

04/2021

General Terms and Conditions of Sale

Sika-Poland Sp. z o.o. with its registered office in Warsaw

§ 1 General provisions

1. These General Terms and Conditions of Sale (hereinafter referred to as GTC) specify the rights and obligations of the parties to sale of goods contracts, where the Seller party is Sika-Poland Spółka z ograniczoną odpowiedzialnością with its registered office in Warsaw, ul. Karczkowska 89; 02-871 Warsaw, entered to the Register of Entrepreneurs maintained by the District Court for the Capital City of Warsaw in Warsaw, 13th Economic Division of the National Court Register, under KRS no.: 0000121998, NIP no.: 9510023364, REGON: 010425921, BDO: 000015415, with the share capital of PLN 12,188,000.00 (hereinafter referred to as "Sika" or "Seller").
2. Under the REACH Regulation (Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006) Sika is a "downstream user" in the supply chain.
3. The GTC constitute an integral part of all sale contracts concluded with Sika; however, where the parties agreed on their rights and obligations in the form of a separate written contract the provisions of such a written contract shall prevail and the provisions of these GTC shall apply only to the extent that is not regulated in such a contract.
4. The Buyer shall become familiar with these GTC already before finally agreeing on all material components of the contract, while signing the contract or while placing an order. The GTC are generally available on <https://pol.sika.com/pl/o-nas/OWS.html> and in all Sika branches in Poland.
5. Where the Buyer remains in a permanent commercial relationship with Sika, the Buyer's acceptance of the GTC for one transaction, if no explicit objection is submitted, shall be deemed as acceptance of the application of the GTC for all other sale contracts between the parties.
6. Sika reserves the right to introduce amendments to the GTC.
7. Any and all amendments introduced to the GTC shall be deemed as confirmed if the

Buyer fails to submit a written objection within 7 days of the day of receipt of the GTC or of publication of the GTC on Sika's website - <https://pol.sika.com/pl/onas/OWS.html>.

8. Any deviations from the provisions of the GTC shall be only valid if agreed by both parties in writing with the indication of the provisions of the GTC that do not apply to a given contract.

§ 2 Prices

1. Advertisements and other announcements or information about Sika goods are for information only and do not constitute an offer within the meaning of the Civil Code.
2. Prices specified in the price lists sent to or received otherwise by the contracting parties shall be binding until a new price list is issued. Prices specified in the price lists shall be increased by VAT. If prices are indicated in a foreign currency, the Buyer shall pay their equivalents in Polish zlotys, converted according to the average exchange rate of the National Bank of Poland (NBP) of the date of invoice issue. If the payment is made in a foreign currency, the Buyer shall pay the price being the equivalent of Polish zlotys in the foreign currency, converted according to the average exchange rate of NBP of the date of invoice issue.
3. In addition, the Seller reserves that prices specified in the price lists are prices accepted for sale to large consumers, in wholesale packaging. In the case of sale in quantities other than wholesale, which results, among others, in the necessity to unpack secondary packaging, prices specified in the price lists may be increased by handling costs.

§ 3 Orders

1. A contract shall be concluded on condition that the Buyer accepts Sika's offer and places an order and that Sika confirms the acceptance of said order in writing (or by email). The absence of confirmation of order acceptance by Sika within 3 working days of the day of order receipt shall be deemed as refusal to accept the order. In such a case a sale of goods contract is not concluded.
2. The Buyer declares that prior to submitting a relevant order the Buyer has become familiar with the contents of these General Terms and Conditions of Sale presented by Sika, accepts said contents and undertakes to perform and comply with same.
3. An order shall be deemed as submitted correctly if it has been submitted in writing (or by email) and signed by a person(s) authorised for representing the Buyer or by a person(s) holding a relevant power of attorney. Orders shall be sent to the following email address: zamowienia@pl.sika.com

4. In the case of: (1) submission of a defective order by the Buyer (i.e. inconsistent with the GTC, the framework sale contract, Sika's offer), (2) the Seller's doubts as to the order's content, or (3) the necessity to introduce changes to the submitted order, the Seller shall inform the Buyer about this within 5 working days of the day of order submission, and the Buyer shall modify its order and send it again to the Seller. The submission of a defective order shall not lead to the conclusion of a contract.
5. The Buyer shall append the following documents and information to the order:- legal person: current exemplified copy of the court register data, certificate of the NIP and REGON numbers,- partnership operating under the Code of Commercial Partnerships and Companies: current exemplified copy of the National Court Register data, certificate of the NIP and REGON numbers,- partnership operating under the Civil Code: current exemplified copies of the business register data regarding each partner, certificate of the NIP and REGON numbers,- natural person being an entrepreneur: current exemplified copy of the business register data, certificate of the NIP and REGON numbers – in the case of public investment projects the order shall contain information about the project owner.
6. Sika accepts orders for goods from Monday to Friday between 8 a.m. and 4 p.m. Orders placed after 12 p.m. shall be deemed as submitted on the following working day. The list of Sika offices is available on <https://pol.sika.com/pl/kontakt-formularz/kontakt.html>
7. An order may be cancelled or modified only on the day it is submitted before 12 p.m. and in the case of an order submitted after 12 p.m. – before 10 a.m. on the following day.

§ 4 Delivery of goods, costs of transport and insurance

1. Matters related to delivery of goods, costs of transport of goods to the Buyer shall be executed in accordance with the applicable rules of EXW (Ex Works) under Incoterms 2020. Sika accepts the possibility to apply, in the form of a separate written agreement (contract) with the Buyer, solutions related to risk transfer, delivery of goods, costs of transport and customs duties in accordance with Incoterms 2020 for the delivery of goods and services to the agreed place of delivery: DAP (Delivery At Place) in the European Union, DDP (Delivery Duty Paid) outside the European Union.
2. Goods under the contract may be issued only to the Buyer's representative holding a written authorisation for goods collection issued by a person authorised for representing the Buyer and bearing a company stamp. Where said representative has already collected goods on behalf of the Buyer, it shall be assumed that said

representative is authorised for collecting also each successive lot of the goods, also from a different transaction, unless the Seller is notified in writing of withdrawal of the relevant authorisation.

3. The Parties hereby set the rule that the goods shall be collected by the Buyer with the Buyer's own means of transport, unless the Parties decide otherwise in a separate agreement (contract). Collection of goods (upon prior determination of the place and date by both Parties) by the Buyer shall be understood as: (1) Sika's making goods available to the Buyer and the Buyer's or the entity's acting on the Buyer's commission commencing first goods loading activities; (2) or Sika's or the entity's acting on Sika's commission commencing first goods loading activities for the purpose of transporting the goods to the place indicated by the Buyer. It is hereby acknowledged that the risk related to an accidental loss or damage of the goods shall pass on to the Buyer on the moment of collection of the goods.
4. Where Sika provides the transport of the ordered goods (upon prior determination and acceptance by the Parties), the goods shall be issued at the place indicated by the Buyer, with the Buyer's ensuring the unloading activities and bearing the liability therefor and the costs thereof. On the moment of commencement of unloading, the risk of accidental loss or damage of the goods shall pass on to the Buyer. Prior to commencing the unloading, the Buyer shall sign the relevant collection documents, which shall be the condition for the issue of the goods under the contract.
5. The person collecting the goods on behalf of the Buyer shall check the correctness and completeness of the goods loading, collect the package of transport-related documents, and know the regulations of the carriage of goods covered by the ADR classification.
6. Unless agreed separately with the Buyer, the Seller shall specify the type and manner of goods packaging (standard packaging of the Seller).
7. From the Seller's making the goods available to the Buyer on, the Buyer may insure the ordered goods both: (1) from the moment they are made available by the Seller to their collection by the Buyer, and (2) to the place of delivery located in the Republic of Poland or a different place in or outside the European Union, indicated in the order or in the GTC, unless the address of the Seller's plant is indicated as the place of delivery.
8. The costs of transport and insurance, if any, at the Customer's request, referred to in § 4 par. 7 of the GTC, shall be borne by the Buyer, unless a different rule results from a separate agreement (contract) between the Seller and the Buyer.
9. The price of transport and insurance, if any, is denominated in Polish zlotys ("PLN") or

euro ("EUR") in accordance with the content agreed in the order confirmation.

10. The transport price list for entrepreneurs is available on <https://pol.sika.com/pl/o-nas/cennik.html>

§ 5 Transport, delivery time-limits

1. The Buyer's bringing a vehicle on a date and time that are inconsistent with the order confirmation might cause the necessity of parking. The cost of parking shall be covered by the Buyer.
2. In the case of a delay in the goods collection by the Buyer Sika shall have the right to charge the Buyer with an additional fee for the storage of uncollected goods. The cost of storage of uncollected goods shall be covered by the Buyer.
3. Where Sika organises the transport, the carrier shall have the right to refuse to drive to the place of unloading if there is risk of damage to the goods or to the means of transport. In such a situation the carrier may demand a written declaration from the Buyer of assuming full legal and financial liability for any and all damage of the carrier or for the damage to the carried goods. If the Buyer refuses to make said declaration, the goods shall be deemed as having arrived in the indicated place in a timely manner.
4. If Sika cannot provide the service as a result of force majeure, the Buyer shall not be entitled to any claims for redress of damage arising from the non-performance or untimely performance of the contract. Events defined as force majeure shall include in particular disturbances in the production plant operation for which Sika is not responsible, restrictions caused by a government order, a natural disaster, strikes, roadblocks etc.

§ 6 Payment terms

1. The Buyer shall pay the price within the time-limit specified in the contract or in the invoice and if the payment time-limit is not specified in the above manner – within 14 days of the invoice issue date.
2. The Seller shall issue a VAT invoice in respect of the concluded transaction on the goods collection date.
3. Where the goods are delivered in return packaging, the Buyer shall be charged with the costs of the return packaging.
4. Where the Buyer's order covers a low quantity of goods, Sika might add a fee for the preparation and packaging of goods to the price. The Customer shall be informed about the fee and its amount when placing an order or in the order confirmation.
5. The day on which Sika's bank account is credited with the relevant amount shall be deemed as the day on which the payment is made.

6. Submission of a complaint as to the quantity or quality of the received goods shall entitle only to withholding the payment for the goods that were not delivered or whose quality is challenged and only until the moment of receiving the Seller's reply acknowledging or rejecting the submitted complaint.
7. The Buyer shall not have the right to set off or assign claims unless Sika's consent is given, which shall be only valid if prior and written.

§ 7 Performance security

1. Pursuant to a request for trade credit Sika shall determine the amount thereof and the form of credit security. The amount of granted trade credit limit shall depend on the type of the provided security. While processing the request for trade credit, Sika shall have the right to require the Buyer to produce documents that confirm its present financial standing. The procedure of granting trade credit shall apply accordingly to the Buyer's submission of a request for increasing the trade credit limit. Any and all information concerning the Buyer's financial standing received in connection with granting or increasing the trade credit limit shall be regarded by Sika as confidential.
2. Sika shall have the right to change the amount of the trade credit granted to the Buyer and change the payment time-limit specified in the invoices based on an ongoing analysis of the turnover with the Customer and the course of the mutual cooperation.
3. Should the Buyer exceed the trade credit limit (if the trade credit is not granted or if a delay in payment of any VAT invoice exceeds 5 days), any and all Sika's claims for payment of the price for the sold and ordered goods shall become immediately due and payable if the Buyer on the elapse of an additional time-limit specified in the demand fails to pay the amount that is appropriate for complying with the trade credit limit or for paying all amounts from the due and payable VAT invoices.
4. In the case referred to in par. 3 Sika shall have the right to withhold the processing of subsequent orders without being held liable for improper performance of the contract.
5. In each case Sika shall have the right to make the sale dependent upon the Buyer's paying a certain amount as an advance towards the amount receivable for the goods being bought or paying the whole amount receivable for the goods being bought.
6. In particularly justified cases where between the contract conclusion and the goods issue Sika is in reasonable doubt as to the Buyer's capacity to pay the full price for the goods being bought within the time-limit, Sika shall have the right to make the goods issue dependent upon the payment of a certain part of the amount receivable or of the whole amount receivable already before the payment time-limit specified in the invoice or even prior to the goods issue.

§ 8 Producer's warranty and statutory implied warranty

1. Sika warrants that on the moment of delivery the goods meet all technical and quality parameters described in the product data sheet. Sika shall be liable under statutory implied warranty for the period of 12 months counted from the date of goods issue to the Buyer (statutory implied warranty term) on condition of complying with the goods expiration date declared on goods packaging and using the goods in line with its intended use and the conditions specified in product data sheets and only in accordance with the rules specified in these GTC. Any further liability in respect of statutory implied warranty shall be excluded.
2. In order to preserve the entitlements arising from the statutory implied warranty the Buyer shall, immediately upon collecting the goods under the contract (no later than 2 days after the goods collection date), examine the goods as to their conformity with the type specified in the agreement or in the invoice and with their proper quality. If possible, the above examination shall take place in presence of a Sika representative.
3. If any defects of the goods under the contract are detected, the Buyer shall notify Sika in writing immediately, no later, however, than 2 days after the date of their detection, and in any case no later than 4 days after the goods collection date. Any delayed complaints shall not be considered. In order to comply with the complaint time-limit, a notice shall be sent to Sika by fax or by email and simultaneously by registered letter prior to the elapse of said time-limit.
4. Any hidden defects which might become manifest only during the performance of work with the use of the goods under the contract shall be notified to Sika within 10 days of the date of their detection.
5. The Buyer shall examine the delivered goods in terms of quantity immediately upon the delivery in presence of a Sika representative, who may be the driver delivering the goods. The noticed quantity-related defects shall be recorded in the document confirming the goods collection and confirmed by the signatures of the representatives of the Buyer and Sika. Quantity-related complaints shall be submitted on goods collection or otherwise the right to pursue them at a later date shall be forfeited.
6. When notifying any defects of the goods under the contract, the Buyer shall make the challenged goods available to a Sika representative for examination (also where they have been already used for performing certain works) in order to determine whether the submitted complaint is justified, including in order to examine whether the goods under the complaint were used in accordance with their intended use and in particular with the information included in the product data sheets.

7. Following the examination of the goods under the complaint by a Sika representative, a relevant record shall be prepared, in which the Sika representative shall include their comments, in particular whether they grant the submitted complaint and if yes – to what extent. The Buyer's representative shall also sign the record and include their comments, if any, as to the reasonability of the result of the examination performed by the Sika representative.
8. Where the complaint proves justified, Sika might at its discretion: - reduce the price in line with the value of the detected defect if despite the defect the delivered goods are fit for use, - replace the defective goods for goods free of defects, at Sika's expense and risk, - if replacement is impossible due to the earlier use of the goods under the complaint for construction work, Sika shall deliver goods free of defects to the Buyer in a quantity that is necessary for performing possible correction work.
9. Subject to par. 10 below, the Buyer shall not take any measures aimed to remedy the defect or damage without Sika's consent.
10. The Buyer shall take any possible measures to minimise possible damage related to the use of the defective goods. Sika shall not be held liable where such measures were not taken regarding the damage, which could have been mitigated if the Buyer had taken certain measures.
11. Sika shall deliver goods free of defects to the Buyer within a reasonable time-limit, which depends on Sika's capacities and the Buyer's needs.
12. Sika shall not be held liable for defects of goods or damage arising from the Buyer's failure to comply with Sika's recommendations as to the storage, use or expiration date of the bought goods.
13. Sika shall not be held liable where the Buyer grants its customer broader entitlements in respect of producer's warranty or statutory implied warranty.
14. Statutory implied warranty shall be granted to the Customer on condition that the Customer complies with all the conditions specified in par. 1-13 above.
15. Notwithstanding the entitlements related to statutory implied warranty, Sika may grant a producer's warranty for the sold goods to the Buyer. The producer's warranty term shall be counted from the date of sale. The terms and conditions of producer's warranty, if any, shall arise from the content of a separate declaration submitted by Sika only in writing.
16. The contents of Sika's advertisements shall not be regarded as a producer's warranty declaration.

§ 9 Liability, rescission of order and return of goods

1. Should the goods under the contract not be collected for reasons attributable to the Buyer, Sika may, upon setting the Buyer an additional, at least 7 days', time-limit for goods collection, rescind the agreement in the part related to the sale of the uncollected goods.
2. In the case of a delay in goods collection by the Buyer Sika shall have the right to claim a contractual penalty from the Buyer in the amount of 0.1% of the gross value of uncollected goods for each day beyond the 14th day of the delay. In addition, Sika shall have the right to claim damages exceeding the amount of the stipulated contractual penalty.
3. Should Sika rescind the contract for the causes described in par. 1, Sika shall have the right to demand that the Buyer pay a contractual penalty in the amount of 10% of the gross value of the goods regarding which Sika rescinded the agreement. In addition, Sika shall have the right to claim damages exceeding the amount of the stipulated contractual penalty.
4. In the case of a delay in order completion attributable to Sika, Sika shall pay the Buyer a contractual penalty in the amount of 0.1% of the net order value for each day of qualified delay, not more than 1.5% in total of the net value of the whole order.
5. Returns of ordered goods shall be excluded unless Sika decides otherwise, with such a decision being only valid if in writing. Should Sika give its consent to the return of the ordered goods, the goods to be returned shall be settled at the end of the month when the goods were returned and the Buyer shall pay Sika a contractual penalty in the amount of up to 10% of the gross value of the goods to be returned. Where the Buyer has already paid the price for the goods to be returned, the contractual penalty referred to in the above sentence shall be deducted from the amount receivable by the Buyer in respect of the return of the paid price for the goods to be returned, to which the Buyer hereby agrees.
6. In each case Sika shall be liable only on the basis of contractual liability for actual damage inflicted by Sika by willful fault. Sika's liability in respect of loss of benefits shall be excluded. To the extent permitted by the provisions of the applicable Polish law, claims against Sika for redress of damage in respect of tort shall be excluded.
7. Sika's liability to the Buyer in all possible respects shall be limited to the amount being an equivalent of the defective goods or of the goods which have not been delivered due to Sika's qualified delay.
8. Sika shall not be held liable for the use of the goods in a manner that infringes on third

party rights related to intellectual or industrial property.

§ 10 Use of goods

1. Information, and in particular recommendations, as to the action and end use of Sika products are provided in good faith, taking into account the state of the art and Sika's experience and refer to products that are stored, kept and used in accordance with the recommendations provided by Sika.
2. Due to the diversity of materials, substances, conditions and manners of their use and placement, which occurs in practice and lies completely beyond Sika's control, the product properties provided in the data, written recommendations and other guidance given by Sika shall not be the ground for Sika's liability in the case where products are used in contravention to the recommendations given by Sika.
3. The product user shall use the product in accordance with its intended use and the recommendations given by Sika.
4. In the case of a change in the conditions of application, such as type of substrate etc., always take advice from Sika's technical services already before commencing the use of Sika products.
5. The information and advice or any recommendations or guidance given by Sika shall not relieve the product user from the obligation to perform tests in the intended use and purpose.
6. The advice from Sika's technical services refers only to a specific product or products and the specific application thereof and is based on laboratory tests, which will not act as a substitution for practical trials. Sika's giving any information, recommendations, guidance or advice shall not be deemed as Sika's assuming any liability for the application of the products and as Sika's supervising or approving the application of the products and shall not mean that the application of the products has been performed correctly.
7. Users shall comply with the requirements included in the current product data sheet of the product to be used. Sika shall deliver a copy of the current product data sheet to the user at request.
8. Declarations of Performance are available on
<https://pol.sika.com/pl/dokumenty/DoP.html>

§ 11 Final provisions

1. The provisions of these General Terms and Conditions shall apply to all sale and supply contracts concluded by Sika. The Buyer shall not invoke unfamiliarity with these Terms and Conditions upon affixing its signature under: a contract, a relevant declaration

included in the order content or under an agreement on terms of delivery.

2. The Buyer undertakes to notify Sika immediately in writing of each change in its registered office or place of residence and correspondence service address. The absence of said notice shall result in deeming a service to the earlier indicated address as effective.
3. The Buyer shall not be authorised for transferring any rights (including claims) arising from the contract to any third party without the prior written consent of the Seller.
4. The Buyer gives his consent to the processing of its personal data in connection with the performance of the contract. The notice of protection of personal data of a business partner of Sika Poland Sp. z o.o. is available on <https://pol.sika.com/pl/stopka/nota-prawna.html>
5. Any and all notices or declarations stipulated in the GTC shall be only valid if in writing, unless these GTC provide otherwise.
6. Any invalidity or ineffectiveness of any of the provisions of the GTC shall not cause the invalidity or ineffectiveness of the remaining provisions of the GTC. The Parties undertake to replace an invalid or ineffective provision of the GTC with such regulations that correspond to the purpose of the provision regarded as invalid or ineffective to the greatest extent
7. Each of the Parties undertakes to keep secret such information that is not known to the public (hereinafter referred to as "confidential information") and that was obtained from the other Party in connection with the conclusion or performance of the contract (hereinafter referred to as "confidentiality obligation"). The Buyer shall not inform any other enterprise or private individual about the commercial terms of the other party, in particular about the prices, quantities, specifications, etc. The confidentiality obligation shall apply during and after the period of cooperation.
8. The technical support and goods maintenance services may be provided under a separate contract under the rules defined therein.
9. Over the whole period of cooperation, both Parties shall remain independent of each other and each party shall be liable for its respective employees and representatives.
10. SIKA-POLAND Sp. z o.o. declares and confirms that it holds the status of large enterprise within the meaning of Article 4 par. 6 of the Act of 8 March 2013 on counteracting excessive delays in commercial transactions and Annex I to the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

11. Any matters not regulated by the contract and these Terms and Conditions shall be governed by the applicable provisions of the Civil Code. Any amendments in contravention to the provisions of these General Terms and Conditions shall be only valid if confirmed by a signature.
12. The parties to the contract undertake to strive for resolving disputes arising in connection with the performance of these General Terms and Conditions of Sale and with the subsequent performance of a contract amicably. If no agreement is reached in the above manner, the common court competent for Sika's registered office shall be competent for resolving disputed matters.
13. The GTC were prepared in Polish and in English. In the case of discrepancies between these language versions, the Polish version shall prevail.