

General Sales Terms and Conditions of Schaeff Maschinen Verwaltung GmbH

Schwäbisch Hall, October 1, 2020

PREAMBLE

1. These General Sales Terms and Conditions shall apply when the parties agree In Writing or otherwise thereto. Any modifications of or deviations from them must be agreed In Writing.

DEFINITIONS

2. In these General Sales Terms and Conditions the following terms shall have the meanings hereunder assigned to them:

- "Contract": the agreement In Writing between the parties concerning supply of the Product and all appendices, including agreed amendments and additions In Writing to the said documents;
- "Gross Negligence": an act or omission implying either a failure to pay due regard to serious consequences, which a conscientious contracting party would normally foresee as likely to ensue, or a deliberate disregard of the consequences of such an act or omission;
- "In Writing": communication by document signed by both parties or by letter, fax, electronic mail and by such other means as are agreed by the parties;
- "the Product": the object(s) to be supplied under the Contract, including software and documentation.
- "Schaeff Maschinen": Schaeff Maschinen Verwaltung GmbH, Schwäbisch Hall, as the producing and supplying party.

PRODUCT INFORMATION

3. All information and data contained in general product documentation and price lists shall be binding only to the extent that they are by reference In Writing expressly included in the Contract.

DRAWINGS AND TECHNICAL INFORMATION

4. All drawings and technical documents relating to the Product or its manufacture submitted by one party to the other, prior or subsequent to the formation of the Contract, shall remain the property of the submitting party.

Drawings, technical documents or other technical information received by one party shall not, without the consent of the other party, be used for any other purpose than that for which they were provided. They may not, without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party.

5. Schaeff Maschinen shall, not later than at the date of delivery, provide free of charge materials which are necessary to permit the Purchaser to install, commission, operate and maintain the Product. Such materials shall be supplied in the number of copies agreed upon or at least one copy of each. Schaeff Maschinen shall not be obliged to provide manufacturing drawings for the Product or for spare parts.

ACCEPTANCE TESTS

6. Acceptance tests provided for in the Contract shall, unless otherwise agreed, be carried out at the place of manufacture during normal working hours.

If the Contract does not specify the technical requirements, the tests shall be carried out in accordance with general practice in the appropriate branch of industry concerned in the country of manufacture.

7. Schaeff Maschinen shall notify the Purchaser In Writing of the acceptance tests in sufficient time to permit the Purchaser to be represented at the tests. If the Purchaser is not represented, the test report created by Schaeff Maschinen shall be sent to the Purchaser and shall be accepted as accurate.

8. If the acceptance tests show the Product not to be in accordance with the Contract, Schaeff Maschinen shall without delay remedy any deficiencies in order to ensure that the Product complies with the Contract. New tests shall then be carried out at the Purchaser's request, unless the deficiency was insignificant.

9. Schaeff Maschinen shall bear all costs for acceptance tests carried out at the place of manufacture. The Purchaser shall however bear all travelling and living expenses for his representatives in connection with such tests.

DELIVERY. PASSING OF RISK

10. Any agreed trade term shall be construed in accordance with the INCOTERMS® in force at the formation of the Contract.

If no trade term has been specifically agreed, the delivery shall be Ex Works (EXW) at the place named by Schaeff Maschinen.

If, in the case of delivery Free Carrier, Schaeff Maschinen, at the request of the Purchaser, undertakes to send the Product to its destination, the risk will pass not later than when the Product is handed over to the first carrier. Partial delivery shall not be permitted, unless otherwise agreed.

TIME FOR DELIVERY. DELAY

11. If the parties, instead of specifying the date for delivery, have specified a period of time within which delivery shall take place, such period shall start to run as soon as the Contract is entered into and all agreed preconditions to be fulfilled by the Purchaser have been satisfied, such as official formalities, payments due at the formation of the Contract and securities.

12. If Schaeff Maschinen anticipates that he will not be able to deliver the Product at the time for delivery, he shall forthwith notify the Purchaser thereof In Writing, stating the reason and, if possible, the time when delivery can be expected.

If Schaeff Maschinen fails to give such notice, the Purchaser shall be entitled to compensation for any additional costs which he incurs and which he could have avoided had he received such notice.

13. If delay in delivery is caused by any of the circumstances mentioned in Clause 38, by an act or omission on the part of the Purchaser, including suspension under Clauses 18 and 41, or any other circumstances attributable to the Purchaser, Schaeff Maschinen shall be entitled to extend the time for delivery by a period which is necessary having regard to all the circumstances of the case. This provision shall apply regardless of whether the reason for the delay occurs before or after the agreed time for delivery.

14. If the Purchaser anticipates that he will be unable to accept delivery of the Product at the time for delivery, he shall forthwith notify Schaeff Maschinen In Writing thereof, stating the reason and, if possible, the time when he will be able to accept delivery.

If the Purchaser fails to accept delivery at the time for delivery, he shall nevertheless pay any part of the purchase price which becomes due at the time for delivery, as if delivery had taken place at the time for delivery. Schaeff Maschinen shall arrange for storage of the Product at the risk and expense of the Purchaser. Schaeff Maschinen shall also, if the Purchaser so requires, insure the Product at the Purchaser's expense.

15. Unless the Purchaser's failure to accept delivery is due to any such circumstance as mentioned in Clause 38, Schaeff Maschinen may by notice In Writing require the Purchaser to accept delivery within a final reasonable period.

If, for any reason which is not attributable to Schaeff Maschinen, the Purchaser fails to accept delivery within such period, Schaeff Maschinen may by notice In Writing terminate the Contract in whole or in part. Schaeff Maschinen shall then be entitled to compensation for the loss he suffers by reason of the Purchaser's default, including any consequential and indirect loss. The compensation shall not exceed that part of the purchase price which is attributable to that part of the Product in respect of which the Contract is terminated.

PAYMENT

16. Payment shall be made within 14 days after the date of invoice. Unless otherwise agreed, the purchase price shall be paid with 40 per cent at the formation of the Contract and 40 per cent when Schaeff Maschinen notifies the Purchaser that the Product, or the essential part of it, is ready

for delivery. The remaining part of the purchase price shall be paid when the entire Product is delivered.

17. Whatever the means of payment used, payment shall not be deemed to have been effected before Schaeff Maschinen' account has been irrevocably credited for the amount due.

18. If the Purchaser fails to pay by the stipulated date, Schaeff Maschinen shall be entitled to interest from the day on which payment was due and to compensation for recovery costs. The rate of interest shall be as agreed between the parties or otherwise 8 percentage points above the rate of the main refinancing facility of the European Central Bank. The compensation for recovery costs shall be 1 per cent of the amount for which interest for late payment becomes due.

In case of late payment and in case the Purchaser fails to give an agreed security by the stipulated date Schaeff Maschinen may, after having notified the Purchaser In Writing, suspend his performance of the Contract until he receives payment or, where appropriate, until the Purchaser gives the agreed security.

If the Purchaser has not paid the amount due within three months, Schaeff Maschinen shall be entitled to terminate the Contract by notice In Writing to the Purchaser and, in addition to the interest and compensation for recovery costs according to this Clause, to claim compensation for the loss he incurs. Such compensation shall not exceed the agreed purchase price.

RETENTION OF TITLE

19. The Product shall remain the property of Schaeff Maschinen until paid for in full to the extent that such retention of title is valid under the relevant law.

The Purchaser shall at the request of Schaeff Maschinen assist him in taking any measures necessary to protect Schaeff Maschinen' title to the Product. The retention of title shall not affect the passing of risk under Clause 10.

LIABILITY FOR DEFECTS

20. Pursuant to the provisions of Clauses 21-36, Schaeff Maschinen shall remedy any defect or nonconformity (hereinafter termed defect(s)) resulting from faulty design, materials or workmanship.

21. Schaeff Maschinen shall not be liable for defects arising out of materials provided or a design stipulated or specified by the Purchaser.

22. Schaeff Maschinen shall only be liable for defects which appear under the conditions of operation provided for in the Contract and under proper use of the Product.

23. Schaeff Maschinen shall not be liable for defects caused by circumstances, which arise after the risk has passed to the Purchaser, e.g. defects due to faulty maintenance, incorrect installation or faulty repair by the Purchaser or to alterations carried out without Schaeff Maschinen' consent In Writing. Schaeff Maschinen shall neither be liable for normal wear and tear nor for deterioration.

24. Schaeff Maschinen's liability shall be limited to defects which appear within a period of one year from delivery. If the use of the Product exceeds that which is agreed, this period shall be reduced proportionately.

25. When a defect in a part of the Product has been remedied, Schaeff Maschinen shall be liable for defects in the repaired or replaced part under the same terms and conditions as those applicable to the original Product for a period of one year. For the remaining parts of the Product the period mentioned in Clause 24 shall be extended only by a period equal to the period during which and to the extent that the Product could not be used as a result of the defect.

26. The Purchaser shall without undue delay notify Schaeff Maschinen In Writing of any defect which appears. Such notice shall under no circumstances be given later than two weeks after the expiry of the period given in Clause 24 or the extended period(s) under Clause 25, where applicable. The notice shall contain an extensive and precise description of the defect. If possible, photographs or illustrations shall be attached to the description.

If the Purchaser fails to notify Schaeff Maschinen In Writing of a defect within the time limits set forth in the first paragraph of this Clause, he shall lose his right to have the defect remedied. Where the defect is such that it may cause damage, the Purchaser shall immediately inform Schaeff Maschinen

In Writing. The Purchaser shall bear the risk of damage to the Product resulting from his failure so to notify. The Purchaser shall take reasonable measures to minimize damage and shall in that respect comply with instructions of Schaeff Maschinen.

27. On receipt of the notice under Clause 26, Schaeff Maschinen shall at his own cost remedy the defect without undue delay, as stipulated in Clauses 20-36. The time for remedial work shall be chosen in order not to interfere unnecessarily with the Purchaser's activities.

Repair shall be carried out at the place where the Product is located unless Schaeff Maschinen deems it more appropriate that the Product is sent to him or a destination specified by him.

If the defect can be remedied by replacement or repair of a defective part and if dismantling and re-installation of the part do not require special knowledge, Schaeff Maschinen may demand that the defective part is sent to him or a destination specified by him. In such case Schaeff Maschinen shall have fulfilled his obligations in respect of the defect when he delivers a duly repaired part or a part in replacement to the Purchaser.

28. The Purchaser shall at his own expense provide access to the Product and arrange for any intervention in equipment other than the Product, to the extent that this is necessary to remedy the defect.

29. Unless otherwise agreed, necessary transport of the Product or parts thereof to and from Schaeff Maschinen in connection with the remedying of defects for which Schaeff Maschinen is liable shall be at the risk and expense of Schaeff Maschinen. The Purchaser shall follow Schaeff Maschinen' instructions regarding such transport.

30. Unless otherwise agreed, the Purchaser shall bear any additional costs which Schaeff Maschinen incurs for remedying the defect caused by the Product being located in a place other than the destination stated at the formation of the Contract for Schaeff Maschinen' delivery to the Purchaser or – if no destination has been stated – the place of delivery.

31. Defective parts which have been replaced shall be made available to Schaeff Maschinen and shall be his property.

32. If the Purchaser has given such notice as mentioned in Clause 26 and no defect is found for which Schaeff Maschinen is liable, Schaeff Maschinen shall be entitled to compensation for the costs he incurs as a result of the notice.

33. If Schaeff Maschinen does not fulfil his obligations under Clause 27, the Purchaser may by notice In Writing fix a final reasonable period for completion of Schaeff Maschinen' obligations, which shall not be less than one week.

If Schaeff Maschinen fails to fulfil his obligations within such final period, the Purchaser may himself undertake or employ a third party to undertake necessary repair work at the risk and expense of Schaeff Maschinen.

Where successful repair work has been undertaken by the Purchaser or a third party, reimbursement by Schaeff Maschinen of reasonable costs incurred by the Purchaser shall be in full settlement of Schaeff Maschinen' liabilities for the said defect.

34. Where the Product has not been successfully repaired, as stipulated under Clause 33,

a) the Purchaser shall be entitled to a reduction of the purchase price in proportion to the reduced value of the Product, provided that under no circumstances shall such reduction exceed 15 per cent of the purchase price, or

b) where the defect is so substantial as to significantly deprive the Purchaser of the benefit of the Contract as regards the Product or a substantial part of it, the Purchaser may terminate the Contract by notice In Writing to Schaeff Maschinen in respect of such part of the Product as cannot in consequence of the defect be used as intended by the parties. The Purchaser shall then be entitled to compensation for his loss, costs and damages up to a maximum of 15 per cent of that part of the purchase price which is attributable to the part of the Product in respect of which the Contract is terminated.

35. Notwithstanding the provisions of Clauses 20-34 Schaeff Maschinen shall not be liable for defects in any part of the Product for more than one year from the end of the liability period referred to in Clause 24 or from the end of any other liability period agreed upon by the parties.

36. Save as stipulated in Clauses 20-35, Schaeff Maschinen shall not be liable for defects. This applies to any loss the defect may cause including loss of production, loss of profit and other indirect loss. This limitation of Schaeff Maschinen' liability shall not apply if he has been guilty of Gross Negligence.

ALLOCATION OF LIABILITY FOR DAMAGE CAUSED BY THE PRODUCT

37. Schaeff Maschinen shall not be liable for any damage to property caused by the Product after it has been delivered and whilst it is in the possession of the Purchaser. Nor shall Schaeff Maschinen be liable for any damage to products manufactured by the Purchaser or to products of which the Purchaser's products form a part.

If Schaeff Maschinen incurs liability towards any third party for such damage to property as described in the preceding paragraph, the Purchaser shall indemnify, defend and hold Schaeff Maschinen harmless.

If a claim for damage as described in this Clause is lodged by a third party against one of the parties, the latter party shall forthwith inform the other party thereof In Writing.

Schaeff Maschinen and the Purchaser shall be mutually obliged to let themselves be summoned to the court or arbitral tribunal examining claims for damages lodged against one of them on the basis of damage allegedly caused by the Product. The liability between Schaeff Maschinen and the Purchaser shall however be settled in accordance with Clause 43.

The limitation of Schaeff Maschinen' liability in the first paragraph of this Clause shall not apply where Schaeff Maschinen has been guilty of Gross Negligence.

FORCE MAJEURE

38. Either party shall be entitled to suspend performance of his obligations under the Contract to the extent that such performance is impeded or made unreasonably onerous by Force Majeure, meaning any of the following circumstances: industrial disputes and any other circumstance beyond the control of the parties such as fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, epidemics, natural disasters, extreme natural events, terrorist acts and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this Clause. A circumstance referred to in this Clause whether occurring prior to or after the formation of the Contract shall give a right to suspension only if its effect on the performance of the Contract could not be foreseen at the time of the formation of the Contract.

39. The party claiming to be affected by Force Majeure shall notify the other party In Writing without delay on the intervention and on the cessation of such circumstance. If a party fails to give such notice, the other party shall be entitled to compensation for any additional costs which he incurs and which he could have avoided had he received such notice.

If Force Majeure prevents the Purchaser from fulfilling his obligations, he shall compensate Schaeff Maschinen for expenses incurred in securing and protecting the Product.

40. Regardless of what might otherwise follow from these General Sales Terms and Conditions, either party shall be entitled to terminate the Contract by notice In Writing to the other party if performance of the Contract is suspended under Clause 38 for more than six months.

ANTICIPATED NON-PERFORMANCE

41. Notwithstanding other provisions in these General Sales Terms and Conditions regarding suspension, each party shall be entitled to suspend the performance of his obligations under the Contract, where it is clear from the circumstances that the other party is not going to perform his obligations. A party suspending his performance of the Contract shall forthwith notify the other party thereof In Writing.

CONSEQUENTIAL LOSSES

42. Save as otherwise stated in these General Sales Terms and Conditions there shall be no liability for either party towards the other party for loss of production, loss of profit, loss of use, loss of contracts or for any other consequential or indirect loss whatsoever.

DISPUTES AND APPLICABLE LAW

43. All disputes arising out of or in connection with the Contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.

44. The Contract shall be governed by the substantive law of the European Union – the United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.