

# BUSINESS TERMS AND CONDITIONS (SALES)

SILON LLC, 101 Sierra Dr, Peachtree City, GA 3026, United States



## 1. Validity

1.1 All orders, supplies and related performance are rendered exclusively subject to these Business Terms and Conditions (the "BTC"). The Buyer's reference to its own business terms and conditions is expressly disclaimed. These BTC also apply to any and all business transactions between the parties. Any deviations from or supplementary conditions to these BTC are subject to the prior written consent of SILON LLC, 101 Sierra Drive, Peachtree City, GA 30269 USA ("SILON").

1.2 These BTC, together with all relevant documentation such as offers, estimates or quotations (including referenced documents) ("Offers") from SILON, and all accepted orders placed by the Buyer for SILON's goods (hereinafter the "Goods") constitute the contract ("Contract") between SILON and the Buyer (collectively, the "Parties").

1.3 The Contract contains the entire agreement between the Parties with respect to the sale of Goods and supersedes all prior agreements and understandings between the Parties for the Goods.

## 2. Offer and Acceptance

2.1 SILON's offers are not binding but rather act as an invitation for the Buyer to place an order with SILON. The contract is deemed to become effective when the Buyer places an order with SILON and SILON confirms its acceptance. Where SILON's acceptance entails different conditions from those expressed in the Buyer's offer, the acceptance shall act as SILON's new non-binding offer to enter into a contract.

2.2 Changes or cancellations of accepted orders are valid only upon the parties' mutual prior agreement. If the Buyer requests cancellation of an order, SILON reserves the right to claim a cancellation fee in the amount of 25% of the net value of the such cancelled order.

## 3. Delivery and delays

3.1 In the absence of the parties' express agreement to the contrary, the Goods will be delivered "EX WORKS" (Incoterms 2010), SILON's premises, Peachtree City, GA. Where the parties specifically agree that SILON will arrange the transportation of goods, the place of fulfillment shall coincide with the place where SILON delivers the Goods to the carrier.

3.2 Delivery deadlines and delivery terms proposed by SILON are not binding except to the extent that the parties make them binding for specific transactions by mutual agreement. Regarding the non-binding delivery deadlines or terms, SILON shall not be in default prior to the expiration of a reasonable grace period agreed to by Buyer and specified in writing. The Buyer's grace period shall not be less than four weeks from the last day of the non-binding delivery deadline or term.

3.3 In no event shall SILON be liable for any delay in delivery or deemed to be in default until the expiration of the reasonable grace period.

3.4 SILON may supply the Goods through partial deliveries whenever the Buyer may reasonably be required to accept partial deliveries, especially where the delivery of the remaining Goods has been duly arranged and the Buyer will not sustain any substantial additional or subsequent costs (except to the extent that SILON agrees to reimburse the costs). Each partial delivery shall be invoiced separately.

3.5 The Buyer shall be in default if it fails to accept the delivery of the Goods on the delivery date. If the Buyer delays in accepting the delivery or the Buyer exceeds the common unloading period when accepting the delivery, it shall be charged for any additional costs incurred by SILON as a consequence thereof, such as container lease costs or storage-related costs. The Buyer will be charged an additional storage fee of 0.1% of the sum invoiced per each calendar day of storage, unless the Buyer establishes that the actual storage costs were lower. The burden of proof in the event of higher damage or loss lies with SILON. At the same time,

SILON retains the right to dispose of the Goods after the expiry of the reasonable grace period.

3.6 In the event of reasonable doubts about the Buyer's solvency or in the event of Buyer's default on the payment, SILON may revoke the agreed due dates or may make the subsequent deliveries subject to the concurrent payment or submission of an additional security; this shall be without prejudice to any other SILON's claims. If the Buyer fails to submit the security deposit within two weeks, SILON may withdraw from the respective contract. Where the agreement entails an ongoing (long-term) business relationship (e.g. general supply agreement), SILON may terminate the agreement with immediate effect, in which event the Buyer may not claim delay damages.

## 4. Prices

The binding price is the price set forth in SILON's order confirmation. Prices are for delivery "EX WORKS" and net of any applicable taxes of any nature. SILON reserves the right to increase the prices in order to account for the changes in raw material prices, contractors' prices and exchange rate fluctuations that occur in the period from the day of the contract to the day of delivery, if such circumstances are beyond SILON's reasonable ability to foresee or control. If SILON does increase the price, the Buyer may withdraw from the contract within 14 days from SILON's notice of the price increase.

## 5. Taxes

The Buyer shall be responsible for payment of all taxes, including sales and use tax, inventory tax, duties, fees or other taxes of any nature assessed by governmental authorities applicable to the purchase of the Goods.

## 6. Payments and default on payment

6.1 Unless otherwise agreed by the parties, all payments are due in full payable to SILON's bank account within 14 days from the invoice issue date (the "Due Date").

6.2 If the Buyer fails to pay the invoiced amount by the Due Date, it is deemed to be in default without any requirement for a reminder notice from SILON. The payment day coincides with the day when the invoiced amount has been credited to the SILON's bank account.

6.3 In the event of default on any payment owed by the Buyer, SILON may charge interest on the unpaid balance at the lower of one percent (1%) per month (i.e. 12 % per annum), or the maximum rate permitted by law, from the Due Date until the invoice and all interest charges thereon have been paid in full. If allowed by applicable law, Buyer shall also pay on demand any costs incurred by SILON (including reasonable attorney's fees and legal expenses) in connection with the collection of any amounts due from Buyer to SILON which are not paid as agreed herein;

6.4 SILON may refuse to make any further deliveries under the Contract until the amount due has been fully paid; and/or if the Buyer defaults on two or more payments owed to SILON's in connection with their business relations, all other Buyer's existing obligations, outstanding or otherwise, from all business relations with SILON, become immediately due and payable.

6.5 Buyer shall also pay on demand any costs incurred by SILON (including reasonable attorney's fees and legal expenses) in connection with the collection of any amounts due from Buyer to SILON which are not paid as agreed herein;

6.6 The Buyer is not entitled to withhold any payment as set off, counterclaim or retention unless the terms and conditions of such set off or retention are agreed to in writing by SILON prior to the supply of the Goods.

## 7. Transfer, retention of title, and security interest

7.1 If the Buyer pays the price for the supplied Goods but is still in default on any payments from other business transactions with SILON, SILON reserves the right to retain title in the supplied Goods until the Buyer has paid the entire outstanding debt owed to SILON.

7.2 The Buyer (a) agrees that title in the Goods remains with SILON until the Buyer has fully paid to SILON all amounts due or to become due for the Goods subject to the Contract, in each case in good, collected and indefeasible funds (the "Release Date"); and (b) acknowledges that, until the Release Date, the Buyer is in possession of the Goods for and on behalf of SILON as a bailee.

7.3 As security for all of the Buyer's obligations under the Contract, the Buyer further grants to SILON a security interest in (a) all Goods purchased in accordance with the Contract; (b) without in any way limiting the restrictions in Section 7.4 below, any and all leases, Chattel Paper, Instruments, Accounts and Security Deposits relating in any way to such Goods; and (c) in all Proceeds thereof (the "Collateral"). Terms used in this Section 7.3 without definition have the meanings ascribed thereto in the Uniform Commercial Code as enacted in the State of Georgia (the "UCC"). The Buyer acknowledges that the security interest granted under this Section 7.3 is a purchase money security interest under the UCC.

7.4 The Buyer expressly authorizes, ratifies and confirms past or future filings of one or more UCC financing statements or other documents by SILON or its designees to the extent deemed necessary or desirable by SILON. Such financing statements or documents may describe the Collateral in the manner in which SILON determines best protects SILON's interests in the Collateral and facilitates the future sale of Goods, regardless of whether such description is greater in scope than the Collateral in which the Buyer grants to SILON a security interest. SILON and its designees are specifically authorized to file financing statements in advance of performance under any specific Contract, and the Buyer acknowledges that any such filing made prior to the date of a Contract is authorized and ratified as of the date of such filing (it being acknowledged and agreed, however, that no such filing expands the scope of any Collateral in which the Buyer grants to SILON a security interest).

7.5 THE BUYER SHALL NOT SELL, PLEDGE, TRANSFER OR ASSIGN THE GOODS (FOR SECURITY OR OTHERWISE) UNTIL THE RELEASE DATE.

7.6 Until the Release Date, Buyer shall carefully store, maintain, and insure the delivered Goods; shall protect such Goods against theft, breakage, fire, water and other risks, and moreover shall take all reasonable measures in order that SILON's rights and interests in such Goods are neither compromised nor cancelled. Until the Release Date, the Buyer must keep the Goods identifiably separate from other goods not supplied by SILON.

7.7 The Buyer agrees that until the Release Date, SILON and its designees have the right, with or without prior notice to the Buyer, to enter upon any of Buyer's premises to inspect the Collateral.

7.8 In the event Buyer (a) breaches any representation, warranty or covenant under the Contract; (b) defaults under any other present or future agreement between the Buyer and SILON [or an affiliate of SILON]; (c) shall be legally dissolved, adjudicated insolvent or bankrupt or cease to pay its debts as they mature, make a general assignment for the benefit of or enter into an arrangement with creditors, (d) shall apply for or consent to the appointment of a receiver, trustee or liquidator of it or a substantial part of its property, (e) shall take action to dissolve or terminate its legal existence, or authorize or file a voluntary petition in bankruptcy or under any similar law, or consent to such a petition; or (f) suffer such a petition or proceeding of the type described in subsection (d) to be instituted against it which remains undismissed for a period of sixty (60) days; then SILON may, in its sole discretion, exercise any and all remedies available under applicable law or in equity, including, without limitation:

- (i) enter any premises where any Collateral may be located and repossess, disable or take possession of such Collateral (and/or any attached or unattached parts) by self-help, summary proceedings or otherwise without liability for rent, costs, damages or otherwise;
- (ii) use Buyer's premises for storage without rent or liability;
- (iii) sell, lease or otherwise dispose of, or realize value from, any or all of the Collateral at private or public sale, in bulk or in parcels, with

or without notice except to the extent required by applicable laws, and without having the Collateral present at the place of sale or in Lender's possession; and

- (iv) upon application to a court of competent jurisdiction, seek the immediate appointment of a receiver for all or part of the Collateral, whether such receivership is incidental to a proposed sale of such Collateral, pursuant to the UCC or otherwise. No remedy referred to this Section 7.8 is intended to be exclusive, but all remedies shall be cumulative and in addition to any other remedy referred to above or otherwise available to SILON at law or in equity. In all cases, the Buyer will be responsible for SILON's costs and expenses in exercising its rights.

## 8. Characteristics of goods and samples

SILON shall inform the Buyer regarding the use, application, processing or treatment of its Goods (whether orally, in writing or otherwise) to the best of its knowledge; at the same time, any such data presented by SILON are non-binding, and do not exempt the Buyer from the obligation to examine the fitness of the goods supplied by SILON for any particular purpose and application.

## 9. Acceptance

9.1 The Purchaser shall inspect the Goods supplied by SILON under the Contract within seven (7) days of the Goods being delivered and notify SILON of any defects in writing. Otherwise, SILON will deem the Goods to be accepted as delivered to Purchaser.

9.2 If, upon inspection of the Goods after delivery, minor defects are detected, Purchaser shall be deemed to have accepted the Goods. SILON shall subsequently remedy the detected minor defects.

9.3 If, during the acceptance inspection, major defects are detected, acceptance is postponed. SILON shall promptly remedy such detected defects and notify the Purchaser of a new acceptance date.

## 10. Warranty

10.1 SILON WARRANTS THAT THE GOODS WILL CONFORM TO ANY DESCRIPTION CONTAINED IN THE RELEVANT SALES CONFIRMATION (IF ANY) AND WITH THE STANDARD SPECIFICATION FOR THE GOODS. GOODS SHALL BE DELIVERED FREE FROM DEFECTS IN MATERIAL, WORKMANSHIP AND TITLE

10.2 IF THE GOODS SUPPLIED PERFORMED BY SILON DO NOT SATISFY THE WARRANTIES SPECIFIED IN SECTION 10.1 HEREOF, THE BUYER SHALL PROMPTLY NOTIFY SILON IN WRITING PRIOR TO EXPIRATION OF THE WARRANTY PERIOD. SILON SHALL, AT NO COST TO THE BUYER AND AT ITS OPTION:

- (i) REPAIR SUCH GOODS;
- (ii) REPLACE DEFECTIVE GOODS WITH THE SAME OR EQUIVALENT GOODS; OR
- (iii) REFUND TO THE BUYER THE CONTRACT PRICE OF SUCH GOODS.

THIS WARRANTY DOES NOT EXTEND TO INCLUDE SILON'S LABOR COSTS. THE BUYER SHALL BEAR THE COSTS OF ACCESS FOR SILON'S REMEDIAL WARRANTY EFFORTS (INCLUDING REMOVAL AND REPLACEMENT OF SYSTEMS, STRUCTURES OR OTHER PARTS OF THE BUYER'S FACILITY), DE-INSTALLATION, DECONTAMINATION, RE-INSTALLATION AND TRANSPORTATION OF DEFECTIVE GOODS TO SILON AND BACK TO BUYER. THE WARRANTY COVER FOR REPAIRED OR REPLACED GOODS WILL EXPIRE ON THE SAME DATE AS THE WARRANTY FOR THE REST OF THE GOODS.

10.3 THE WARRANTY DOES NOT APPLY IN RESPECT OF DEFECTS DUE TO OR ARISING FROM:

- (i) INCORRECT OR NEGLIGENT HANDLING, DISREGARD OF OPERATING OR MAINTENANCE INSTRUCTIONS, OVERLOADING, UNSUITABLE OPERATING CONDITIONS, DEFECTIVE BUILDING WORK, LIGHTNING, ACCIDENT, NEGLIGENCE, FAULTY ERECTION, ACTS OF GOD, CAUSES BEYOND SILON'S CONTROL, AND UNAUTHORISED REPAIRS OR ALTERATIONS; AND
- (ii) NORMAL WEAR AND TEAR.

10.4 THIS EXPRESS WARRANTY ONLY APPLIES IF:

- (i) THE GOODS HAVE BEEN PROPERLY HANDLED, LOCATED, USED, MAINTAINED AND STORED;
- (ii) DEFECTS OCCUR WITHIN TWELVE (12) CALENDAR MONTHS AFTER THE GOODS HAVE BEEN DELIVERED TO THE BUYER OR, IF DELIVERY WAS DELAYED FOR REASONS BEYOND SILON'S CONTROL THEN WITHIN TWELVE (12) CALENDAR MONTHS OF DELIVERIES OR WITHIN EIGHTEEN (18) CALENDAR MONTHS AFTER SILON FIRST NOTIFIED THE BUYER THAT SILON WAS READY TO DELIVER THE GOODS (WHICHEVER PERIOD EXPIRES EARLIER);

- (iii) SILON IS NOTIFIED IN WRITING WITHIN SEVEN (7) DAYS OF THE ALLEGED DEFECT FIRST COMING TO THE NOTICE OF THE BUYER;
- (iv) THE BUYER RETURNS THE DEFECTIVE GOODS TO SILON, OR IF NECESSARY AND AT THE SOLE DISCRETION OF SILON, TO THE WORKS WHERE SUCH GOODS WERE MANUFACTURED OR ASSEMBLED, FREE OF CHARGE; AND
- (v) THE BUYER HAS FULFILLED ITS CONTRACTUAL OBLIGATIONS UNDER THE CONTRACT, INCLUDING INSPECTION OF GOODS FOR CONFORMITY

10.5 THE EXPRESS WARRANTIES AND EXPRESS REPRESENTATIONS OF SILON SET FORTH IN THESE BTC ARE IN LIEU OF, AND SILON DISCLAIMS, ANY AND ALL OTHER WARRANTIES, CONDITIONS OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE GOODS HEREUNDER, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE, WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE. SILON HEREBY EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY PERSON OTHER THAN BUYER.

#### 11. Limitation of Liability

11.1 NOTWITHSTANDING ANYTHING ELSE CONTAINED IN THE CONTRACT TO THE CONTRARY, SILON SHALL NOT BE LIABLE (TO THE FULLEST EXTENT PERMITTED AT LAW) WHETHER BY WAY OF INDEMNITY, GUARANTEE, OR BY REASON OF ANY BREACH OF CONTRACT, OR OF STATUTORY DUTY OR BY REASON OF TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE) OR ANY OTHER LEGAL PRINCIPLE OR DOCTRINE FOR:

- (i) ANY CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES;
- (ii) ANY LOSS OF PROFITS, LOSS OF USE, LOSS OF REVENUE OR LOSS OF ANTICIPATED SAVINGS OR FOR ANY FINANCIAL OR ECONOMIC LOSS (WHETHER DIRECT OR INDIRECT) OR FOR ANY CONSEQUENTIAL OR INDIRECT LOSS OR DAMAGE WHATSOEVER; OR
- (iii) ANY OTHER AMOUNT IN AGGREGATE WITH ANY OTHER LIABILITY (BEING ANY PAST, PRESENT OR FUTURE LIABILITY) TO WHICH THIS SECTION APPLIES, THAT EXCEEDS THE AGGREGATE VALUE OF ALL PAYMENTS OF THE CONTRACT PRICE MADE UNDER THESE BTC.

11.2 OTHERWISE, WHERE IT IS PERMITTED AT LAW TO DO SO THE REMEDIES IN SECTION 10.2 OF THESE BTC WILL APPLY.

#### 12. Indemnity

The Buyer shall indemnify and hold SILON harmless against all costs, claims, demands, expenses and liabilities of any nature, including, without prejudice to the generality of the foregoing, claims of death, personal injury, damage to property and consequential loss (including loss of profit) which may be made against the Buyer or which the Buyer may sustain, pay or incur as a result of or in connection with the manufacture, sale, export, import or use of the Goods unless such costs, claims, demands, expenses or liabilities are directly and solely attributable to any breach of the Contract or guarantee by, or negligence of, SILON or its duly authorized employee or agent.

#### 13. Force Majeure

13.1 SILON shall not be held responsible for failure to perform or delay in performing any of its contractual obligations if such failure or delay is due to unforeseeable any events and circumstances that are beyond SILON's reasonable control (such as natural disasters, war, strikes, shortage of raw materials and utilities, transportation and operating accidents, fires and explosions, interventions by public authorities) that restrict the availability of goods and prevent SILON from complying with its contractual obligations (allowing in part for other internal and external obligations), and SILON shall be excused from performance for the duration of the emergency or accident and within the scope of its operation, (i) from its contractual obligations and (ii) from the obligation to procure the goods from third parties. The first sentence also applies to the instances when the foregoing events and circumstances permanently prevent SILON or its subcontractors from performing the obligations ensuing from a particular business transaction. If the circumstances prevail for more than 3 months, SILON may withdraw from the contract.

13.2 SILON shall notify the Buyer in writing within two (2) weeks following the occurrence of any event of Force Majeure citing this section in said notice and shall supply all relevant information about its effects on the performance of the Contract.

#### 14. Statutory compliance, export of goods

14.1 The Buyer must comply with all statutory enactments and administrative requirements, as well as with all applicable laws, and in particular with the export and import regulations of the country, in which the Buyer pursues its business. The Buyer must acquire in due advance all requisite permits and licenses, and all permits needed to use or export the goods in the applicable jurisdiction.

14.2 The Buyer represents and warrants that it will comply with all applicable export control laws, including, without limitation, the requirements of the Arms Export Control Act (22 U.S.C. §§ 2751-2794), the International Traffic in Arms Regulation (22 C.F.R. § 120 et seq.) (the "ITAR"), the Export Administration Act (50 U.S.C. app. § 2401-2420), the Export Administration Regulations (15 C.F.R. §§ 730-774), the Office of Foreign Asset Control regulations (31 C.F.R. § 500 et seq.), and their successor and supplemental laws (collectively, "Export Laws") and any licenses issued under the Export Laws.

14.3 SILON may detain a shipment of goods intended for the Buyer, if the Buyer violates applicable laws or if the Buyer does not have all requisite permits and licenses. SILON shall not have any liability for delay caused by Buyer's failure to obtain proper permits or licenses.

#### 15. Set-off

The Buyer shall not withhold any payment due to Seller as set off, counterclaim or retention unless the terms and conditions of such set off or retention are agreed to in writing by the Seller prior to the shipment of the Goods.

#### 16. Transit damage

The Buyer must claim any damage caused in transit directly with the carrier by the applicable deadline, and send a copy of the claim notice to SILON.

#### 17. Transfer of Risk

17.1 Unless otherwise agreed in writing between the Parties, upon delivery of the Goods to the Buyer, the Buyer will assume the risk and become responsible for loss of, or damage to, the Goods, except where SILON is at fault.

17.2 If repair services are required to be performed on the Buyer's Goods at SILON's facility, the Buyer shall be responsible for, and shall retain the risk or loss of, such Goods at all times, except where SILON is responsible for damage to the Goods while stored or held at SILON's facility and where such damage is caused by SILON's negligence.

#### 18. Governing law and jurisdiction

18.1 Any claims, disputes or controversies arising between the Parties hereunder shall be governed by and construed in accordance with the internal laws of the State of Georgia, USA, without regard to conflicts of laws that would require the application of the laws of another jurisdiction.

18.2 The Parties consent and submit to the exclusive personal jurisdiction and venue of the state and federal courts located in Georgia, including, but not limited to, any dispute or claim arising from the commercial relationship between them, and to otherwise enforce this Contract and carry out the intentions of the Parties.

18.3 The prevailing party in any litigation shall be entitled to recover its fees and costs (including reasonable attorneys' fees) from the other Party.