

MARCH 2021

**TERMS AND CONDITIONS OF SALE FOR GOODS SOLD BY SIKA SOUTH AFRICA****1. APPLICABILITY OF CONDITIONS**

1.1 All business undertaken by Sika is subject to the conditions hereinafter set out and each condition shall be deemed to be incorporated in and to be a condition of any agreement between Sika and its customer

1.2 Even if these conditions are not signed by the customer, it will be deemed that the customer has agreed to them when accepting delivery of any goods from Sika.

1.3 If Sika and the customer have concluded a Credit Agreement then, to the extent of any inconsistencies between the credit agreement and these terms and conditions, the terms of the credit agreement shall override the inconsistent terms hereof.

**2. PAYMENT**

a) All account customers who have concluded a credit agreement with Sika, shall make payment of all goods purchased from Sika within thirty (30) days from the date of statement. If no credit agreement has been concluded then, payment shall be due on the date of delivery.

b) The account customer shall make payment for all goods purchased from Sika within thirty (30) days from date of statement.

c) In the event of the Customer failing to make payment on due date, the Customer shall be liable to Sika for interest at the rate of 2% per month. Such interest shall be calculated from the due date to the date of payment.

d) All payments due by the Customer shall be made without demand or deduction for any reason whatsoever.

**3. JURISDICTION**

The customer hereby consents in terms of Section 45 of Act 32 of 1944, or any amendment thereof, to the jurisdiction of the Magistrate's Court in any district having jurisdiction over Sika in terms of Section 28 of the aforesaid Act in respect of any Claim arising between Sika and the Customer notwithstanding the amount thereof. Sika, shall however, have the right, notwithstanding the foregoing consent to institute proceedings, at its discretion, against the Customer in any other court of competent jurisdiction.

**4. DOMICILIUM**

The Customer hereby appoints its address as reflected on the face of the invoice as its domicilium citandi et executandi for service upon it of all notices in connection of any claim for any such due to Sika relating to goods sold by Sika to the Customer.

**5. CERTIFICATE**

A certificate by a director of Sika reflecting the amount due and owing by the Customer to Sika in respect of capital and interest shall be sufficient and satisfactory prima facie proof of the facts therein stated for the purposes of all proceedings against the Customer for the recovery of the said amount.

**6. GUARANTEE**

Sika guarantees that all the products which it manufactures shall comply with the technical properties of the product according to the various technical data sheets issued from time to time by Sika. Copies of such data sheets are available on request from Sika. Sika gives no other guarantee either express, implied or tacit of any nature as to the fitness, suitability or performance of the product.

**7. DATA SHEETS**

The information set out in the technical data sheets and leaflets issued from time to time by Sika is of a general nature only and Sika does not assume any responsibility whatsoever for any reliance that is placed thereon by the Customer.

**8. LEGAL CHARGES**

In the event of Sika engaging the services of an attorney to collect any amount from the customer which has fallen due for payment to Sika, then the customer shall be liable for the payment of all expenses incurred by Sika and / or its attorneys, including legal charges between attorney and client (whether formal proceedings are instituted or not), collection charges and tracing fees.

**9. NOVATION**

In the event of Sika concluding any arrangement with the Customer for the payment of any monies owing by the Customer to Sika, such payment shall not constitute a novation and shall not prevent Sika from instituting legal proceedings to recover any monies owing to it by the Customer. Any such payment arrangement shall be entirely without prejudice to Sika's rights to institute legal proceedings against the Customer for all the monies owing by the Customer to Sika.

**10. LIMITATION OF LIABILITY**

Save for the guarantee in clause 6 above (where Sika's liability shall be limited to the replacement or cost of the product), neither Sika nor any of its directors, employees or agents shall be liable for any loss or damage whether direct, indirect, consequential or otherwise suffered by the Customer arising from any cause in connection with any business or transaction concluded with Sika, whether such loss or damage results from a breach of the agreement (whether total, fundamental or otherwise), delict, negligence or any other cause without limitation.

**11. AUTHORISATION**

In the event of the Customer being a partnership, or a Close Corporation, the signatory on behalf of the partnership or Close Corporation hereby warrants that he is duly authorised to conclude this contract with Sika and further warrants that he is duly authorised to accept these terms and conditions.

**12. PARTNERSHIP**

In the event of the Customer being a partnership, the individual partners agree that all partners shall be jointly and severally liable for payment of all amounts due to the Customer by Sika. The partners further agree that their liability to Sika shall be unaffected by any dissolution of the partnership in respect of any goods sold and delivered after such dissolution unless a written notice advising Sika of such dissolution has been duly delivered to Sika.

**13. LIMITED LIABILITY COMPANY**

In the event of the Customer being a limited liability Company, the signatory on behalf of such Company hereby warrants that he is duly authorised to conclude this contract with Sika and to accept these terms and conditions. Such signatory hereby, by his signature on the face hereof, interposes and binds himself as surety and co-principal debtor with the Customer for the due and punctual payment by the Customer of any amount which is now and/or may hereafter of any time and from time to time be or become due by the Customer to Sika.

**14. CREDIT**

Sika shall be entitled, at any time, to withdraw credit facilities extended to the Customer without notice.

**15. ENTIRE AGREEMENT**

The terms and conditions contained herein shall constitute the entire agreement between Sika and the Customer and Sika shall not be bound by any terms or conditions contained in any order form or similar document issued by the Customer and no variation to the terms hereof shall be valid unless reduced to writing and signed by both Sika and the Customer.

**16. OWNERSHIP**

Ownership in any goods sold by Sika to the Customer shall remain vested in Sika until payment in respect of such goods has been made in full.

**17. RISK**

Risk in and to the goods shall pass to the Customer upon delivery or delivery to its agent.

17.1 The customer bears all the risk in and to any goods sold to the customer and of any harm caused by such goods from the time of delivery to the customer or its agent.

**18. DELIVERY**

Unless the customer notifies Sika in writing within ten days of delivery of the product of any defect in the product, then the said product shall be deemed to be in good order and condition as at the date of delivery and no claim shall lie against Sika in respect thereof.

**19. RETURN OF GOODS**

SPECIAL ORDER GOODS AND GOODS WITH AN EXPIRED SHELF LIFE WILL NOT BE ACCEPTED FOR CREDIT. SIKA MAY, BUT IS NOT OBLIGED TO, ACCEPT THE RETURN OF GOODS THAT WERE CORRECTLY SUPPLIED IN ACCORDANCE WITH THE CUSTOMER'S ORDER. IF IT DOES SO, THE FOLLOWING CONDITIONS MUST BE OBTAINED.

- 1) PRIOR AUTHORISATION IS OBTAINED FROM SIKA.
- 2) THE RETURNED GOODS AND ITS PACKAGING MUST BE IN A RESALEABLE CONDITION AS DEEMED BY SIKA.
- 3) THE RETURNED GOODS MUST BE ACCOMPANIED BY PROOF OF PURCHASE IE: DELIVERY NOTE OR INVOICE.
- 4) A 10 PER CENT HANDLING FEE OF THE VALUE OF THE STOCK RETURNED WILL BE CHARGED AND PAYABLE.
- 5) GOODS MUST BE RETURNED TO SIKA WITHIN 7 DAYS OF RECEIPT THEREOF IN ORDER TO QUALIFY FOR A CREDIT.

**SIKA SOUTH AFRICA (PTY) LTD**

9 Hocking Pace, Westmead, P.O.Box · 15408 Westmead · South Africa

Phone: +27 31 792 65 00 · Fax: +27 31 700 17 60 · zaf.sika.com