## STANDARD TERMS AND CONDITIONS OF SALE FOR GOODS SOLD BY SIKA LIMITED

### 1. INTERPRETATION

In these Terms and Conditions, the following expressions will have the following meanings unless inconsistent with the context:

- **Bespoke Goods** mean goods which are made to a unique, bespoke, or otherwise manufactured to a specified specification.
- **“Brexit”** means the United Kingdom ceasing to be a member state of the European Union.
- **“Buyer”** means the person(s), firm or company whose order for the Goods or Services is accepted by the Company in accordance with these Terms and Conditions.
- **“Company”** means Sika Limited (Company number: 22682Z) whose registered office is located at Watchmead, Welwyn Garden City, Herts, AL7 1BQ.
- **“Confidential Information”** means all information in respect of the business of the Company including, but not limited to, know-how, prices or other matters connected with the Goods or Services which will include any instructions or procedures, instruction manuals, user guides and other information which is supplied by the Company with the Goods or Services and any other information of whatever nature which, if disclosed, will be liable to cause harm to the Company.
- **“Contract”** any contract between the Company and the Buyer for the sale and purchase of the Goods or Services formed in accordance with Condition 2.
- **“Delivery Point”** the place where delivery of the Goods is agreed to take place, as set out in the Company’s written acknowledgement of order.
- **“Final Inspection Certificate”** a Certificate issued for the benefit of a third party at the completion of the Services.
- **“Goods”** any goods which the Company supplies to the Buyer (including any of them or any part of them) under a Contract.
- **“Guarantee”** a guarantee or Final Inspection Certificate for or related to the Goods in a form to be provided by the Company in favour of a third party nominated by the Buyer.
- **“Guarantee Period”** the on-going period of protection provided to a third party as set out in a Guarantee.
- **“Intellectual Property Rights”** all intellectual and industrial property rights including patents, know-how, registered trade marks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trade marks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions of such rights.
- **“Services”** any services which the Company performs for the Buyer under a Contract, which are ancillary to the supply of Goods.
- **“Service Point”** the place at which the Services are to be performed, as set out in the Company’s written acknowledgement of order.
- **“Specific Delivery Requirement”** any goods, which are required to be delivered by a type of vehicle specified by the Buyer.
- **“Terms and Conditions”** the standard terms and conditions of sale set out in this document together with any special terms agreed in writing between the Buyer and the Company.

### 2. FORMATION AND INCORPORATION

Subject to any variation under Condition 14.5, the Contract will be made upon these Terms and Conditions, to the exclusion of all other terms and conditions and all previous oral or written representations including any terms or conditions which the Buyer purports to apply to the Contract at any time prior to delivery of the Goods or the Services. Each order or acceptance of a quotation for Goods or Services will be deemed to be an offer by the Buyer to purchase Goods or Services upon these Terms and Conditions. The Contract is formed when the Buyer receives confirmation that the order is accepted by the Company. Such confirmation may either be given orally or in writing. No contract will come into existence until such confirmation has been given by the Company.

### 3. DESCRIPTION OF THE GOODS AND SERVICES

- **The description of the Goods will be as set out in the Company’s price list. All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company’s catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods represented by or described in them. They will not form part of the Contract and this is not a sale by sample.
- The Company may make any change to the specification, design, materials or finishes of the Goods which are:
  1. required to conform with any applicable safety, statutory or regulatory requirement; or
  2. to avoid risks to health or safety;
  3. do not materially affect their quality or performance.
- The Company will supply the services which are ancillary to, or relating to, Goods provided under a Contract.

### 4. PRICE AND PAYMENT

- **The price for the Goods or Services will be the price set out in the Company’s published price list current at the date of delivery of Goods or performance of Services or as otherwise notified by the Company to the Buyer prior to the Contract being made. Orders for Goods valued below £2000 (before VAT) are exclusive of any costs of packaging and carriage, VAT and any other applicable sales tax or duty which will be added to the sum in question. Orders for Goods valued greater than £2000 (before VAT) and which are to be dispatched from the Company’s warehouse within the United Kingdom are inclusive of any costs of packaging and carriage within the United Kingdom but exclusive of VAT and any other applicable sales tax or duty will be added to the sum in question.
- The Company may invoice the Buyer for the Goods or Services on or at any time after dispatch, or for the Services on or at any time after performance commences and payment is due according to the last day of the next calendar month following the date of invoice, or upon termination of the Contract, whichever occurs first.
- Time for payment will be of the essence. No payment will be deemed to have been received until the Company has received cleared funds.
- All payments to be made by the Buyer under the Contract will be in full and without any set-off, restriction or condition and without any deduction for any account of any claim.
- If any sum payable under the Contract is not paid when due then, without prejudice to the Company’s other rights under any contract, that sum will bear interest from the date due until payment is made in full, both before and after any judgment, at a combined rate of the Bank of England base rate from time to time and the rate provided by the Late Payment of Commercial Debts (Interest) Act 1998 as amended from time to time and the Company will be entitled to suspend deliveries of the Goods or performance of the Services until the outstanding amount has been received.
- The Company reserves the right to recover any sum, resulting from costs incurred from legal proceedings to recover the sum, by the Buyer under the Contract.
- Any invoice queries must be communicated to the Company within 10 (ten) Working Days of receipt of the invoice by the Buyer.

### 5. INSTALLMENTS

The Company may deliver the Goods, perform Services, by separate instalments. Each instalment will be a separate Contract and no cancellation or termination of any one Contract relating to an instalment will entitle the Buyer to repudiate or cancel any other Contract or instalment unless otherwise notified by the Company. Each separate instalment will be invoiced and paid for in accordance with the provisions of the Contract.

### 6. DELIVERY OF GOODS

- **The delivery of the Goods within the UK mainland will be CPT Delivery Point INCOTERMS 2010 (save that carriage may be charged to the Buyer in accordance with Condition 6.4) or FAS (Condition 6.5).**
- The delivery of the Goods to Northern Ireland, the Scottish Isles, the Channel Islands or the Isle of Man will be FOB Delivery Point INCOTERMS 2010.
- The delivery of the Goods to(outside the UK will be made FAS Delivery Point INCOTERMS 2010, except that risk shall pass to the Buyer at the time that the Goods leave the Company’s premises.
- The delivery of the Goods will be accepted at any time of day. At the sole discretion of the Company, overnight deliveries or deliveries at specified times may be agreed in certain circumstances. Notwithstanding condition 1.1, such deliveries shall be subject to an additional charge being raised by the Company. If the Buyer fails to take delivery, or provide any necessary
documents, the Goods will be deemed to have been delivered and the Company, without prejudice to its other rights, may at its option:

6.4.1 store or arrange for storage of the Goods until actual delivery of sale or separately in respect of any related costs and expenses (including, without limitation, storage, handling and for all related interest, taxes and duties); and

6.4.2 following written notice to the Buyer, sell any of the Goods at the best price reasonably obtainable in the circumstances and charge the Buyer for any shortfall below the agreed contract price.

Excessive waiting times may also be charged to the Buyer in certain circumstances.

6.5 The Company will use reasonable endeavours to deliver Goods 5 (five) Working Days after the date on which the Buyer orders the Goods, the Company, but the time of delivery will not be of the essence of the Contract. Notwithstanding Condition 6.5, carriage on deliveries required within 5 (five) Working Days, or deliveries with specific time or vehicle constraints to meet a particular time or date, the Company is unable for any reason to fulfill any delivery requests through the Company. Each delivery to the Company will be deemed not to be in breach of the Contract, nor (for the avoidance of doubt) will the Company have any liability to the Buyer for direct, indirect or consequential loss (all three of which terms includes, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused (including as a result of negligence) by any delay or failure in delivery of Goods except as set out in this condition. Any delay in delivery of Goods will not entitle the Buyer to cancel the order unless and until the Buyer has given 10 (ten) Working Days’ written notice to the Company requiring the delivery of the Goods and the Company has not delivered the Goods of which the Buyer cancels the order in accordance with this Condition 6.5 then, save as excluded under Condition 6.6.

6.5.1 the Company will refund to the Buyer any sums which the Buyer has paid to the Company in respect of the Goods which have not been delivered; and

6.5.2 and the Buyer will be under no liability to make any further payments under Condition 4 in respect of the Goods which have been cancelled.

6.6 Notwithstanding, the provisions of Condition 6.5, the Company will be under no obligation to:

6.6.1 to refund the Buyer any sums which the Buyer has paid to the Company in respect of the Bespoke Goods which have been cancelled under Condition 6.5.1; and

6.6.2 waive any outstanding further payments due by the Buyer in respect of Bespoke Goods which have been cancelled under Condition 6.5.1.

6.7 The Buyer will provide at its expense at the Delivery Point adequate equipment and manual labour for off-loading the Goods.

6.8 A £100.00 handling charge will be made in addition to the carriage charge for overnight dispatch of Goods. This service is offered as resources allow and is subject to available transport.

6.9 The type of vehicle used to deliver Goods and the method of carriage for delivery will be at the discretion of the Company.

6.10 Any change required by the Buyer to the delivery vehicle, equipment or packaging of the Goods for delivery selected by the Company will constitute a Specific Delivery Requirement. The Buyer will incur any associated additional costs and expenses.

6.11 The Buyer will provide a full and correct address, including postcode, for the delivery of the Goods.

7. RISK/TITLE IN THE GOODS

7.1 Risk of damage to or loss of the Goods will pass to the Buyer in accordance with Condition 6.

7.2 Ownership of the Goods will not pass to the Buyer until the Goods have been delivered in full (in cash or cleared funds) all sums due to it in respect of:

7.2.1 the Goods; and

7.2.2 all other sums which, or which become due to the Company from the Buyer, whether for Goods or Services.

7.3 Until ownership of the Goods has passed to the Buyer, the Buyer must:

7.3.1 hold the Goods on a fiduciary basis as the Company’s bailee;

7.3.2 store the Goods (at no cost to the Company) separately from all other Goods of the Buyer or any third party in such a way that they remain readily identifiable and separable from such other Goods;

7.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and

7.3.4 maintain the Goods in satisfactory condition insured on the Company’s behalf for their full price against all risks to the reasonable satisfaction of the Company, and will whenever requested by the Company produce a copy of the insurance policies.

7.4 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:

7.4.1 any sale will be effected in the ordinary course of the Buyer’s business at the full market value and the Buyer will account to the Company accordingly; and

7.4.2 any such sale will be a sale of the Company’s property on the Buyer’s own behalf and the Buyer will deal as principal with the prospective buyer of the Goods, or:

7.5 The Buyer’s right to possession of the Goods will terminate immediately if any of the circumstances set out in Condition 11.1 occur.

7.6 The Company will be entitled to recover payment for the cost and expenses (including, without limitation, the cost of the Goods) which has not passed from the Company.

7.7 The Buyer grants the Company, its agents and employees, the power and authority at any time, on request, to enter any premises where the Goods or any of the Goods may be stored in order to inspect them, or, where the Buyer’s right to possession has terminated, the Company will be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they have been delivered.

7.8 Where the Company is unable to determine whether any Goods are the goods in respect of which the Buyer’s right to possession has terminated, the Buyer will be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were delivered.

7.9 On termination of the Contract, however caused, the Company’s (but not the Buyer’s) rights contained in this Condition 7 will remain in effect.

6. LIABILITY OF COMPANY

8.1 The Company will, free of charge, within a period of 12 months from the date of delivery, repair or replace any component of the Goods which the Company is required by law to carry out, or are defective or damaged or are not of the kind agreed or have not been supplied subject to reasonable instructions, or have been used in a manner reasonably expected.

8.2 Any Goods which have been replaced by the Company will belong to the Company. Any repaired or replaced Goods will become the property of the Company under the terms specified in Condition 8.1 for the unexpired period of the 12 month period from the date of delivery. Any Good or Goods of which a Guarantee has been issued, for the Guarantee Period.

8.3 In the event of any breach of the Company’s express obligations under Conditions 6.5, 6.6.1 and 6.6.2 above the remedies of the Buyer will be limited to damages.

8.4 The Company does not exclude its liability (if any) to the Buyer:


8.4.2 for personal injury or death resulting from the Company’s negligence;

8.4.3 under section 2(3) Consumer Protection Act 1987;

8.4.4 for any matter which it would be illegal for the Company to exclude (or to attempt to exclude) its liability for in tort (including negligence), breach of statutory duty, restitution or any other cause of action (whether in contract, delict or otherwise).

8.5.1 if any of the Goods, or the manufacture or sale or supply, or failure or delay in supply, of the Goods by the Company or on the part of the Company’s employees, agents or sub-contractors;

8.5.2 of any of the Services, or their performance, or failure or delay in performance, of the Services by the Company or on the part of the Company’s employees, agents or sub-contractors;

8.5.3 by the Company of any of the express or implied terms of the Contract;

8.5.4 any misuse or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods;

8.5.5 any misuse by the Buyer of any of the Services, or of any product incorporating any of the Services; or

8.5.6 any statement made or not made, or advice given or not given, by or on behalf of the Company or otherwise under the Contract, shall be limited to the invoiced value of the Goods.

8.6 Except as set out in Conditions 6.5, 6.6.1 and 6.8 to 8.5, the Company hereby excludes to the fullest extent, permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Contract) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Buyer.

8.7 Each of the Company’s employees, agents and sub-contractors may rely upon and enforce the exclusions and restrictions of liability in Conditions 6.5 and 8.1 to 8.8 in that period for the Company’s own benefit, as if the words “its employees, agents and sub-contractors” followed the word Company wherever it appears in the Conditions save as reference in Condition 8.5.1.

8.8 The Buyer agrees to indemnify, keep indemnified and hold harmless the Company from and against all costs (including the costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss or damage, whether or not occurring or predicted in the past or present, of any kind, including, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss, damages, claims, judgments, loss of or damage to personal or real property or legal costs (on a full indemnity basis) and judgments which the Company or any of its members or officers suffers as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of the Buyer of the terms of the Contract. If any claim or liability is brought against the Company, such indemnity shall continue until the end of the Guarantee Period.

9. GUARANTEE

9.1 Where the Company provides a Warranty additional to the guarantee in Condition 8 hereof, the Buyer may request that the Warranty be provided in favour of an Interested third party nominated by the Buyer.

9.2 The Warranty shall be subject to and in such form as the Company considers appropriate.

9.3 The Warranty shall only be provided when all payments due from the Buyer have been received and if in association with a Final Inspection Certificate, where has been given all reasonable opportunity to carry out a technical audit.

9.4 The Buyer acknowledges that in the event of a claim being brought under a Guarantee or in accordance with the terms of a Warranty, which is wholly or partially due to the installation of the Goods not having been carried out in accordance with the Company’s recommendations or with the skill and care expected of an experienced contractor, the Buyer shall indemnify the Company and shall:

9.4.1 recognise the continuing obligations of the Company and the Buyer to remedy defects in the Goods for the Guarantee Period.

9.4.2 not seek to rely on, and, if to the extent necessary, expressly waive any entitlement to rely on the provisions of the Sale of Goods Act 1980 in defence of such claim.

10. FORCE MAJEURE

10.1 The Company will not be in breach of the Contract and / or liable to the Buyer for any failure or delay in performance or any failure or delay in performance of the Contract if the failure or delay is due to (in whole or in part) any event or circumstance beyond the reasonable control of the Company including, without limitation, any act of God, disease, famine, war, civil commotion, industrial dispute, protest, fire, tempest, explosion, act of terrorism, and national emergency. To this end the Company will be entitled to a reasonable extension of time for performing its obligations in such event or circumstance.

11. TERMINATION

11.1 The Company may by written notice terminate the Contract immediately if the Buyer:

11.1.1 is in material breach of any of the terms of the Contract. Failure to carry out one or more of the terms of the Contract in accordance with Condition 4.2 is a material breach of the terms of
the Contract which is not capable of remedy.

11.1.2 becomes bankrupt, insolvent, makes any composition
with his creditors, has a receiver appointed under the
Mental Health Act 1983 or dies;

11.1.3 has any distress, execution or other process levied
or enforced on any of its property;

11.1.4 ceases to trade or appears in the reasonable opinion of
the Company likely or is threatening to cease trade; or

11.1.5 the equivalent of any of the above occurs to the Buyer
under the jurisdiction to which the Buyer is subject.

11.2 The Company may terminate the Contract in accordance

11.3 The termination of the Contract howsoever arising is
without prejudice to the rights, duties and liability of
the Buyer or the Company in the event of any notice given
prior to termination. The conditions which expressly or
impliedly have effect after termination will continue to be
force notwithstanding termination. Which shall include but
shall not be limited to, the Buyer’s obligations in relation to any Guarantee.

12. INTELLECTUAL PROPERTY

12.1 No right or license is granted to the Buyer in respect of
the existing Intellectual Property Rights of the Company,
except the right to use, or re-sell the Goods in the Buyer’s ordinary course of business.

12.2 All Intellectual Property Rights in or arising out of or in
connection with the performance of Services shall be owned
by the Company.

12.3 The Buyer will not without the Company’s prior
consent allow the Trademark or any other trade marks of
the Company or other words or marks applied to
the Goods to be obliterated, obscured or omitted nor
will he add any additional marks or words.

13. DISTRIBUTION

13.1 The Buyer shall not give additional or more
favourable warranties than the ones given under
clause 8 if it resells the Goods, and the Company
shall not bear any liability whatsoever in relation thereto. Furthermore, if the Buyer intends to
resell the Goods for a non-approved Sika use or
outside of the United Kingdom, then the Buyer/Reseller shall do so at its own risk and the Company
shall not bear any liability whatsoever with respect to such a resale. Furthermore, the Buyer/Reseller shall indemnify and hold harmless
the Company against any third party claim in
relation to such a resale, including without limitation, expenses, fees and damages that could
be claimed against the Company.

14. GENERAL

14.1 Time for performance of all obligations of the Buyer is
of the essence. Time for performance of all obligations
of the Company is not of the essence.

14.2 Each right or remedy of the Company under the
Contract is without prejudice to any other right or
remedy of the Company whether under the Contract or
not.

14.3 If any condition or part of the Contract is found by
any court, tribunal, administrative body or authority
of competent jurisdiction to be illegal, invalid or
unenforceable then that provision will, to the extent
required, be severed from the Contract and will be
ineffective, without, as far as is possible, modifying
any other provision of or part of this Contract and this
will not affect any other provisions of the Contract which
will remain in full force and effect.

14.4 No failure or delay by the Company to exercise any
right, power or remedy will operate as a waiver of
it, nor will any partial exercise preclude any further
exercise of the same, or of any other right, power or
remedy.

14.5 Save as set out in the Contract and Condition B.1.5,
these Terms and Conditions may only be varied or
amended in writing and signed by a senior manager of
the Company.

14.6 The Company may assign, delegate, license, hold on
trust or sub-contract all or any part of its rights or
obligations under the Contract.

14.7 The Contract is personal to the Buyer who may not
assign, delegate, license, hold on trust or sub-contract
all or any of its rights or obligations under the Contract
without the Company’s prior written consent.

14.8 The Contract contains all the terms which
the Company and the Buyer have agreed in relation
to the Goods and/or Services and supersedes any
prior written or oral agreements, representations
or understandings between the parties relating to
such Goods and/or Services. The Buyer acknowledges
that it has not relied on any statement, promise or
representation made or given by or on behalf of
the Company which is not set out in the Contract.
Nothing in this Condition 14.8 will exclude any liability
which one party would otherwise have to the other
party in respect of any statements made fraudulently.

14.9 Save as set out in Condition B.7 the parties to the
Contract do not intend that any of its terms will be
enforceable by virtue of the Contracts (Rights of Third
Parties) Act 1999 by any person not a party to it.

14.10 Any notice in connection with the Contract will be in
writing addressed to the other party at its registered
office, or principal place of business and will be
delivered by hand, or first class or special delivery post
or Airmail. The notice will be deemed to have been
duly served, if delivered by hand, when left at the
proper address for service or if made by pre-paid, first
class post or special delivery post, 48 hours after being
posted or in the case of Airmail, 14 days after being
posted.

14.11 The formation, existence, construction, performance,
validity and all aspects whatsoever of the Contract
or of any term of the Contract will be governed by
English law. The English courts will have exclusive
jurisdiction to settle any dispute which may arise out
of, or in connection with the Contract. The parties
agree to submit to that jurisdiction.

14.12 Where Part II of the Housing Grants, Construction
and Regeneration Act 1996 applies, either party may refer
any dispute or difference arising under this Agreement
or to adjudication. The adjudication procedures and
the agreement for the appointment of an adjudicator
shall be set out in the Model Adjudication Procedures
published by the Construction Industry Council current
at the date of reference. The nominating body
shall be the Technology and Construction Solicitors’
Association or any successor organisation.

14.13 The Buyer will keep confidential any and all
Confidential Information that it may acquire. The
Buyer will not use the Confidential Information for any
purpose other than to perform its obligations under
the Contract. The Buyer will ensure that its officers
and employees comply with the provisions of this
Condition 14.13. The obligations on the Buyer set out in
this Condition will not apply to any information which
is publicly available or becomes publicly available
through no act or omission of the Buyer or if the Buyer
is required to disclose by order of a court of competent
jurisdiction.

14.14 Where a Brexit Trigger Event occurs (as defined
below) and the Company gives notice to the
Buyer of the same:

14.14.1 the Company shall not be liable to the Buyer for
any failure or delay or for the consequences of any
failure or delay in performance of the
Contract where there is a Brexit Trigger Event
(and the notice shall have effect from its date);

14.14.2 the Company may require the Buyer to negotiate
in good faith an amendment to the Contract to
alleviate the Brexit Trigger Event; and if no such
amendment is made to the Contract within 7 days
from notice given by the Company, the Company
may terminate the Contract by giving Buyer not
less than 21 days written notice.

14.15 For the avoidance of doubt the rights afforded by
this clause 14.14 are without prejudice to the
entitlement of the Company to exercise its rights
pursuant to Condition 2.5, and the Company may
cancel the Contract at any time prior to delivery of
the Goods or commencement of the performance
of the Services, for any reason.

14.16 “Brexit Trigger Event” means any of the following
events occurring at any time on or after Brexit:

14.16.1 an adverse impact on the Company’s ability to
perform the Contract in accordance with its
terms and the law (and the Company shall
determine in its absolute discretion whether such
an adverse impact has occurred);

14.16.2 an increase in the costs incurred by the Company
performing the Contract since the price for the
Goods was last agreed;

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