

**1. DEFINITIONS:**

In these Terms and Conditions, "**Buyer**" means the person, firm, company or corporation by whom the order is given; "**Contract**" means the Order and these Terms and Conditions for the supply of the Goods; "**Contract Price**" means the price payable to Silteq by Buyer for the Goods as set out in Silteq's order acceptance; "**Goods**" means the goods described in Silteq's order acceptance; "**Silteq**" means Silteq Limited (company registration number 01000995); and "**Order**" means the Buyer's order which has been accepted in writing (including by way of email) by Silteq.

**2. THE CONTRACT:**

**2.1** All Orders must be in writing and are only accepted by Silteq subject to these Terms and Conditions. No terms or conditions put forward by Buyer and no representations, warranties, guarantees or other statements in any Order nor otherwise expressly agreed in writing by Silteq shall be binding on Silteq.

**2.2** The Contract shall become binding only upon the date of Silteq's acceptance of the Order in writing (including by way of email) or the issuance of Silteq's invoice, whichever is the earlier. There is no obligation on Silteq to accept any Order. No Order may be cancelled by the Buyer in whole or in part without the prior written agreement of Silteq and subject to a reasonable cancellation charge.

**2.3** No alteration or variation to the Contract shall apply unless agreed in writing by both parties. However, Silteq reserves the right to effect minor modifications and/or improvements to the Goods before delivery provided that the performance of the Goods is not adversely affected and that neither the Contract Price nor the delivery date is affected.

**3. CONTRACT PRICE:**

**3.1** Except as otherwise provided in clauses 3.2 or 3.3 below, the Contract Price is fixed for delivery within the period stated in the Order and is exclusive of (a) value added tax and (b) any similar and other taxes, duties, levies or other like charges arising outside the United Kingdom in connection with the performance of the Contract.

**3.2** Unless otherwise agreed in a Contract, the Contract Price is for Goods delivered EXW (Ex works) Silteq's premises, exclusive of freight, insurance, handling and packing.

**3.3** At any time before delivery Silteq may adjust the Contract Price to reflect any increase in its costs of supplying the Goods.

**4. PAYMENT:**

**4.1** Payment of the Contract Price shall be made in full without set-off, counterclaim or withholding of any kind (save where and to the extent that this cannot by law be excluded), in pounds sterling (or such other currency as the parties may agree).

**4.2** Where Silteq gives credit to the Buyer, payment shall be made within thirty (30) days from the month end of the date of Silteq's invoice (unless stated otherwise in a Contract).

**4.3** If the Buyer defaults on any payment under any Contract or Silteq terminates a Contract in accordance with clause 11, all payments due under all Contracts between the parties shall become payable immediately and Silteq may:

- (i) charge the Buyer interest at the maximum rate permissible by law calculated (on a daily basis) from the due date until payment, before and after any judgment (unless a court orders otherwise);
- (ii) claim fixed sum compensation from the Buyer as permitted by law to cover our credit control overhead costs; and
- (iii) recover (under clause 4.4) the cost of taking legal action to make the Buyer pay.

**4.4** The Buyer indemnifies Silteq in full and holds it harmless from all expenses and liabilities it may incur (directly or indirectly including financing costs, legal costs on a full indemnity basis and the cost of instructing a debt recovery agency to recover a debt due to it if any) following any breach by the Buyer of any of its obligations under any Contract.

**5. DELIVERY, RISK AND TITLE:**

**5.1** Unless otherwise stated in the Order, all periods stated for delivery of the Goods are to be treated as estimates only not involving any contractual obligations provided however that Silteq shall use reasonable endeavours to meet the Buyer's delivery requirements.

**5.2** Each instalment of Goods shall be a separate contract. Any default in delivery of an instalment shall not entitle the Buyer to cancel the remainder of the Order or treat it as repudiated.

**5.3** Unless otherwise expressly stated in the Contract, the Goods will be delivered EXW (Ex works) to Silteq's premises point, exclusive of freight, insurance, handling, and packing. Where the Contract specifically states, or the Buyer has requested and Silteq has agreed in writing, that the Goods will be delivered other than EXW (Ex works) to the destination named in the Contract, or such alternative destination as

has been agreed between Buyer and Silteq, freight, insurance, packing and handling will be charged at Silteq's standard rates.

**5.4** Risk of loss of or damage to the Goods shall pass to Buyer upon delivery and Buyer shall be responsible for insurance of the Goods after risk has so passed. Alternatively, if it is expressly stated in the Contract that Silteq is responsible for the insurance of the Goods after their delivery to the carrier, such insurance will be charged at Silteq's standard rates.

**5.5** Title to the Goods shall pass to Buyer upon payment in full of all monies owing to Silteq.

**5.6** Silteq may sue the Buyer for the Contract Price even though ownership has not passed. Until such time as ownership passes to the Buyer, the Buyer must store the Goods safely, securely and separately from its own goods, clearly marked as Silteq's property.

**5.7** The Buyer may use or re-sell the Goods in the ordinary course of its business prior to the passing of title provided that such use and/or re-sale is of Silteq's property, on the Buyer's behalf as principal.

**5.8** The Buyer is deemed to have re-sold and/or used the Goods in the order in which they were invoiced by Silteq. If the Buyer is at any time late in making payment of any sum due to Silteq or in breach of any Contract it shall be entitled to repossess those Goods to which title has not passed to the Buyer.

**5.9** The Buyer grants Silteq the right to enter upon any premises where the Goods are stored to effect such repossession and/or at any time to inspect the Goods.

**5.10** The Buyer may not pledge or in any way charge for any indebtedness any Goods which are Silteq's property. If the Buyer does so, the Buyer shall be in material irremediable breach of all Contracts and all sums owing to Silteq from the Buyer shall become immediately due and payable.

**5.11** If Silteq is delayed in or prevented from performing any of its obligations under the Contract due to the acts or omissions of the Buyer or its agents, the delivery/completion period shall be adjusted accordingly.

**5.12** If delivery is delayed beyond the due date due to any act or omission of Buyer, or if having been notified that the Goods are ready for despatch, Buyer fails to take delivery by the due date for delivery or provide adequate shipping instructions, Silteq shall be entitled to place the Goods into a suitable store at Buyer's expense. In this event delivery shall be deemed to be complete and risk in the Goods shall pass to Buyer.

**6. FORCE MAJEURE:**

**6.1** The Contract shall be suspended (other than Buyer's obligation to pay all sums due to Silteq in accordance with the Contract), without liability, in the event and to the extent that its performance is prevented or delayed due to any circumstance beyond the reasonable control of the party affected, including but not limited to: act of God, war, armed conflict or terrorist attack, riot, fire, explosion, accident, flood, sabotage; governmental decisions or actions, or labour trouble, strike, lockout or injunction.

**6.2** If either party is delayed or prevented from performance of its obligations by reason of this clause for more than 180 consecutive calendar days, either party may terminate the then unperformed portion of the Contract by notice in writing given to the other party, without liability provided that Buyer shall be obliged to pay the reasonable cost and expense of any work in progress and to pay for all Goods delivered as at the date of termination.

**7. DEFECTS AFTER DELIVERY:**

**7.1** Silteq warrants that the Goods shall conform in all material respects with any jointly approved specification for the Goods for the duration of (i) the shelf life listed in the relevant certificate of conformity or (ii) the period of 6 months from delivery, whichever is the lesser duration. Silteq will replace any non-conforming Goods provided that (i) they are reported to Silteq within 6 months after delivery; and (ii) the non-conforming Goods are returned to Silteq at Buyer's cost who will reimburse the reasonable carriage and insurance.

**7.2** Goods sourced by Silteq from a third party for resale to Buyer shall carry only the warranty extended by the original manufacturer (if any).

**7.3** Notwithstanding clauses 7.1 and 7.2, Silteq shall not be liable for any defects caused by: fair wear and tear; materials or workmanship made, furnished or specified by Buyer; non-compliance with Silteq's storage, installation, operation or use or storage of Goods in harsh environmental conditions; lack of proper maintenance; any modification or repair not previously authorised by Silteq in writing; nor the use of spare or replacement parts.

**7.4** Subject to clause 9, the foregoing constitutes Silteq's sole warranty and Buyer's exclusive remedy for breach thereof. No representations, warranties or conditions of any kind, express or implied, shall apply as



to satisfactory quality, merchantability, fitness for any particular purpose or any other matter with respect to any of the Goods.

#### **8. INTELLECTUAL PROPERTY RIGHTS:**

**8.1** Silteq retains all intellectual property rights in all Goods and in all drawings, data, formulations, test results and other deliverables ("Deliverables") supplied to the Buyer under any Contract.

**8.2** The Buyer may use Deliverables only for the purpose for which Silteq supplies them to the Buyer for the period during which the Buyer uses the Goods. The Buyer may not supply any Deliverables to any third party or use them for any other purpose.

#### **9. LIMITATION OF LIABILITY:**

**9.1** Notwithstanding any other provision of the Contract, but subject to clause 9.2, and without prejudice to clause 9.3, Silteq's maximum aggregate liability for any and all losses, liabilities, expenses (including legal expenses), damages, claims or actions incurred under or in connection with any Contract, arising in or by virtue of breach of contract, tort (including negligence), misrepresentation, breach of statutory duty, strict liability, or otherwise, shall in no circumstances exceed: (i) GBP £1,000,000 for loss of or damage to physical property, and (ii) in all other cases, the Contract Price for the relevant Contract, in either case.

**9.2** Notwithstanding any other provision of the Contract but without prejudice to clause 9.3, Silteq shall not be liable under or in connection with any Contract, for any:

(i) loss of income; (ii) loss of actual or anticipated profits; (iii) loss of anticipated savings; (iv) increased costs of any kind; (v) loss of business; (vi) loss of contracts; (vii) loss of goodwill or reputation; (viii) loss of, damage to or corruption of data; (ix) claims of Buyer's customers or (x) any indirect or consequential loss or damage of any kind, howsoever caused and whether arising in or by virtue of:

(i) breach of contract; (ii) tort (including negligence); (iii) misrepresentation; (iv) breach of statutory duty; (v) strict liability; or (vi) infringement of intellectual property rights, whether or not such loss or damage was foreseeable or in the contemplation of the parties.

**9.3** Nothing in this Contract shall exclude or in any way limit Silteq's liability (i) for fraud, (ii) for death or personal injury caused by Silteq's negligence, or (iii) for any liability to the extent that such liability may not be limited or excluded as a matter of law.

#### **10. STATUTORY AND OTHER REGULATIONS:**

**10.1** If Silteq's obligations under the Contract shall be increased or reduced by reason of the making or amendment after the date of Silteq's quotation of any law or any order, regulation or bye-law having the force of law that shall affect the performance of Silteq's obligations under the Contract, the Contract Price and delivery period shall be adjusted accordingly and/or performance of the Contract suspended or terminated, as appropriate.

**10.2** The Buyer warrants that any exportation of its Goods will be in strict conformance with applicable law, including relevant export control regulations.

**10.3** The Buyer confirms that it will not use such Goods or facilitate their use by third parties in violation of such regulations or applicable law.

#### **11. DEFAULT, INSOLVENCY AND CANCELLATION:**

**11.1** Silteq shall be entitled, without prejudice to any other rights it may have, to cancel the Contract forthwith, wholly or partly, by notice in writing to Buyer, if (a) Buyer is in default of any of its obligations under the Contract and fails, within 30 (thirty) days of the date of Silteq's notification in writing of the existence of the default, either to rectify such default if it is reasonably capable of being rectified within such period or, if the default is not reasonably capable of being rectified within such period, to take action to remedy the default or (b) on the occurrence of an Insolvency Event in relation to Buyer. "Insolvency Event" means any of the following: (i) a meeting of creditors of that person being held or an arrangement or composition with or for the benefit of its creditors (including a voluntary arrangement as defined in the Insolvency Act 1986) being proposed by or in relation to that person; (ii) a chargeholder, receiver, administrative receiver or similar person taking possession of or being appointed over or any distress, execution or other process being levied or enforced (and not being discharged within seven days) on the whole or a material part of the assets of that person; (iii) that person ceasing to carry on business or being unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; (iv) that person or its directors or the holder of a qualifying floating charge giving notice of their intention to appoint, or making an application to the court for the appointment of, an administrator; (v) a petition being presented (and not being discharged within 28 days) or a resolution being passed or an order being made for the administration or the winding-up,

bankruptcy or dissolution of that person; or (vi) the happening in relation to that person of an event analogous to any of the above in any jurisdiction in which it is incorporated or resident or in which it carries on business or has assets.

**11.2** Silteq shall be entitled to recover from Buyer or Buyer's representative all costs and damages incurred by Silteq as a result of such cancellation, including a reasonable allowance for overheads and profit (including but not limited to loss of prospective profits and overheads).

#### **12. ANTI BRIBERY AND CORRUPTION:**

**12.1** The Buyer shall (i) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010, (ii) not bribe, promise or give financial advantage to another person (including a Foreign Public Official) whether directly or indirectly and must not receive any bribe, promise or other financial advantage from a third party which in each case may be designed or intended to induce or reward the improper performance of a function or activity, (iii) promptly report to Silteq any request or demand for any undue financial or other advantage of any kind received by the Buyer in connection with the performance of any Contract and, at Silteq's request, confirm in writing that the Buyer has complied with this clause 12.1 and provide such supporting evidence of compliance as Silteq may reasonably request.

**12.2** Breach of this clause 12 shall be treated as a repudiatory breach of the Contract.

#### **13. MISCELLANEOUS:**

**13.1** No waiver by either party with respect to any breach or default or of any right or remedy and no course of dealing, shall be deemed to constitute a continuing waiver of any other breach or default or of any other right or remedy, unless such waiver be expressed in writing and signed by the party to be bound.

**13.2** If any clause, sub-clause or other provision of the Contract is invalid under any statute or rule of law, such provision, to that extent only, shall be deemed to be omitted without affecting the validity of the remainder of the Contract.

**13.3** Buyer shall not be entitled to assign its rights or obligations hereunder without the prior written consent of Silteq. Silteq may assign or subcontract the Contract or any right or obligation under it upon giving reasonable notice to the Buyer.

**13.4** All notices and claims in connection with the Contract must be in writing.

#### **14. GOVERNING LAW:**

**14.1** All Contracts shall be governed by English law and both Silteq and the Buyer submit to the exclusive jurisdiction of the English courts (including for any non-contractual claims).

**14.2** For the avoidance of doubt, the United Nations Convention on the International Sale of Goods shall not apply to any Contract.

**14.3** Nothing in this clause 14 shall limit Silteq's right to take proceedings against the Buyer in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude Silteq from taking proceedings in any other jurisdiction, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.