

1 COMMERCIAL TERMS

Delivery and shipment

- **“Buyer”** means the person, firm or corporation to whom the quotation is addressed. **Emco Wheaton GmbH**, Registered Office: Emcostrasse 2-4, D-35274 Kirchhain, Germany (**“Seller”**) will deliver the goods or services specified in Buyer's order that has been accepted by the Seller within a reasonable time (an **“Order”**) FCA Seller's facility (Incoterms® 2020 Rules).
- Seller's quotations and estimates are non-binding and do not constitute offers capable of acceptance by the Buyer, unless agreed otherwise. Any order placed by the Buyer will only be accepted by Seller's confirmation, either in writing or electronic form, of such order.
- Any order based upon this proposal must be submitted to the Seller within thirty (30) days from the date of quotation.
- The minimum order value is 100 Euro.
- **“Time is of the essence”** will not apply to delivery dates.
- Delays in shipments or suspension of any Orders requires Seller's consent, and if given, Buyer must pay to the Seller any costs, expenses and losses incurred by the Seller caused by the delay and/or suspension.
- Suspension by Buyer should not affect any invoicing schedule/payment milestones agreed for the Order. Any impact of the suspension on the delivery dates and/or on the cost of the Order execution by Seller will be mutually agreed between the Buyer and Seller before the Order is resumed.
- If Buyer does not accept delivery when tendered, Buyer will pay the Order price for the goods and Seller will store the goods at Buyer's cost for a reasonable period as specified with the Seller or agreed with the buyer. Unless otherwise agreed by the Parties, at the end of the specified or agreed storage period, Buyer is required to accept the delivery of the goods.
- Notwithstanding such storage, risk in the goods will pass to the Buyer on the original designated delivery date and Buyer will bear the risk of loss of the goods during storage. The Buyer shall deliver to the Seller evidence of insurance in appropriate amounts and with responsible companies insuring the goods during storage. In the event the Buyer fails to deliver such evidence of insurance, the Seller may obtain insurance at the Buyer's expense.
- The Seller reserves the right to make partial deliveries provided such partial deliveries are reasonable for the Buyer. Every partial delivery may be invoiced separately.

Acceptance

The Buyer shall inspect the goods promptly following receipt. If the goods are defective the Buyer must promptly notify the Seller. The goods shall be deemed to be accepted if the Buyer confirms acceptance or in absence of any confirmation has not expressly rejected the goods within 30 days following delivery. Without limiting the foregoing, the Buyer shall be responsible for carrying out any acceptance tests and shall bear any costs of doing so. The Buyer may not reject the goods due to minor defects.

Title and risk of loss: Risk in the goods will pass to Buyer upon delivery FCA Seller facility (Incoterms® 2020 Rules).

To the extent that such retention of title is valid under the applicable law, the ownership and title to goods will be transferred to the Buyer upon full payment of the Order price, provided, however, that in the event delivery is prior to full payment, Seller shall retain a security interest in the goods until Seller receives payment in full. Pending payment of all monies owing to the Seller (whether under an Order or otherwise), the Buyer shall at all times keep the goods comprehensively insured against loss or damage by accident, fire, theft and other risks usually covered by insurance in the type of business carried on by the Buyer in an amount

at least equal to the balance of the price for the same from time to time remaining. Prior to the scheduled shipping date, Buyer shall deliver to the Seller evidence of insurance in appropriate amounts and with responsible companies insuring the goods during transport. In the event Buyer fails to deliver such evidence of insurance, the Seller may obtain reasonable insurance at Buyer's cost. In addition, the Buyer undertakes not to charge by way of security any of the goods that remain the collateral of the Seller.

Termination

- Buyer may, prior to shipment, terminate the Order, in whole or in part, upon written notice to Seller.
- If the Order is terminated for any reason, Buyer will pay Seller a termination fee equal to a pro rata portion of the purchase price based on the work completed to date (with a minimum charge of **10%** of the purchase price).
- Either Party may terminate the Order if the other Party is unable to pay its debts when it becomes due or commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors (other than, where it is a company, in relation to a solvent restructuring) or, in the case of an individual: (i) is the subject of a bankruptcy petition, application or order; or (ii) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing their own affairs or becomes a patient under any mental health legislation, or in the case of a company: (iii) has any step or action towards it entering , administration, provisional liquidation, or: (iv) has a receiver appointed for its assets, applies to a court for or obtains a moratorium of its debts, is being wound up (whether voluntarily or by order of the court), is being struck off the register of companies, or if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction to the matters set out in this clause.
- In the event of termination the Buyer hereby irrevocably licenses the Seller (insofar as it is able) to enter upon the Buyer's premises to repossess the goods.

Packaging

The Buyer may not return to the Seller any packaging materials for which there exists a dual system of waste disposal (**“Grüner Punkt”**) or the like that has been recognized by the competent authority in accordance with the packaging regulations as amended. The Buyer may not return to the Seller any packaging materials in the event the Seller uses a suitable waste disposal enterprise in accordance with the packaging regulations as amended. In such case, the Buyer shall be obliged to make available and hand over the packaging material to the disposal enterprise.

To the extent the Seller is obliged to take back any packaging materials, the return of such packaging materials must be made at the Seller's seat during the Seller's general business hours. The returned packaging materials must be free of any foreign substances and must be sorted by different packing types. To the extent the Buyer agrees to waive its right of return against the grant of a flat-rate disposal charge, the Buyer shall be obliged to hand the used packaging materials over to a recognized disposal enterprise that guarantees proper disposal in accordance with the provisions of the packaging enterprise.

2 PAYMENT TERMS AND TAXES

Payment terms and financial condition

- Payment is due net-30 days from the invoice date. All invoices must be paid in full and Buyer may not set-off any amount against what is owed.

- All invoices shall be paid in euros, unless otherwise agreed.
- If prices are not expressly agreed to by the Seller and the Buyer, then the Seller will apply its list prices in force at the time the order is placed.
- If the Seller agrees to be responsible for erecting or mounting the goods, then the Buyer shall bear, apart from the agreed remuneration and unless agreed otherwise, all ancillary costs required, such as travelling expenses and costs of the transport of tools and of the personal luggage as well as daily allowances.
- Buyer shall be liable for interest on any late payments at a rate determined by the Seller up to the maximum rate allowed by applicable law.
- Seller may charge Buyer for all expenses associated with collection of overdue amounts, including reasonable attorneys' fees; and in case of non-payment, Seller may (without prejudice to its other rights) suspend performance under and/or terminate the Order.
- The Seller reserves the right to require payment in part or in full or the provision of such security or guarantees from the Buyer as the Seller deems necessary before the commencement of the performance of the contract, unless agreed otherwise. If the Seller does not receive such payment or security, it may cancel an order and shall be entitled to receive a termination fee pursuant to clause 1 (Termination) from the Buyer. The Seller shall have the right at any time to review the credit limit requirements relating to the Buyer and to increase or reduce the same by notice in writing to the Buyer. The Seller may, in its sole discretion, accept payment for goods in advance. The Seller shall without prejudice to its other rights have the right by notice in writing to the Buyer to demand immediate payment of all monies due from the Buyer to the Seller for any goods delivered at any time, subject to the individual agreement of the parties.
- The Seller may require, in its sole discretion and subject to the individual agreement of the parties, that payment for export orders be by irrevocable letter of credit, which shall be in a form acceptable to the Seller and confirmed by a bank of international reputation.
- If the Seller becomes aware of the risk of Buyer's impossibility to perform after the conclusion of this contract, the Seller shall be entitled to only make any outstanding deliveries against prepayment or the provision of security. If such prepayments or security have not been rendered even after the expiration of a reasonable grace period granted by the Seller, the Seller may, notwithstanding any further rights, partially or totally rescind individual or all contracts with the Buyer. The Seller shall be entitled to assert any further rights to which it may be entitled.

 **Taxes:** Seller's quoted prices do not include any sales, VAT, use, occupation, license, excise, or other taxes, permits or fees with respect to the sale, delivery or use of the goods or services. Buyer is responsible for payment of all such taxes, permits and fees except to the extent Buyer provides a valid tax exemption certificate. If the sale is invoiced with 0 % VAT and the Buyer is responsible for the transport from Seller facility to abroad, it is Buyer's obligation to ensure that it will have all documentary evidence/proof required by VAT law to prove the sale was eligible for 0 % VAT and the Buyer will keep/archive the documentary evidence for 10 years/tax statute of limitation. The Buyer is obliged to send Seller the documents regularly/in case of tax audit on Seller's request. If the supplied documents are incorrect, not provided at all or circumstances influencing VAT obligations appear which were not known by Seller at the time of the contract or order resulting in a situation that Seller will be imposed sanctions (VAT, interests, penalties) by the tax or customs authorities then Seller is entitled to claim a full compensation from the Buyer if the situation was caused by Buyer's action or inaction.

3 WARRANTY



Except as otherwise agreed by Seller in writing, Seller warrants that the goods and services provided by it will be free from defects in material and workmanship for the duration of the following warranty periods: (A) for new equipment (i) a period of twelve (12) months from commissioning or start-up or (ii) eighteen (18) months from shipment, whichever first occurs; (B) for parts, six (6) months from the date of shipment; and (C) for services, six (6) months from the date of installation, inclusive of transportation and installation time if installed by Seller or six (6) months from the date of delivery exclusive of transportation and installation time if not installed by Seller.

In the event of a defect arising in the goods at any time, the Buyer will notify the Seller in writing of such defect without undue delay and in any event within seven (7) days of its discovery. If it transpires that the defect is not covered by a breach of the warranty and if this was known by or evident for the Buyer, then the Seller reserves the right to make a reasonable charge for the expenses incurred in investigating the defect. If the warranty claim is made after the warranty period has expired, the Seller is free to offer advice (free of charge or for a fee) and, if necessary, offer repair or replacement at the Buyer's expense.

Equipment or parts manufactured by others are warranted only to the extent of the original manufacturer's warranty to Seller. The sole and exclusive remedy of the Buyer for any warranty claim shall be the repair or replacement of the defective goods, in Seller's sole and absolute discretion. **Seller expressly disclaims all other terms, warranties or conditions whether express or implied or incorporated into these terms by statute (including the Sale of Goods and Supply of Services Act 1980 of Ireland and equivalent legislation in any jurisdiction in the world as may be applicable), common law or otherwise, to the fullest extent permitted by law, and this includes but is not limited to any implied conditions, warranties or other terms as to the merchantability, fitness for a particular purpose or use of reasonable skill and care.**

Seller shall not be held liable for failure to comply with the warranty above in the event of:

- Defect in the goods arising from any drawing design specification or other information supplied by Buyer;
 - Defect arising from fair wear and tear;
 - wilful damage, negligence, abnormal working conditions;
 - failure to follow Seller's instructions or advice;
 - misuse or alteration or repair of the goods without Seller's authorization;
 - the Buyer not informing the Seller of the alleged defect within the warranty period and within 7 days of its discovery;
- or
- the Buyer placing goods in long-term storage and failing to perform proper long-term storage preparations per the Seller's instructions.

Seller is not responsible for (including any costs involved) and does not provide support for any of the following:

- Lifting equipment and ensuring that there is easy access to the goods;
- undertaking any civil works related to the goods or their installation; or
- the installation and removal of the goods by or on behalf of the Buyer.

If the Buyer returns a product to the Seller after having asserted warranty claims or requests that a product be taken back by the Seller with reference to warranty claims, the Buyer shall notify the Seller in writing whether and which health-hazardous fluids were used with the product and whether the product came into contact with health-hazardous fluids within the meaning of the hazardous substances law. The Seller may refuse elimination of the notified defects if such substances have been used or been in contact with the returned product,

and the Buyer shall be held liable for any loss or damage that may result from the Buyer's failure to give notice. If the goods to be returned have been used with or have come into contact with such hazardous substances, the Buyer shall mark the goods as required by the hazardous substances law and transport the goods exclusively in suitable packaging and by adequate means of transport.

4 LIABILITIES



Limitation of liability: Seller shall not be liable to Buyer for: (i) any indirect, consequential, special, exemplary, or punitive damages whether arising in contract, tort (including negligence), strict liability or otherwise; or (ii) loss of profits, loss of goodwill, or loss of business opportunity, loss of data or loss of revenue whether arising in contract, tort (including negligence), strict liability or otherwise. Seller's total liability to Buyer under or in connection with an Order shall in no event exceed the total amount paid by Buyer to Seller under the Order.

The above limitations and exclusions of liability do not apply to Seller's liability to Buyer for claims or losses directly relating to Seller's actual infringement of a third party's intellectual property rights; or Seller's gross negligence or willful misconduct resulting in death or personal injury; or where such liability cannot otherwise be excluded by law.

However, the Seller shall not be liable to the Buyer if this liability or damage: (i) arises from any inaccuracies or omissions in any instructions, information, drawings, calculations, or specifications by the Buyer or material supplied by the Buyer to the Seller; (ii) is recovered by the Buyer under the terms of any insurance policy (apart from any deductible applicable to the relevant insurance); or (iii) has been made good or is otherwise compensated without cost to the Buyer.

Liability of the Buyer: The Buyer shall indemnify the Seller against all actions, suits, claims, demands, costs, charges, damages, losses and expenses suffered by the Seller or incurred by the Seller and/or for which the Seller may be liable to any third party due to, arising from or in connection with, directly or indirectly: (i) the Buyer's instructions or lack of instructions; (ii) any failure or delay whatsoever in taking delivery or any other act, neglect or default on the part of the Buyer, its servants, agents, or employees; or (iii) the breach of any provision of this contract by the Buyer.

The Buyer shall indemnify the Seller and keep the Seller indemnified against all costs, claims, losses, expenses and damages incurred by the Seller or for which the Seller is liable to any third party due to the infringement or alleged infringement of a patent, trademark, copyright, design right or other intellectual property right insofar as the infringement occurred through the import, manufacture or sale of such goods that were manufactured according to the Buyer's specifications or in accordance with the Buyer's special requirements.



Insurance: Seller will maintain in force the insurance coverage described in the certificate of insurance provided to Buyer.



Force majeure: Neither party will be liable for failing to perform or delay in performance of any obligation in the Order or this agreement resulting from circumstances, beyond the party's reasonable control, however, this clause will not excuse the payment of any sums due to the Seller by the Buyer under any Order.

Fluctuation costs: In case of exceptional economic situation leading to significant fluctuations that have an increase impact of more than two percent (2%) on the agreed prices and delivery times of raw materials and freight and logistics' costs, if Seller suffers (or will suffer) delay

and/ or incurs additional costs as a result of a raw materials, freight and logistic costs fluctuation then Seller will be entitled to an adjustment to the price and/or an extension of time. Such adjustment will be communicated to Buyer by written notice at the latest 30 days before shipment.

5 CONFIDENTIALITY & DATA PRIVACY



Data privacy

- "Data Protection Legislation" means the Irish Data Protection Act 2018, the General Data Protection Regulation (GDPR)(EU) 2016/679 (the "EU GDPR"), the EU GDPR as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and any regulations thereunder (the "UK GDPR"), the UK Data Protection Act 2018 and any other data protection laws as may be applicable to the Seller from time to time.
- Buyer understands that the goods may include technology that allows Seller to collect information regarding such goods and conduct remote diagnostic testing of such goods.
- Buyer grants Seller a transferable, sub-licensable, non-exclusive, non-revocable, worldwide right to access and use the data collected by this technology for Seller's business purposes. Seller may share such data with its affiliates, subsidiaries, and third parties.
- If Seller receives individually identifiable personal information from Buyer through such technology, it is agreed that the Seller will be an independent controller and will take reasonable steps to protect the confidentiality of such information and prohibit the unlawful disclosure of Buyer's personal information to third parties. The Buyer must ensure that it has permission to share the personal data of any individuals with Seller and that it has a valid and lawful basis for doing so, as required under the Data Protection Legislation. To the extent the parties process personal data in the context of the performance of the agreement, Seller and Buyer agree to comply with the Data Protection Legislation and to process personal data only for the purposes it was provided to them. Details about the processing of personal data by Seller are described in Seller's privacy policy, an up-to-date version of which is available under <https://company.ingersollrand.com/privacy-policy.html>. The Buyer undertakes to ensure the relevant data subjects, whose data is being provided to the Seller, are aware of the Seller's privacy policy.



- **Confidentiality:** Each party undertakes that it will not disclose to third parties nor use for its own purposes any confidential information or trade secrets of the other party. Each party may disclose the other party's confidential information: (i) to its employees, officers, or other representatives or advisers who need to know such information for the purpose of exercising the party's rights or carrying out its obligations (provided that each party ensures that such third parties comply with this clause); and (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

6 ENGINEERING MATTERS & IP RIGHTS

All of the Seller's specifications, designs, drawings, indications of physical, chemical and electronic properties and indications of inlet pressure or vacuum, pressure output and power consumptions are made in good faith and are approximate indications only and are not binding in detail unless the Buyer has specified in writing a particular indication upon which he is relying and the Seller shall be entitled to vary the same and/or to correct errors and omissions provided the goods remain in substantial conformity with the contractual requirements.

Buyer Representations

- Buyer represents to Seller that: 1. Buyer has provided, and will promptly provide, all the information reasonably necessary to enable Seller to evaluate the requirements for performing the agreement and to perform the agreement, and that all such information is full and accurate; 2. all premises, plant, engineering support, spare parts, connected pipe work and machinery and inputs that it is required to provide for the design, engineering, installation, testing and use of the goods are fit for their purpose and of good engineering quality; 3. Buyer will fully co-operate with Seller in the design, engineering, installation, testing and use of the goods; 4. Buyer will only use the goods for their intended purpose and only in accordance with the applicable product literature; and 5. Buyer will not use any unapproved spare part, connected machinery, service or repair or use the goods in any manner as may render the goods dangerous.
- Buyer agrees that any breach of these representations will negate all Seller warranties and all obligations of Seller with respect to the quality of the goods.
- Buyer agrees that it will be liable to Seller for any costs, expenses, and losses the Seller incurs due to any breach of these representations by the Buyer.

 **IP rights and infringements:** Any intellectual property rights in inventions, modifications, improvements, techniques, or know-how affecting the goods, whether arising prior to the Order, or made or gained in the course of performing the Order, will belong to Seller. Seller will have no liability to Buyer for any patent, trademark or copyright infringements based on any designs, plans or other information provided to Seller by Buyer.

All documents prepared by Seller as a deliverable of the Order will be provided to the Buyer with a limited right to use, including make copies of such documents as is reasonably necessary, for the installation, maintenance and operation of the goods or services, however, nothing in the section transfers to the Buyer any of the Seller's underlying intellectual property rights including the right to make the goods or have the goods made.

7 COMPLIANCE WITH LAWS

 **Seller will comply** with all legal obligations applicable to the supply of goods. Seller assumes no responsibility for compliance with any laws or regulations applicable to the use, installation and operation of the equipment or any other matters the Seller does not control. The Buyer indemnifies the Seller from any claims actions, losses (including without limitation, loss of profit), damages, costs and expenses (including without limitation, legal costs and expenses) arising thereof.

Buyer will not, directly, or indirectly, export, re-export, transfer or re-transfer any goods or technical data received from Seller to any destination, persons or territories prohibited by the export laws of the United States of America, European Union, United Kingdom of Great Britain and Northern Ireland or other applicable export regulations or to any country that Seller does not support according to the Seller's Trade Compliance policy. Seller will provide a list of the Prohibited and Restricted Countries to the Buyer on request. Seller reserves the right to amend its Trade Compliance policy at any time. The Buyer shall not do anything that would cause the Seller or its affiliates to be in breach of applicable export and trade control laws and regulations. Furthermore, the Buyer shall protect, indemnify and hold harmless the Seller and its affiliates from any fines, damages, costs, losses, liabilities, penalties, and expenses incurred by the Seller as a result of Buyer's failure to comply with this clause.

At the Sellers discretion, Buyer shall provide a completed end-user statement on a format provided by the Seller and will keep Seller updated of any changes that may impact this document during the execution of the contract.

8 OTHER TERMS

Exclusion of other Terms and Conditions: Unless otherwise agreed in writing, these Terms and Conditions of sale govern all Orders and contracts to the exclusion of all other Terms and Conditions.



Complete Agreement: This agreement and its attachments contain the entire understanding between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, and if there is any conflict between terms of the Order and this agreement, this agreement will control.



Changes: Any amendments to the Order or this agreement must be agreed to in writing by the parties.



Governing Law: The Order and agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation will be governed by and construed in accordance with Irish law excluding any conflict of law provisions. **The United Nations Convention on Contracts for the International Sale of Goods will not apply to the Order or the agreement.**

Jurisdiction: The Parties irrevocably agree that the courts of Ireland (Dublin) shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out or in connection with the Order or this agreement or its subject matter or formation.



Assignment: A party cannot assign or otherwise transfer all or any portion of this agreement or any individual claims arising from it without the prior written consent of the other party.

No Waiver: Any failure by the Seller to enforce its rights under this contract will not be deemed a waiver of such rights.

9 SPECIAL PROVISIONS

Neither the goods nor the parts sold hereunder are designed or manufactured for use in or with any atomic/nuclear installation or activity. If the Buyer or the ultimate user of the goods or parts intends to use the goods or parts in such an installation or activity, the Seller's Terms and Conditions for Nuclear Sales shall be a part of this contract. The Seller will furnish the Buyer with a copy of its Terms and Conditions for Nuclear Sales upon request.