 Offer and contract conclusion

(1) All offers made by aas are subject to change and non-binding unless they are expressly marked as binding or contain a specific term of acceptance. aas can accept orders or commissions within 14 days of receipt.

(2) Only the concluded written purchase contract, including these General Terms of Delivery, is definitive for the legal relationship between aas and the Client. The purchase contract fully reflects all agreements between the contracting parties regarding the subject matter of the contract. Oral commitments made by aas prior to the conclusion of this contract are legally non-binding and oral agreements between the contracting parties are replaced by the written contract unless it is expressly stated that they remain binding.

(3) Supplements and amendments to the agreements concluded, including these General Terms of Delivery, must be made in writing to be effective. With the exception of managing directors or authorised signatories, the employees of aas are not entitled to conclude oral agreements deviating from the written agreement. To comply with the requirement of the written form, telecommunication transmission, in particular by fax or e-mail, is sufficient, provided that a copy of the signed statement is transmitted.

(4) Information provided by aas regarding the object of the delivery or service (such as weights, dimensions, utility values, robustness and loading capacity, tolerances, and technical data) as well as depictions thereof (such as drawings and illustrations) are only approximate unless the usability for the contractually intended purpose requires exact conformity. They are not guaranteed quality characteristics, but descriptions or designations of the supplied goods or services. Commercially customary

deviations and deviations based on legal regulations or that constitute technical improvements, as well as the replacement of components by equivalent parts, are permissible, provided they do not impair the usability for the contractually intended purpose.

(5) If the supplied goods or services are based on information provided by the Client, Section 2 (4) applies accordingly. Insofar as services based on this information, in particular design or assessment services, are to be provided, the information as provided by the Client is to be taken as the basis and is only to be checked if this has been expressly agreed. It is assumed that the information is correct and complete. Furthermore, information provided by the Client only becomes an integral part of the contract following express written confirmation by aas in accordance with the preceding provisions.

(6) aas retains ownership and copyright of all offers and cost estimates submitted by aas as well as drawings, illustrations, calculations, brochures, catalogues, models, tools, and other documents and resources made available to the Client. The Client may not make these objects available to third parties, make them known, use them directly or through third parties, or duplicate them without the express permission of aas. The Client must return these objects in their entirety to aas and destroy any copies made upon request if they are no longer required for the Client's normal course of business or if negotiations do not lead to the conclusion of a contract. The storage of electronically provided data for the purpose of normal data backup is exempt from this.

§ 3 Prices and payments

(1) The prices apply to the scope of services and deliveries specified in the order confirmations. Additional or special services are charged separately. Unless otherwise agreed, prices are quoted in EUR ex works and do not include packaging, statutory value-added tax, customs duties, fees, and other official dues for export deliveries.

(2) Invoice amounts are payable within thirty days without any deductions unless otherwise agreed in writing. The date of receipt by aas is decisive for determining the date of payment. If the Client fails to make payment when due, interest of 9% p.a. will be charged on the outstanding amounts from the due date; the right to claim higher interest and further damages in the event of default remains unaffected.

(3) Offsetting against counterclaims of the Client or withholding of payments on the basis of such claims is only permissible insofar as the counterclaims are undisputed or have been legally established or result from the same order as the delivery concerned.



(4) aas is entitled to carry out or provide outstanding deliveries or services only against advance payment or the provision of security if, after conclusion of the contract, aas becomes aware of circumstances that are likely to substantially reduce the creditworthiness of the Client and as a result of which the payment of outstanding receivables owed by the Client to aas arising from the relevant contractual relationship (including from other individual orders to which the same framework agreement applies) is jeopardised.

(5) In view of necessary material expenses, aas can reserve the right to carry out or provide deliveries or services only against advance payment or security amounting to at least 40% of the agreed remuneration, without reference to item 4, insofar as the agreed remuneration exceeds a total amount of €100,000.

§ 4 Delivery and delivery time

(1) Deliveries are ex works.

(2) Terms and dates indicated by aas for deliveries and services are generally non-binding unless a fixed term or date has been expressly agreed. If shipment has been agreed, delivery terms and delivery dates refer to the date of handover to the forwarding agent, carrier, or other third party commissioned with the transport.

(3) Without prejudice to any rights arising from default on the part of the Client, aas may demand an extension of delivery and service terms or deadlines or a postponement of delivery and service dates to cover the period during which the Client does not fulfil its contractual obligations to aas.

(4) aas is not be liable for deliveries that are not possible or for delays in delivery insofar as these are caused by force majeure or other events that were not foreseeable at the time the contract was concluded (such as operational disruptions of all kinds, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, shortage of labour, power, or raw materials, difficulties in procuring necessary official permits, official measures, or missing, incorrect, or untimely delivery by suppliers) for which aas is not responsible. If such events make it considerably more difficult or impossible for aas to provide the delivery or service and the disruption is not merely temporary, aas is entitled to withdraw from the contract. In the event of temporary disruptions, the delivery or service deadlines will be prolonged or the delivery or service dates will be postponed to cover the period of the disruption and a reasonable start-up period. If the Client cannot reasonably be expected to accept the delivery or service because of the delay, the Client can withdraw from the contract by promptly submitting a written statement to aas.

(5) aas is entitled to make partial deliveries if

- the partial delivery can be used by the Client within the scope of the contractual purpose,
- the delivery of the remaining ordered goods is assured and
- the Client does not incur any significant additional work or additional costs as a result (unless aas states that aas is prepared to bear these costs).

(6) If aas is in default with a delivery or service or if a delivery or service becomes impossible to provide for any reason whatsoever, the liability of aas for compensation is limited in accordance with Section 8 of these General Terms of Delivery.

§ 5 Place of performance, dispatch, packaging, transfer of risk, cooperation, acceptance

(1) The place of performance for all obligations arising from the contractual relationship is Wesel, Germany unless otherwise specified. If aas is also responsible for installation, the place of performance is the place where the installation is to be carried out.

(2) The mode of dispatch and packaging are subject to the due discretion of aas.

(3) The risk is transferred to the Client at the latest when the delivery item is handed over (with the start of the loading process being the determining factor) to the forwarding agent, carrier, or other third party designated to carry out the shipment. This also applies if partial deliveries are made or aas has assumed other services (such as loading, dispatch, or installation). If dispatch or handover is delayed as a result of circumstances for which the Client is responsible, the risk is transferred to the Client from the day on which the delivery item is ready for dispatch and aas has notified the Client accordingly.

(4) Storage costs after transfer of risk are borne by the Client. In the case of storage by aas, the storage costs amount to 1% of the invoice amount of the delivery items to be stored for each week of storage. aas reserves the right to assert and furnish proof of additional or lower storage costs.

(5) aas will only insure the shipment against theft, breakage, transport, fire and water damage, or other insurable risks at the express request of the Client and at the Client's expense.

(6) The Client must support the staff of aas in the provision of services at the Client's own expense. In particular, the Client is obliged to carry out all necessary preparations so that services can commence immediately upon arrival of aas and can be performed without delay. The Client must provide auxiliary and specialist personnel to the extent deemed necessary by aas and must ensure that they comply with the technical instructions issued by aas. aas assumes no liability for this personnel.



(7) The Client is responsible for providing the necessary resources such as equipment, means of transport, lifting gear, assembly tools, as well as for auxiliary materials, electricity, water, and gas. For the duration of the service provision, the Client must ensure unhindered access to the relevant workplace for aas personnel and provide suitable premises for the personnel to use during breaks as well as for the safe and secure storage of their own equipment and other tools. The Client must provide the necessary protective clothing to the extent agreed and at the Client's own expense and ensure that aas personnel are given comprehensive instruction in the safety regulations and other rules of conduct that apply within the company.

(8) The Client is obliged to inspect the goods or services immediately after delivery or work performance and to accept work produced in accordance with the contract. Insofar as acceptance is required, the work performance is deemed to have been accepted if

- twelve working days have passed since the delivery or the completed work performance,
- the Client has started using the equipment (for example, the Client has put the delivered equipment into operation) and in such case, six working days have passed since delivery or performance of the work, or
- the Client has failed to accept the goods within this period of time for a reason other than a defect reported by AAS that makes the use of the purchased goods impossible or significantly impairs their use.

§ 6 Warranty, material defects

(1) The warranty period is one year from delivery or, if acceptance is required, from the date of acceptance. This period does not apply to claims for damages by the Client arising from fatalities, physical injury, or damage to health or from intentional or grossly negligent breaches of duty on the part of aas or the vicarious agents of aas, which are subject to the statute of limitations in accordance with statutory provisions.

(2) The delivered items must be carefully inspected immediately after delivery to the Client or to the third party designated by the Client. With regard to obvious defects or other defects that would have been detectable in a prompt, careful inspection, the delivered items are deemed to have been approved by the Client if aas does not receive a written notification of defects within seven working days of delivery. With regard to other defects, the delivery items are deemed to have been approved by the Client if the notification of defects is not received within seven working days of the date on which the defect became apparent; however, if the defect was already apparent at an earlier point in time during normal use, this earlier point in time is decisive for determining the start of the period for the notification of defects. Any delivery item that is the subject of a complaint must be returned to aas carriage paid at the request of aas. If the complaint is justified, aas will reimburse the costs of the most economical dispatch route; this does not apply if the costs are higher because the delivery item is located at a place other than the place of intended use.

(3) In the event that the delivered goods have material defects, aas is obliged and entitled to choose, within a reasonable period of time, between repair or replacement. In the event of failure, that is, the impossibility, unreasonableness, refusal, or unreasonable delay of the repair or replacement delivery, the Client may withdraw from the contract or reduce the purchase price commensurately.

(4) aas will be given at least two opportunities to rectify or re-deliver at the discretion of aas.

(5) If a defect is due to the fault of aas, the Client may demand compensation for damages under the conditions set forth in Section 8.

(6) In the event of defects in components from other manufacturers that aas is unable to remedy for licencing reasons or other de facto reasons, aas will have the option of either asserting its warranty claims against the manufacturers and suppliers on behalf of the Client or assigning them to the Client. Warranty claims against aas exist for such defects under the other conditions and in accordance with these General Terms of Delivery only if the legal enforcement of the above-mentioned claims against the manufacturer and supplier was unsuccessful or is futile, for instance due to insolvency. The period of limitation of the relevant warranty claims of the Client against aas is suspended for the duration of the legal dispute.

(7) The warranty does not apply if the Client modifies or opens the delivery item or has it modified or opened by a third party without the consent of aas and the rectification of defects is thereby rendered impossible or unreasonably difficult. In any case, the Client is obliged to bear the additional costs of rectifying defects that result from the change.

§ 7 Industrial property rights and confidentiality

(1) In accordance with Section 7 herein, aas warrants that the delivery item is not subject to industrial property rights or copyrights of third parties. Insofar as the work or service performance of aas is based on specifications of the Client, the Client is solely responsible for safeguarding the rights of third parties. Each contracting party will immediately notify the other contracting party in writing if claims are asserted against the contracting party based on the infringement of such rights.

(2) In the event that the delivery item violates an industrial property right or copyright of a third party, aas has the option to either modify or replace the delivery item at the expense of aas in such a way that the rights of third parties are no longer violated although the delivery item continues to fulfil the contractually agreed functions, or to obtain the right of use for the Client by concluding a licence agreement with the third party. If aas is unable to do so within a reasonable period of time, the Client is entitled to withdraw from the contract or to reduce the purchase price commensurately. Any claims for damages on the part of



the Client are subject to the restrictions of Section 8 of these General Terms of Delivery.

(3) In the event of infringements of rights attributable to products of other manufacturers supplied by aas, aas will have the option of either asserting its claims against the manufacturers and upstream suppliers on the Client's behalf or assigning them to the Client. In these cases, claims against aas exist in accordance with the provisions of Section 7 herein only if legal enforcement of the above-mentioned claims against the manufacturers and upstream suppliers was unsuccessful or is futile, for instance due to insolvency.

(4) The parties are obliged to treat the work results of the other party as well as all other information, in particular of a technical and commercial nature, intentions, experience, knowledge, designs, and documents, which only become known to them as a result of the cooperation (information subject to confidentiality), as confidential with respect to third parties – including beyond the term of the relevant contract – and to refrain from making them accessible to third parties, to protect them from access by third parties, and to refrain from making them the subject of an application for their own industrial property rights, unless the other party has given its consent.

(5) Unless aas expressly agrees, reproduction of delivery items or workpieces is prohibited.

§ 8 Liability for damages due to fault

(1) The liability of aas for compensation for damages, irrespective of the legal grounds, in particular arising from impossibility of performance, delay, defective or incorrect delivery, breach of contract, breach of obligations during contractual negotiations, and tort, is limited in accordance with Section 8 herein insofar as fault is involved in each case.

(2) aas is not liable in cases of ordinary negligence on the part of organs, legal representatives, employees, or other vicarious agents of aas, provided that there is no violation of material contractual terms. The obligation to deliver and install the delivery item on time, to ensure that it is free of defects of title and material defects that impair its functionality or usability to a consequential degree, as well as advisory, security, and custodial duties that are intended to enable the Client to use the delivery item in accordance with the contract or to protect the life and limb of the Client's personnel, or to protect the Client's property from substantial damage, constitute material contractual obligations.

(3) The liability of aas is furthermore limited to damages that aas foresaw as a possible consequence of a breach of contract at the time of conclusion of the contract or which aas should have foreseen if aas had exercised due diligence. Moreover, indirect damages and consequential damages resulting from defects in the delivery item are only eligible for compensation insofar as such damages

are typically likely to occur when the delivery item is used for its intended purpose.

(4) Insofar as aas provides technical information or acts in an advisory capacity and this information or advice does not form part of the contractually agreed scope of services aas is obliged to provide, this is provided free of charge and to the exclusion of all liability.

(5) In the event of liability for ordinary negligence, aas's obligation to pay compensation for material damage and other financial losses resulting therefrom is limited to the amount of the contractual remuneration per case of damage, even if it involves a breach of material contractual obligations.

(6) Insofar as aas is otherwise liable for damages, this liability is limited to the amount covered by the liability insurance, specifically to EUR 5,000,000.

(7) The above exclusions and limitations of liability apply to the same extent in favour of the organs, legal representatives, employees, and other vicarious agents of aas.

(8) The limitations of Section 8 herein do not apply to the liability of aas for wilful conduct, for guaranteed quality characteristics, for injury to life, body, or health, or pursuant to the Product Liability Act.

§ 9 Retention of title

(1) The retention of title agreed below serves to secure all existing, current, and future claims of aas against the Client arising from the supply relationship between the contracting parties, including balance claims arising from a current account relationship limited to this supply relationship.

(2) The goods delivered by aas to the Client remain the property of aas until all secured claims have been paid in full. The goods as well as the goods covered by the retention of title that replace them in accordance with the following provisions are hereinafter referred to as the "reserved goods".

(3) The Client stores the reserved goods for aas free of charge.

(4) The Client is entitled to process and sell the reserved goods in the ordinary course of business until the occurrence of an enforcement event (item 9). Pledges and transfers by way of security are not permitted.

(5) If the reserved goods are processed by the Client, the parties agree that the processing is carried out in the name and on behalf of aas as the manufacturer and that aas acquires direct ownership or – if the processing is carried out using materials from several owners or the value of the processed item is higher than the value of the reserved goods – co-ownership (fractional ownership) of the newly created item in the ratio of the value of the reserved goods



to the value of the newly created item. In the event that no such acquisition of ownership by aas occurs, the Client hereby assigns its future ownership or co-ownership – in the above-mentioned ratio – of the newly created object to aas as security. If the reserved goods are combined or inseparably mixed with other objects to form a uniform object, and if one of the other objects is to be regarded as the main object, aas transfers the proportional co-ownership of the uniform object to the Client in the ratio specified in item 5, sentence 1, insofar as the main object belongs to aas.

(6) In the event of resale of the reserved goods, the Client hereby assigns as security to aas the resulting claim against the purchaser or, in the event of co-ownership by aas, proportionally in accordance with the share of co-ownership in the reserved goods. The same applies to other claims that take the place of the reserved goods or otherwise arise with regard to the reserved goods, such as insurance claims or claims arising from tort in the event of loss or destruction. aas revocably authorises the Client to collect the claims assigned to aas in the Client's own name. aas may only revoke this collection authorisation in the event of enforcement.

(7) If third parties access the reserved goods, in particular by means of seizure, the Client will immediately inform the third party of aas's ownership and inform aas of this in order to enable aas to enforce its ownership rights. If the third party is not in a position to reimburse aas for the judicial or extrajudicial costs incurred in this context, the Client of aas is liable for these costs.

(8) aas will release the reserved goods and the objects or claims taking their place if their value exceeds the amount of the secured claims by more than 50%. The choice of items to be released thereafter is at the discretion of aas.

(9) If aas withdraws from the contract in the event of breach of contract by the purchaser – in particular default of payment – (enforcement event), aas is entitled to demand return of the reserved goods.

§ 10 Final provisions

(1) If the Client is a merchant, a legal entity under public law, or a special fund under public law, or has no general place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction for any disputes arising from the business relationship between aas and the Client is either Wesel, Germany or the Client's registered office, at the discretion of aas. However, Wesel, Germany shall be the exclusive place of jurisdiction for legal actions against aas in such cases. Mandatory statutory provisions concerning exclusive places of jurisdiction remain unaffected by this provision.

(2) The relations between aas and the Client are subject solely to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG) does not apply.

(3) Insofar as the contract or these General Terms of Delivery contain gaps in the provisions, the legally effective provisions that the contracting parties would have agreed to had the parties been aware of these gaps and in accordance with the commercial objectives of the contract and the purpose of these General Terms of Delivery are regarded as mutually agreed to fill these gaps.