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 GMBH) and the Supplier, unless they are expressly agreed to in writing, or according to 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 GMBH. The present Conditions of Purchase shall apply even if the Supplier explicitly states that the Supplier delivery will be made free of charge, or in a similar fashion, while aware of the Supplier’s opposing or different terms and conditions.

1.2 Any contract performance arrangements made between FORBO SIEGLING GMBH 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 general written form requirement.

1.3 Any rights that FORBO SIEGLING GMBH 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 estimates shall not be considered a waiver of claims for damages.

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 the Supplier has confirmed the order in writing. FORBO SIEGLING GMBH or, in case of orders placed orally, on 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 form requirement.

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 a waiver of claims for damages. Either expressly confirmed or electronically by FORBO SIEGLING GMBH. The same shall apply to subsequent contract amendments. If and insofar as FORBO SIEGLING GMBH has concluded a framework agreement with the Supplier, any order, (delivery) request placed by FORBO SIEGLING GMBH shall be binding unless the Supplier objects within three (3) business days as of its receipt. The Supplier shall promptly inform FORBO SIEGLING GMBH if it becomes evident during contract performance that departures from the originally agreed specification are necessary or appropriate. FORBO SIEGLING GMBH 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 amendments, 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 commence once the order is placed by FORBO SIEGLING GMBH or, in case of orders placed orally, on the phone, or by means of other telecommunication means, confirmed in writing or electronically.

3.2 Compliance with the delivery date or deadline shall be subject to FORBO SIEGLING GMBH receiving the goods on time. Unless DAP or DDP delivery (pursuant to Incoterms® 2010) has been agreed, the Supplier shall provide evidence that the goods have been 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 GMBH as a result thereof shall be reimbursed by the Supplier.

3.3 If and insofar as the Supplier is obligated to set up or assemble the goods at the Supplier’s expense, the Supplier shall perform the work to the extent warranted by the conditions of use, measure of care, and with all relevant legal provisions and regulations, state of the art, and with all relevant legal provisions and regulations of the authorities, employers’ liability insurance associations and of professions, state law, and with all relevant legal provisions and regulations of the authorities, employers’ liability insurance associations and of professions, state law, and with all relevant legal provisions and regulations of the authorities, employers’ liability insurance associations and of professions, state law. Further claims of FORBO SIEGLING GMBH shall remain unaffected.

3.4 Delivery before the agreed-upon delivery date shall be permitted only with the prior written approval of FORBO SIEGLING GMBH. FORBO SIEGLING GMBH shall be entitled to sell or store such goods on the Supplier’s expense, 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 GMBH reserves the right to accept such deliveries in compendious 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 GMBH 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 GMBH (DAP pursuant to Incoterms® 2010). If the Supplier is obligated to set up or assemble the goods at the Supplier’s expense, the Supplier shall bear the risk of sudden loss or incidental deterioration of the goods until the Supplier delivery has been 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 GMBH as a result thereof shall be reimbursed by the Supplier.

4.2 Every delivery shall be accompanied by a delivery note including the order and material number as well as 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 GMBH as a result thereof shall be reimbursed by the Supplier.

4.3 The Supplier shall comply with FORBO SIEGLING GMBH 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 such prices shall be DDP prices (pursuant to Incoterms® 2010) including packaging.

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 GMBH shall be entitled to retain payment in full or in part, or to make offsetting 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 data, or other information, such information shall be made free of charge. 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 form requirement.

5.4 If the Supplier is unable to perform an inspection to see whether quantity and identity comply with the order and whether the goods show visible transport damages. FORBO SIEGLING GMBH may request a reasonable advance on the purchase order delivery date.

5.5 The goods shall become the unencumbered property of FORBO SIEGLING GMBH as soon as they are passed to FORBO SIEGLING GMBH. 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 the Supplier in accordance with its own reservation of title. 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 In case of orders placed orally, over the phone, or by means of other telecommunication means, confirmed in writing or electronically.

6.3 The Supplier shall warrant that the deliveries comply with the agreed-upon specifications. If and insofar as doable in its ordinary course of business, FORBO SIEGLING GMBH shall be entitled to make offsetting of the delivery without suffering any loss of rebates, trade discounts, or similar price reductions. 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.

6.4 If FORBO SIEGLING GMBH 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 In case of defects to the goods, FORBO SIEGLING GMBH 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.

6.6 If FORBO SIEGLING GMBH 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.

6.7 The Supplier shall, in particular, be responsible for guarantees assumed by the Supplier. Further claims of FORBO SIEGLING GMBH shall remain unaffected.

6.8 Should the Supplier fulfill its supplementary performance obligation by making a replacement delivery, the statutory period of limitation shall commence once the goods have been accepted by FORBO SIEGLING GMBH.

6.9 Should the Supplier fulfill its supplementary performance obligation by making a replacement delivery, the statutory period of limitation shall commence once the goods have been accepted by FORBO SIEGLING GMBH.

6.10 If responsible for a product defect, the Supplier shall be indemnified 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 beware of the unforeseeable circumstances even in any goods delivered within the Supplier’s responsibility for guarantees assumed 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 GMBH, the Supplier shall indemnify the companies belonging to the FORBO SIEGLING GMBH Group, i.e. FORBO SIEGLING GMBH must procure the Supplier as far as required under the terms of any product liability law. Further claims of FORBO SIEGLING GMBH shall remain unaffected.

6.12 In case of clauses 7.1, the Supplier shall bear any and all costs and expenses, including the costs of legal prosecution. The Supplier shall reimburse FORBO SIEGLING GMBH for costs and expenses incurred as a result of, or in connection with, measures taken with FORBO SIEGLING GMBH in particular on the prosecution costs.

7. Product Liability

7.1 The Supplier shall be obligated to indemnify FORBO SIEGLING GMBH 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 and the incurred damage is due to the negligence or culpable breach of duty. Further claims of FORBO SIEGLING GMBH shall remain unaffected.

7.2 In case of clause 7.1, the Supplier shall bear any and all costs and expenses, including the costs of legal prosecution. The Supplier shall reimburse FORBO SIEGLING GMBH for costs and expenses incurred as a result of, or in connection with, measures taken with FORBO SIEGLING GMBH in particular on the prosecution costs.

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claims being made based on product liability. If possible and reasonable, FORBO SIEGLING GMBH 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 GMBH and the Supplier shall work together on all measures that minimize the risks of product usage, that anticipate measures of the market supervisory authorities or that rule out dangers. The Supplier shall promptly return to FORBO SIEGLING GMBH all items in the corporate image (market correction measures). FORBO SIEGLING GMBH 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 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 GMBH 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 GMBH or its customers due to delivery and utilization of the goods, the Supplier shall be obligated to indemnify FORBO SIEGLING GMBH 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 GMBH

9.1 FORBO SIEGLING GMBH 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 GMBH. Such items must not be made accessible to third parties. The Supplier shall promptly return to FORBO SIEGLING GMBH all items, without reservation, if the Supplier was not able to use FORBO SIEGLING GMBH 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 GMBH. If and insofar as such items are processed with other items that do not belong to FORBO SIEGLING GMBH, FORBO SIEGLING GMBH shall acquire co-ownership of the new product in proportion of the value of the item belonging to FORBO SIEGLING GMBH at the time of the other items being 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 GMBH, 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 and for 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 GMBH about any damages.

9.4 Goods manufactured by the Supplier, in whole or in part, according to FORBO SIEGLING GMBH specifications or using the items provided by FORBO SIEGLING GMBH 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 GMBH. This shall also apply to goods that FORBO SIEGLING GMBH legitimately refused to accept from the Supplier.

10. Force Majeure

10.1 If and insofar as FORBO SIEGLING GMBH is prevented from fulfilling its contractual obligations, in particular from accepting the goods, by force majeure, FORBO SIEGLING GMBH shall be released from its performance obligation for as long as the hindrance shall be 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 GMBH to fulfill its obligations due to unforeseeable circumstances beyond FORBO SIEGLING GMBH control, in particular official actions, energy shortfalls or major disruptions. The same shall apply in case of labor disputes affecting FORBO SIEGLING GMBH.

10.2 FORBO SIEGLING GMBH 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 GMBH due to such hindrance. At the Supplier’s request, FORBO SIEGLING GMBH 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 GMBH 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 GMBH. 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 GMBH 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 and in its business transactions. To this end, the Supplier shall include the following information with the respective items at least in its offers, order confirmations and invoices:

- 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 GMBH.

At FORBO SIEGLING GMBH request, the Supplier shall be obligated to provide FORBO SIEGLING GMBH 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 GMBH 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 the extent governing laws, rules, and regulations 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 principles essentially 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 mitigation of climate change. The Global Compact Initiative are available at www.unglobalcompact.org. Further, 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.

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

14.1 The Supplier shall be entitled to have an order or major parts thereof performed by a third party. The Supplier shall promptly return to FORBO SIEGLING GMBH any and all items, without reservation, if the third party violates the Forbo Code of Conduct of the Supplier.

14.2 The Supplier may transfer potential rights and obligations to a third party only with the prior written approval of FORBO SIEGLING GMBH.

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 individual cases.

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 FORBO SIEGLING GMBH shall be the place of business of the company of the FORBO SIEGLING GMBH Group placing an order.

14.6 The Supplier shall ensure to comply with the respective regulations of the Forbo Code of Conduct and to bring to the attention of the employees and agents of the Supplier that they may not engage any third party that violates the Forbo Code of Conduct. The Supplier shall, as far as possible, set up and further develop a management system under ISO 14001. The Supplier shall be obligated to carry out in due time an environmental audit, any and all claims for compensation under said insurance. The Supplier shall be obligated to carry out in due time an environmental audit, any and all claims for compensation under said insurance.

15. Applicable Law / Place of Jurisdiction

15.1 The legal relationships between the Supplier and FORBO SIEGLING GMBH shall be governed by the laws of the Federal Republic of Germany. 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 to FORBO SIEGLING GMBH place of business.

15.2 The exclusive place of jurisdiction for any and all national business relationships with businessesmen and corporate bodies organized under public law shall be Hanover, Germany. FORBO SIEGLING GMBH 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 Hanover, Germany. However, FORBO SIEGLING GMBH 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 German Institution of Arbitration (Deutsche Institution für Schiedsgerichtsbarkeit e.V. [DIS]). The Arbitration Rules are available in, inter alia, German, English, French, Spanish, Chinese, Russian and Turkish at http://www.dis-arb.de/de/15/regeln/uebersicht-id0.

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.

15.7 The arbitrators must be able to speak the language of arbitration.

15.8 The seat of the arbitral tribunal shall be Hanover, Germany.

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