

GENERAL TERMS AND CONDITIONS OF SALE

Section 1 GENERAL PRINCIPLES

The present terms and conditions of sale apply integrally to all sales made by SURFORMA, SA Company (hereafter called “SURFORMA”).

They take precedence over all general purchasing conditions or all other documents emanating from the client, regardless of their terms.

All orders sent to SURFORMA imply the unreserved acceptance of SURFORMA prices and of the present terms and conditions of sale.

All other conditions emanating from the client (provided that these do not contradict the present clauses) will only be considered valid if they have been accepted by SURFORMA beforehand and expressly.

The fact that SURFORMA does not invoke one or another of the present terms and conditions of sale at a given moment may not be interpreted as constituting renunciation of the possibility to later invoke any of the said terms and conditions.

The information about the products included in website, products catalogues and sales brochures, and more generally in any advertising and promotional material, shall be of an indicative character and consequently shall not commit SURFORMA who therefore retains the ability to change all or part of the items and elements featured therein.

Section 2 APPLICABLE LAW – RESOLVING DISPUTE

The sales made by SURFORMA – and more generally the commercial relationships existing between SURFORMA and the Client – are governed by the provisions of Portuguese law.

It is expressly specified that any dispute of whatever nature related notably to the validity, the performance or the opposability, or the interpretation e of the present terms and conditions of sale shall be exclusively submitted to the courts having jurisdiction in the location of SURFORMA headquarters, to which the parties expressly grant competence, unless SURFORMA prefers referring the matter to another competent jurisdiction.

This clause is applicable even in event of a ruling in chambers and notwithstanding multiple legal proceedings or defendants, or introduction of third parties and regardless of the mode and modalities of payment as accepted in the conditions hereafter set out by SURFORMA.

Section 3 ORDERS

3-1 Placing orders

Order will be sent by the client to SURFORMA in writing, particularly by fax, by mail or by post.

The client must accurately describe the characteristics of the desired products and, more generally, indicate in his order all necessary elements to allow SURFORMA to analyse the order and notably, references of the products quantity, desired delivery date, prices...

SURFORMA will confirm the order in a writing reply

The order will be considered **to be firm and definitive** only after the written confirmation of the order by SURFORMA

SURFORMA has no obligation to accept an order from the client and may refuse to sell the products for any reason, including the unavailability of the products, the quantity of products ordered or the insufficient coverage of the client in consideration with the SURFORMA's receivable risk management account. Refusal may not be given as grounds for the payment by SURFORMA of damages to the client.

3-2 Order modifications or cancellations:

Except in cases of force majeure, no purchase order may be cancelled, totally or partially, or, in more general terms, modified by the client when the said order is being confirmed by SURFORMA, unless SURFORMA agrees thereto in writing. Client shall bear any prejudicial consequences undergone by SURFORMA in relation with the said cancellation or modification, in particular regarding costs of repackaging products.

3-3 Personal order

The benefit of the purchase order is personal to the client and cannot be transferred without SURFORMA's prior written consent.

Section 4 CHANGES IN PRODUCTS, PRICE LISTS AND TERMS & CONDITIONS OF SALE

SURFORMA reserves the right at any time – in particular considering market fluctuations - to change its products, price lists or terms and conditions of sale in any way, subject to the supply or distribution agreements concluded by SURFORMA with his contractors, who would specifically define the regime of these modifications.

Such changes may affect an order to which the parties have agreed and which is consequently being processed if the general or specific environment concerning the order justifies such changes (in particular development of the legal and regulatory backdrop, increase in taxes and duties of any nature, increase in production and transportation costs).

Section 5 DELIVERIES

5-1 Terms of delivery:

The products will be delivered as per the FCA Incoterm CCI version 2010 to SURFORMA's principal place of business or any other location designated by SURFORMA, except where stipulations to the contrary exist.

The delivery will thus be considered to have been carried out at the time the products are made available at the said place, before loading. It is agreed that the client will load the products at his own risk and costs.

SURFORMA shall have the right to split the delivery or to deliver the products ordered globally, without any indemnity due to the client.

SURFORMA has the right to complete the customer's order with a variation in quantity of plus or minus 5% compared to the quantity initially ordered by the customer.

Each delivery will give rise to the establishment of a delivery slip defining, the delivery date of the products ordered and their designations and quantities. Each delivery slip will necessarily have to be signed by the client or its authorized agent at the delivery of the products ordered.

5-2 Collection of the products

Client shall take possession of products ordered at the place, date and time as indicated by SURFORMA. Before delivery, the client shall take all measures in order to ensure that the collection is carried out with all the security required, and more generally, insure that this operation will be carried out as effectively as possible, considering the means specified by SURFORMA

The client shall indemnify SURFORMA of the whole charges possibly incurred by SURFORMA and damages that may be suffered by SURFORMA – directly or indirectly due to the late collection by the client of the products ordered (notably invoicing of the storage costs) – notwithstanding the right for SURFORMA, at its own discretion, to cancel the concerned order, at the exclusive fault of the client.

If the client refuses, or fails to collect the products made ready for delivery in accordance with the order or fails to take every step necessary for the collection of the products at the agreed delivery date, SURFORMA will be entitled to:

- Invoice the price of the products without delivering them and the storage costs to the client, and/or,
- Terminate the purchase orders, allowing SURFORMA to dispose of the products as it desires and to recover from the client any loss or additional expenses resulting from this refusal or failure.

If SURFORMA notifies the client that the products are ready for delivery and the client asks that collection be suspended, delayed or carried out in installments, the price of the products will be immediately due.

SURFORMA shall not be liable for any deterioration of the products made ready for delivery to the client, when the client has not collected the products in due time.

The client will be invoiced for any costs or expenses arising where SURFORMA has, at the request of the client, organized the transportation of the products. Such requests by the client are subject to prior acceptance by SURFORMA. SURFORMA will not be held liable for any changes resulting out of, or in connection with, such transportation and the organization thereof.

5-3 Transfer of risks

As from the date of delivery – as defined by the Incoterm CCI applicable – the products will be in the care of the client, who must bear all risks which they may suffer or to which they are subject, for any reason whatsoever, even in cases of force majeure or acts of a third party.

The client will take out an insurance policy for the benefit of SURFORMA, covering risks related to the products as from the transfer of the risks until the transfer of ownership. He must demonstrate payment of the premiums immediately upon request from SURFORMA and inform the latter at the earliest opportunity of any events likely to affect the insurance policy.

5-4 Delivery lead times

SURFORMA will make every effort to deliver the products to the client within the lead time agreed on the order confirmation by SURFORMA.

Nevertheless, delivery lead times are given for information purposes only, and are purely indicative and cannot give rise to damages, penalties or cancellation of orders. In addition, delivery lead times are dependent on the receipt, in due time, by SURFORMA of all the information required from the client.

5.5 Force majeure

Force majeure or events beyond a reasonable control of SURFORMA release SURFORMA, at his discretion - temporarily or definitively - from any commitment to deliver, without this giving rise to compensation for the client. The following events constitute such a situation, the list of which is, however, non-exhaustive:

- Destruction affecting all or part of SURFORMA's facilities.
- Serious public disorders, wars, strikes, riots, government actions, epidemic, blocking of means of transport and communication.
- Natural catastrophes, cold snaps or similar.
- Technical unavailability, being out of stock and any delays on the part of SURFORMA's suppliers.

and, at a more general level, all events or external causes beyond SURFORMA's control, hindering and/or stopping SURFORMA's supplies and/or deliveries or those of his suppliers, service providers, and/or sub-contractors, and preventing SURFORMA in good faith from carrying out delivery of wines ordered.

5.6 Packing and packaging:

The products ordered are supplied packaged by SURFORMA, in particular with regards to the type of transportation stipulated in the order. Packing and Packaging are considered by the client relevant to protect the integrity of the ordered products - the client consequently releasing SURFORMA from any proceedings taken against him on this basis.

Within the scope of the order placed by the client, SURFORMA may, at the client's request, be led to place labels on products – and more generally on packaging – that may prove necessary for the client to market the said products (on territories of destination). The said labels will be supplied either by SURFORMA or the client, to their prior agreement.

Section 6 CONFORMITY – ACCEPTANCE

6.1 Reservations:

On delivery, (see article 5.1 hereof), client shall check the nature, state, quantity, and more generally, whether the products delivered comply to the contents of the relevant order.

It is specified that:

- The products are checked by SURFORMA prior to delivery. As a consequence, the products delivered by SURFORMA are considered suitable and free from defect and the client shall prove
- In addition to the existence of the non-conformity – that it is due to SURFORMA.
- For products that are not in SURFORMA catalogues, for derivative products or special products, a tolerance in the quantity of the products delivered shall apply to the quantity of products ordered as follows. The tolerance is agreed by the client to be set to a maximum of 10 % between the quantity of products ordered and the quantity of the products delivered and applies for a maximum of twenty (20) laminates or compact boards. This tolerance being accepted by the client, being understanding that any delivery complying with this tolerance could not lead to any reservation by the client or indemnification of the client.
- In every circumstance, any reservation or contestation concerning the conformity of the products must:

at the reception of the products, be expressly mentioned by the client on the delivery slip kept by the transporter together with the date, time and signature of the consignee. More generally, the client must preserve, in the time and the form required by the regulation in force, the rights and actions against third parties in charge of the transportation of the products ordered,

and must be confirmed in writing to SURFORMA with proven receipt, within a period of 7 calendar days as from receipt of the products. More Generally, the client shall supply any justification concerning anomalies that were noted and take all the necessary steps for SURFORMA to be able to check this out, and if need be, to remedy this situation.

The client must prove the existence of shortcomings in addition to any faults concerning the products. SURFORMA reserves the right to carry out any verification on-site. The client agrees to allow SURFORMA or any person duly authorized by SURFORMA total liberty to carry out any verifications and/or inspections which he considers necessary and enables unimpeded access to SURFORMA to do so.

Only SURFORMA or any person duly authorized by SURFORMA may carry out these inspections and verifications.

6-2 Return of the products

No return of the products will be accepted unless this return has been expressly approved beforehand by SURFORMA.

Any product returned without SURFORMA's consent is done so at client's expense and risk and shall not give rise to any credit. The client shall compensate SURFORMA for all costs borne by the SURFORMA, together with any damages possibly suffered by SURFORMA, either directly or indirectly, arising from such unauthorized return.

Any request for returning a product shall be made by the client within a period of thirty (30) days as from the discovery of the nonconformity affecting the products.

Within the scope of any request for returning a product supposed by the client to be defective or non-compliant, the concerned product shall be put by the client – pending the upcoming decision to be taken by SURFORMA – at SURFORMA's disposal in the client's premises. The client shall provide SURFORMA with any information and justification concerning the alleged defect or non-compliance – the client having to allow SURFORMA and take all steps necessary for SURFORMA to check for himself, or via anyone SURFORMA decides to be substituted to this end, the state of the product alleged to be defective or non-compliant.

In this respect, the client must not intervene himself or recourse to a third party to this end and shall take all the necessary steps to preserve the integrity of the alleged defective or non-compliant product. The client shall also, at SURFORMA's demand, return the concerned products, with all risks, charges, and costs of transportation being borne by the client.

Should these conditions not be observed, the liability of SURFORMA may not be invoked.

Section 7 LIABILITY

SURFORMA guarantees to supply products in compliance with current regulations and with the characteristics described by SURFORMA for each product in question. Thus, SURFORMA guarantees client that the products ordered are of fair marketable quality.

This guarantee is only given in respect of Portuguese and EU regulations ([Directive 2004/38/EC](#), EN 438), SURFORMA's instructions in terms of storage, transportation, use of the products, and general recommendation.

Surforma has published on its website the Limited Warranty for a period of one (1) year from the date of sale, and the conditions of its applicability.

It is notably reminded that the Laminates and Compacts are only to be used for temperate regions. This guarantee could not so apply to products sold and stored in non-temperate regions.

SURFORMA's commitment is restricted to this guarantee of compliance. In addition, SURFORMA does not guarantee:

- compliance of labels – and, at a more general level, any indication – applied by SURFORMA at client's request
- non-violation of rights owned by third parties, in particular intellectual property rights.

In particular, it is up to client exclusively to respect the compliancy of characteristics and elements relating to the nature and qualities of the products ordered, to standards applicable on the territory where the ordered products are to be used and/or sold, and he shall be solely responsible on this score.

In the eventuality of products not being compliant, and insofar as it has been definitively recognized that such compliancy is SURFORMA's exclusive responsibility, this shall be strictly limited – at SURFORMA's discretion – to the obligation:

- To replace non-compliant products by identical or similar products or,
- To carry out refund of the price paid by client to SURFORMA for non-compliant products without the client being able to claim any compensation, damages or termination/cancellation of the order from SURFORMA or, issue a credit note as settlements of all accounts.

Section 8 PRICES

Invoices will be drawn up based on the price applicable on the day of the confirmation of the order by SURFORMA. Prices are expressed EX-WORKS to the place of delivery as indicated by SURFORMA to the client (cf. section 5 above), except where stipulations to the contrary exist.

The price charged by SURFORMA for the products is exclusive of all taxes, including national and local sales, use or value-added taxes, customs duties, withholding taxes or similar charges imposed by any governmental entity after the products has been delivered in conformity with section 5 above.

The accounting and payment currency will be indicated on the confirmation of the order and on the invoice.

Section 9 PAYMENT

9-1 Payment terms:

For initial orders with new clients, payment shall be made in advance.

The payment terms are set at thirty (30) days after the date of delivery, except in the event that special conditions expressly apply.

The payment terms shall only apply as long as the client is eligible for coverage under SURFORMA's receivable risk management account.

9.2 Means and place of payment:

The invoices will be paid by cheque, recovered bill of exchange, documentary letter of credit, or bank transfer. The invoices are payable to the principal place of business of SURFORMA.

9.3 Discounts:

A discount can be negotiated associated with the customer's general payment condition or a specific discount associated with a specific product and/or order.

SURFORMA's products are invoiced to the client without the application of any other discount, except in the event that special conditions expressly apply. In particular, no discount is allowed for early payment.

9.4 Down-payment:

Any down-payment made by the client to SURFORMA shall be retained by SURFORMA in case of cancellation of the order by the client.

9.5 Moment of effective payment:

The payment is considered to have been made when the funds are made actually available to SURFORMA.

9.6 Non-payment – Late payment:

Any amount not settled on the due date automatically gives rise to the application of:

- penalties for late payment calculated on the basis of outstanding sums at a rate equivalent to three times the Portuguese legal interest rate currently in force. These penalties accrue from the day following the date of settlement indicated on the invoice until full payment thereof and/or,
- a lump sum compensation to the amount of **€100** per unpaid invoice for collection costs. When the collection costs incurred by our company are greater than the amount of this lump sum compensation, SURFORMA may ask for additional compensation against the relative vouching documents.

If an invoice has not been paid by its payment due date, even partially, SURFORMA reserves the right to demand:

- The payment in full of all sums remaining due, regardless of the payment method concerned, and/or,
- The suspension of all orders underway and/or,
- The cancellation of the order concerned by the non-payment and of all the orders made by the client. In these circumstances – as said in section 9-4 – SURFORMA shall retain any down- payments made by the client to SURFORMA; and/or,
- All guarantees, as for example a bank guarantee, to the client and/or,
- The compensation of the unpaid invoice with the sums that may be owed - by SURFORMA to the client.

Moreover, all the charges necessary to applying these measures will be at the exclusive cost of the client.

Any deduction and/or compensation from the client are expressly excluded, except in the case of SURFORMA's prior, written consent.

Section 10 RESERVATION OF TITLE CLAUSE

The products sold by SURFORMA will only become the property of the client after payment in full of the sums owed by the latter, including the price for related services such as transport charges when these are due.

When requested to do so by SURFORMA, the client must demonstrate that he has taken out an insurance policy covering among other things fire, explosion, theft, water damage, machine breakage risks, and also covering all goods necessary to carrying out his activity including products of which he is not the owner. He agrees to maintain this cover until the ownership of the products sold is transferred to him.

Up to the moment that ownership is transferred, the client must ensure the satisfactory conservation of the means of identification attached by SURFORMA to the packaging in which the products are delivered, in conformity with the wording of the sales documents. SURFORMA reserves the right to verify by any means of its choice that the client is conforming to the above obligations, without the latter being able to contest such verifications.

The client agrees to inform SURFORMA of any fact liable to compromise its right of ownership.

The client is required to use any legal/judicial method to oppose any claims that third parties may make with regard to the products sold by means of seizure, confiscation or equivalent procedures. He must inform SURFORMA of this at the moment such facts are known to him, to enable the company to protect its interests.

In the event of the client's assets being used as collateral or security for a pledge, the latter agrees to inform SURFORMA and to provide evidence of the legal situation of the products sold.

Should SURFORMA take back the claimed products, this will oblige the client to make good the losses resulting from the depreciation of the products concerned.

The costs for returning the products such as dismantling, packaging and transportation are at the cost of the client.

Section 11 NON-DISCLOSURE – INTELLECTUAL PROPERTY

The client shall not disclose, disseminate or cause to be disclosed confidential information, communicated by SURFORMA – even if the information is not expressly stated as being confidential – without SURFORMA's written consent to any person other than the client's own employees who need this information. The client shall inform its employees of this confidentiality obligation and shall be held sole responsible in case of breach by its employee of this confidentiality obligation.

It is understood and accepted by the client that no element in the commercial relationship between SURFORMA and client shall enable the client to claim transfer for his benefit or for that of a third party of any right of property or exploitation of all or part of intellectual property rights (regardless of their nature, scope and/or origin) held by SURFORMA with regards to the products ordered and/or related thereto.

Client undertakes to respect rights thus held by SURFORMA and carry out no action liable to violate them and, more generally speaking, violate SURFORMA's interests.

Section 12 PROPERTY OF THE PROMOTIONAL MATERIALS

The promotional materials related to SURFORMA products, delivered to the client for the marketing of the said products, are the exclusive property of SURFORMA. Promotion materials shall be used under the exclusive responsibility of the client, must be well-preserved and returned to SURFORMA at its first request.