

TERMS AND CONDITIONS OF SALE

All product sales of Sika Corporation, its subsidiaries or affiliates (collectively, #Sika*) shall be subject to the following Terms and Conditions of Sale (#Terms and Conditions of Sale*):

1. Any order from a purchaser of Sika products (#Purchaser*), whether relating to a quotation or offer by Sika (#Sika Quotation*), or otherwise, shall not constitute an acceptance by Sika until such order has been accepted by Sika in writing.
2. Sika reserves the right to modify any Sika Quotation until written acceptance by Sika of an applicable order from Purchaser.
3. These Terms and Conditions of Sale shall be applicable to, and incorporated by reference into, any sale, or documentation relating to the sale, of Sika's products. To the extent there is a conflict between these Terms and Conditions of Sale, and the terms and conditions of any other documentation, including without limitation, a purchase order or request for quotation, such conflicting terms and conditions are rejected and are of no effect.
4. Sika reserves the right to correct all typographical and clerical errors in any Sika Quotation, proposal, acknowledgment, or invoice.
5. Sika reserves the right to revise or otherwise modify these Terms and Conditions of Sale from time to time. Any revised Terms and Conditions of Sale will be posted on Sika's website, usa.sika.com, and will thereafter be immediately effective for sales of Sika products.
6. Stated shipment and delivery times for Sika products are estimates which shall commence upon (i) the date of Sika's written acceptance of Purchaser's orders, and (ii) Sika's receipt of all required information from Purchaser. Sika shall not be liable to Purchaser or Purchaser's customers for any damages relating to failure to deliver Sika products on a specified date.
7. Purchaser shall not return for credit or refund any Sika products without the prior written approval of Sika.
8. Any freight costs relating to Sika products returned due to Purchaser's error shall be borne by Purchaser. Subject to the preceding sentence, all returns must be accompanied by a written return authorization issued by Sika, such that any unauthorized returns will be rejected.
9. Prior to each use of any product of Sika, the user must always read and follow the warnings and instructions on the product's most current product label, Product Data Sheet, and Safety Data Sheet which are available at usa.sika.com or by calling Sika's Technical Service Department at 1-800-933-7452. Nothing contained in any Sika literature or materials relieves the user of the obligation to read and follow the warnings and instructions for each Sika Product as set forth in the current product label, Product Data Sheet and Safety Data Sheet prior to use of the Sika product.
10. LIMITED WARRANTY. Sika warrants for one (1) year from the date of installation that each Sika product shall be free from manufacturing defects and meet the technical properties on the current Product Data Sheet if used as directed and within the product's shelf life. User determines suitability of product for intended use and assumes all risks. Purchaser's and/or User's sole remedy shall be limited to the purchase price or replacement of this product exclusive of any labor costs. NO OTHER WARRANTIES EXPRESS OR IMPLIED SHALL APPLY INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SIKa SHALL NOT BE LIABLE UNDER ANY LEGAL THEORY FOR SPECIAL OR CONSEQUENTIAL DAMAGES. SIKa SHALL NOT BE RESPONSIBLE FOR THE USE OF THIS PRODUCT IN A MANNER TO INFRINGE ON ANY PATENT OR ANY OTHER INTELLECTUAL PROPERTY RIGHTS HELD BY OTHERS.
11. All prices of Sika products shall be in United States Dollars (USD).
12. Unless otherwise agreed to in writing between Sika and Purchaser, (i) the delivery terms of the Sika products shall be Ex Works from the applicable Sika facility, and (ii) risk of loss of the Sika products shall pass to Purchaser upon delivery to Sika's designated carrier.
13. Unless otherwise agreed to in writing between Sika and Purchaser, payment for Sika products shall be due simultaneously with delivery of such products.
14. If a payment is not made by Purchaser when due, a late charge will be paid by Purchaser from the due date until the date of the actual collection by Sika, calculated at the highest interest rate permitted by law (#Late Charge*). Such Late Charge shall be in addition to, and not in lieu of, Sika's other rights and remedies for Purchaser's default or nonperformance.
15. Title to all Sika products sold to Purchaser shall remain in the name of Sika until full payment has been made by Purchaser, and to the extent applicable, Sika reserves a security interest in, and Purchaser hereby grants to Sika, a security interest in the Sika products sold pursuant to Purchaser and the proceeds thereof, with the right of Sika to take possession and dispose of the Sika products and such proceeds if any such amount is not paid when due. Purchaser agrees to execute and deliver, upon Sika's request and at Purchaser's expense, any and all instruments, including without limitation, financing statements under the Uniform Commercial Code (#UCC*) and amendments thereto, which Sika may deem necessary or desirable in order to evidence record or perfect such title and security interest, and Purchaser specifically authorizes Sika to file such instruments with such information in any jurisdiction deemed necessary by Sika without the signature or any authorization of Purchaser, to the extent permitted by law. With each order, Purchaser represents to Sika that Purchaser is solvent. In the event of Purchaser's default, Sika shall have the rights of a secured party, including, without limitation, those rights under the UCC.
16. Purchaser shall indemnify, defend, and hold harmless Sika Corporation, its parent, subsidiaries, and affiliates, and its and their officers, directors, employees, agents, successors and assigns from and against, any and all losses, lawsuits, judgments, liabilities, damages, injuries, fines, costs or expenses (including reasonable attorney's fees and expenses) (collectively, #Losses*), including but not limited to, Losses incurred in connection with or alleged with regard to, or otherwise relating to any claim, demand, proceeding, action, or suit by any third party (collectively, #Claims*), in each case arising from Purchaser's use, application, or installation of Sika products, or otherwise relating to Purchaser's obligations under these Terms and Conditions of Sale.
17. Notwithstanding anything to the contrary, Sika shall not be liable for any failure to perform or delay to the extent caused by any event or circumstance which is beyond the control of Sika, including without limitation, Acts of God, fires, floods, hurricanes, earthquakes, accidents, explosions, wars, acts of terrorism, embargoes, delays of carriers, sabotage, strikes, labor disturbances, act of governmental authority, state of emergency, pandemic, epidemic, shortages of power, or lack of, or inability to obtain, sources of materials, fuel, supplies, or equipment.
18. Detection of fraud is critical in preventing business losses. To prevent losses from fraudulent activities, including unauthorized communications and/or unauthorized access to financial, account, or other sensitive information (#Fraudulent Activities*), Sika encourages Purchaser to implement measures within its systems and processes to detect Fraudulent Activities. For any investigation relating to Fraudulent Activities, Purchaser shall cooperate in such investigation and take all appropriate corrective measures. To the extent that Purchaser incurs any losses relating to Fraudulent Activities, Purchaser assumes responsibility and Sika shall not be liable for any such losses, including financial or reputational.
19. Sika does not routinely change banking information, so please consider all emails regarding banking changes as an unauthorized request.
20. These Terms and Conditions of Sale constitute the entire agreement between Sika and Purchaser relating to the sale of Sika's products.
21. These Terms and Conditions of Sale and the obligations of Purchaser hereunder shall not be assigned, delegated, or transferred, by operation of law or otherwise, without the prior written consent of Sika.
22. If any provision of these Terms and Conditions of Sale is held by a court of competent jurisdiction to be void or unenforceable, such provision shall have no effect upon the enforceability of any other provision of these Terms and Conditions of Sale.
23. CHOICE OF LAW. These Terms and Conditions of Sale, and all matters relating to the sale of Sika products, shall be governed by, and construed in accordance with, the laws of the State of New Jersey, without giving effect to its conflicts of laws principles.
24. FORUM/JURISDICTION. Any dispute relating to these Terms and Conditions of Sale, and all matters relating to the sale of Sika products, shall be subject to the exclusive jurisdiction and venue in the state and federal courts located in the State of New Jersey.