

Date: July 2021

**GENERAL TERMS AND CONDITIONS OF DELIVERY AND PAYMENT
of FORA Folienfabrik GmbH and Fora Handelsgesellschaft mbH**

- Export -

1. Scope

- 1.1. These General Terms and Conditions of Delivery and Payment for Export (hereinafter referred to as „**Export Terms and Conditions**“) shall apply to all purchase contracts of FORA Folienfabrik GmbH and Fora Handelsgesellschaft mbH („**FORA**“) with customers whose registered office or the relevant branch office is located outside the Federal Republic of Germany. In each case, the branch office which concludes the contract in its own name shall be decisive.
- 1.2. These Export Terms and Conditions shall not apply if the customer acquires the goods for personal use or for use in the family or household, and FORA knew or ought to have known this at the time of the conclusion of the contract.
- 1.3. These Export Terms and Conditions shall apply to all offers and deliveries made by FORA. They shall also apply to all future contracts with the customer, even if they are not expressly agreed again.
- 1.4. Any provisions in the terms and conditions of business of the customer that conflict with or deviate from the provisions of these Export Terms and Conditions shall apply only insofar as FORA expressly consents to their validity in text form (e.g., in writing or by e-mail).
- 1.5. In the event that provisions deviating from individual terms and conditions of these Export Terms and Conditions are agreed between FORA and the customer, the validity of the remaining provisions of these Export Terms and Conditions shall not be affected thereby.

2. Contracting, Documents, Contractual Content, Information Obligation of Customer

- 2.1. An offer made by FORA shall always be non-binding, unless it is expressly designated as binding.
- 2.2. FORA reserves the right to make changes and errors with regard to the illustrations and drawings relating to the goods in brochures, advertising literature and price lists as well as the data contained therein, e.g. concerning materials, dimensions, shapes, unless they are expressly designated as binding.
- 2.3. The documents belonging to the offer do not constitute a guarantee of quality or durability.
- 2.4. The customer shall be bound by an order for a period of two weeks from the date of its receipt by FORA.
- 2.5. The contract is concluded either by sending the order confirmation in text form (e.g. by e-mail or in writing) or with the fulfillment of the order, whichever occurs first.
- 2.6. The content of the contract shall be governed by the order confirmation or the documents expressly referred to in the order confirmation.
- 2.7. The customer shall be obliged to inform FORA, prior to the conclusion of the contract, in the event that the goods to be delivered shall not be exclusively suitable for normal use, or shall be used under unusual conditions, or under conditions that constitute a particular risk to health, safety or the environment, or that require an increased level of wear and tear, or in the event that the contract may be associated with untypical possibilities of damage, or with unusual levels of damage, of which the customer is or ought to have been aware.

3. Delivery Times, Obstacles

- 3.1. The delivery period shall be agreed individually or shall be specified by FORA in the order confirmation. If this is not the case, the delivery period shall be approx. 3 weeks from the conclusion of the contract.
- 3.2. In the event that the customer himself has to procure certain documents, such as permits, releases, etc., or to make a down payment, the delivery period shall commence at the earliest at the point in time at which all of the documents to be procured by the customer and/or the required down payment have been received by FORA.
- 3.3. The bindingly agreed delivery period shall be deemed to have been complied with if, by the time of its expiry - depending on the agreed method of delivery - the goods have left the warehouse or FORA has made the goods available to the customer and notified the customer that they are ready for dispatch.
- 3.4. In the event that FORA is not able to comply with binding delivery periods for reasons that are beyond the control of FORA and that FORA has not been able to foresee at the time of the conclusion of the contract, or which FORA has not been able to avoid or overcome ("Obstacle"), FORA shall inform the customer of this without delay, and shall inform the customer of the anticipated new delivery period at the same time. In the event that FORA is also prevented from rendering performance within the new delivery period, FORA shall be entitled to cancel the contract in whole or in part; any consideration already paid by the customer shall be reimbursed by FORA without delay. The following shall in particular be deemed to be an Obstacle in this sense
 - a) the failure of FORA to deliver to itself in a timely manner, despite having placed an order in due time, or if neither FORA nor its supplier has any influence on the reason for the impediment;
 - b) force majeure, e.g. mobilization, war, acts of terrorism, riots, epidemics, pandemics or similar events (e.g. unauthorized strike) and official orders based thereon; or
 - c) viruses and other attacks by third parties on FORA's IT system, insofar as such attacks occurred despite compliance with the customary care required for appropriate protective measures.
- 3.5. The existence of a breach of contract due to a delay in delivery shall be determined in accordance with the statutory provisions. In any case, however, the customer must issue a notice with an appropriate deadline; delay will start only at the deadline.
- 3.6. In the event of a breach of contract due to a delay in delivery, FORA's liability for damages shall be limited to 0.5% of the net order value of the delayed goods for each full week of delay, but not more than 5% of the net order value of the delayed goods. If the customer claims damages in the aforementioned cases in addition to the avoidance of the contract, this claim for damages shall be limited to 10% of the net order value. The limitation of liability according to the above sentences 1 and 2 shall not apply in case of intent or gross negligence, nor in case of injury to life, body or health.

4. Partial deliveries, partial delays, partial impossibilities

- 4.1. Partial deliveries are permissible and can be invoiced independently.
- 4.2. In the event of a partial delay in delivery or a partial impossibility of delivery, the customer may declare the entire contract avoided and claim damages on that account only if the partial non-performance is a fundamental breach of the contract.
- 4.3. In all other respects, the provisions of Section 3 above shall apply mutatis mutandis to breach of contract due to partial delay in delivery.

5. Delivery, Transfer of Risk

- 5.1. FCA (Incoterms 2020) ex FORA warehouse in Radolfzell applies to delivery and transfer of risk.
- 5.2. If a different delivery clause of Incoterms 2020 has been agreed and if the dispatch is delayed as a consequence of circumstances beyond the control of FORA, in particular at the request of the customer, then the risk shall pass to the customer upon the provision of the goods and upon customer's receipt of the notification of readiness for dispatch; FORA shall, however, be obliged, at the request and expense of the customer, to effect such insurance as the customer may require. The payment obligations of the customer shall remain unaffected thereby.
- 5.3. If dispatch is delayed at the request of the Customer, the monthly storage costs shall be charged to the Customer at 0.1% of the price of the item sold, beginning one month after notification of readiness for dispatch.
- 5.4. Packaging will be charged at cost.

6. Prices, Payment Terms

- 6.1. All prices are quoted in EURO FCA (Incoterms 2020) ex FORA warehouse Radolfzell plus applicable VAT and packaging.
- 6.2. The purchase price shall be paid into the account specified in the invoice without deductions and cost within 20 days of the invoice date; the credit entry to the account shall be decisive.
- 6.3. In the event that payment is not made on the due date, FORA is entitled to charge interest at a rate of 8 percentage points above the base interest rate of the European Central Bank, as of the due date. In this respect, FORA is entitled to suspend the performance of the contract. If the customer has not made the agreed payment within a reasonable grace period, but at the latest within one month of the due date, FORA shall be entitled to declare the contract avoided in whole or in part by declaration in text form and to demand compensation for damages.
- 6.4. Offsetting with counterclaims is only permitted if these are based on the same contractual relationship or have been legally established or are undisputed.
- 6.5. The Customer shall only be entitled to withhold payments due to valid and due counterclaims arising from the same contractual relationship.

7. Retention of Title, Securities

- 7.1. In the event that cash payment or advance payment has been agreed, ownership shall pass to the customer in full upon delivery.
- 7.2. In the event that a retention of title shall not exist at the place of destination of the delivery in accordance with the following provisions, the customer shall provide FORA with another functionally equivalent means of security (e.g. letter of credit or bank guarantee).
- 7.3. In so far as a retention of title is recognised at the destination of the delivery, FORA shall retain title to the goods until the purchase price has been paid in full in accordance with para. 2.5 and 6 (hereinafter referred to as the „Reserved Goods“).
- 7.4. The customer is obliged to treat the Reserved Goods with care, in particular to insure them adequately at replacement value against fire, water and theft damage at his own expense.
- 7.5. In the event of seizure, confiscation, damage and/or loss of the Reserved Goods, the customer shall inform FORA without delay; any breach of this obligation shall give FORA the right to declare the contract avoided. The customer shall bear all the costs that have had to be incurred, in particular within the framework of a third-party action against seizure, in order to successfully lift a seizure, and, if applicable, in order to

successfully recover the Reserved Goods, insofar as they cannot be confiscated by third parties.

- 7.6. In the event that FORA has effectively avoided the contract, FORA is entitled to take back the Reserved Goods provided that FORA has given appropriate notice to the customer threatening to repossess said goods. The cost incurred by the exercise of the right of repossession, in particular for transport, shall be borne by the customer. FORA is entitled to realise the repossessed Reserved Goods, and to satisfy FORA out of the proceeds thereof, provided that such realisation has been threatened in advance with a reasonable period of time. In the event that the proceeds should exceed the outstanding claims arising from the contractual relationship, this surplus shall be surrendered to the customer.

8. Examination, Notification of Non-Conformity

- 8.1. The customer shall inspect the goods or have them inspected immediately after taking delivery.
- 8.2. FORA's liability for any non- conformity of the goods shall lapse, without the customer being able to invoke any excuse in this respect, if the customer fails to notify FORA in text form of this lack of conformity without delay, but at the latest within 3 working days (Saturday is not a working day) after the customer has discovered such non-conformity or ought to have discovered it; the notification needs to precisely specify the nature of the lack of conformity. The lapse of liability is irrespective of what reasons the customer may put forward for the non-observance of these requirements. The customer's notice of non-conformity must have been sent by the customer within the aforementioned period; it is also necessary that the notice sent within the period has actually been received by FORA.
- 8.3. By negotiating a complaint, FORA shall in no case waive the objection of late, insufficient or unfounded notification of non-conformity.
- 8.4. The customer shall in any case lose the right to invoke a non-conformity of the goods if it fails to notify FORA thereof within 12 months at the latest after the goods have actually been handed over to it.

9. Rights in Case of Non-Conformity of the Goods

- 9.1. In the event of a non-conformity of the goods or of the documents, FORA shall be entitled, even after the agreed delivery period, to remedy such non-conformity by repair or - in the event of a material breach of contract - by replacement delivery. The right to refuse performance under the statutory conditions shall remain unaffected.
- 9.2. Claims from legal supplier recourse for consumer purchases are excluded.
- 9.3. The customer shall provide FORA with the time and opportunity required for the subsequent performance owed, and in particular shall hand over the goods that are the subject of the complaint for the purposes of inspection. In the event of a replacement delivery, the customer shall return the defective goods to FORA in accordance with the statutory provisions.
- 9.4. Replacement delivery or repair shall not cause the period pursuant to sec. 8.4 to start anew.
- 9.5. In the event that the customer has set FORA a reasonable period of grace for the performance of the contract, and the performance of the contract has not taken place within this period, or has been unjustifiably refused by FORA, the customer shall be entitled to reduce the purchase price or - in the event of a material breach of contract - to demand the cancellation of the contract. No material breach of contract shall be deemed to have occurred if FORA remedies the breach of contract within a reasonable period of grace set by the customer.

- 9.6. The reduction of the purchase price shall be limited in amount to the damage suffered by the customer.
- 9.7. The liability period for defects shall recommence only for replaced or repaired parts of the goods.
- 9.8. FORA shall be liable for damages on account of non-conformity of the goods only according to the following section 10.

10. Limitation of Liability

- 10.1. FORA shall be liable without limitation for damages arising from injury to life, limb or health that are based on a negligent breach of duty by FORA or on an intentional or negligent breach of duty by FORA's legal representative or vicarious agent, and in the case of liability pursuant to the Product Liability Act and in the case of liability under an express special guarantee.
- 10.2. FORA shall be liable for other damages that are based on an intentional or grossly negligent breach of duty by FORA or on an intentional or grossly negligent breach of duty by FORA's legal representative or vicarious agent. In this case, liability shall be limited to the typically foreseeable damage at the time of the conclusion of the contract.
- 10.3. In all other cases of liability, claims for damages on account of the breach of a contractual obligation shall be limited to the amount of coverage of FORA's insurance in the amount of EUR 5 million. In the event that, in the view of the customer, a higher level of damage is to be expected, FORA shall be entitled, at the request and expense of the customer, to take out higher insurance coverage.
- 10.4. In no event shall FORA be liable for additional expenses, loss of profit, or any other pecuniary loss on the part of the customer.
- 10.5. The limitation of liability in case of delayed delivery according to sec. 3.6 remains untouched.
- 10.6. In all other cases, the liability of FORA shall be excluded.
- 10.7. Insofar as the liability of FORA is excluded or limited, this shall also apply to the personal liability of its employees, representatives and vicarious agents.
- 10.8. The terms "damage" or "claims for damages" in these Export Terms and Conditions also include claims for reimbursement of futile expenses.

11. Limitation Period

- 11.1. In the case of statutory strict liability, in particular under the Product Liability Act and in the case of express special guarantee, the statutory limitation period shall apply.
- 11.2. In the case of damages arising from injury to life, body or health, which are based on a negligent breach of duty on the part of FORA or on an intentional or negligent breach of duty by FORA's legal representative or vicarious agent, in the case of other damages, which are based upon an intentional or grossly negligent breach of duty by FORA or upon an intentional or grossly negligent breach of duty by FORA's legal representative or vicarious agent, as well as in the case of damages which are based upon an intentional or negligent breach of essential contractual duties arising from the respective contract by FORA or its legal representative or vicarious agent, the statutory warranty period shall likewise apply.
- 11.3. In all other cases, the warranty period shall be one year from the transfer of risk.

12. Financial Deterioration

- 12.1. If the customer's assets deteriorate after the conclusion of the contract, the provisions of the UN Convention on Contracts for the International Sale of Goods shall apply without restriction.

12.2. The same shall apply in the event that, after the conclusion of the contract, FORA should become aware of facts that give rise to justified doubts as to the solvency or creditworthiness of the customer, unless the customer can prove that these facts were already known to FORA at the time of the conclusion of the contract.

13. Intellectual Property Rights

13.1. In the case of the delivery of goods that FORA shall manufacture in accordance with plans, drawings, models or other information provided by the customer, FORA shall not be liable for the infringement of third-party industrial property rights. The customer shall indemnify FORA against the claims of third parties.

13.2. FORA warrants that the goods shall not infringe any third-party property rights in Germany. In the event of the infringement of third-party property rights, FORA shall be liable only in accordance with the statutory provisions. In no case of infringement of third-party property rights shall FORA compensate the customer for lost profits.

14. Place of performance, place of jurisdiction, applicable law, severability clause

14.1. The place of performance for deliveries and payments is Radolfzell, Germany.

14.2. The place of jurisdiction for all rights and obligations of the parties arising from transactions of any kind shall be the registered office of FORA. FORA shall also be entitled to bring an action against the customer before the court having jurisdiction over the registered office of the customer.

14.3. The United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11.04.1980, in the English-language version, shall apply exclusively to these Export Terms and Conditions and to the entire legal relationship between FORA and the customer. Legal questions which are not regulated in this Convention or which cannot be decided in accordance with its principles shall be governed by German law.

14.4. Insofar as individual provisions of these Export Terms and Conditions are invalid or unenforceable, the remaining provisions shall remain valid. Insofar as there is a gap in the contract, the parties shall fill it with a provision that comes closest to the economic purpose of the contract, taking into account the mutual interests of the parties.