General Terms and Conditions of Sale and Delivery

1. Scope of application, conclusion of contract
   a) These General Terms and Conditions of Sale and Delivery apply exclusively to all deliveries and services in our business dealings with entrepreneurs, legal persons under public law or any public law separate estate, even if we do not expressly refer to them in future transactions. We hereby object to any deviating and conflicting general terms and conditions of the Customer. We do not acknowledge such terms and conditions unless we have expressly agreed upon them in writing. The unconditional taking delivery of our goods or services shall in any case be deemed as Customer's approval of our General Terms and Conditions of Sale and Delivery. The foregoing shall also apply for other general terms not included in our General Terms and Conditions of Sale and Delivery.

   b) Our offers are subject to confirmation, in particular in terms of prices, quantity, delivery periods and capacity to deliver. A contract is concluded only upon the Customer's acceptance thereof. We are entitled to accept the order within 2 (two) calendar weeks of receipt of the order by sending an order confirmation or by delivery of the goods to the Customer. We reserve the right to inform the Customer within the period of 2 (two) calendar weeks of receipt of the order that we reject the order.

2. Prices, Terms of Payment
   a) Unless the order confirmation states otherwise, our prices shall be net "FCA (free carrier) Langenhem (incoterm 2010)". Our prices do not contain value added tax, which is additionally charged according to the applicable statutory regulations as amended from time to time.
   b) Unless otherwise stated in the order confirmation, payment is due and payable without deduction 14 (fourteen) days after delivery of the invoice. If the invoice is not paid as agreed, we can from the maturity date without reminder charge interest in the amount of 8 percentage points above the respective base rate of the European Central Bank. The assertion of any further damage shall remain unaffected thereby.
   c) The Customer is not entitled to any set-off payments due to any counterclaims (including claims from warranty- or set-off against such counterclaims, unless these are undisputed, have been acknowledged by us in writing, or have been established by final and non-appealable judgment).
   d) If it becomes apparent after the conclusion of the contract that the claim for payment is at risk due to a lack of creditworthiness of the Customer, we are entitled to accelerate all open claims and to request the Customer to effect payment concurrent with delivery, or to furnish security. If the Customer does not comply with such request within a reasonable period of time, we can claim damages and withdraw from the contract.
   e) Unless fixed prices were agreed, we reserve the right to make reasonable price adjustments due to changes in the costs of wages, material, production and sales for any deliveries and in case of considerable currency fluctuations, which occur 3 (three) months or later after conclusion of the contract. We will inform the Customer of any such price changes within a reasonable period of time and prior to delivery of the goods, at least in text form.

3. Retention of title
   a) We retain title to the goods until full settlement of all current and future claims under the business relationship with the Customer. We are entitled to take back the goods if the Customer is in breach of contract.
   b) The Customer is obliged to keep our goods separate from others and to label our goods for identification (retained goods). If third parties assert any rights to the retained goods, or if the Customer combines, mixes or processes the retained goods with other goods, or if the Customer sells the retained goods, in particular pledging and assignments by way of security, are not permitted. All claims to the new product at a ratio of the invoiced value of the retained goods in proportion to that of the other goods. The new product shall be deemed retained goods within the meaning of these retention of title regulations.
   c) Sale of the retained goods shall be permissible only within the ordinary course of business. Other dispositions of the retained goods, in particular pledging and assignments by way of security, are not permitted. All claims to which the Customer is entitled with regard to the retained goods from resale or on other legal grounds are hereby in advance assigned to us in full. In the event of co-ownership, the assignment applies only to the part of the claim that corresponds to our co-ownership. We accept this assignment. The resale of the retained goods is permissible only when this assignment is ensured. The Customer is allowed to sell claims from the resale of the retained goods (factoring) only with our prior written consent.
   d) The Customer is at any time revocably authorised to collect the claims assigned to us in the course of ordinary business. The Customer is obliged to carefully store the loan containers; for safety reasons, vicarious agents who have been assigned particular leadership tasks have intentionally or grossly negligently caused the aforementioned circumstances. The party being impeded in its performance by the force majeure event shall appropriately notify the other party of the occurrence of the impediment.

4. Packaging, provision and return of loan containers, hazardous goods regulations
   a) Unless otherwise provided for, we do not take back any transport, sales and outer packaging. The Customer is obliged to dispose of packaging at the Customer's own risk and at the Customer's own expense.
   b) As far as agreed in the order confirmation, we provide the Customer with ICC and skeleton containers (here-inafter referred to as "loan containers") for the period agreed in the order confirmation. Such loan containers may only be used for the purpose of transporting the delivered goods to the Customer until the emptying in the ordinary course of business. The Customer is obliged to carefully store the loan containers; for safety reasons, the Customer may in particular not be filled with any products other than those delivered by Chemetall. Any filling by the Customer is prohibited. The Customer is obliged to return the title to the loan containers. The Customer is obliged to either provide the loan containers for pick-up within an agreed, reasonable period of time, fully emptied, or to return them to us, depending on what was agreed in the order confirmation. The loan container is fully emptied if less than 5% (five per cent) of the original quantity of the product is in the loan container upon pick-up or return. If a larger quantity of the product remains in the loan container upon pick-up or return, we will be entitled to invoice the corresponding additional costs to the Customer. The Customer is not entitled to the early return of loan containers, in particular extended. This shall not apply insofar as we are responsible for the delay. Also upon agreement of a fixed delivery period or a fixed delivery date, a reasonable additional period of regularly 4 (four) calendar weeks shall be granted to us if we are in default. After successful expiry of the additional period, the Customer shall state within a reasonable period of time whether due to the delay in delivery the Customer withdraws from the contract with regard to the quantity in default or demands damages instead of performance, or whether the Customer still wishes to receive delivery.
   c) Unforeseeable and unavoidable events outside our sphere of influence and any events for which we are not responsible shall for the duration of such events release us from our obligation to timely deliver or perform services. If we are prevented from delivering in good time due to force majeure, the time of delivery shall be extended by the duration of the impediment to delivery caused by these circumstances. Force majeure includes unforeseeable events or such events which - even if they were foreseeable - are outside our sphere of influence and whose impact on the fulfillment of the contract cannot be prevented by adequate and reasonable efforts on our part. Force majeure shall also cover impediments to performance based on the following circumstances: a) failure or partial failure of operational facilities/plants or other operational disruptions, b) denial, expropriation, restriction or abolition of official permits and requirements, c) delay in supply of essential raw materials required for the performance of deliveries or services, d) delay in correct or timely self-supply, e) difficulties arising in the procurement of pre-operational materials and operating materials and in the dispatch or transportation of the goods, f) strike or lockouts, unless we, our corporate bodies or those vicarious agents whom we have assigned particular leadership tasks have intentionally or grossly negligently caused the aforementioned circumstances. The party receiving performance of the occurrence of the impediment.
   d) The impediment to performance continues for more than 6 (six) months, both parties shall after expiry of a reasonable notice period to the exclusion of any further claims be entitled to withdraw from the contract.
   e) Clause 12 ("Exclusion of liability, limitation of liability") shall apply to all claims of the Customer for damages for default or breach of duty in connection with the delivery of the goods.
   f) Partial deliveries and corresponding accounting statements are permissible, unless they are not acceptable to the Customer.

5. Delivery periods, Disruption of delivery, and default
   a) Stated delivery periods are binding on us only if the Customer has classified them as binding in writ- ing, otherwise all delivery periods shall be non-binding.
   b) The compliance with agreed delivery periods requires that the Customer provides us in good time with all documents, permits and releases required and to furnish by us, and fulfills all other obligations incumbent on the Customer. If these requirements are not complied with on the due date, the delivery period shall be extended. This shall not apply insofar as we are responsible for the delay. Also upon agreement of a fixed delivery period or a fixed delivery date, a reasonable additional period of regularly 4 (four) calendar weeks shall be granted to us if we are in default. After unsuccessful expiry of the additional period, the Customer shall state within a reasonable period of time whether due to the delay in delivery the Customer withdraws from the contract with regard to the quantity in default or demands damages instead of performance, or whether the Customer still wishes to receive delivery.

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7. Delivery, passing of risk and dispatch
   a) The applicable Incoterms as amended from time to time follow from the order confirmation. The Incoterms shall apply in the version as amended from time to time, unless otherwise stated in the order confirmation.
   b) We are not liable for any weight losses during dispatch. Dispatch requirements have to be stated upon order. Unless otherwise agreed, the type of dispatch and the forwarding route are at our discretion - without war- ranty of quickest transportation. Additional costs for express delivery made at the Customer’s request are at the Customer’s expense. Deliveries are made including packaging, unless packaging has expressly been loaned.

8. Export control
   a) The Customer undertakes to observe and comply with all applicable export control and embargo regulations (including those to all applicable German and European export control regulations).
   b) Upon our request, the Customer shall be obliged to provide us with adequate information on the final use of the goods or services to be performed, in particular to issue and send the originals of the so-called destination certificates to enable us to verify the final destination and the purpose of use for pro-
c) If the possibly required export or transfer permits or any other foreign trade law approvals or releases are not granted by the competent authorities, or if any other legal impediments prevent the delivery due to any foreign law and embargo regulations to be observed by us or exporters or transferors of the suppliers, we shall be entitled to withdraw from the contract to the exclusion of any further rights, in particular to the exclusion of any claims for damages on the part of the Customer.

d) The compliance with agreed delivery periods requires the release or granting of export and transfer permits by the competent authorities, the observance from the Customs or other legal impediments due to conducting a foreign trade law application and permit procedure, the delivery period shall be extended by the duration of the delays caused by these proceedings, to the exclusion of any further rights, in particular to the exclusion of any claims for damages on the part of the Customer.

e) The Customer is liable for any non-compliance with the obligations set forth under a) to d) and shall inform upon first demand indemnify us and hold us entirely free and harmless from any and all claims, damage and expenses.

9. Measurements, weights and supply quantities.

For this purpose, the measurements, weights and quantities stated in the shipping/accompanying documents shall be authoritative. Objections to measure dimensions, weights, volume and quantities must be raised in writing, at the latest within 3 [three] working days of receipt of the goods at the destination.

10. Quality of the goods, technical advice, use and processing of the goods, guarantees

a) In terms of the quality of the goods, generally only the quality described in our product descriptions, specifications and labelling shall apply. Public comments, recommendations or advertising do not amount to statements on quality of our goods.

b) We reserve the right to slightly modify the goods with regard to their material and/or design within the scope of what is customary in the trade, provided that this does not otherwise change the agreed quality. Minor deviations in the chemical composition of the goods from the agreed quality shall only be reserved as far as these deviations are in the nature of the materials used and customary in the trade.

c) Our technical application instructions provided orally, in writing and through tests are based on our experience and on the specifications provided by our Customer and are to be provided to the best of our knowledge. We do, however, assume no liability for the advice rendered to the Customer. The application instructions are exclusively provided for supporting the Customer in its procedures and processes, which the Customer performs at its own responsibility. We do not assume any liability for a specific result in connection with our advisory services. In particular, we do not assume any liability for advice or suggestions in connection with the construction, modification and operation of the Customer's facilities/plants. Thus, our technical application instructions do not release the Customer from its own tests and examination of the goods delivered by us for suitability for the intended procedures and purposes. Any application, use and processing of the goods is outside of our scope of control and therefore in the sole sphere of responsibility of the Customer.

d) We do not liable for the infringement of proprietary rights of third parties in connection with the application, use and processing of our goods.

e) Promises, guarantees and other representations regarding the products, goods and services that exceed the specifications of our goods require a prior separate written agreement or need to be confirmed by us in writing on a case-by-case basis. Any reference to DIN standards or comparable norms serves only to describe the goods and does not amount to any further promise or guarantee.

11. Customer's claims in case of defects and limitation

a) Any rights of the Customer based on defects of the goods require that the Customer examines the goods after delivery and notifies us in writing without undue delay, but at the latest within 2 [two] calendar weeks after delivery, of any defects, stating the invoice number. Hidden defects need to be notified to us in writing without undue delay after detection.

b) We warrant that upon passing of the risks our goods comply with the quality described in our product descriptions, specifications and labelling. We do not assume any responsibility for the goods being suitable for a particular purpose or use, unless we expressly consented therein in writing or advance.

c) The Customer shall not have any rights in case of defects if such defects occur for reasons attributable to the Customer [e.g. by unsuitable or improper use, or use outside the contractual agreed or customary use, storage or non-compliance with treatment requirements, incorrect handling by the Customer, modifications by the Customer or third parties].

The same shall apply in case of natural wear and tear or exceeding the stated storage life for the goods.

d) In respect of every notice of defects, we shall have the right to inspect and examine the rejected goods. For this purpose, the Customer shall grant us the necessary time and opportunity. We can also request the Customer to return the rejected goods at our expense.

e) In case of proven defects of the goods we shall at our own option either remove the defects without charge (subsequent improvement) or deliver a replacement (new delivery) free of costs against return of the rejected goods (subsequent performance). The place of the subsequent performance shall be the registered office or branch of the Customer, where the goods were delivered.

The cost-free subsequent performance does not apply as expenses incurred in connection with the subsequent performance, in particular for the costs for transportation, road charges, work and material are unreasonable increased because the item of the delivery had been transferred to a place other than the registered office or branch of the Customer. If the transfer corresponds to the intended use, the subsequent performance remains free of costs for the Customer, as far as it is acceptable.

f) Without prejudice to any claims for damages, the Customer reserves the right to withdraw from the contract or rescind the contract or bill of delivery or purchase price if the Customer has set a reasonable period of time for subsequent performance, and such subsequent performance fails or is delayed by us according to Section 439 Para. 3 German Civil Code, or is unacceptable for us. The goods merely insignificantly deviate from the agreed quality the Customer may only request a reduction of the purchase price as its sole and exclusive remedy in such case.

Q) If the Customer chooses to claim damages after subsequent performance has failed, the goods shall remain with the Customer as far as this is acceptable to it. In deviation from clause 12 a) Sentence 3 “Exclusion of liability in case of defects”, the damages shall, in this case be limited to the difference between the purchase price and the value of the defective item. In the case of provisions of the German Civil Code (e.g. for “immaterial defects of the object of contract”, “infringement of liability, limitation of liability” laws of clauses 375, 376 and 377 of the German Civil Code), the Customer is entitled to withdraw from the contract.

j) If after notification of a defect according to the regulations under Section 377 German Commercial Code (notice of defects) we have rendered services for identification of and search for a defect it turns out that no defect is given, the Customer shall bear the costs incurred insofar as it has acted culpably. For calculating the corresponding costs, our respective activity at the time of performance will be taken as a basis.

k) The limitation period for the Customer's claims based on defects is one year of delivery of the goods. In case of delivery of an item which is used for a building structure according to its customary use, and which caused the defectiveness of such structure, the limitation period for claims based on defects shall be two years from the commencement of the statutorily limitation period. For claims for damages of the Customer for reasons other than defects of the goods, and with regard to the Customer’s rights in case of hidden or intentionally caused defects, the statutory statute of limitations shall apply.

12. Exclusion of liability, limitation of liability

a) In the event of slightly negligent violation of material obligations under the contractual relationship by us, our statutory representatives and vicarious agents, our liability shall be in respect of any damage resulting therefrom be limited to the compensation for the foreseeable, typically occurring damage. Material obligations under the contractual relationship are obligations whose fulfilment is indispensable for proper performance of the contract, whose violation thwarts the achievement of the contractual purpose, and on the fulfillment of which the Customer may regularly rely. Our maximum liability within the meaning of the first sentence of this paragraph a) shall at maximum be the value of the relevant defective delivery or service.

b) Our liability for the slightly negligent breach of non-material obligations under the contractual relationship is excluded.

c) The aforementioned limitations of liability shall not apply in cases of mandatory statutory liability (in particular under the Product Liability Act), upon the assumption of guarantees, in case of culpable injury to life, body or health, and in case of intent or gross negligence.

d) If the Customer sells the goods, it shall in the internal relationship indemnify us against any product liability claims of third parties, as far as it is responsible for the defect resulting in liability.

13. Infringement of third party rights

If deliveries are made according to plans, drawings, models, analytical specifications or any other information provided by the Customer, and if this results in any violation of third party rights, in particular proprietary rights, the Customer shall hold us free and harmless of and indemnify us against any such claims on first demand.

14. Confidentiality

a) The parties undertake to keep any trade and business secrets obtained from the respective other party within the scope of the order strictly confidential. Business secrets shall mean any confidential data of one of the parties relating to its situation and market behavior, and trade secrets mean all technical data of either party (hereinafter referred to as “Confidential Information”). The parties furthermore undertake not to disclose to third parties any Confidential Information without prior written consent of the other party, nor to use it for own purposes without authorisation. Affiliated companies of the parties according to sections 15 et seq. German Stock Corporation Act are not considered as being third parties within the meaning of the foregoing. The parties shall improve these confidentiality obligations also on their employees and any third parties possibly subcontracted by them.

b) The foregoing confidentiality obligations according to clause 14 a) (“Confidentiality”) do not apply to any Confidential Information in respect of which the relevant receiving party can prove that it

- was already in the public domain at the time of submission or entered the public domain without involvement of the receiving party; or
- was already in the possession of the receiving party at the time of provision or was made available to it thereafter by a third party in a legally permissible manner and without restriction in terms of confidentiality or use; or
- is the result of the works of own employees of the receiving party without using any Confidential Information of the disclosing party or any parts thereof, and the works were not made in connection with the information purpose.

- must be disclosed by it in court or administrative proceedings, due to an official order or for any other statutory reasons, whereby the receiving party undertakes to inform the disclosing party in writing prior to any disclosure in the above cases.

Specific Confidential Information is not automatically subject to the foregoing exceptions because it is covered by general knowledge and experience which as such are subject to these exceptions. Likewise, a combination of different individual information is not subject to the foregoing exceptions because the individual information of this combination as such is subject to these exceptions, but only if the combination itself is subject to these exceptions.

c) This obligation shall continue to apply also after the completion of the order for a period of two (2) years.

15. Place of performance, jurisdiction, applicable law

a) Place of performance for payment obligations of the Customer shall be Frankfurt am Main, for our obligations the place of delivery.

Frankfurt am Main is agreed as place of jurisdiction for all disputes arising from or in connection with the contract between us and the Customer. This also applies to legal actions regarding bills of exchange or cheques. You are furthermore entitled to assert our claims also at the Customer's general place of jurisdiction.

b) All legal relations between the Customer and ourselves shall be exclusively governed and constituted in accordance with the laws of the Federal Republic of Germany, to the exclusion of the conflict of laws provisions and the UN Convention on the International Sale of Goods (CISG).

16. Contractual language

These General Terms and Conditions of Sale and Delivery are drawn up in a German and an English version. For the legal relationship between the Customer and us, the version of the General Terms and Conditions of Sale and Delivery in the respective contractual language shall apply. If the contractual language is neither German nor English, the German version of the General Terms and Conditions of Sale and Delivery shall apply.

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