

1. GENERAL

1.1 In these terms & conditions the following words have the meanings shown:
"Buyer" = the person, organisation or company purchasing the Goods from the Company.
"Company" = SIKLA UK Limited, a company incorporated and registered in England and Wales with company number 04766431 whose registered office is at The Pinnacle, 170 Midsummer Boulevard, Milton Keynes, MK9 1FE.
"Contract" = the agreement between the Company and the Buyer for the purchase from the Company by the Buyer of Goods.
"Force Majeure Event" = has the meaning given in Clause 12.
"Goods" = the goods (or any part of them) supplied by the Company and purchased by the Buyer on the terms of this Contract as set out in the Order.
"Intellectual Property Rights" = patents, rights to inventions, copyright, related rights, moral rights, trade marks and service marks, business names and domain names, goodwill and the right to sue for passing off or unfair competition, rights in designs, right to use and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
"Order" = the Buyer's order for the Goods, as set out in the Buyer's purchase order form.
"Order Acknowledgement" = the Company's written acceptance of the Order for the Goods.
"Specification" = any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Buyer and the Company for tailored Goods.
"Working Day" = a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

1.2 Unless agreed otherwise, these conditions shall be incorporated in all Contracts of the Company to sell Goods and shall be the sole conditions under which the sale takes place. All other terms, conditions or other representations are excluded from the Contract between the Buyer and the Company including any terms and conditions which the Buyer may purport to apply under any order for Goods.

1.3 These conditions shall prevail over any conditions which are put forward by the Buyer unless expressly varied in writing and signed by a director on behalf of the Company.

1.4 No statement, description, information, warranty, condition or recommendation contained in any catalogue, price list, advertisement or communication or made verbally by any of the agents or employees of the Company shall be construed to vary in any way any of the conditions under this Contract unless otherwise agreed in accordance with Clause 1.3 above. The Contract constitutes the entire agreement between the parties.

1.5 Any written quotation, estimate and/or advertised price for the Goods shall be an invitation to treat and no binding contract shall be created by placing an Order on the Company's website or otherwise. A quotation for the Goods given by the Company shall only be valid for a period of 30 days from its date of issue. The Order shall only be deemed accepted when the Company has issued an Order Acknowledgement, at which point the Contract shall come into existence.

2. PRICE

2.1 Subject to Clause 2.2 below, the price payable for Goods shall, unless otherwise stated by the Company in writing and agreed on its behalf, be the price stated in the Order Acknowledgement, or, if no price is quoted, the price set out in the Company's published price list in force as at the date of delivery.

2.2 The Company may, by giving notice to the Buyer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

(a) any factor beyond the Company's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

(b) any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or

(c) any delay caused by any instructions of the Buyer or failure of the Buyer to give the Company adequate or accurate information or instructions.

2.3 All prices are exclusive of Value Added Tax, taxes and all other applicable duties. The Buyer shall be liable for all and any local taxes or charges as appropriate.

2.4 The Buyer agrees that section 32(3) of the Sale of Goods Act 1979 shall not apply to Goods sent by the Company.

2.5 The Company shall be entitled to invoice the Buyer by post or email for the price of the Goods in GBP (£) or in EUR (€) or in any other currency as agreed between the Company and the Buyer.

2.6 The price of the Goods is exclusive of the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Buyer.

3. TERMS OF PAYMENT

3.1 The Company may invoice the Buyer for the Goods on or at any time after the completion of delivery.

3.2 The Buyer shall pay the invoice in full and in cleared funds within the Payment Term (as defined in the Order Acknowledgement) which shall commence on the last day of the calendar month following the date of the invoice sent by the Company to the address provided by the Buyer.

3.3 The Buyer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Company may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Company to the Buyer.

3.4 Time of payment is of the essence. Prompt payment shall be a condition precedent to future deliveries of the Goods due under any Contract between the Company and the Buyer.

3.5 The Company is entitled to charge and to be paid interest at 2% above the current base rate of HSBC Bank PLC on any unpaid invoices and/or any other overdue payments due from the Buyer.

4. DELIVERY

4.1 The Company shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Buyer and Company reference numbers, the type and quantity of the Goods (including code number of the Goods, where applicable), the total weight of the Goods being delivered and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered (the "Delivery Note").

4.2 The method of delivery will be stated on the Order Acknowledgement and this should be interpreted in accordance with INCOTERMS 2010.

4.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Company shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Buyer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.4 If the Company fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Company shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Buyer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.5 The Company may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

4.6 When the Company delivers the Goods the Buyer will be required to sign the Delivery Note to confirm delivery. Signing of the Delivery Note by, or on behalf of, the Buyer is proof that the Goods delivered are of the correct quantity and quality. In the event that the Delivery Note is not signed by the Buyer then the Goods will be deemed delivered in accordance with the INCOTERMS 2010. If the Buyer discovers there is a discrepancy between the Delivery Note and those Goods which it has accepted the Buyer must inform the Company in writing by email within the following time scales:

(a) if the total weight of the Goods, as stated on the Delivery Note, is 500kg or less then within one (1) Working Day; or

(b) if the total weight of the Goods, as stated on the Delivery Note, is more than 500kg but less than 3000kg then within two (2) Working Days; or

(c) if the total weight of the Goods, as stated on the Delivery Note, is 3000kg or more then within one (1) week.

4.7 The Buyer agrees that in the event of a valid claim for non-delivery, loss or damage to the Goods, the Company may at its sole discretion either reprocess or replace the Goods at its own expense but shall then be under no further liability in connection with such non-delivery, loss, damage or non-compliance.

4.8 All requests for proof of delivery must be made within a period of 21 days following the date of the invoice.

4.9 If for any reason the Buyer is unable to accept delivery of the Goods at the time when the Goods have been notified as ready for delivery, the Company may, at the cost of the Buyer, at its sole discretion store the Goods at the risk of the Buyer and take all reasonable steps to safeguard and insure them, provided that the Buyer shall be immediately informed thereof.

5. PASSING OF TITLE AND RISK

5.1 Risk in the Goods shall pass at the time dictated by the applicable method of delivery stated in the Order Acknowledgement as prescribed in the INCOTERMS 2010.

5.2 Title to the Goods shall only pass to the Buyer upon the happening of any one of the following events:

(a) the Buyer having paid (in full and cleared funds) to the Company all sums due from it to the Company under this Contract or under all contracts between the Buyer and the Company including any sums due under Contracts made after this Contract whether or not the same are immediately payable; or

(b) the Company serving on the Buyer notice in writing specifying that title in the Goods has passed.

5.3 Until title in the Goods has passed to the Buyer in accordance with Clause 5.2 above, the Buyer shall

(a) not dispose of any Goods which are delivered to the Buyer unless in accordance with Clause 5.4 below;

(b) store the Goods separately from goods belonging to third parties;

(c) mark the Goods as the Company's property; and

(d) allow the Company access to the Buyer's premises to verify that this has been done.

5.4 The Buyer may only resell the Goods as the Company's agent and bailee.

5.5 If any of the events listed in Clause 11.1 occur, the Company, its servants and agents may forthwith enter upon any premises or land occupied or owned by the Buyer for the purpose of removing all Goods in relation to which title remains with the Company.

5.6 Pending payment of the full purchase price of the Goods, the Buyer shall at all times keep the Goods comprehensively insured against loss or damage by accident, fire, theft and other risks usually covered by insurance in the type of business for which the Goods are for the time being used, in an amount at least equal to the balance of the price for the same from time to time remaining outstanding. The policy shall bear an endorsement recording the Company's title and interest and shall be produced to the Company on request.

6. WARRANTIES

6.1 All Goods are sold with the benefit of and subject to the conditions of the warranty supplied with them, which is available for inspection on request.

6.2 Except as provided in this Clause 6, the Company shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in Clause 6.1

6.3 Nothing herein or in any warranty given by the Company shall impose any liability upon the Company in respect of any defect in the Goods arising out of the acts, omissions, negligence or default of the Buyer, its servants and agents including without limitation any failure by the Buyer to use the skill, care and judgement of a construction industry professional in relation to the storage and handling or use or servicing of the Goods, use of the Goods with other goods or other misuse of the Goods or accident or fair wear and tear of the Goods.

6.4 Except as provided for in these conditions, any warranties, (implied by statute or common law or howsoever) including without limitation those of satisfactory quality or of fitness for a particular purpose (even if that purpose is made known expressly or by implication of the Company) are hereby excluded.

6.5 The Buyer shall indemnify the Company against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Company in connection with any claim made against the Company for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Company's use of the Specification. This clause 6.5 shall survive termination of the Contract.

6.6 The Company reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.

7. BUYER'S RESPONSIBILITY

7.1 The selection of the Goods suitable for the Buyer's purposes depends on a variety of factors. These factors include, but are not limited to, on-site conditions or other circumstances of the proposed application of the Goods known only to the Buyer. The Buyer is solely responsible for satisfying itself that the data supplied to the Company on which information or recommendations made by the Company are based is correct and that any assumptions made by the Company to supplement that data are suitable for the Buyer's purposes.

7.2 The Company accepts no responsibility of any nature whatsoever for information or advice it supplies, where any data supplied by the Buyer is incorrect or where any assumption which the Company has made is unsuitable for the Buyer's purposes. The Buyer is encouraged to raise with the Company any questions it may have.

8. DESIGN SERVICES

8.1 The Company may produce drawings, calculations, specifications and/or other documents for the Buyer pursuant to this Agreement ("Design Works"). All Intellectual Property Rights in the Design Works shall remain the exclusive property of the Company. The Buyer shall not disclose the Design Works to any person and shall not use the Design Works for any purpose other than the purpose for which they were provided.

9. RETURNS AND CANCELLATIONS

9.1 Subject to Clause 4.6 above, Goods supplied pursuant to the Contract cannot be returned without the Company's prior written authorisation. Duly authorised returns:

- (a) shall be sent to the Company's premises at the Buyer's expense;
- (b) shall be subject to a handling charge of £10 or 10% of the value of the Goods, whichever amount is the greater;
- (c) must be in the official product range at the time of the return; and
- (d) must be in re-saleable condition.

9.2 Once an Order Acknowledgement has been issued, the Buyer may not, without the Company's written consent, cancel an order for Goods which have been made to the Specification of the Buyer which results a change to the Goods' off the shelf state once the order has been inputted onto the Company's ordering system, without the prior written consent of the Company. The Company will invoice the Buyer for any work in progress which has been prepared for this order in the event that the Company consents to the cancellation.

9.3 Once an Order Acknowledgement has been issued, the Buyer is permitted to cancel an order for Goods which have not been made to the Specification of the Buyer and are in their off the shelf state by informing the Company of the cancellation in writing by email within the following time scales:

- (a) if the weight for the Goods being cancelled, as stated on the Order Acknowledgment, is 100kg or less then within thirty (30) minutes; or
- (b) if the weight for the Goods being cancelled, as stated on the Order Acknowledgment, is more than 100kg but 500kg or less then within sixty (60) minutes; or
- (c) if the weight for the Goods being cancelled, as stated on the Order Acknowledgment, is more than 500kg but 1000kg or less then within two (2) hours; or
- (d) if the weight for the Goods being cancelled, as stated on the Order Acknowledgment, is more than 1000kg but 3000kg or less then within twenty four (24) hours; or
- (e) if the weight for the Goods being cancelled, as stated on the Order Acknowledgment, is more than 3000kg then within forty eight (48) hours.

9.4 In the event that an order for Goods is cancelled in accordance with Clause 9.3 the Company reserves the right to invoice the Buyer for 5% of the value of the Goods cancelled.

10. LIABILITY

10.1 Nothing in these conditions shall limit or exclude the Company's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- (d) defective products under the Consumer Protection Act 1987; or
- (e) any matter in respect of which it would be unlawful for the Company to exclude or restrict its liability.

10.2 Subject to Clause 10.1:

(a) the Company shall under no circumstances be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit (whether such losses are direct or indirect), or any indirect or consequential loss arising under or in connection with the Contract; and

(b) the Company's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstance exceed the price of the Goods.

10.3 The Buyer shall be liable for and shall indemnify the Company against any and all expenses, loss, liability or proceedings suffered by a third party arising as a result of or in connection with any act, omission, negligence, and/or breach of the terms of this Contract or otherwise through the default of the Buyer.

10.4 The Company makes no representation or warranty that the use of the Goods does not infringe the rights of any third party and the Company accepts no liability in this respect.

11. DEFAULT OR INSOLVENCY OF BUYER

11.1 In the event that:

- (a) the Buyer shall be in breach of any of its obligations under the Contract;
- (b) any distress or execution shall be levied on the Buyer's property or assets; or
- (c) if the Buyer (being an individual or partnership) shall make or offer to make any voluntary arrangement or composition with its creditors or become bankrupt or if any bankruptcy petition be presented against him;
- (d) (if the Buyer is a company) has an administrative receiver or administrator appointed or makes a voluntary arrangement with its creditors or commences to be wound up; or
- (e) otherwise if the Buyer fails to pay its debts as and when they fall due; or
- (f) such equivalent event in Clauses 11.1(a) to Clause 11.1(e) occurs to the Buyer in its local jurisdiction;

the Company at its discretion and without prejudice to any other right or claim may:

(a) by notice in writing forthwith terminate wholly or in part any and all of the other Contracts between the Company and the Buyer; or

(b) may (without prejudice to the Company's rights subsequently to determine the Contract for the same cause should it so decide) by notice in writing suspend further deliveries of Goods

11.2 On termination of the Contract for any reason the Buyer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest.

11.3 Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.

11.4 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

12. FORCE MAJEURE

The Company shall not be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond the Company's reasonable control, including, but not limited to, strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), acts of God, accidents, war, sanctions, fire, failure of energy sources or transport network, reduction in or unavailability of power at manufacturing plant, breakdown of plant or machinery or shortage or unavailability of raw materials from normal source of supply.

13. WAIVER

The waiver by the Company of any right or the failure or delay by the Company to exercise any right or to insist on the strict performance of any provision of this Contract shall not operate as a waiver of, or preclude any further exercise or enforcement of any other right or provision of this Contract.

14. SEVERABILITY

Each provision of this Contract is severable and distinct from the others. The parties intend that every such provision shall be and remain valid and enforceable to the fullest extent permitted by law. If in any particular case any of these conditions shall be held to be invalid or shall not apply to this Contract, the other conditions shall continue in full force and effect.

15. THIRD PARTY RIGHTS

A person who is not a party to this Contract has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this Contract.

16. ASSIGNMENT

16.1 The Buyer may not assign, sub-contract or in any way dispose of its rights or obligations under this Contract without the prior written consent of the Company.

16.2 The Company may without the Buyer's consent assign all or a portion of its rights to receive and obtain payment under this Contract. Any payment made by the Buyer to the payee specified in the Company's invoice in respect of the Goods under this Contract shall be in full discharge of the Buyer's payment obligations to the Company under this Contract.

17. NOTICES

17.1 Any notice required to be served under this Contract shall be served on the Company at its registered offices in the UK or such other address as the Company may from time to time notify to the Buyer and on the Buyer at the address notified to the Company in its registration application by first class post, registered air mail or by email or fax. The Buyer is responsible for notifying the Company in writing of any change of address, email address or fax number from those in the Buyer's registration application.

17.2 Any such notice served by post shall be deemed to have been served in the case of a destination in the UK two days after the date of dispatch and seven days after the date of dispatch to any other destination. In the case of service by email, when the email is available to read in the recipient's inbox and in the case of fax when the addressee's machine acknowledges receipt thereof provided that a copy of the notice or communication is also put into the post in accordance with Clause 17.1 within 24 hours following dispatch of the initial version.

18. VARIATION

Except as set out in these conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the Company.

19. GOVERNING LAW AND JURISDICTION

This Contract shall be construed and operated in accordance with the laws of England & Wales and the parties submit to the exclusive jurisdiction of the English courts.

20. FAIR COLLECTION NOTICE - DATA PROTECTION ACT 1998

20.1 The Company shall comply with the provisions of the Data Protection Act 1998 (the "Act") in relation to the processing of any personal data it obtains from the Buyer.

20.2 The Company may process all the details it obtains from the Buyer to enable the Company to do business with the Buyer and for the specific purpose of selling the Goods to the Buyer. The Company may also request further information from third parties for example, credit reference agencies. The Company shall obtain specific consent from the Buyer for the collection by the Company of sensitive data as defined by the Act such as racial origin, trade union membership and commission of offences.

20.3 Any information gathered will only be used in the context of the business the Company conducts for the Buyer and for any other purpose required for the fair processing of the Buyer's data. The Buyer may notify the Company to cease processing the data if it is unhappy with the way the Company uses the Buyer's personal data or wishes the Company to cease using any data which the Buyer has voluntarily given to the Company.

20.4 The Company may disclose the Buyer's personal data as required by law, including but without limitation, to prevent a crime, discharge a statutory duty or as required by a court order in the context of legal proceedings or to any third parties who process personal data on the Company's behalf, such as computer maintenance companies and any group company within the Company's organisation.

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