CONDITIONS OF SALE AND SUPPLY

CONDITIONS OF CONTRACT: Providing contracts for all the sale or supply of Goods and/or the provision of Services by Sika (Singapore) Pte Ltd. (the ‘Seller’).

In these Conditions: -

(a) “Buyer” means the person, firm or company named in a quotation sent out by the Seller and/or the purchaser/buyer of Goods and/or Services named in an Order.

(b) “Contract” means the contract for the sale and purchase of Goods and/or the provision of Services based on the Seller’s quotation (and the Terms and Conditions stated therein) and these Conditions.

(c) “Goods” means any goods or replacements supplied to the Buyer under the Contract.

(d) “Order” means the form(s) submitted by the Buyer ordering the Goods and/or Services.

(e) “Services” means such services (if any) as described in the Order.

These Conditions shall apply to every contract entered into for the sale or supply of Goods and/or the provision of Services by the Seller and shall, subject to Condition 1(b), prevail notwithstanding any printed or other conditions contained elsewhere in any purchases order or acceptance of estimate or quotation or otherwise brought to the Seller’s notice, whether such conditions have been agreed to in writing or not. No other document, agreement, representation, promise, undertaking or understanding of any kind unless expressly agreed to in writing by an authorised representative of the Seller shall alter, vary, supersede or waive any of these Conditions.

1. CREATION OF CONTRACT
(a) The Buyer’s Order to the Seller is an offer to enter into a contract under these Conditions. Acceptance occurs and the Contract is formed only when the Seller accepts the Buyer’s Order by signing and endorsing the Goods and/or Services and the Buyer signs and accepts the Seller’s acceptance of Order and/or when the Buyer places an order (whether verbally or in writing) which is accepted by the Seller as written in an Order.
(b) In entering into the Contract, the Buyer acknowledges that he is not relying on, and waives any claims for breach of any representations or terms which are not expressly confirmed by the Seller in writing.
(c) The Buyer shall not assign the benefit of the Contract without the Seller’s prior written approval.
(d) The Contract is not cancellable or terminate by the Buyer without the express written agreement of a director or any other authorised representative of the Seller. If the Seller agrees to the cancellation or termination of the Contract by the Buyer, the Seller shall indemnify the Seller in full against all losses, damages, costs and expenses resulting therefrom.

2. PRICE
(a) Prices quoted are exclusive of Goods and Services Tax and all other applicable sales taxes unless otherwise expressly stated in writing by the Seller.

3. DELIVERY
(a) Delivery dates for Goods and the provision dates for Services are estimates only and will be furnished on acceptance of an Order. Time of delivery/provision is not of the essence of the Contract. Unless otherwise stated, delivery/provision periods commence from the date of acknowledgement of an Order. The Seller shall use its reasonable endeavours to deliver the Goods and/or provide the Services by the stipulated date(s), but may suspend or delay delivery of the Goods or the provision of the Services and shall not be liable for any and all losses or damages whatsoever and howsoever in the event of late delivery or non-delivery of the Goods and/or the provisions of Services at any instance thereof. The Buyer shall not be entitled to refuse to accept late delivery of Goods and/or the provision of Services or to treat late delivery of Goods and/or non-provision of Services as a breach of the Contract.
(b) The Seller may at its option deliver by instalments, each instalment constituting a separate contract on these Conditions. Failure by the Buyer to deliver any one or more of the instalments or any claim by the Buyer in respect of any one or more of the instalments shall not entitle the Buyer to treat the Contract as repudiated as a whole.
(c) If the Buyer is deemed to be in default (whether by reason of the Buyer placing or a set-off against the Buyer’s title to the Goods to the Buyer or its agent at the Seller’s premises or at a designated delivery location, or upon the Seller notifying the Buyer that the Goods are ready for dispatch/selection. All risk and losses, damages and/or deterioration to the Goods from whatever cause shall be borne by the Buyer from the time of deemed delivery.
(d) If the Buyer fails to collect or take possession of the Goods, the Seller shall be entitled to treat the Contract as repudiated by the Buyer. Until the Contract is so terminated, the Seller, may at its option, either store the Goods itself or have them stored by third parties on such terms as the Seller deems fit. The cost of storage and any additional transportation costs and expenses will then be added to and form part of the Contract price payable by the Buyer. If the Seller elects to treat the Contract as repudiated in accordance with these Conditions, it shall (without prejudice to its rights and remedies in respect of such repudiation) be entitled to sell the Goods and retain the proceeds of sale.
(e) Deviations in the quantity of Goods and/or Services delivered or performed from that stated in the Contract shall not give the Buyer the right to reject the Goods and/or Services to or claim damages and the Buyer shall be obliged to accept and pay for the quantity of Goods and/or Services actually delivered or performed as a pro-rata in order to a pro rata unit rate.

4. LOSS DAMAGE OR SHORTFALL IN GOODS DELIVERED
(a) The Buyer shall inspect the Goods immediately upon delivery or upon collection, as the case may be, and shall refuse to accept such inspection cannot be carried out and the delivery note is marked “not examined” subject to the quantity and condition of the Goods as stated in the Order shall be deemed to have been delivered.
(b) The Seller shall not be liable for any Goods damaged in transit or any shortfall in the quantity of Goods delivered, discoverable on reasonable inspection, and in any event will not be liable unless the Buyer notifies the Seller, before the expiry of seven (7) days after delivery or receipt of the Goods of any alleged damage or lack of conformity with the Contract.
(c) The Seller shall make good any proven and ascertained shortages notified to it under sub-condition 4(b) above as soon as reasonably practicable but shall not be liable for any loss whatsoever and howsoever arising from such shortfall.
(d) In all cases where damaged Goods or shortages are complained of, the Seller shall be under no liability in respect thereof unless an opportunity to inspect the allegedly damaged or shortfall in Goods is offered to the Seller for confirmation before any use is made thereof or any alteration or modification is made to the Goods by the Buyer.

5. ITEMS AND INFORMATION SUPPLIED BY SELLER
(a) The Buyer shall be responsible for ensuring the accuracy of the terms of the Order (including specifications) submitted by the Buyer, and for providing the Seller any necessary information relating to the Goods and/or Services in a timely manner so as to enable the Seller to perform the Contract in accordance with its terms.
(b) The Seller shall deliver the Goods in such a form that the Goods are distinguishable from other similar items and by such instructions submitted to the Seller with the Order or on a purchase title to the Goods to the Buyer or its agent at the Seller’s premises, or at a designated delivery location, or upon the Seller notifying the Buyer that the Goods are ready for dispatch/selection.
(v) if any execution procedures are commenced or leveled against the Buyer and the same shall not be discharged within seven (7) days thereof.
(a) The Seller may at any time on giving prior notice enter the Buyer’s or such other premises for the purpose of inspecting the Retained Goods and identifying them as the Seller’s property and the Buyer irrevocably authorises the Seller to enter upon its or such other property for that purpose.
(f) Upon suspension or revocation or determination of the Buyer’s power of sale and use under this Condition -
(i) the Buyer shall be deemed to have repudiated the Contract;
and
(ii) the Buyer shall place all the Retained Goods in its possession or under its control at the Seller’s disposal and shall be deemed to irrevocably authorise the Seller to enter upon any of the Buyer’s or such other premises, with or without vehicles, for the purpose of removing the Retained Goods.
(g) The repossession of the Retained Goods by the Seller in accordance with this Condition shall be without prejudice to all or any of the Seller’s other rights against the Buyer under the Contract or in law.
9 PAYMENT
(a) Subject to satisfactory trade, bank’s and other requisite references and, where no other terms of payment have been specifically agreed in writing, the Seller’s terms are cash payment in full to be made prior to delivery of the Goods and/or provision of the Services. No discount or allowance will be made unless specifically agreed to by the Seller in writing. Interest will be charged on all overdue payments at the rate of tax per cent (10%) per annum with monthly rests and shall be calculated and accrue on a day-to-day basis from the date from which payment fell due until full payment (whether made before or after payment has been obtained by the Seller against the Buyer) is received by the Seller.
(b) Time for making payment by the Buyer shall be of the essence of the Contract.
(c) The Buyer shall have no right of set-off, statutory or otherwise.
(d) The Seller may at any time in its absolute discretion appropriate any payment made by the Buyer in respect of the Goods and/or Services to such outstanding debt as the Seller thinks fit notwithstanding any particular reference or appropriation to the contrary by the Buyer.
(e) The Seller reserves the right at any time and at its absolute discretion to demand security for payment before continuing with an Order or delivering the Goods or performing the Services or any instalment thereof.
(f) If the Buyer fails to make any payment in accordance with these Conditions or fails to comply with any of the Conditions herein, the Seller may at any time in its absolute discretion (and without prejudice to all its rights) terminate the Contract and/or withhold delivery of any further Goods or the provision of any further Services to the Buyer.
(g) Goods and Services Tax and all other applicable sales tax will (if applicable) be charged at the rate prevailing at the time of despatch of the Goods or the provision of the Services.
10 INDEMNITY
(a) The Buyer shall indemnify the Seller against all costs and expenses (including legal costs on an indemnity basis) incurred by the Seller in obtaining or endeavouring to obtain payment of any money payable by the Buyer to the Seller under or in connection with the Contract or to procure the enforcement of its rights under the Contract.
(b) The Buyer undertakes to secure all necessary permits, approvals and licences from the relevant authorities for the purchase or import or export of the Goods and shall indemnify the Seller against any claim made against the Buyer or any of its officers or agents by such authorities.
11 FORCE MAJEURE
(a) The Seller shall not be liable to the Buyer for any loss or damage whatsoever or howsoever occasioned if it is unable to carry out any provisions of the Contract for any reason beyond its control including, but without limitation to, any act of God, breach of contract, Government action or regulations (Singapore or otherwise), war, civil commotion, natural disaster, fire, flood, drought, epidemic, disease, failure of power facilities, strikes, lockouts, stoppage or other action by employees or third parties in contemplation or in furtherance of any dispute, delay by suppliers, accident or shortage of materials, fuel, labour or manufacturing facilities.
(b) The Seller shall notify the Buyer as soon as reasonably practicable after the circumstances preventing performance arise.
(c) During the continuance of such a circumstance, the Seller may in its absolute discretion, without prejudice or impairment of its contractual obligations so far as any claim or action or any dispute may be prevented or hindered by such contract or unavailability or failure of the Buyer to any loss or damage whatsoever suffered directly or indirectly by reason of any such withholding, reduction or suspension.
(d) If such circumstance continues for more than three (3) months after the Seller reasonably apprehends that it may continue for more than three (3) months, the Seller may at its sole discretion cancel the Contract.
(e) If the Contract is cancelled in this way, the Seller will refund any payment which the Buyer has already made on account of the Contract price (subject to the deduction of any amount the Seller is entitled to claim from the Buyer for any Goods delivered or Services provided or otherwise) and the Seller shall thereafter have no further liability to the Buyer whatsoever.
12 SUBSTITUTION
(a) Should any materials or parts of the Goods or Services specified or required for completion of the Contract hereunder become unavailable for timely satisfaction of the Order, a substitute reasonably deemed by the Seller in its sole discretion to be suitable for the intended purpose, as understood by the Seller, will be supplied if available and shall be accepted by the Buyer in full satisfaction of the entire Contract.
(b) The Seller at all times to comply in all respects with all laws to which it may be subject, including but not limited to those relating to tax, anti-money laundering, counter-terrorism financing and economic and trade sanctions laws and regulations.
13 COMPLIANCE WITH LAWS
(a) If:
(i) any existing law or regulation;
(ii) any subsequent change in (or in the interpretation, administration or application of) any law or regulation; or
(iii) a proposed assignment or transfer by the Seller or Buyer of any of its rights and obligations under the Contract
obliges the Seller to comply with “know your customer” or other similar identification procedures in circumstances where the necessary information is not already available to it, the Buyer shall promptly supply, or procure the supply of, such information and documentation customary and reasonable required by the Seller (for itself or, in the case of the event described in sub-paragraph (iii) above, on behalf of any prospective new seller) in order for the Seller or, in the case of the event described in sub-paragraph (iii) above, any prospective new seller to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated by the Contract.
(b) The Seller shall at all times comply in all respects with all laws to which it may be subject, including but not limited to those relating to tax, anti-money laundering, counter-terrorism financing and economic and trade sanctions laws and regulations.
14 DATA PROTECTION
(a) The Buyer conveys to the Seller disclosing personal data relating to the Buyer, including but not limited to details of its directors, officers, partners and employees, and details of any sub-agents or other third parties to any governmental or regulatory body, agency or authority or it’s companies, trade associations for any purpose connected with proper administration, regulatory compliance and conduct of this Contract.
(b) Both the Seller and the Buyer agree to comply with the provisions of the Singapore Personal Data Protection Act as amended or replaced from time to time (hereafter referred to as “PDPA Laws”) at all times, and words defined in the PDPA Laws will hereafter have the same meaning in these Conditions. The Seller, acting as a data controller under PDPA Laws in respect of personal data delivered to the Seller by the Buyer for the purposes of the Contract, recognises that the Seller may also act as data controller in respect of such personal data, and each of them will carry out data processing of such personal data in compliance with the PDPA Laws.
15 NOTICE
(a) The Buyer agrees that the Seller may collect and process data in respect of the Buyer for the purposes of the Contract and hereby consents to the Seller and its associated or related companies using this information for the purposes of the Contract and/or in connection with the Buyer.
(b) If any provision of the Contract or these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract or these Conditions and the remainder of the provision in question shall not be affected thereby.
(c) The headings used in these Conditions are inserted for convenience only and shall be ignored in construing these Conditions.
(d) In these Conditions, words importing the singular number shall include the plural and vice versa and words importing the neutron shall include the masculine and feminine gender and vice versa.