

## GENERAL TERMS AND CONDITIONS – SALES –

(current status: April 2017)

*These present Sales Conditions shall apply to the entire course of business with customers or other principals (hereinafter collectively called “Buyer”) even if not explicitly mentioned in subsequent agreements. They shall also apply if the Buyer, especially upon placing the order, refers to his own business terms and conditions unless said general terms and conditions were expressly confirmed and approved by Haff & Schneider GmbH & Co. OHG (hereinafter called “Haff & Schneider”) in writing.*

### § 1 General

1. For all deliveries and other performances, the sales and delivery conditions below shall apply exclusively; they shall only apply to entrepreneurs in the sense of § 310 para. 1 in connection with § 14 BGB (German Civil Code).
2. Any deviating terms of the Buyer not expressly acknowledged by Haff & Schneider shall be non-binding even if not explicitly rejected by Haff & Schneider.
3. The incorporation and interpretation of these Sales and Delivery Terms and the conclusion and integration of legal transactions with the Buyer himself shall be governed exclusively by the law of the Federal Republic of Germany. The application of the uniform law on the conclusion of international sales contracts relating to movable objects, the UN convention on Contracts for the International Sale of Movable Goods, shall be excluded.
4. The invalidity of individual provisions of this agreement or parts thereof shall affect the effectiveness of the remaining provisions. Within reasonable bounds and in good faith, the contractual parties shall undertake to replace an ineffective provision by a valid provision that as closely as possible reflects the economic purpose that the parties had hereto pursued provided that the new provision does not essentially change the contents of the contract. The same shall apply if a fact which requires regulation is not expressly regulated.
5. Place of performance for all obligations directly or indirectly resulting from this contractual relationship, including the payment obligation, shall be the registered office of Haff & Schneider.
6. Place of jurisdiction shall be the venue in charge of the registered office of Haff & Schneider provided that the Buyer is merchant. Haff & Schneider shall also have the right to sue before a court which is competent for the registered office or a branch office of Haff & Schneider.

### § 2 Quotes, Scope of Performance and Conclusion of Contract

1. Contract offers by Haff & Schneider shall be non-binding. Contract changes and contract amendments shall require the written form. This shall also apply to the waiver of the written form requirement.
2. The Buyer’s rights under this contract shall only be transferable with the approval of Haff & Schneider.
3. For the scope of the contractual performance, the order confirmation of Haff & Schneider shall exclusively prevail.

4. Haff & Schneider reserve the right to change design & construction, selected material, specifications and type even after sending the order confirmation provided that such modifications are contradictory neither to order confirmation nor to specifications of the Buyer. In excess of this, the Buyer shall agree to any further proposed amendments by Haff & Schneider as fast as reasonable on the part of Buyer.
5. The documents on which the offer or the order confirmation are based, like figures, drawings, dimensional and weight data, shall usually be regarded as approximate values unless explicitly designated as binding.
6. If the Buyer unjustifiably withdraws from an order already placed, Haff & Schneider shall have the right to claim 10% of the gross contract price as compensation for the costs incurred through processing the order and for lost profit without prejudice to the possibility to claim higher actual damages. The Buyer shall be free to furnish proof of a lower damage.

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

1. The prices shall be ex-works excluding packaging and other shipment and transport costs. Packaging shall be charged at cost and shall only be taken back if Haff & Schneider are obliged to do so by virtue of binding legal regulation.
2. If more than 6 months lie between concluding the contract and delivery without Haff & Schneider being responsible for any delay in delivery, Haff & Schneider shall be entitled to reasonably increase the price taking into consideration occurred material, wage and other incidental costs to be borne by Haff & Schneider. If the purchase price is increased by more than 40%, the Buyer shall have the right to withdraw from the contract.
3. If Haff & Schneider allows requests for changes on the part of the Buyer, any additional costs incurred thereby shall be charged to the Buyer.
4. Payments shall be made within 30 days without discount unless otherwise agreed in the contract. The costs for payment transactions shall be borne by the contract partner.
5. Payments shall be made by bank transfer or by check; no other kind of payment must be accepted by Haff & Schneider.
6. Should baseline dates for payments be culpably exceeded, interest on arrears in the amount of 8% above the effective base interest rate will be charged.

### **§ 4 Set-off and Retention**

Set-off and retention shall be excluded unless the set-off claim is undisputed or legally established.

### **§ 5 Delivery Period**

1. In so far as delivery periods have been agreed, the point of time of delivery or provision ex works shall be decisive. If the Buyer does not comply with his obligations or delivery is delayed due to unforeseen, extraordinary or other events beyond the control of Haff & Schneider, of a subcontractor or transport company, an appropriate extension of the delivery period shall be understood as agreed. The same shall also apply in the event of strike or lockout. If such hindrances last longer than one month or if plant closures occur at Haff & Schneider or a subcontractor, Haff & Schneider shall have the right to withdraw from the contract. The delivery period shall start on the day of the order confirmation by Haff & Schneider, however not before

the clarification of all technical and commercial details as well as not before the submission of any official permits as necessary. Any changes to the design of the delivery item within the delivery period shall interrupt and extend the delivery period accordingly. Delays in the return of approval drawings shall suspend or slow the delivery period.

2. Should the Buyer suffer damage due to a delay through the fault of Haff & Schneider, he shall be entitled to claim compensation for delay to the exclusion of all further claims. Such compensation shall amount to one half of a percent per full week of delay, but on the whole to no more than 5% of the value of the part of the total delivery which cannot be used in time or not according to contract and can thus not be used effectively due to the delay without shutting down the entire production of the Buyer, or 5% of the total value in all other cases.
3. Partial deliveries shall be permissible.
4. Should the Buyer come into arrears with the acceptance of the merchandise or services offered to him properly and duly, he shall be charged the costs incurred through the storage of the goods in our plant starting one month after the notification of the readiness for shipment, or at least 0.5% of the invoice amount for each month. However, after the setting and unsuccessful expiry of a reasonable time limit, Haff & Schneider shall have the right to dispose of the delivery item otherwise and to deliver the contractual object to the Buyer after an appropriately extended period as well as to withdraw from the contract and claim reimbursement of expenses in the amount of 25% of the invoice value without furnishing proof of original reason and amount. This shall not apply if the Buyer furnishes proof that a lesser or no damage at all occurred. Further claims shall remain reserved.

## **§ 6 Property Rights**

1. In case of deliveries according to drawings, models and other information and data provided by the Buyer, the latter shall hold us free from legal or protective rights of any third party. In case of contract violations by the Buyer, his proprietary rights shall not prevent the disposal of the goods through Haff & Schneider.
2. Pursuant to §2, para. 1, item 7 UrhG (Copyright Act), Haff & Schneider shall be entitled to an unrestricted copyright with regard to constructions, drawings and similar documents prepared by Haff & Schneider. It shall not be affected neither by payment of the agreed price for the construction nor through handing over further copies of the construction documents. Without the prior explicit approval of Haff & Schneider in written form, the Buyer shall therefore not have the right to manufacture machines and tools based on the construction documents of Haff & Schneider or have them manufactured, nor to make copies of the submitted multiple issues nor have them made nor to reproduce the submitted documents and multiple copies, entrust them to third parties or disclose their contents to third parties. Here, it shall be irrelevant whether the constructions, drawings and similar documents in question were prepared by Haff & Schneider themselves or by third parties. Any further rights based on the UrhG (Copyright Act) shall remain unaffected. The originals shall always remain the unrestricted property of Haff & Schneider. If Haff & Schneider also deliver the machines or the tooling next to the construction, Haff & Schneider shall still have the unrestricted copyright while only the object as such shall become the property of the Buyer. We expressly refer to §14 UrhG (Copyright Act).

## § 7 Transfer of Risk

With handling over the merchandise to a forwarding agent or carrier, however with leaving the warehouse at the latest, the risk shall be transferred to the customer for all transactions, also for carriage paid deliveries and free domicile deliveries. If goods are taken back for reasons beyond our responsibility, the Buyer shall bear any risk until the goods will have been received by us.

## § 8 Retention of Title

1. Haff & Schneider retain the title of ownership of the delivered items until the purchase price will have been paid in full. The retention of title shall also remain effective until all claims from the business relation – including future and conditional ones – between Buyer and Haff & Schneider will have been settled.
2. The Buyer shall not be entitled to assign as a security or pledge the goods, but shall have the right to further sell the goods subject to retention of title in the normal course of business. The Buyer's claims against his business partners arising therefrom are hereby assigned to Haff & Schneider.
3. If the goods are machined or otherwise processed, the retention of title shall also cover the new item in its entirety. The Buyer shall acquire co-ownership in the same proportion as the value of his goods to the goods delivered by Haff & Schneider.
4. If the value of all collateral provided in the favour of Haff & Schneider exceeds the value of the claims secured by more than 10% on a long term base, Haff & Schneider shall release securities to the Seller's choice at the request of the Buyer. The Buyer shall inform Haff & Schneider about any attachment or other impairments caused by third parties without delay.
5. Haff & Schneider shall be entitled to reserve proprietary rights without withdrawing from the contract.

## § 9 Claims for Defects

1. If the purchase is a commercial transaction for both parties, the Buyer shall inspect the merchandise immediately after receipt, insofar as this is feasible within the proper course of business, and to notify the Seller of any defect discovered without delay. In the event that the Buyer fails to notify the Seller, the goods shall be deemed to be approved unless the defect was such that it could not have been detected during the incoming goods inspection. Haff & Schneider shall have the right to inspect the rejected goods. In the event that such inspection is refused by the Buyer, all claims shall be void. For the rest, §§ 377 et seq. HGB (German Commercial Code) shall apply.
2. The claims for defect shall be restricted to supplementary performance. In the event that the supplementary performance fails, the Buyer shall have the right – at his own discretion – to either demand reduction on price or rescission of the contract.
3. If we unjustly refuse to rectify the defect or make replacement delivery or if we fall into arrears in this regard, the buyer shall set a reasonable extension period and shall be entitled to claim redhibition or reduction in price at his own discretion after the unsuccessful expiry of said period. Any further claims of the Buyer, in particular reimbursement of processing costs, assembly/disassembly costs as well as damage compensation not relating to the delivery item itself shall be excluded in so far as legally permissible.
4. No liability shall be assumed for damage caused by the following reasons:

- inappropriate or improper use
  - incorrect assembly or commissioning by the Buyer or third parties
  - damage due to non-compliance without operating and maintenance instructions
  - natural wear
  - incorrect or negligent handling
  - inappropriate operating equipment
  - replacement materials unless they can be attributed to a fault of Haff & Schneider
5. For us to undertake all repairs and spare part deliveries which we deem necessary at our discretion, the Buyer shall grant Haff & Schneider the required time and opportunity after mutual agreement; otherwise Haff & Schneider shall be released from their liability for defects. Only in urgent cases, where there is a risk to operational safety and to avert disproportionate further damage, whereby Haff & Schneider must be informed immediately, or if Haff & Schneider is in default with removing the defect, the Buyer shall have the right of rectifying the defect himself or have it removed by third parties and to demand reimbursement of the costs incurred thereby.
  6. Any further claims of the Buyer unless resulting from acceptance of warranty shall be excluded. This shall not apply in case of intention, gross negligence or violation of essential contractual obligations of the Seller.
  7. The claims for defect shall be time-barred within one year starting from the delivery of the purchased item unless they are due to intention or gross negligence by Haff & Schneider.
  8. For the replacement item and repair, the warranty period shall amount to 3 months but shall at least continue until the expiration of the original warranty period for the delivery item. The period of liability of defects for the delivery items shall be extended by the duration of the business interruption caused by the rectification work.

#### **§ 10 Liability**

1. Claims for damages of all kinds for all direct or indirect damages – also for breach of accessory duties and regardless of the legal grounds – shall be excluded unless they are due to intention or gross negligence by Haff & Schneider.
2. We shall be liable to the Buyer for compensation and recourse claims only in those cases where we are demonstrably responsible for a defect of the goods delivered by us.