

## 1. General

Our sales are based on the following General Conditions of Sale and Delivery. Written agreement is required for any divergent or additional conditions and/or arrangements.

## 2. Delivery

Unless otherwise agreed, the benefits and risk shall transfer to the customer once the delivery leaves the factory and the customer shall assume the shipment costs. For delivery in Switzerland, Incoterms 2020-EXW applies.

For international deliveries, Incoterms 2020-FCA (Franke Aarburg) applies.

If dispatch is delayed at the request of the customer or due to reasons beyond Franke's control, the risk of the supplies shall pass to the customer at the time originally foreseen for their leaving the works. From this moment on, the supplies shall be stored and insured on the account and at the risk of the customer.

## 3. Delivery dates

The delivery dates specified in our order confirmation apply. Compliance with the delivery time is conditional upon the customer's fulfilment of his contractual obligations. The delivery time shall be reasonably extended, if the customer asks for changes of the contractual product. Acts of God, work stoppages in our factory or in our supplier plant, industrial disruptions, and late or deficient delivery by our suppliers shall release us from the obligation of complying with the specified delivery dates. Any compensation claims arising from non-compliance with delivery dates are hereby excluded.

## 4. Tools and appliances

Specifically manufactured tools and appliances for customer remain in the ownership of Franke until receiving full payment. Intellectual property rights of it vest in Franke. Franke receives custody of the tools and appliances until five years after the last use for production processing. Upon request of customer Franke undertakes to mark the tools and appliances as property of customer. During the custody of Franke the tools and appliances are used only for production processing. The tools and appliances are insured against loss and damage for its replacement value. Costs for repair due to wear and tear or for modification are borne by customer. After expiry of the custody term Franke will give written notice to customer to pick-up the tools and appliance within 60 days. If they are not collected within such term then Franke has the right to dispose of it without further notice, including the right for its destruction.

## 5. Excess or short deliveries

For small parts or wear-and-tear parts with a delivery quantity of  $\geq 30$  pieces, excess or short deliveries of up to 10% of the quantity order shall be permitted. Deliveries affected within this limit shall be deemed to constitute contractual performance.

## 6. Project services

Franke will perform all project services on the prototype or any manufacturing clarifications with the care as is usual in the ordinary course of business and will comply with the agreed quality standards. Franke will render the agreed services with qualified employees or subcontractors and Franke will be directly liable to customer even in the latter case. Franke assigns all intellectual property of the prototype to the customer. However, intellectual property rights with regards to technical drawings, know-how, concepts, manufacturing techniques and –methods, software and models which are used or contributed by Franke for manufacturing remain unaffected and in the property of Franke.

## 7. Prices

Unless otherwise agreed, our prices are in Swiss francs, net, ex works, without packaging and not including taxes, charges, fees, duties and such like.

The customer shall assume all kinds of taxes, charges, fees, duties and such like.

We reserve the right to make adjustments to prices, e.g. if prices for raw materials change, and/or in the event of exchange rate fluctuations, or increased freight costs up to the date of delivery, etc.

## 8. Reservation of title

We remain the owners of the entire delivery until we have received full payment in accordance with the agreement. The customer undertakes to assist in adopting any measures required to protect the property. In particular, the customer authorizes us to arrange the entry of the reservation of title at its cost in the relevant public records, registers and the like, and to meet the required formalities for this.

## 9. Payment conditions

Our invoices are payable within 30 days net of the date of invoice, unless otherwise agreed.

## 10. Packaging

Packaging is not included in the product price and shall not be returnable. However, if it is declared as Franke's property, it shall be returned by the customer, carriage paid, to the place of dispatch. If the customer requires circulation packaging, this may be delivered and provided at no cost to us. Any additional costs for packaging operations, handling and storage shall be borne by the customer.

## 11. Follow-up orders/replacement parts

Follow-up orders and/or replacement parts can only be executed or supplied according to the availability of material and the availability of the required operating resources.

## 12. Warranties; defects

We guarantee delivery in the quality set out in the agreement (but not on suitability for the intended use). The warranty period for the contractual product is 2 years from notification that dispatch is ready respectively delivery, or 1 year from installation, depending on the period that ends first. The following legal remedies

are available at our discretion for verifiable defective goods: remedial work, free delivery of a replacement, or issue of a credit note in relation to the price paid or owed for the defective specimens of the goods (on return of the defective specimens of the goods). We reject any other claims, including claims for time expenditure, and any type of compensation claims or claims to damages. Other warranties and/or guarantees of any kind are expressly excluded.

If and to the extent that customer provides its own material for us to process according to our mutual contract ("Free Issue Material"), the customer automatically represents and warrants with any delivery of such material that the provided Free Issue Material conforms to contractual specifications, is free of defects as to its quality and has all the qualities required for its intended processing purposes. We are under no obligation to inspect the provided Free Issue Material; in the event a defect is discovered nonetheless, we will notify customer accordingly within 5 working days from discovery; all contractually agreed delivery times for concerned goods are extended by the time period it takes the customer to provide flawless Free Issue Material. Any costs related to the provision of faulty Free Issue Material, rectification measures and delays are borne by the customer. We exclude any liability, and type of guarantee or warranty and any claim to damages for defective goods for the event that faulty Free Issue Material has been incorporated into such goods in good faith, i.e. the faulty quality of the Free Issue Material has only been discovered after the fulfilment of our contractual obligations. For defective goods made out of or containing flawless Free Issue Material, paragraph 1 of this Section 12 applies.

### **13. Complaints**

The customer must raise any complaints in writing within 10 working days of receipt of the goods at the destination. Any defects that could not be identified by careful inspection within this period must be reported immediately as soon as they become known, and any further processing stopped without delay, but within no more than three months of receipt of the goods.

### **14. Cancellation or postponement of orders**

It shall be at our discretion as to whether we accept cancellation and/or postponement of any orders placed. We shall only agree to cancellation or postponement if we are reimbursed for all costs that have been, or will be incurred, and for the loss of profit involved. Cancellation or postponement of orders shall never be accepted if it would threaten the economic survival of the company, or if it would lead to lay-offs.

### **15. Exclusion of liability**

All cases of breach of contract and the relevant consequences as well as all rights and claims on the part of the customer, irrespective on what ground they are based, are exhaustively covered by these general conditions of supply. In the event that claims of the customer in relation to or in connection with the contract or the breach thereof should exist, the total amount of such claims is restricted to the price paid by the

customer. In particular, any claims not expressly mentioned for damages, reduction of price, termination or withdrawal from the contract is excluded. In no case whatsoever shall the customer be entitled to claim damages other than compensation for the costs of remedying defects in the supplies. This in particular refers, but shall not be limited, to loss of production, loss of use, loss of orders, recall costs, loss of profit and other direct or indirect or consequential damage. Liability is also excluded for compensation claims from third parties against the customer for infringements of intellectual property rights.

This exclusion of further liability on the Franke's part does not apply to unlawful intent or gross negligence on the part of the supplier, but does apply to persons employed or appointed by the supplier to perform any of his obligations. This exclusion of liability does not apply as far as it is contrary to compulsory law.

### **16. Export control**

The customer recognizes that the supplies may be subject to Swiss and/or foreign legal provisions and regulations on export control and are not allowed to be sold, leased or otherwise transferred or used for a purpose other than the agreed without an export or re-export permit of the competent authority. The customer undertakes to comply with such provisions and regulations. He is aware that these may change and that they apply to the contract in the current valid wording.

### **17. Data protection**

Franke is entitled to process the personal data of the customer in order to perform the contract. Furthermore, the customer consents in particular to Franke transmitting such data to third parties in Switzerland and abroad for the purpose of performing and maintaining the business relationships between the parties.

### **18. Place of performance**

Place of performance is Aarburg.

### **19. Applicable law and place of jurisdiction**

Substantive Swiss law applies excluding the provisions on conflict of laws. The exclusive place of jurisdiction is Zofingen.