

SIKA NEDERLAND B.V. TERMS AND CONDITIONS

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1. Definitions

In these Terms and Conditions ("Conditions") the following definitions apply:

Advice	any advice - technical or otherwise - provided by Sika;
Client	any natural or legal person with whom Sika enters into an agreement or with whom Sika is negotiating with a view to closing an agreement;
Order	any commission by the client to Sika, in whatever form, to supply products and/or advice, to render services and/or carry out contracting or other work;
Agreement	any agreement reached between Sika and client, any modification thereof or addition thereto, as well as any legal or other proceedings for the preparation and implementation of such an agreement;
Sika	the private limited company Sika Nederland B.V., based in Utrecht and in Deventer (the Netherlands);
Products	all items that are the subject of an agreement.

2. Applicability

- The conditions are part of all agreements and advice, and apply to all related legal and other proceedings between Sika and client, such as providing support and service as well as information.
- The applicability of any other general or specific terms or conditions is explicitly rejected.

3. Offers, reaching agreements, quotations, and specifications of products and advice

- Offers or quotations shall not be binding to Sika and should only be regarded as an invitation to the client to place an order.
- An agreement shall only be deemed to have been reached if and insofar as Sika has confirmed an order in writing or Sika is actually implementing an order.
- All specifications provided by Sika of numbers, dimensions, weights and/or other designations of products and/or in advice, have been made with due care. However, Sika cannot guarantee that no deviations of such shall occur.
- Sika preserves the right to change the composition of its products.
- Quotations remain valid for 3 months.
- Any items submitted along with an offer or quotation, such as samples, prototypes, drawings et cetera, will remain the property of Sika. Such items may not be copied, multiplied, shown or provided for inspection to or for third parties without Sika's permission.

4. Prices

- Unless stated otherwise, all prices provided by Sika are in euros, excluding sales tax. Unless explicitly stated otherwise, transport charges, import, export and excise duties, as well as any other taxes or duties imposed or levied on the products and the transport thereof, shall be at the expense of the client.
- Sika's prices are based on the price list valid at the time of entering into the agreement. The prices charged by Sika are including packaging, with the exception of pallets. In the case of deliveries within the Netherlands, packaging materials shall remain the property of Sika and these should be returned as soon as possible, with the exception of packaging materials clearly intended for single use, such as cling foil. Sika is not obliged to accept such materials.
- Client shall return to Sika's return address, at his expense, the same or similar pallets of at least the same quality.
- Obvious mistakes in prices stated may be corrected and passed on by Sika.
- Sika is entitled, from 3 months after reaching the agreement, to raise prices for items delivered afterwards.
- Should Sika make use of this power, client has the right, until 14 days after receipt of notification of such, to annul the agreement with regard to any items not yet taken into production by Sika. Any raw materials and/or resources acquired by Sika specifically for this agreement, must be paid for by the client.
- Should the client annul the agreement on the basis of Article 4.6 above, the prices of any items for which the agreement remains in force, shall be unchanged.

5. Payment

- Unless agreed otherwise, client shall pay Sika any amounts charged within 30 days after the invoice date by means of crediting to or depositing into the bank account listed on the invoice.
- Any charges relating to the payment, shall be at the client's expense.
- Sika has the right at all times, also contrary to the agreement, to demand payment or security, before effectuating (further) implementation of the agreement.
- Client is not entitled to offset payments. Client does not have the right to suspend any financial or other obligation towards Sika.
- Without notification, client is obliged to pay 1 % monthly interest for late payment on any amounts not paid on the last day of the payment term.
- Should client be in default towards Sika, he is obliged to pay any legal and non-legal expenses in full. The non-legal costs to be paid by the client amount to at least 15% of the amount that has remained unpaid, with a minimum of € 175,- plus sales tax.
- Should Sika, having ascertained that client is in default, send client payment reminders or other payment requests, this shall not affect what has been stated in the previous two sections and in Article 21.

6. Retention of title

- Ownership of the products, regardless of their factual delivery, shall not pass onto the client until the latter has completely fulfilled towards Sika all that he is due with regard to the products and services concerned in compliance with Article 3:92 of the Dutch Civil Code.
- Until the ownership of the products has passed onto the client, client is not entitled to lease out the products or provide them for use, or to pledge or mortgage them in some other way. Client is only entitled to sell or deliver the products, owned by Sika, to third parties insofar as this is necessary within the framework of the client's regular business operations.
- If and as long as Sika is the owner of the products, client shall immediately inform Sika if the products are distrained or seized because of a bankruptcy or otherwise or if the products (or any part thereof) are claimed. If necessary, client shall inform third parties immediately that the products are owned by Sika. In addition, client shall in that case notify Sika at the first request where the products owned by Sika are located and if desired, grant Sika access to the buildings and/or rooms in order to regain possession of the product or to have such done.

7. Delivery and risk

- Sika has the right, at all times, to make partial deliveries. In that case, client shall be due the sales price for each partial delivery. If no delivery term has been agreed, a term of 4 weeks will apply, without prejudice to Section 2 of the present article.
- The delivery time specified by Sika is based on the circumstances relevant for Sika at the time of signing the agreement and, in the case of dependence on third parties, on the data provided by such third parties to Sika.

- If the delivery term is exceeded, client is not entitled to any compensation. In such cases, client has no right to annul the agreement either, unless the delivery term is exceeded in such a way that client cannot reasonably be expected to respect the part of the agreement concerned.
- Delivery conditions agreed must be interpreted in accordance with the Incoterms of the International Chamber of Commerce in Paris prevailing at the time of signing the agreement.
- If the conditions as meant in the previous section have not been agreed, delivery and transfer of risk of the products will always take place at the time and place at which the products are ready for dispatch to the client. Sika shall inform client of the aforementioned time and place as soon as possible and client will accept the products as soon as possible, but no later than 2 weeks after notification.
- Should client not accept the products, or not in due time, he will be in default without having been served notice. In that case, Sika is entitled to store the products at the expense and risk of the client or to sell them to third parties. Client continues to owe the purchase price, plus any interest and expenses (as compensation), possibly minus the net proceeds from sale to aforementioned third party.
- Sika reserves the right to mark the items to be delivered with its name, brand and/or coding.
- If the client wishes to return the remainder of the products, provided these products are still in their original and unopened packaging, in an impeccable state and with a shelf life of at least 4 months, and Sika has agreed to this, client may return the remainder in the way indicated by Sika. In that case, Sika will subsequently - depending on the state and age of the products - repay up to 80% of the value of the remaining products. Sika will not accept the return of any products especially manufactured for the client.
- The products will be delivered from a factory designated by Sika, unless otherwise agreed.
- Products sold "ex works" are always transported at the client's expense and risk. In this respect, client will always be regarded as freighter, irrespective of any contrary conditions agreed between client and third parties.
- Sika is entitled to deliver the products at a different location than determined in Article 7.9, any additional transport costs to be paid by client, except in case of force majeure.
- Sika shall never be legally in default merely by exceeding a delivery term.

8. Force majeure

- If force majeure has prevented Sika from meeting its obligations towards client, meeting these obligations will be suspended for the duration of the force majeure situation.
- If the force majeure situation has lasted 6 weeks, both parties have the right to cancel the agreement - in full or in part - by means of a written notification, insofar as this is justified by the force majeure situation.
- In the case of force majeure, client is not entitled to any compensation, not even if Sika benefits in any way from the force majeure.
- Force majeure for Sika is defined as any circumstance outside the will of Sika that prevents Sika from meeting its obligations towards client in part or in full or as a result of which Sika cannot reasonably be expected to meet its obligations, irrespective of whether this circumstance was foreseeable at the time of signing the agreement. Such circumstances include strikes, stagnation or other problems during production for Sika or its suppliers and/or transport by Sika and/or any third parties and/or the absence of any permit to be obtained from the authorities and/or any shortage or objectively determinable lack of raw materials, both on the part of Sika and on the part of any of its suppliers, without the need for Sika to demonstrate the effect of this on its business operations.

9. Inspection and complaints

- Client is obliged to carefully inspect the products immediately after delivery or to have such done. Any complaints must be submitted to Sika in writing within 15 days after delivery of the products, provision of advice, or installation and completion.
- Defects that could not reasonably have been observed within the term stated in Section 1 of the present article, must be reported to Sika in writing immediately after discovery, but no later than 30 days after delivery of the products, provision of advice, or installation and completion. Client should ascertain the shelf life of the products and if necessary report to Sika in writing sooner than the terms stated in Sections 1 and 2 of the present Article 9.
- Provided that a claim to this effect has been submitted in time, correctly and in accordance with the conditions of the present Article 9 and it has been duly proven that the products and/or advice and/or installation fails to comply with what has been agreed in this case, or exhibits defects in the material and/or construction, or fails to function properly, Sika may - at its discretion - replace the defective products free of charge upon return of the defective products, or adequately repair said products, or give client a discount on the purchase price, to be determined in mutual consultation or to provide new advice. By completing any of the above-mentioned achievements, Sika will be deemed to have fulfilled all of its obligations in this respect in full.
- Having detected any defect, client is obliged to immediately cease the use, treatment, processing and/or installation of the products concerned, respectively to cease using the advice and furthermore to do or abstain from anything that is reasonably possible to prevent (further) damage.
- Client shall provide all necessary cooperation required to investigate the complaint, among other things by enabling Sika to conduct an investigation (or having such an investigation conducted) into the circumstances of the use, treatment, processing and/or installation.
- Client is not allowed to return the products before Sika has agreed to such. Only if a claim has been submitted in time, correctly and justifiably, reasonable return costs will be paid by Sika.
- If client has submitted a claim in time, correctly and justifiably, Sika's liability ensuing from this shall be limited to the obligations described in Article 9.3.
- If the products or the waybill or the delivery note have been accepted without any comments or notes with respect to the packaging, it is assumed, without proof of the contrary, that these were in a sound and proper condition at the time of delivery.
- If client fails to observe any obligation with respect to the present article, this renders invalid any claim by client relating to complaints about the products and/or advice.

10. Compliance with specifications

- Sika guarantees that the products comply with the written specifications submitted, provided that the products are used and stored in the appropriate way and with due care, in accordance with the rules of building construction and the normal rules of building practice, and that all instructions provided for the use of the products, as included in the latest version of the documentation issued with the products, the latest version of technical specification sheets published by or on behalf of Sika, product safety sheets, and the instructions referred to in the conditions, have been observed timely and fully.
- The obligations with respect to the specifications do not extend to the result after processing of the products.
- Unless explicitly stated by Sika in writing, specifically for the client, Sika does not guarantee the fitness of the products for the purpose for which the clients wished to use them.
- Also in the case that products are sold on the basis of a sample or proof, items delivered are deemed to be in compliance with the agreement if they exhibit regular production deviations, variations or differences in colour and/or finish, regardless whether these are within the same or between different deliveries.

- 10.5 Without prejudice to what has been stated in 10.4, items will in any case comply with the agreement if externally observable properties, such as dimensions, imprint, colours, et cetera match the samples and/or proofs approved by the client.
- 10.6 Client cannot derive any claims from advice that has not been given in writing, in accordance with the conditions prevailing with Sika. Sika guarantees that its written advice is given with due care and in accordance with the state of the art.
- 10.7 Insofar as Sika provides information to the client orally or by telephone, such information is provided to the best of its knowledge and ability, but any liability for its contents, correctness and completeness is rejected.

11. Liability

- 11.1 Unless the damage was caused intentionally or because of gross negligence on the part of Sika or its executives, or unless its liability follows from Article 3, Section 3, of Book 6 of the Dutch Civil Code (Product Liability), Sika shall never be liable in any way for damages suffered by the client of the (use and/or storage of the) products and/or advice and/or services rendered and/or contracting work, including business and/or environment damage and non-material damage.
- 11.2 Without prejudice to Section 1 of the present Article 11, Sika's contractual and legal liability shall at all times be limited to the amount of the purchase price of the product and/or the price charged for advice and/or services rendered, to which the liability relates.
- 11.3 Unless the damage was caused intentionally or because of gross negligence on the part of Sika or its executives, client shall indemnify Sika against all claims relating to the products (or the use thereof) by whomever, insofar as such claims exceed Sika's liability ensuing from the conditions, and client shall compensate Sika for any damages that Sika may suffer as a result of such claims.
- 11.4 Client must protect Sika against any claims by its personnel or by third parties relating to work done by this personnel, even if they assisted Sika within the framework of the assignment.
- 11.5 Client is liable for any damage to and loss of materials, tools, instruments and other items belonging to Sika and its personnel that were present in areas designated by the client.

12. Intellectual and industrial property

- 12.1 Client obtains no right of intellectual property with regard to the products or advice.
- 12.2 Client is not entitled to change or remove any brand or identification markings applied to the products or their packaging, or to modify or copy the products or the advice or any part thereof.
- 12.3 Sika declares that, to the best of its knowledge, its products and its advice do not infringe upon existing intellectual property rights of third parties in the Netherlands. In the case of claims by third parties relating to an infringement of such rights, Sika may if necessary change or modify the product concerned, or parties may dissolve the agreement in part or in full.
- 12.4 Client shall inform Sika immediately of any claim by third parties with regard to an infringement of intellectual property rights relating to the products. In the case of such a claim, only Sika is entitled to put forward a defence, also on behalf of the client, against such a claim, or to take legal action against said third party, or to settle with this third party out of court. Client shall abstain from any such measures insofar as can be reasonably expected.
- 12.5 Client indemnifies Sika against claims from third parties relating to infringements of copyright, patents, trademarks and/or any other right of industrial and/or intellectual properties of third parties with regard to items created in accordance with drawings, models and/or processes originating from the client.
- 12.6 All rights to drawings and models made fully or partly at the request of Sika, whether or not in collaboration with the client, shall remain with Sika.
- 12.7 Client is obliged to respect these rights and to inform Sika immediately of any infringement thereof.

13. Production resources

The production resources created for the production of the items delivered to the client, such as moulds, dies, matrices, films, plates et cetera, remain the property of Sika, even if these were charged to the client in full or in part.

SPECIAL CONDITIONS RELATING TO CONTRACTING WORK

14. Definitions

In these Conditions the following definitions apply:

Construction site the location and/or the object where the work agreed needs to be carried out;
Materials anything to be processed and/or delivered within the framework of the agreement.

15. Costs

- 15.1 Unless the work has been accepted for an "all-in" price, the client shall be charged for travelling time, travelling expenses and accommodation, the costs of materials and parts, in addition to the costs of the work itself.
- 15.2 The rates apply to work carried out on working days, i.e. from Monday to Friday between 08:00 and 18:00 hrs, with the exception of official public holidays. For work carried out on different days and hours, Sika's surcharge for overtime as well as compensation for any additional costs relating to this, applies.
- 15.3 The client shall also be charged any additional costs resulting from delays that are attributable to the client.

16. Construction site

- 16.1 The client must enable Sika at the time and place agreed to carry out the work agreed without any interruption.
- 16.2 This means that the location where the work needs to be carried out, must be fit and all necessary facilities, such as a suitable substratum, must be in place.
- 16.3 The construction site must be easily accessible for Sika's personnel and their vehicles, machines and equipment.
- 16.4 The construction site needs to be fitted with a suitable, clean, dry and lockable storage space for materials.
- 16.5 In this, the client needs to follow Sika's instructions.
- 16.6 In the case of work that needs to be carried out outdoors, the costs of any delays caused by weather conditions from the 2nd day onwards, shall be at the client's expense.
- 16.7 From the moment of delivery at the construction site, client shall be responsible for any cost and risks of materials, without prejudice to the retention of title by Sika.

17. Regulations and safety

- 17.1 Client must observe all regulations relating to and pursuant to the Working Conditions Act as if client were the employer of Sika's personnel.
- 17.2 If special local regulations apply, client needs to instruct Sika's personnel adequately and intelligible prior to commencement of the work and to actually supervise their compliance.
- 17.3 Sika is entitled to charge the client for any time relating to this instruction.
- 17.4 The client is entitled and obliged to provide Sika's personnel with the necessary instructions to ensure safety.

- 17.5 If required, the client needs to acquire any necessary permits and exemptions prior to commencement of the work and must present these for inspection to Sika's supervisors upon first request.

18. Subcontractors

- 18.1 Sika is entitled to have the work carried out in part or in full by professional subcontractors.
- 18.2 Client has the same rights and duties towards such a subcontractor and his personnel as towards Sika's personnel.

19. Completion

- 19.1 Unless explicitly stated otherwise, the terms listed for completion are target terms and Sika shall not be in default if these terms are exceeded.
- 19.2 The work will not be completed until Sika has issued a statement to this effect.
- 19.3 If such a statement has not been made before, the (final) invoice shall be regarded as such.
- 19.4 If client does not inspect and reject the work within 15 days after this statement, the work shall be regarded as completed and accepted in good condition.
- 19.5 Client needs to inform Sika within the same term and in writing of any externally visible defects, failure of which results in annulment of his claim for rectification.

FINAL PROVISIONS

20. Default/annulment

- 20.1 If client fails to meet - properly and in due time - any of his obligations ensuing from any agreement, client shall be in default without the need to serve notice and Sika shall be entitled to suspend execution of the agreement and any directly related agreements until compliance has been sufficiently secured and/or annul the agreement and any directly related agreements in full or in part.
- 20.2 In the case of (temporary) suspension of payment, bankruptcy, discontinuation or dissolution of client's business, all agreements with client shall be legally annulled, unless Sika informs client within reasonable time that Sika demands the agreement(s) concerned, or parts thereof, to be fulfilled. In the latter case, Sika's claims shall be immediately payable, and without serving notice, Sika shall be entitled to suspend execution of the agreement until compliance by the client has been sufficiently secured.
- 20.3 The content of the previous 2 sections leave all of Sika's other legal and contractual rights intact.

21. General

- 21.1 Client is not entitled to transfer his rights and/or duties to any third party without prior written permission from Sika.
- 21.2 The conditions of an agreement, with due regard to the following sentence, shall be determined solely by the provisions. Changes of and additions to any provision of any agreement and/or agreements, shall only be valid if made in writing by Sika and only relate to the agreement concerned.
- 21.3 Should any provision of the agreement be declared null and void or reversible - either in full or in part - then this provision should be left out of consideration. In this case a replacement regulation shall apply, which corresponds as much as possible with the original regulation and the intentions of the parties.

22. Applicable law/competent court

- 22.1 All agreements and/or legal relations to which these conditions apply, are ruled by Dutch law only. Any disputes that may arise, can only be submitted to the competent court in Utrecht, under the understanding that Sika has the right to submit claims against client with different courts of justice that are competent to accept such claims.
- 22.2 Applicability of the Vienna Convention 1980 (CISG) is excluded (as well as any other regulations concerning international trade agreements that may apply in the Netherlands after filing the terms and conditions, if and insofar as exclusion of these regulations is legally possible).