



## Terms and Conditions of Sale – 01.02.2020

### I. General

1. These Terms and Conditions of Sale of the supplier shall apply exclusively. General terms and conditions of business of the ordering party that conflict with, supplement or deviate from the supplier's Terms and Conditions of Sale and Delivery shall become part of the contract only if and insofar as the supplier has given its express written consent to their application. The supplier's General Terms and Conditions of Sale and Delivery shall apply even if the supplier carries out the delivery unconditionally despite knowing of terms and conditions of the ordering party that conflict with, supplement or deviate from the supplier's Terms and Conditions of Sale and Delivery. They shall apply as worded at the respective time and shall be deemed to be a framework agreement, also for future contracts with the same ordering party, without the supplier having to refer to them again in every individual case.
2. All agreements made between the supplier and the ordering party for the purpose of implementing this contract shall be laid down in writing. In this respect, individual agreements made with the ordering party in individual cases (including collateral agreements, supplements and amendments) shall take precedence over these Terms and Conditions of Sale. A written contract or the supplier's written confirmation shall be decisive for the content of such agreements.

### II. Conclusion of the Contract

1. Offers from the supplier shall be subject to change without notice and be non-binding, unless otherwise expressly stated therein. This shall apply even if the supplier has made available to the ordering party catalogues, technical documentation (e.g. drawings, plans, calculations, cost estimates, referrals to DIN standards) or other product descriptions or documents, including in electronic form.
2. The documents forming part of the offer, such as Technical Specifications and solutions, illustrations, drawings, indications of weights and dimensions, shall apply only on an approximate basis, unless expressly referred to as binding.
3. The purchase order from the ordering party shall be deemed to be a binding offer of a contract. Unless otherwise expressly ensues from the purchase order, the supplier shall be entitled to accept this offer of a contract within 2 weeks from receipt.
4. The supplier may declare its acceptance of the ordering party's offer of a contract either in writing (e.g. by confirming the order, including by fax or email) or by delivering the goods to the ordering party.
5. Unless a contract has already been concluded beforehand, the supplier's last offer of a contract shall be deemed accepted no later than when the ordering party makes a down payment.

### III. Scope of Delivery

1. The supplier's order confirmation shall be definitively decisive for the content of the contract and the scope of the service, including the agreed specifications of the delivery item.
2. The supplier reserves the right to divide up the scope of the service (typically consisting of development and production of a machine, as well as delivery, installation and commissioning, right through to final acceptance) into two separate contracts (delivery contract and contract for work and services concerning

installation and commissioning right through to final acceptance).

### IV. Prices and Payment

1. Unless otherwise ensues from the order confirmation, the supplier's prices shall apply in euros and be FCA Lauffer factory, Horb am Neckar (Incoterms 2020); they shall include loading at the supplier's factory, but shall exclude packaging, freight, transportation, insurance and customs duty, as well as value-added tax, which shall be added at the respective valid rate. Sub-invoices shall be permissible in the case of sub-deliveries. In the case of services within the EU, the ordering party shall communicate its value-added tax identification number in due time before the invoice is issued.
2. Unless otherwise ensues from the order confirmation, the purchase price shall be paid into the supplier's bank account as follows without any deduction: 50 % as a down payment after receipt of order confirmation, 40 % upon notification of readiness for shipment or upon preliminary acceptance at the supplier's factory (FAT), insofar as preliminary acceptance has been agreed upon, and 10 % upon final acceptance (SAT) of the work performed at the ordering party, but no later than 90 days after notification of readiness for shipment, in each case subject to receipt of a corresponding invoice.
3. Under III.3, the supplier reserves the right to adapt the payment terms accordingly, if the scope of the service is divided up into two contracts for work and services.
4. Any assembly work, commissioning, repairs, training or other services going beyond the scope of the purchase order shall be invoiced at the normal billing rates.
5. Unless payment periods contrary hereto have been agreed upon, default shall begin 14 days after issuance of the invoice, even if no reminder has been sent. During default, the purchase price shall be subject to default interest at the respective rate applicable by law. The supplier reserves the right to assert a claim for further loss caused by default.
6. A right of retention may only be based on claims of the ordering party that have arisen from the same legal relationship and have been acknowledged by the supplier or determined by a final and non-appealable court judgement.
7. Set-off shall be permissible only with claims that have been acknowledged by the supplier or have been determined by a final and non-appealable court judgement.

### V. Delivery Period

1. The delivery period shall be agreed upon on an individual basis, or shall be specified by the supplier upon acceptance of the purchase order. It shall be binding only with the supplier's express written confirmation. Transactions where time is of the essence shall be expressly designated as such by the ordering party, and shall be subject to the supplier's express written confirmation.
2. The delivery period shall be calculated from the time when the order confirmation is sent off, but not before the documents, permits and clearances to be provided by the ordering party have been submitted, and any agreed down payment has been received.
3. The delivery period shall be deemed adhered to, if, by the time of its expiration, the delivery item has left the supplier's factory, or the supplier has given notification of readiness for shipment,

and, in cases where the supplier is responsible for shipment, shipment takes place without undue delay. If an acceptance test at the supplier's factory has been agreed upon, the delivery period shall be deemed adhered to upon notification of readiness for shipment/acceptance.

4. The delivery period shall be appropriately extended in cases of force majeure or other events not foreseeable at the time of the conclusion of the contract (e.g. operational disruptions of any kind, difficulties in procuring material or energy, transport delays, strikes, lawful lockouts, shortage of workers, energy or raw materials, embargoes, restrictions on exportation or importation, difficulties in obtaining necessary official permits, official measures, non-delivery, incorrect delivery or late delivery by suppliers), insofar as the supplier is not at fault for these events, and insofar as such hindrances provably considerably affect the completion or delivery of the delivery item. This shall also apply, if these circumstances occur at subcontractors. In the event of temporary hindrances, the periods for delivery or performance shall be extended, or the dates for delivery or performance shall be postponed, by the duration of the hindrance, plus a reasonable restart period.
5. The supplier shall also not be held responsible for hindrances as defined by Section 4 that arise whilst the supplier is already in default. Section 287, sentence 2 BGB (German Civil Code) is hereby waived. In important cases, the supplier shall give the ordering party prompt notification when such hindrances begin and end.
6. Any occurrence of default in delivery shall be determined in accordance with the statutory provisions. In any event, however, a reminder by the ordering party shall be required.
7. If loss is incurred upon the ordering party owing to the delivery period having been exceeded due to the supplier's fault, the ordering party may, with the exclusion of further claims, claim compensation for default. For every week of delay, such compensation shall amount to 0.5 % in total, but no more than 5 % of the value of the delivery as a whole. The supplier reserves the right to prove that no loss at all, or only a loss significantly lower than the above flat rate, has been incurred by the ordering party.
8. If shipment is delayed at the ordering party's request, the ordering party shall, from two weeks after notification of readiness for shipment, be charged for the costs incurred as a result of storage, at least 0.5 % of the total value per month in the case of storage at the supplier's factory. The right to prove higher or further loss, as well as the supplier's statutory claims (in particular its claims to the reimbursement of extra expenditure, to reasonable compensation or to termination) shall remain unaffected. However, the flat-rate amount shall be set off against further monetary claims. The ordering party reserves the right to prove that no loss at all, or only a loss significantly lower than the above flat rate, has been incurred upon the supplier.
9. The delivery period shall be suspended as long as the ordering party has not fully performed its contractual duties, including among other things the timely provision of sample materials (e.g. test parts and material samples). In such case, the supplier shall, after having set a reasonable time limit, be entitled to also extend the delivery period beyond the suspension period by a reasonable restart period.



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### VI. Final Acceptance

Unless otherwise agreed upon in writing, the final acceptance test on the delivery item shall take place at the ordering party's factory, and shall begin immediately after the delivery item has been installed. The delivery item shall be deemed finally accepted no later than 90 days after notification of readiness for shipment / delivery, unless the supplier is at fault for any delay.

### VII. Passage of Risk, Receipt

1. The risk shall pass in accordance with the INCOTERMS agreed upon between the ordering party and the supplier.
2. If shipment is delayed due to circumstances for which the ordering party is at fault, the risk shall pass to the ordering party from the day of readiness for shipment. However, the supplier shall, at the ordering party's request and expense, bring about the insurance requested by the ordering party.
3. Delivered items that have only insignificant defects shall be taken receipt of by the ordering party without prejudice to its rights under Part IX or any statutory claims.
4. Sub-deliveries shall be permissible.

### VIII. Retention of Title

1. The supplier shall retain title to the delivery item until all payments arising from the business relationship with the ordering party have been received. If the ordering party acts in breach of the contract, particularly if it defaults on payment, the supplier shall be entitled to reclaim the delivery item, and the ordering party shall surrender the delivery item. Repossession of the delivery item or assertion of the right to retain title shall not require rescission by the supplier. These acts, or attachment of the delivery item by the supplier, shall not constitute rescission of the contract, unless the supplier has expressly declared so in writing. The supplier shall be authorised to realise the delivery item after having reclaimed possession of it. The proceeds from realisation shall be credited against the ordering party's liabilities, less reasonable realisation costs. Any petition for the institution of insolvency proceedings concerning the ordering party's assets shall entitle the supplier to rescind the contract and demand that the delivery item be returned immediately.
2. The ordering party shall treat the delivery item with care and, for the duration of retention of title, sufficiently insure it against loss and damage. The ordering party hereby assigns to the supplier in advance its claims against the insurance company.
3. Before title has passed to the ordering party, the ordering party shall not pledge or sell the delivery item or assign the delivery item as security. In the event of attachment or seizure or any other form of disposition by third parties, the ordering party shall point out the supplier's ownership, immediately inform the supplier and hand over to the supplier all data ensuing from this process.
4. The ordering party shall be entitled to resell the delivery item in the ordinary course of business. However, it hereby assigns to the supplier in advance, in the sum of the final invoiced amount (including value-added tax), all claims that accrue to it against its customers or third parties from reselling, regardless of whether the delivery item has been resold without having been processed or after having been processed. The ordering party shall remain authorised to collect these claims even after they have been

assigned; this shall not affect the supplier's authority to collect the claim itself. However, the supplier undertakes not to collect the claim as long as the ordering party meets its payment obligations out of the proceeds received and has not defaulted on payment, in particular as long as no petition for the institution of insolvency proceedings has been filed, and no payments have been suspended. If this obligation to not collect claims ceases to apply, the supplier may demand that the ordering party inform the supplier of the claims assigned and the debtors concerned, provide all information necessary for collecting the claims, hand over the relevant documents and notify the debtors of this assignment.

5. Any processing or remodelling of the delivery item by the ordering party shall always be carried out on behalf of the supplier. If the item delivered is processed with other items not belonging to the supplier, the supplier shall acquire joint title to the new item in the ratio of the value of the delivery item in relation to the other processed items at the time of processing. In all other respects, the item arising from such processing shall be governed by the same terms and conditions as those applicable to the item delivered under retention of title.
6. If the delivery item is inseparably mixed or combined with other items not belonging to the supplier, the supplier shall acquire joint title to the new items in the ratio of the value of the delivery item in relation to the other mixed or combined items at the time of mixing or combining.
7. If mixing or combining takes place in such a manner that the ordering party's item is to be regarded as the main item, it shall be deemed agreed that the ordering party shall transfer to the supplier the joint title to the main item on a pro-rata basis. The ordering party shall hold in safekeeping for the supplier the solely or jointly owned property resulting therefrom.
8. At the ordering party's request, the supplier shall release the security to which the supplier is entitled, insofar as the realisable value of its security exceeds by more than 20 % the claims to be secured. The supplier shall be responsible for selecting the security to be released.
9. If the retention of title agreed upon above is not recognised by the laws of the country where the respective delivery item is located or to which the respective delivery item is taken before it has been fully paid for, or if this retention of title is recognised by the laws of that country only on condition that certain prerequisites be met (e.g. registration in official or court registers, written form of the agreement, etc.), the ordering party shall point this out to the supplier no later than at the time when the contract is concluded. In case the laws of that country do not permit such retention of title, or extended retention of title, but do permit the supplier to reserve other rights that serve as security in a way similar to retention of title, the supplier hereby declares that it shall make use of these rights. The ordering party hereby undertakes to co-operate with the fulfilment of any and all requirements in this connection (particularly requirements of form, etc.).

### IX. Liability for Defects

1. Upon receipt of the delivery item, the ordering party shall, without undue delay, carefully examine the delivery item to check that it is complete and consistent with the order. The period for lodging complaints under Section 377 (1) and (2) HGB [German Commercial Code] shall be eight days; the date when the supplier

receives a complaint in writing (including by telefax) shall be decisive.

2. If the ordering party intends to assert claims on account of defects in the delivery item, it shall hand over or send to the supplier for examination the delivery item complained of or individual parts thereof, unless this is technically impossible or cannot be reasonably expected (e.g. in the case of permanently installed large-scale plants). In the event of a justified and timely notification of defects, the supplier shall remedy these defects by way of supplementary performance by, at its option, rectifying the defects or delivering a defect-free item. In this respect, the supplier shall bear the defect elimination costs, including essential transportation costs, transport infrastructure charges, labour costs and costs of materials. This shall also apply to hand-over or shipment costs under section 1 to the same extent. If the defect elimination costs rise as a result of the ordering party having taken the delivery item to a place other than the place of performance, the ordering party shall bear the extra costs. Parts replaced by means of the exchange procedure shall become the supplier's property.
3. The supplier shall be entitled to make the rendering of such supplementary performance owed conditional upon payment of the due purchase price by the ordering party. However, the ordering party shall be entitled to retain a portion of the purchase price reasonably proportionate to the defect.
4. Subject to the statutory provisions, the supplier shall be entitled to refuse to render supplementary performance. If supplementary performance is refused or fails, or if the ordering party cannot be reasonably expected to accept supplementary performance, the ordering party shall be entitled to rescind the contract or reduce the purchase price in accordance with the provision under the following Section 5.
5. The ordering party shall be entitled to rescind the contract, insofar as rescission is not excluded by law, or reduce the purchase price only after a reasonable time limit set by the ordering party for supplementary performance has expired to no avail, unless the setting of a time limit is unnecessary under the statutory provisions. No right of rescission shall exist in the case of an insignificant defect. In the case of rescission, the ordering party shall be liable for deterioration, destruction and loss of derived benefits not only for failure to exercise the standard of care that it normally exercises in its own affairs, but also for all fault due to negligence or wrongful intent.
6. Any damage claims and expenditure reimbursement claims of the ordering party shall be governed by the provisions in Part X.
7. The supplier's liability for defects shall cease to apply, if the ordering party fails to comply with the operating or maintenance instructions, makes alterations to the delivery item, replaces parts with parts that do not conform to the original specifications or uses consumable material that does not conform to the original specifications, or if the delivery item has been maintained improperly or negligently, or unfavourable environmental conditions prevail (in particular chemical, electrochemical or electrical influences, environmental temperatures etc.), unless the ordering party proves that the defect is not due to this.
8. Liability for defects in the delivery item or in individual parts thereof due to customary wear and tear shall, in principle, be excluded.
9. The ordering party shall grant the supplier the time necessary for supplementary performance. If this opportunity is not granted to the supplier,



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the supplier shall not be liable for the consequences resulting therefrom. In principle, the ordering party shall obtain the supplier's approval prior to having any supplementary performance rendered by third parties. In urgent cases, e.g. where operational safety is at risk, or for averting disproportionate damage or loss, the ordering party shall have the right to remedy a defect itself and demand from the supplier compensation for the expenditure objectively necessary for this. The supplier shall be given prompt notification, if possible prior notification, of such self-help. The ordering party's right to remedy defects itself shall not apply, if the supplier would be entitled under the statutory provisions to refuse to render corresponding supplementary performance.

10. Unless otherwise agreed upon between the supplier and the ordering party, a warranty period of 12 months from the time of passage of risk shall apply.

### X. The Supplier's Liability, Exclusion of Damage Claims

Unless otherwise stipulated in these Terms and Conditions of Sale, the supplier shall be liable exclusively as follows:

1. The supplier shall be liable in accordance with the statutory provisions insofar as the ordering party asserts damage claims or expenditure reimbursement claims (hereinafter: "damage claims") based on wrongful intent or gross negligence (including wrongful intent or gross negligence on the part of its representatives or authorised agents), provided that the supplier has culpably breached a material contractual duty (i.e. an obligation that needs to be fulfilled in order for the contract to be properly implemented in the first place, and that the ordering party would, and may, normally expect to be complied with), as well as in cases of mortal injury, physical harm or health damage.
2. The compensation for any breach of a material contractual duty shall be limited to the foreseeable loss typically incurred.
3. In all other respects, liability for damages shall be excluded, regardless of the legal nature of the claim asserted. In this respect, therefore, the supplier shall not be liable for loss that has not resulted from the delivery item itself.
4. The above limitations of liability shall not apply insofar as the supplier has fraudulently concealed a defect or has given an independent guarantee for the qualities of the goods. The mandatory provisions of the *Produkthaftungsgesetz* [Product Liability Act] shall likewise remain unaffected.
5. Insofar as the supplier's liability is excluded or limited, this shall also apply to the personal liability of its employees, workers, personnel, representatives and authorised agents.
6. The ordering party is aware, and hereby acknowledges, that all claims, whether under a warranty or under a guarantee separately provided by the supplier in any individual case, shall be excluded, if the ordering party alters any parts of the items delivered under this contract. This exclusion of claims shall, in particular, but not exclusively, apply to (operating) software of the items delivered. In the case of warranty claims based on defects, this shall not apply, if the ordering party proves that the alterations made had no effect on the occurrence of the defect concerned.
7. Moreover, the supplier hereby informs the ordering party that any alterations to the items delivered might be likely to infringe the supplier's intellectual property rights; the

ordering party hereby confirms that it has been informed hereof.

### XI. Rescission

1. The ordering party's right to rescind the contract on account of a defect shall be definitively governed by Part IX, in particular Section 5 therein.
2. The ordering party may rescind or terminate the contract on account of a breach of duty unrelated to a defect only if the supplier is at fault for this breach of duty. Any free right of termination on the part of the ordering party (particularly under Section 651 or 649 *BGB*) is hereby excluded. In all other respects, the statutory prerequisites and legal consequences shall apply.
3. Insofar as events as defined by Part V, Section 4 make it materially more difficult or impossible for the supplier to deliver or perform, and such hindrance is not merely of temporary duration, the supplier shall be entitled to rescind the contract. No damage claims on the part of the ordering party shall exist on account of such rescission.
4. Insofar as such delay would make it unreasonable to expect the ordering party to accept the delivery made or the service rendered, the ordering party may rescind the contract by prompt written declaration to the supplier. No damage claims on the part of the ordering party shall exist on account of such rescission.

### XII. Know-how, Information and Data, Third-party Property Rights

1. Drafts, samples, design drawings, manufacturing instructions, internal data, tools, facilities etc. that the supplier has, in the course of the contract negotiations, made available to the ordering party for the submission of an offer or the implementation of the contract shall remain solely the supplier's property. They shall not be used for other purposes, duplicated or made accessible to third parties, and shall be stored with the diligence of a prudent merchant.
2. The ordering party hereby undertakes to keep secret for an unlimited period all information that becomes accessible to the ordering party in connection with the business relationship or the respective individual contract and is designated confidential or is evidently a trade or industrial secret on account of other circumstances, and shall not record such information or exploit it in any way, unless this is necessary for attaining the purpose of the contract.
3. All rights of title, copyrights and other industrial property rights in respect of work results, in particular in respect of technical developments, including all documents, prototypes, design drawings, samples, illustrations, shall accrue exclusively to the supplier, even insofar as they arise or are created in the course of the implementation of the contract. These shall not be used for other purposes without the supplier's written consent. In particular, they shall not be copied or be made accessible to third parties.
4. Insofar as work results, in particular development services, are separately remunerated by the ordering party, the supplier shall grant the ordering party, without limitation as regards territory, time or subject-matter, the right to use these for its own purposes. However, the ordering party shall not be entitled to transfer the work results, grant sublicences therein or otherwise make them available to third parties for use.

5. The ordering party hereby warrants that, if and insofar as the supplier manufactures the delivery item in accordance with the ordering party's instructions or stipulations, no third-party rights shall conflict with the manufacture of the delivery items or their intended use, in particular that no third-party property rights shall be infringed. Insofar as claims are nevertheless brought against the supplier on account of any possible infringement of third-party rights, e.g. copyrights, patent rights or other property rights, the ordering party shall indemnify the supplier against these claims, against all payments in connection therewith and against all reasonable legal defence costs.

### XIII. Place of Performance, Place of Jurisdiction, Applicable Law, Further Terms and Conditions of Business, Final Provisions

1. Horb am Neckar, Germany, shall be the place of performance for delivery and payment.
2. Horb am Neckar shall be the national and international place of jurisdiction, also for proceedings concerning a bill of exchange, a cheque or documentary evidence. However, the supplier shall also be entitled to bring an action at the ordering party's place of general jurisdiction.
3. The legal relations between the supplier and the ordering party shall be governed exclusively by substantive German law, with the exclusion of the UN Convention for the International Sale of Goods (CISG) and the rules of conflict of laws.
4. The delivery items shall be constructed, manufactured and set up in accordance with the statutory provisions applicable in the Federal Republic of Germany. If the ordering party wishes to set up the delivery items in accordance with provisions that deviate from the German provisions, it shall give notification thereof prior to placing the order. At the same time, the ordering party shall send, in German or English, the provisions deviating from the German provisions. The right to adjust the price and the delivery dates to an appropriate extent necessary owing to the ordering party's wishes shall remain reserved.
5. An ordering party abroad shall be responsible for taking any measures that go beyond the statutory provisions applicable in the Federal Republic of Germany and are necessary for protecting the operating personnel and other persons against any chemical, biochemical, electrical, electromechanical, electroacoustic and similar effects of the machine, the product or the cleaning fluid under the provisions applicable at the destination of the delivery item.
6. If any individual provisions of these GT&Cs are or become ineffective, this shall not affect the effectiveness of the other provisions. The parties to the contract shall agree upon a new provision that most closely reflects the purpose pursued with the provision that has become invalid.

Horb am Neckar, 01.02.2020