

# General Terms and Conditions of Purchase of FORBO SIEGLING group

## 1. Scope

- 1.1 The present Conditions of Purchase shall apply to all business dealings between the companies belonging to the FORBO SIEGLING Group (hereinafter: FORBO SIEGLING) and the Supplier, even if they are not mentioned in subsequent contracts. Any additional Supplier terms and conditions or Supplier terms and conditions that conflict with, or differ from, these Conditions of Purchase shall not become part of the contract, unless expressly agreed to, in writing, by FORBO SIEGLING. The present Conditions of Purchase shall apply even if FORBO SIEGLING accepts a Supplier delivery without reservation while aware of the Supplier's opposing or different terms and conditions.
- 1.2 Any contract performance arrangements made between FORBO SIEGLING and the Supplier in addition to, or that differ from, these Conditions of Purchase must be made in writing. This shall also apply to any waiver of this written form requirement.
- 1.3 Any rights that FORBO SIEGLING may have under statutory provisions in addition to these Conditions of Purchase shall remain unaffected.

## 2. Contract Conclusion and Amendment

- 2.1 Unless expressly agreed otherwise in writing, the Supplier's offers and cost estimates shall be made free of charge.
- 2.2 Any orders, or their modification or amendment, as well as any other arrangements made at the time of contract conclusion shall become binding only once they are placed in writing or electronically by FORBO SIEGLING or, in case of orders placed orally, over the phone, or by means of other telecommunication means, confirmed in writing or electronically. Orders placed with the help of automated means that lack a signature and name shall be deemed written orders. FORBO SIEGLING' failure to respond to offers, requests, or other declarations made by the Supplier shall be considered a consent only if so expressly agreed in writing beforehand. If and insofar as an order placed should include obvious errors, typos or miscalculations, it shall not be binding upon FORBO SIEGLING.
- 2.3 The Supplier shall promptly, but no later than three (3) business days upon receipt of the order, issue an order confirmation indicating the price and delivery date. Any departure in the order confirmation from the order received shall be considered agreed only once expressly confirmed in writing or electronically by FORBO SIEGLING. The same shall apply to subsequent contract amendments. If and insofar as FORBO SIEGLING has concluded a framework agreement for future supplies with the Supplier, any order (delivery request) placed by FORBO SIEGLING shall be binding unless the Supplier objects within three (3) business days as of its receipt.
- 2.4 The Supplier shall promptly notify FORBO SIEGLING if it becomes evident during contract performance that departures from the originally agreed specification are necessary or appropriate. FORBO SIEGLING shall promptly inform the Supplier whether and which changes to make to the original order. If this should result in changed costs incurred by the Supplier as a result of contract performance, both FORBO SIEGLING and the Supplier shall be entitled to demand that the agreed prices be adjusted accordingly.

## 3. Delivery

- 3.1 Delivery execution, scope, and scheduling shall comply with the order. The agreed-upon delivery deadlines and dates shall be binding. Delivery deadlines shall commence on the day an order is placed.
- 3.2 Compliance with the delivery date or deadline shall be subject to FORBO SIEGLING receiving the goods on time. Unless DAP or DDP delivery (pursuant to Incoterms® 2010) has been agreed, the Supplier shall provide the goods on time taking into account the loading and shipping time to be agreed with the carrier.
- 3.3 If it is obvious to the Supplier that the delivery deadline cannot be met, the Supplier shall promptly notify FORBO SIEGLING in text form by giving reasons and specifying the expected duration of the delay. In case of delayed delivery, FORBO SIEGLING shall be entitled to rescind the contract regardless of whether the Supplier is at fault or not. In case of Supplier default, FORBO SIEGLING shall be entitled to demand a contract penalty of 0.5% of the net order value, but not more than 5% of the net order value, per started week of delay. Further claims of FORBO SIEGLING shall remain unaffected. The contract penalty shall be added to the damage for delay to be reimbursed by the Supplier. FORBO SIEGLING' delivery claim shall be excluded only once the Supplier, at FORBO SIEGLING' request, pays damages instead of making the delivery. Acceptance of a late delivery shall not be considered a waiver of claims for damages.
- 3.4 Delivery before the agreed-upon delivery date shall be permitted only with the prior written approval of FORBO SIEGLING. FORBO SIEGLING shall be entitled to send back, at the Supplier's expense, any goods delivered early or to store such goods at the Supplier's expense until the agreed-upon delivery date.
- 3.5 Unless otherwise agreed, partial deliveries as well as excess or short deliveries shall not be permitted. FORBO SIEGLING reserves the right to accept such deliveries in individual cases and to charge the Supplier a flat handling fee in the amount of EUR 40.00 for the extra work caused by such partial deliveries. The Supplier shall be entitled to prove that FORBO SIEGLING has suffered no or much lesser damages.

## 4. Passage of Risk / Shipment

- 4.1 The Supplier shall bear the risk of sudden loss or incidental deterioration of the goods until acceptance by FORBO SIEGLING (DAP pursuant to Incoterms® 2010). If the Supplier is obligated to set up or assemble the goods at FORBO SIEGLING' premises, the risk shall pass to FORBO SIEGLING only once the goods are taken into operation.
- 4.2 Every delivery shall be accompanied by a delivery note including the order and material number, a list of the batches delivered, the product name, the quantity delivered and the weight. Any violation of this documentation obligations shall constitute a major breach of contract by the Supplier. Any damage suffered by FORBO SIEGLING as a result thereof shall be reimbursed by the Supplier.
- 4.3 The Supplier shall comply with FORBO SIEGLING' shipment requirements. Moreover, the goods shall be packaged such as to avoid damages caused during transportation. Packaging material shall be used only to an extent as necessary. The packaging material shall be eco-friendly and recyclable.

## 5. Prices and Payment

- 5.1 The price stated in the order shall be binding. Unless otherwise agreed in writing, all prices shall be DDP prices (pursuant to Incoterms® 2010) including packaging. The prices shown are all net prices; the statutory sales tax shall be indicated separately at the time of invoicing in the amount as applicable from time to time.
- 5.2 The Supplier's invoices shall state the purchase order indicator (PO number, PO date, quantity and price), the number of every single item (batches) and the delivery note number. Otherwise, they shall be deemed not received because they cannot be processed. Invoice copies shall be marked as such.
- 5.3 Payment shall be made upon acceptance of the goods and receipt of the invoice either within thirty (30) business days with a 3% trade discount or within sixty (60) days, net. Payment shall be deemed in time if effected in time. Payment shall be made subject to invoice verification. In case of bad deliveries, FORBO SIEGLING shall be entitled to retain payment until proper performance of the delivery without suffering any loss of rebates, trade discounts, or similar price reductions. If and insofar as the Supplier is obligated to provide material tests, test certificates, quality documents or other documents, acceptance of the goods shall mean that said documents have been provided, as well. The period allowed for payment shall commence upon complete removal of all defects. In case of early delivery of the goods, the period allowed for payment shall commence on the agreed-upon delivery date.
- 5.4 The goods shall become the unencumbered property of FORBO SIEGLING as soon as they are paid by FORBO SIEGLING. Payments shall be made only to the Supplier. An extended or prolonged reservation of title shall not be permitted. The Supplier shall be entitled to offset its counterclaims only if they have been recognized by declaratory judgment or if they are undisputed. The Supplier may assert a right of retention only if its counterclaim is based on the same contractual relationship.

## 6. Warranty and Claims for Defects / Liability

- 6.1 Unless otherwise agreed, the statutory warranty rights shall apply.
- 6.2 The Supplier shall warrant that the deliveries comply with the agreed-upon specifications, state of the art, and with all relevant legal provisions and regulations of the authorities, of employers' liability insurance associations and of professional organizations. The Supplier shall be obligated, in particular, to comply with the provisions of the EU Chemicals Ordinance REACH. The Supplier shall promptly inform FORBO SIEGLING about any concerns it may have against any order execution requested by FORBO SIEGLING.
- 6.3 If and insofar as doable in its ordinary course of business, FORBO SIEGLING shall promptly upon acceptance of the goods perform an inspection to see whether quantity and identity comply with the order and whether the goods show visible transport damages.
- 6.4 If FORBO SIEGLING should detect a defect at such time or later on, it shall — if and insofar as doable in its ordinary course of business — inform the Supplier of such defect promptly after such inspection or detection.
- 6.5 FORBO SIEGLING' approval of the Supplier's drawings, calculations, or other technical documents shall not affect the Supplier's liability for defects and its responsibility for guarantees assumed by the Supplier.
- 6.6 In case of defects to the goods, FORBO SIEGLING (notwithstanding its statutory claims for defects) shall be entitled to require the Supplier to either, at its own discretion, remedy the defects or supply goods that are free from defects (supplementary performance). The Supplier shall bear all costs and expenses that are necessary for such supplementary performance.
- 6.7 Except in case of fraudulent intent, claims for defects shall expire within three (3) years, unless the goods were used in accordance with their normal use for a building and have caused the building to be defective. The statutory period of limitation shall commence once the goods have been accepted by FORBO SIEGLING (passage of risk).
- 6.8 Should the Supplier fulfill its supplementary performance obligation by making a replacement delivery, the statutory period of limitation for the goods delivered in replacement shall start anew once they have been accepted.
- 6.9 Suppliers of goods that require spare parts shall be obligated to supply FORBO SIEGLING with all necessary spare parts, accessories and tools for a period of another ten (10) years after the expiry of the statutory period of limitation.
- 6.10 If responsible for a product defect, the Supplier shall be indefinitely liable for consequential damages caused by such product and suffered by third parties. If the United Nations Convention on Contracts for the International Sale of Goods (CISG) should apply to goods purchased abroad, the Supplier shall be liable for the foreseeable damage even in the absence of fault by the Supplier. Predictability shall be determined, inter alia, by the intended use disclosed to the Supplier and by the specific characteristics guaranteed in respect of the product.
- 6.11 If a third party should make a claim against FORBO SIEGLING, the Supplier shall indemnify the companies belonging to the FORBO SIEGLING Group, i.e. FORBO SIEGLING may require the Supplier already after receiving the first claim letter to further pursue the matter in consultation with FORBO SIEGLING. This shall apply if and insofar as the consequential damages in all likelihood have been predominantly caused by a defect in the supplied product. FORBO SIEGLING may request a reasonable advance on the prosecution costs.

## 7. Product Liability

- 7.1 The Supplier shall be obligated to indemnify FORBO SIEGLING from third-party claims based on national or foreign product liability that are due to defects in a product supplied by the Supplier, provided that the Supplier is responsible for such product defect and the incurred damage under product liability law. Further claims of FORBO SIEGLING shall remain unaffected.
- 7.2 In the cases of clause 7.1, the Supplier shall bear any and all costs and expenses, including the costs of legal prosecution. The Supplier shall, in particular, reimburse FORBO SIEGLING for costs and expenses incurred as a result of, or in connection with, measures taken by FORBO SIEGLING — in particular warning, exchange, or product recall campaigns — to prevent claims being made based on product liability. If possible and reasonable, FORBO SIEGLING shall inform the Supplier about the contents and scope of the measures to be taken and give the Supplier the opportunity to comment.
- 7.3 FORBO SIEGLING and the Supplier shall work together on all measures that minimize the risks of product users, that anticipate measures of the market supervisory authorities or that rule out damage to the corporate image (market

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correction measures). FORBO SIEGLING' assessment shall be decisive. If a claim is made by the market monitoring authority, all technical documents shall be promptly provided in a language understandable to the competent market monitoring authority. The Supplier shall bear the costs of such measures if and insofar as the Supplier is responsible for the cause.

- 7.4 The Supplier shall take out insurance in a reasonable amount against all risks arising from product liability, including recall risks, and shall, upon request, prove such insurance to FORBO SIEGLING by presenting its insurance policy.

## 8. Third-Party IP Rights

- 8.1 The Supplier shall ensure that delivery and utilization of the goods will not infringe any third-party patents, licenses, or other IP rights.
- 8.2 If and insofar as a third party makes a claim for infringement of such rights against FORBO SIEGLING or its customers due to delivery and utilization of the goods, the Supplier shall be obligated to indemnify FORBO SIEGLING or its customers from such claims. This indemnification obligation shall apply to any and all expenses incurred in connection with such claims being made.

## 9. Provision of items by FORBO SIEGLING

- 9.1 FORBO SIEGLING reserves title to samples, models, drawings, master copies, tools and other items provided to the Supplier for the manufacture of the ordered goods or for other reasons. The Supplier shall be obligated to use such items only for the manufacture of the ordered goods or as otherwise directed by FORBO SIEGLING. Such items must not be made accessible to third parties. The Supplier shall promptly return such items, without request, to FORBO SIEGLING at its own cost and expense if and insofar as their provision is no longer required.
- 9.2 Processing or alteration of provided items by the Supplier shall be done for and on behalf of FORBO SIEGLING. If and insofar as such items are processed with other items that do not belong to FORBO SIEGLING, FORBO SIEGLING shall acquire co-ownership of the new product in proportion of the value of the item belonging to FORBO SIEGLING at the time of processing to the other items processed.
- 9.3 The Supplier shall be obligated to treat and store the provided items with care. The Supplier shall, at its own cost and expense, insure the provided items at their replacement value against fire, water and theft. The Supplier shall already now assign to FORBO SIEGLING, who hereby accepts such assignment, any and all claims for compensation under said insurance. The Supplier shall be obligated to carry out in due time any and all maintenance work and inspections as well as any and all servicing and repair work to the provided items at its own cost and expense. The Supplier shall promptly inform FORBO SIEGLING about any damages.
- 9.4 Goods manufactured by the Supplier, in whole or in part, according to FORBO SIEGLING' specifications or using the items provided by FORBO SIEGLING may be used by the Supplier itself or offered, supplied or made accessible to third parties only with the prior written approval of FORBO SIEGLING. This shall also apply to goods that FORBO SIEGLING legitimately refused to accept from the Supplier.

## 10. Force Majeure

- 10.1 If and insofar as FORBO SIEGLING is prevented from fulfilling its contractual obligations, in particular from accepting the goods, by force majeure, FORBO SIEGLING shall be released from its performance obligation for as long as the hindrance is in place and for a reasonable time period thereafter without being obligated to pay damages to the Supplier. The same shall apply if and insofar as it becomes unreasonably difficult or temporarily impossible for FORBO SIEGLING to fulfill its obligations due to unforeseeable circumstances beyond FORBO SIEGLING' control, in particular official actions, energy shortfalls or major disruptions. The same shall apply in case of labor disputes affecting FORBO SIEGLING.
- 10.2 FORBO SIEGLING shall be entitled to rescind the contract if such hindrance in terms of clause 10.1 continues for more than four months and performance of the contract becomes uninteresting to FORBO SIEGLING due to such hindrance. At the Supplier's request, FORBO SIEGLING shall declare after the expiry of the deadline whether it wishes to exercise its right of rescission or accept the goods within a reasonable time period.

## 11. Confidentiality

The Supplier shall be obligated to keep any and all information, which it may learn about FORBO SIEGLING and which are marked confidential or which obviously qualify as business or trade secrets based on other circumstances, secret for an indefinite period of time, and to neither record nor pass on or use such information, unless required in connection with a delivery to be made to FORBO SIEGLING. By making appropriate contractual arrangements with its employees and agents, the Supplier shall ensure that said employees and agents will also refrain from using, passing on, or recording such business and trade secrets at least during the term of the business relationship.

## 12. Export control and Customs

The Supplier shall be obligated to inform FORBO SIEGLING about possible approval obligations for the (re)export of its goods under German, European, Asian, or US export and customs regulations and under the export and customs regulations of the country of origin of its goods in its business documents. To this end, the Supplier shall include the following information with the respective items at least in its offers, order confirmations and invoices:

- the export list number pursuant to Annex AL to the German Foreign Trade Regulations or comparable list items of relevant export lists,
- the ECCN (Export Control Classification Number) for US goods,
- the origin of its goods and components of its goods, including technology and software,
- whether the goods were transported through the US, manufactured or stored in the US, or produced with the aid of US technology,
- the commodity code (HS code) of its goods, and
- the name of a contact person at its company to clarify any questions of FORBO SIEGLING.

At FORBO SIEGLING' request, the Supplier shall be obligated to provide FORBO SIEGLING in text form with any and all further foreign trade data pertaining to its goods and their properties and to promptly (before delivering any affected goods) inform FORBO SIEGLING in text form about any and all changes to such data.

## 13. Social Responsibility and Environmental Protection

The Supplier shall undertake to comply with the respective regulations governing the treatment of employees, environmental protection, and on-the-job safety and to strive to reduce negative effects on man and the environment through its activities. To this end, the Supplier shall, as far as possible, set up and further develop a management system under ISO 14001. The Supplier shall moreover comply with the principles of the Global Compact Initiative of the UN. These relate essentially to the protection of international human rights, the right to collective bargaining, the abolition of forced labor and child labor, the elimination of discrimination in recruitment and in the workplace, responsibility for the environment and the prevention of corruption. Further information on the UN's Global Compact Initiative are available at [www.unglobalcompact.org](http://www.unglobalcompact.org). Furthermore the principles of the Forbo Code of Conduct shall be applied to the business relationship. Further information on the Forbo Code of Conduct are available at [www.forbo.com/corporate](http://www.forbo.com/corporate).

## 14. Miscellaneous – Especially Engaging Third Parties / Working at FORBO SIEGLING' Plant

- 14.1 The Supplier shall be entitled to have an order or major parts thereof performed by a third party only with the prior written approval of FORBO SIEGLING.
- 14.2 The Supplier may transfer potential rights and obligations to a third party only with the prior written approval of FORBO SIEGLING.
- 14.3 The language of the contract shall be English, unless the parties have expressly agreed on the respective national language being the contractual language in the individual case.
- 14.4 If and insofar as these General Terms and Conditions of Purchase are composed in further languages, the English version hereof shall take precedence.
- 14.5 The place of performance for all Supplier services and of FORBO SIEGLING shall be the place of business of the company of the FORBO SIEGLING Group placing an order.
- 14.6 Individuals carrying out work at the premises of one of the companies belonging to the FORBO SIEGLING Group in performance of the supply contract shall be subject to the provisions of the plant regulations, as applicable from time to time; the regulations governing access to the plant shall be complied with. FORBO SIEGLING cannot be held liable for self-inflicted accidents happening to such individuals on the premises or in the plant.

## 15. Applicable Law / Place of Jurisdiction

- 15.1 The legal relationships between the Supplier and FORBO SIEGLING shall be governed by the laws of the Kingdom of the Netherlands. International matters shall be governed by the United Nations Convention on Contracts for the International Sale of Goods. Questions pertaining to issues that are not regulated by the United Nations Convention on Contracts for the International Sale of Goods or that cannot be decided by its basic principles shall be decided in accordance with the law applicable at FORBO SIEGLING' place of business.
- 15.2 The exclusive place of jurisdiction for any and all national business relationships with businessmen and corporate bodies organized under public law shall be Arnhem, the Netherlands. FORBO SIEGLING shall also be entitled to bring suit at the Supplier's place of business and at every other admissible place of jurisdiction.
- 15.3 In case of legal disputes in international cross-border business dealings arising under or in connection with this contract and its performance, the contracting parties may opt between going to an ordinary court or to an arbitral tribunal.
- 15.4 If the parties decide to go to an ordinary court, the exclusive place of jurisdiction for any and all disputes arising under or in connection with this contract and its performance shall be Arnhem, the Netherlands. However, FORBO SIEGLING shall also be entitled to bring suit at the Supplier's place of business and at every admissible place of jurisdiction.
- 15.5 If the parties apply to an arbitral tribunal, any and all disputes arising under or in connection with this contract shall be settled with final effect according to the Arbitration Rules of the Netherlands Arbitration Institute (NAI). The Arbitration Rules are available in Dutch and English at [http://www.nai-nl.org/en/info.asp?id=910&name=Rules,\\_Clauses\\_&\\_Legislation/Rules](http://www.nai-nl.org/en/info.asp?id=910&name=Rules,_Clauses_&_Legislation/Rules)
- 15.6 The arbitral tribunal shall be made up of three arbitrators. Unless agreed otherwise by the parties, at least one of the individual arbitrators must be a lawyer. The arbitrators must be able to speak the language of arbitration.
- 15.7 The language of arbitration shall be Dutch, unless the parties have agreed on a different language of arbitration.
- 15.8 The seat of the arbitral tribunal shall be Rotterdam in the Netherlands.