

## **COFFEE SYSTEMS DIVISION - General Terms and Conditions of Sale**

### **1 General**

- 1.1 The business relationship between Franke (Shanghai) Trade Co.,Ltd (hereinafter FRANKE) and the B2B-Customer for the sale of products and additional services (if contractually agreed) is governed exclusively by these General Terms and Conditions of Sale (GTC) in the version valid at the time of the respective purchase order by Customer.
- 1.2 Supplementing services such as Consulting, Planning, Installation, Maintenance, Digital Services or any other services may be provided according to separate and specific business terms and conditions setting forth such specific commercial services.
- 1.3 Amendments and modifications to the GTC or a concluded contract will only be valid if they have been accepted by FRANKE in writing. Any general purchasing terms and conditions or contractual provision of the Customer are hereby expressly rejected and excluded.
- 1.4 The following order of precedence applies to the validity and interpretation in case of a conflict between the following documents: (1) order confirmation, (2) FRANKE's offer, (3) GTC.

### **2 Offers**

- 2.1 The offers and quotes of FRANKE are non-binding and subject to change, unless otherwise indicated in the quote. A contract is concluded by order confirmation (submitted in writing or electronically) or by delivery. FRANKE may make changes to the order confirmation provided that these are insignificant and result in an improvement.
- 2.2 The illustrations, drawings as well as dimensional, weight and performance data from FRANKE's offers, brochures, price lists and catalogues are not binding, unless these have been expressly designated as binding.
- 2.3 Change, suspension or cancellation of unshipped orders requested by the Customer require the written consent of FRANKE. FRANKE may charge the Customer for costs incurred prior the receipt of such notice and any storage fees. Suspension of an order cannot be made later than 1 month before scheduled ship date and cannot exceed 3 months.

### **3 Credit check**

- 3.1 The Customer acknowledges that FRANKE may carry out a credit check when the Customer is placing an order. The Customer consents to the processing of the relevant data with relevant third parties. FRANKE expressly reserves the right not to accept orders or demand advance payments if the credit assessment is unsatisfactory, at the full discretion of FRANKE at any time.

### **4 Prices**

- 4.1 Prices, currency and rebates for the supplies are outlined in the supplementing sales quote or sales documentation by FRANKE. Any resale prices referred to in its price list, catalogues or discount sheets are recommended prices only and not binding to Customer.
- 4.2 FRANKE reserves the right to adjust sales prices, rebates, discounts and product range each of it with at least 30 days' prior notice before the changes become effective.

- 4.3 In the event FRANKE wants to increase price for an accepted order, but unshipped product before delivery, the Customer has the right to cancel its order within one week of receiving notification of the price increase from FRANKE and before dispatch, otherwise the price increase is deemed to have been accepted.

## **5 Payments**

- 5.1 Unless otherwise agreed, invoices are payable in full within 30 days of the invoice date in the currency stated in the invoice and with the standard payment method provided by FRANKE.
- 5.2 In the Customer does not timely pay outstanding amounts, FRANKE may, at its sole discretion, suspend the delivery of products or services to the Customer, including withholding delivery in respect of orders previously placed by the Customer and accepted by FRANKE, or require advance payment until all amounts owed to FRANKE have been paid. The exercise of this remedy by FRANKE does not prevent FRANKE from exercising other remedies available to FRANKE under this contract or at law.
- 5.3 FRANKE shall be entitled to charge default interest of 1% per month on amounts outstanding, without an obligation to dispatch a previous notification of default. Claiming defects does not excuse the Customer from the obligation to pay the invoice when due.

## **6 Delivery**

- 6.1 Unless otherwise agreed and stated in the order confirmation, delivery is DDP (FRANKE location, Incoterms 2020). FRANKE shall be responsible for safe packaging in conformity with transportation regulations and good commercial practices.
- 6.2 Partial deliveries are permissible and can be invoiced. Delivery before a confirmed delivery date is permissible, unless otherwise agreed.
- 6.3 Delivery and service dates are estimates unless FRANKE expressly agrees in writing to a fixed date or schedule. FRANKE will use commercially reasonable efforts to meet delivery and service date estimates. All delivery and service dates are conditioned on FRANKE's timely receipt of all necessary information and the Customer preparatory work, and, if prepayment is agreed, on the receipt of such prepayment in full. If the Customer causes a delay in delivery or assumption of the products, FRANKE will store and handle all items at the Customer's risk and will invoice the Customers for the unpaid portion of the contract price, plus applicable storage, insurance, and handling charges.

## **7 Transport inspection**

- 7.1 The Customer must inspect the delivery immediately, but at the latest within 7 calendar days from receipt notify FRANKE in writing of any visible transport damage (to the extent FRANKE is responsible for shipment according to the applicable delivery terms) or error in quantities. If the Customer fails to do so, the deliveries shall be deemed to be accepted and respective claims are forfeited.

## **8 Returns**

- 8.1 Customer has no right to refuse and return a conforming product. Exceptions are at the discretion of FRANKE.

## **9 Services**

- 9.1 The Customer shall ensure and procure all necessary on-site installations for an undisturbed service and access to Products by FRANKE or its service providers if service is contractually agreed and needs to be provided on site.
- 9.2 FRANKE warrants that contractually agreed services will be performed in a workmanlike manner in conformity with standard industry practice. Should any nonconformity be detected within 30 days after the work is completed and the Customer gives FRANKE prompt written notification, FRANKE will supply the necessary service, direction, or consultation to correct the nonconformity.
- 9.3 Unless otherwise specified in the contract, any product-specific ancillary services like installation, commissioning, assembly, technical support or modification of a product are not offered or provided by FRANKE. If such ancillary services are agreed, they are provided on a time and material basis, without warranty and - to the extent permitted by applicable law - without liability.
- 9.4 Unless otherwise agreed, third party service providers (e.g. for installation) are acting as independent contractors, even if referred to and instructed by FRANKE. FRANKE does not assume any responsibility or liability in relation to independent contractors. FRANKE may call in third parties (subcontractors, carriers, etc.) or employees of such third parties to fulfil its obligations as FRANKE subcontractors.
- 9.5 If the Customer purchases services relating to FRANKE Digital Services, it undertakes to conclude the corresponding product-specific contracts, in particular but not exclusively, the Terms of Service and End User License Terms with FRANKE (as applicable).

## **10 Retention of title / purchase money security interest**

- 10.1 FRANKE remains the owner of the Products delivered by it until FRANKE has received the full payments in accordance with the order confirmation. The Customer authorizes FRANKE to register the ownership in the official register for retention of title or grants FRANKE a purchase money security interest and agrees not to challenge the legitimacy of this grant. Customer will assist FRANKE in taking all necessary actions to perfect and protect FRANKE's retention of title or any other security interest. Customer shall separate the Products from its other stock and give access to FRANKE upon request.

## **11 Warranty**

- 11.1 FRANKE warrants that the FRANKE Products are new (unless marked as used/refurbished), are free of defects in title, workmanship and materials correspond to their specifications. Unless otherwise agreed in writing, the Products and Services comply with the regulations and certifications at FRANKE's place of business.
- 11.2 Unless otherwise offered by FRANKE, the default bring-in warranty period is 1 (one) year from the date the product is dispatched by FRANKE or at the taking over of the services. During the agreed warranty period, the Customer shall grant FRANKE unrestricted access to the control software on the machine for the purpose of providing telemetry services. The Customer authorizes FRANKE to read out the machine data required for this purpose and to carry out software configurations on the machine. The installation of additional equipment on the machine for this purpose shall be provided to the owner free of charge during the warranty period but shall remain the property of FRANKE. If FRANKE determines on-site work is required, a service technician will be scheduled.
- 11.3 Customer shall immediately notify FRANKE in writing of any deficiencies of the products or services by submitting appropriate failure documentation. If the Customer reports a defect and no defect is found for which FRANKE is liable, FRANKE is entitled to claim compensation for the work undertaken and expenses.

- 11.4 In the event of a valid warranty claim, FRANKE will, at its option, choose to repair the defective product, to replace it with the same or a similar item or to refund the purchase price paid in cash or by credit note. Replaced parts shall become the property of FRANKE.
- 11.5 FRANKE is not liable for defects that the Customer recognized or should have recognized upon receipt or acceptance of the FRANKE products and did not report to FRANKE immediately after discovery and within the warranty period. There is no entitlement to warranty if the FRANKE products have not been assembled in accordance with the FRANKE instructions or have been improperly handled, used, repaired, or modified. Further, the warranty is excluded in respect of malfunctions caused by any of the following reasons:
- (i) inadequate maintenance (unless FRANKE has contractually undertaken to provide adequate maintenance);
  - (ii) failure to observe the operating or installation instructions;
  - (iii) improper use of the products;
  - (iv) use of unauthorized parts and accessories;
  - (v) natural wear and tear;
  - (vi) improper handling or treatment, in particular objects in the bean containers;
  - (vii) Operation of the machine with untreated water (i.e. use of untreated water without a water filter other than the filter recommended by FRANKE or without the use of descaling agents other than those recommended by FRANKE (tank operation), each from a water hardness of 8 German degrees of hardness (8° dH)) or higher;
  - (viii) Unauthorized interventions by the Customer or third parties;
  - (ix) external influences, in particular force majeure (e.g. failure of the power supply or air conditioning system, damage caused by the elements) or third-party payment systems;
  - (x) inadequate cleaning and care, in particular the use of non-original cleaning and descaling agents which are not distributed by FRANKE, as well as other reasons for which FRANKE is not responsible.
- 11.6 The Customer shall follow and distribute the installation information, product manuals, operating and safety instructions, and other documentation and specifications provided by FRANKE with the products. FRANKE disclaims any liability, including warranty liability, if the Customer does not.
- 11.7 FRANKE may procure from time to time certain products or support services from third parties. Customer acknowledges that FRANKE is not the manufacturer or provider of such items. To the fullest extent permitted by law, FRANKE makes no warranties in relation to such items other than those manufacturers or third-party supporters, which FRANKE is able to pass through for its Customer's benefit.
- 11.8 FRANKE's contractual manufacturer's warranty replaces the statutory legal warranty to the maximum extent admissible by applicable law. The warranty provided herein is exclusive and the Customer shall not be entitled to any rights and claims other than those expressly stipulated in these terms and conditions.

## **12 Liability**

- 12.1 The liability of FRANKE for all claims of the Customer arising from or in connection with the contract or its improper fulfilment, regardless of the legal basis on which they are made, is limited to the actual direct damages up to the amount paid by the Customer for the product causing the damage.
- 12.2 In no event shall the Customer be entitled to compensation for indirect, consequential or punitive damages, such as loss of production, loss of use, loss of orders, loss of profit and any other indirect, consequential, incidental, punitive or exemplary damages of such kind, whether such damages arise out of or are a result of breach of contract, warranty, tort (including negligence), strict liability or otherwise.
- 12.3 FRANKE is only liable without limitation for damages caused by FRANKE through unlawful intent or gross negligence, or any limitation in this Section that is contrary to applicable mandatory law.

## **13 Insurance**

- 13.1 FRANKE does not provide third parties direct access to its insurance or give additional rights to its insurance, such as naming additional insured parties. Customer shall maintain adequate coverage by a property and a general commercial liability insurance.

## **14 Intellectual Property**

- 14.1 All intellectual property rights to the products or product documentation and information documents (catalogues, brochures, drawings, product data) are exclusively owned by FRANKE and remain with FRANKE. Any use, reproduction or modification requires the explicit written consent of FRANKE. In no event shall the Customer be deemed to have acquired any ownership rights or interest in or to any intellectual property rights of FRANKE. In the event of a claim or action or suspected infringement of third-party rights resulting from the products, FRANKE may at its expense and option either: (i) procure for the Customer the right to continue selling products or (ii) replace the products and/materials with non-infringing products and materials. FRANKE shall have no liability for continued infringement by the Customer after the exercise of option (i) and/or (ii) above by FRANKE.
- 14.2 The use of the trademark or logo of FRANKE for purposes of advertising shall be made in form of the official current trademark or logo in use by Franke as further described in the FRANKE brand guidelines.
- 14.3 Nothing in this Agreement, nor any amendments thereto, shall limit or restrict FRANKE with respect to feedback provided to FRANKE related to the Products. The Customer agrees that FRANKE will be free to copy, modify, create derivative works, publicly display, disclose, distribute, license, incorporate and otherwise use the feedback, including derivative works thereto, for any and all commercial or non-commercial purposes.
- 14.4 If the deliveries and services of the supplier also include software, the Customer is granted the non-exclusive right to use the software together with the delivery item, unless otherwise agreed. All intellectual property rights to the software, which enables the operation, reference data, maintenance or repair of the machines, remain the property of FRANKE or its licensor. The Customer is not entitled to edit the software, in particular he has no right to make copies, decompile, reverse-engineer and disassemble or to use other methods to access the source code. The Customer and its Customers are hereby authorized to use the control software to operate the products for their own purposes, but have no further rights to the control software, in particular no right to reproduce, decompile, reverse engineer or otherwise attempt to derive information from the control software or to permit or cause this to be done.

## 15 Data protection

For the purposes of this clause, the terms personal data, processing, and controller shall have the meanings given to them under the applicable data protection and privacy legislation.

FRANKE gathers, processes, and uses personal data in accordance with applicable data protection laws. All FRANKE employees, group companies, and third-party service providers who receive access to personal data are contractually and legally required to maintain the confidentiality and security of such data.

Where FRANKE receives personal data from the Customer or via a point of sale, FRANKE acts as an independent controller (or equivalent legal role) with respect to such data.

Personal data may be collected when a customer submits information to FRANKE through registration, form submissions, email communication, product or service orders, after-sales support, or related interactions initiated directly or through a point of sale.

FRANKE may use personal data for legitimate purposes such as providing customer support and—where allowed by law—marketing, advertising, or promoting products or services. Data Subjects may object to the processing of their personal data for marketing purposes at any time by contacting FRANKE, without having to provide reasons.

Some personal data may be stored or processed in jurisdictions other than the one in which it was collected, including but not limited to the United States. In such cases, FRANKE will ensure that appropriate safeguards are in place to protect such data in accordance with applicable legal requirements. These safeguards may include:

1. Adequacy decisions by competent authorities,
2. Standard contractual clauses (SCCs) or equivalent transfer agreements, or
3. FRANKE's Intra-Group Data Transfer Agreement (IGDTA) framework, which ensures adequate and consistent protection of personal data within the Franke Group.

The Customer shall inform relevant personnel, end-users, or point-of-sale staff, at the time their personal data is collected or transferred to FRANKE, that such data will be processed by FRANKE and/or its group companies in accordance with this Clause and FRANKE's Privacy Policy.

The Customer shall indemnify and hold FRANKE harmless for any damages, fines, losses, or penalties that are directly attributable to the Customer's breach of applicable data protection laws or its obligations under this clause.

- 15.1 Data Subjects may have rights under applicable data protection laws, including the right to access, correct, delete, or object to the processing of their personal data. More details on FRANKE's privacy statement can be found on our website: [www.franke.com](http://www.franke.com).

## **16 Disposal of products and packaging**

- 16.1 Unless otherwise required by mandatory applicable law, the Customer assumes the obligation to properly dispose of the delivered goods after the end of use and any packaging (with exception of pallets) at his own expense in accordance with the applicable statutory provisions. If the Customer requests disposal by FRANKE, FRANKE shall provide the Customer with an offer to take back and dispose of the goods and packaging at the time of disposal. All related costs will be charged to the Customer.

## **17 Export**

- 17.1 The export or re-export of products, spare parts or software may be subject to domestic and/or foreign export control regulations. The Customer undertakes to comply with the trade regulations and export control regulations and, if necessary, to obtain any necessary licenses for the export of the products from the competent authority.

## **18 Business Integrity**

- 18.1 The Customer must conduct its affairs in an ethical manner, acknowledges to be informed about the FRANKE Code of Conduct adopted by the Franke Group, as modified from time to time, and shall adhere to the Code of Conduct's principles in relation to FRANKE. The FRANKE Code of Conduct and any amendments are published on our website: <https://www.franke.com/ca/en/group/company/compliance.html>. The Customer shall adequately inform its officers, directors and key employees about the FRANKE Code of Conduct and impose the obligation to comply with its principles.

## **19 Miscellaneous**

- 19.1 Should any provisions of these GTC be legally ineffective or invalid, the validity and effectiveness of the remaining provisions shall remain unaffected. In such cases, the invalid provision shall be modified or supplemented in such a way that the intended economic purpose of the provision is achieved as far as possible.
- 19.2 The Customer acknowledges that FRANKE is entitled to retrace or recall equipment or take other corrective actions to the products. The Customer will actively support FRANKE when this need arises.
- 19.3 Force majeure, labor disputes, civil disorder, governmental actions, epidemic, pandemic and other unforeseeable and unavoidable events of major significance release the contracting parties from their performance obligations for the duration of the disturbance to the extent of the impact thereof. The same applies if these events take place when performance by the contracting party affected is already overdue. The contracting parties are required to provide the information reasonably necessary without delay and to adjust their mutual obligations to the altered circumstances in accordance with the principle of good faith dealing.

## **20 Applicable law and jurisdiction**

- 20.1 The laws of the People's Republic of China shall apply. The United Nations Convention on Contracts for the International Sale of Goods is explicitly excluded. Unless otherwise agreed, any dispute, controversy or claim arising out of or in connection with the GTC, including any question regarding its existence, validity, interpretation, performance, breach or termination, shall be referred to and finally resolved by arbitration administered by the Shanghai International Arbitration Center (SHIAC) in accordance with its Arbitration Rules in force at the time of submission of the Notice of Arbitration. The seat of arbitration shall be Shanghai, the People's Republic of China. The arbitral award shall be final and binding.