

# Terms and Conditions of Sale

## SICK Automation Southern Africa PTY Ltd

<p><b>1.</b></p> <p><b>1.1</b></p> <p><b>General</b></p> <p>Contracts and orders are accepted by SICK Automation Southern Africa (Pty) Ltd (hereinafter the "Company") only subject to the Conditions as set out herein and the Purchaser shall be bound by such Conditions. No modification of these Conditions or of the particulars contained the Company's acceptance of an order from the Purchaser will be recognized by the Company unless such modification is expressly accepted by the Company in writing. Unless so accepted, any qualification thereof or difference contained in the Purchaser's own order forms or terms and conditions of the purchase shall be inapplicable. All orders, whether based on this quotation or otherwise, shall be subject to the Company's written acceptance.</p>	<p>commission) in the event of the Company instructing its attorneys to recover money from the Purchaser.</p>
<p><b>1.2</b></p> <p>Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.</p>	<p><b>3.</b></p> <p><b>3.1</b></p> <p><b>Delivery</b></p> <p>No liability will be accepted by the Company for any delay in the dispatch or delivery of the goods and/or performance of the services (whatever the cause of the delay) or for any damage or losses caused thereby. Time for delivery shall not be of the essence of the contract unless previously expressly agreed by the Company in writing.</p>
<p><b>1.3</b></p> <p>Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing, addressed to such other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. A notice is deemed to have been served if delivered personally, by fax or e-mail at the time of delivery or if posted by registered mail, at the time of expiration of 3 (three) business days after the notice is posted.</p>	<p><b>3.2</b></p> <p>Once the goods have been delivered to Purchaser according to the agreed Incoterm 2010, the goods shall be at the sole risk of the Purchaser.</p>
<p><b>1.4</b></p> <p>If any provision of 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 these Conditions and the remainder of the provisions in question shall not be affected.</p>	<p><b>3.3</b></p> <p>If delivery periods or dates cannot be met due to disruptions whether (government actions, regional restrictions, supply shortages or the like ) beyond the reasonable control of the SICK Group caused by the outbreak of a pandemic in any country, the deadlines for performance by SICK Automation Southern Africa Pty Ltd, will be extended until compliance can be achieved. SICK Group will not be liable for any loss, costs or damages resulting from such an extension.</p>
<p><b>2.</b></p> <p><b>2.1</b></p> <p><b>Prices and Payment</b></p> <p>Unless otherwise agreed, prices are calculated EXW (Incoterms<sup>1</sup> 2010) Company. Where applicable, delivery, packing, inspection and testing charges will be invoiced separately. Unless otherwise specified, goods and/or services are supplied for payment of net cash after delivery/performance within 14 days of the invoice date. Applicable VAT will be invoiced separately where and at the rate applicable as well as any other government-imposed taxes in force at the date of invoice.</p>	<p><b>4.</b></p> <p><b>4.1</b></p> <p><b>Variation of Price</b></p> <p>Prices may be altered by the Company without notice at any time. All goods are sold and services are performed subject to the prices agreed upon, in the absence of an express agreement, subject to the current price lists of the Company at the time of order confirmation.</p>
<p><b>2.2</b></p> <p>The Purchaser shall not be entitled to make any deductions, set-offs or counter claims against the invoice price, nor to defer payment.</p>	<p><b>4.2</b></p> <p>The quoted price is also subject to adjustment if any changes are requested by the Purchaser in the specification or quantities of the goods or delivery requirements, provided that such changes are accepted by the Company.</p>
<p><b>2.3</b></p> <p>If the Purchaser fails to make any payment on the due date then, without prejudice to any other rights or remedy available to the Company, the Company shall be entitled to cancel the contract and suspend any further deliveries or suspend the provision of the services to the Purchaser and also, subject to any provisions of the National Credit Act, 2005 that may be applicable, also to;</p> <ul style="list-style-type: none"> <li>- appropriate any payment made by the Purchaser to such of the goods and/or services (or the goods supplied under any other contract between the Purchaser and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Purchaser); and</li> <li>- charge the Purchaser interest (both before and after any judgment) on the amount unpaid at the rate of 5% per annum above the prime rate per annum of Nedbank Limited from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest); and</li> <li>- claim reimbursement for any legal expenses incurred by the Company on an attorney and client scale (including collection</li> </ul>	<p><b>5.</b></p> <p><b>5.1</b></p> <p><b>Loss or Damage in Transit</b></p> <p>Where transport of the goods is the obligation of or has been arranged by the Company and the equipment is damaged in transit or having been placed in transit has not been delivered to the Purchaser then:</p> <ul style="list-style-type: none"> <li>- In the case of damage to the goods, the Purchaser shall give notice thereof to the Company within 3 days after delivery and in the case of non-delivery of the goods, the Purchaser shall give notice thereof to the Company within 10 days from receipt of the relevant notice;</li> <li>- Goods subject to any claim under this clause must be stored free of charge for inspection by the Company.</li> </ul>
	<p><b>5.2</b></p> <p>The Company shall be under no liability whatsoever if the Purchaser fails to give such notice of damage or non-delivery or fails to store for inspection by the Company goods subject to any claim and in any of such events any damage to the goods shall be deemed to have occurred after delivery of the goods to the Purchaser.</p>
	<p><b>6.</b></p> <p><b>Alterations to Specifications</b></p> <p>The Company reserves the right to incorporate revisions to the specifications or designs of the equipment not having an adverse impact on the Purchaser, or as necessary due to changed legal requirements without notice. In such cases the goods shall be accepted by the Purchaser as conforming to the contract.</p>
	<p><b>7.</b></p> <p><b>Drawings</b></p> <p>Drawings, specification and other information supplied</p> <ul style="list-style-type: none"> <li>- are confidential and remain the property of the Company;</li> <li>- must not be disclosed to any other party;</li> <li>- must be returned to the Company if the quotation is not accepted;</li> <li>- are approximate only and shall not, unless otherwise stated, be deemed to form part of the contract.</li> </ul>
	<p><b>8.</b></p> <p><b>8.1</b></p> <p><b>Goods on Sale or Return</b></p> <p>Goods stated as being supplied on a "Sale or Return" basis are supplied entirely at the Purchaser's own risk and shall remain so until returned to the Company in satisfactory condition to the Company's then current address. The Company shall be entitled to charge at its then current rates for any work that may be</p>

<sup>1</sup> International Commercial Terms published by the International Chamber of Commerce (ICC)

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	necessary to restore the goods to the condition in which they were delivered.	
8.2	Unless otherwise agreed in writing goods supplied on a Sale and Return basis shall be returned to the Company within 7 days of invoice date. The Company shall be entitled to a handling fee of 20% of the purchase price with respect to such returned goods. If goods are not returned within this period, they will be invoiced and their prices shall become due for payment in accordance with these Conditions.	9.5 - notice is given as soon as reasonably practicable to the Company once the proceeds of sale have been received by the Purchaser.
9.1	<b>Retention of Title</b> Property in the goods shall remain vested in the Company until payment of the purchase price thereof shall have been made by the Purchaser in full. The Purchaser shall be in possession of the goods solely as bailee for the Company until the full price is paid. The Purchaser shall store the goods separately from his own goods and/or those of any other person and at all times the goods shall be stored in such a manner that they are readily identifiable as the goods of the Company until the full price is paid.	9.6 If the Purchaser shall sell the goods without complying with the provisions of condition 9.4, the Purchaser shall be in breach of bailment and liable to account to the Company for the proceeds of the sale.
9.2	The Purchaser's rights to possession as bailee shall cease forthwith if the Purchaser: - not being a company, commits an act of insolvency; or - being a company or Close Corporation, does anything or omits to do anything which would entitle a The Master of the High Court or a liquidator or receiver or administrator to take possession of any of its assets or which would entitle any person to present an application to Court for the compulsory winding-up of the Purchaser or a receiver is appointed to take possession of any of the Purchaser's assets or a special resolution is passed for the voluntary winding up of the Purchaser or an application to Court for the compulsory winding-up of the Purchaser.	9.7 In exercising the right of sale under condition 9.4, the Purchaser shall as regards the third party act solely on his own behalf and shall not have or hold himself out in any way whatsoever as having the right to make representations to or contracts with the third party on behalf of the Company.
9.3	Whenever and as soon as the Purchaser does or omits to do anything whereby this right to possession ceases under the provisions of condition 9.2 then: - the Purchaser shall immediately notify the Company that the Purchaser's right to possession as bailee has ceased and of the circumstances in which this has occurred, and - the Purchaser shall on oral or written request furnish the Company, the Company's representatives or agents with sufficient information so as to enable the Company to retake possession of the goods and such information shall include full details of the place where the goods are kept; and - the Company shall have an irrevocable license, without giving the Purchaser prior notice, to enter upon the Purchaser's premises by itself or through the Company's representatives or agents during normal business hours in order to retake possession of the goods; and - the Company shall be entitled to claim reimbursement for any legal expenses incurred by the Company on an attorney and client scale (including collection commission) in the event of the Company instructing its attorneys to recover or collect the goods from the Purchaser.	9.8 The Purchaser shall, from the time when under clause 3 hereof the sole risk in the goods rests upon the Purchaser, fully insure the goods against all risks with a reputable insurance company at its own expense. Without in any way prejudicing the right of the Company to claim and receive from the Purchaser as and when due, the full purchase price of the goods, the insurance shall cover the Company's interest in the goods, and the Purchaser shall hold in a separate bank account all monies paid under such insurance in trust for the Company and shall pay the same to the Company on demand unless the Purchaser shall have previously paid the purchaser price in full. If the Purchaser shall not effect such insurance the Company shall be entitled to insure the goods and demand reimbursement for the cost of the same from the Purchaser.
9.4	The Purchaser may sell the goods to a third party prior to the date on which full payment of the price is received by or made to the Company if and only if: - none of the circumstances specified in condition 9.2 have occurred or are reasonably expected to occur; and - the proceeds of sale, if less than the full price of the goods, or such part of the proceeds of sale as equals the full price of the goods when received by the Purchaser and/or his agents, are placed forthwith in an interest bearing deposit account and the funds therein or the appropriate part thereof are held on trust for the Company and are payable to the Company; and - notice is given as soon as reasonably practicable to the Company of the sub-scale including the name and the address of the third party and the name and address of the bank with whom the deposit account has been opened and the number of the account; and	9.9 During the course and scope of this agreement, the Company may provide certain proprietary information to the Purchaser. This information may include but not be limited to, product specifications, test results, processes, technologies, innovative concepts and other information designated as confidential expressly or by the circumstances in which it is provided as part of part of the services and/or product specifications under this agreement, (collectively "Confidential Information").
		9.10 Confidential Information does not include:
		9.10.1 information already known or independently developed by the Purchaser;
		9.10.2 information in the public domain through no wrongful act of the Purchaser, or,
		9.10.3 information received by the Purchaser from a third party who was free to disclose it.
		9.11 It is agreed that Confidential Information shall not be revealed or disclosed to any third party at any time, except as may be authorized in writing by an officer or authorized representative of the Company. The Purchaser hereby agrees that it shall not use, commercialize or disclose such Confidential Information to any person or entity, except to its employees having a "need to know" (and who are themselves bound by similar nondisclosure restrictions).
		9.12 In the event that the Purchaser becomes legally compelled to disclose any of the Confidential Information, the Purchaser shall use its best efforts to promptly notify Company and provide reasonable cooperation to Company in connection with its efforts to lawfully avoid or limit disclosure and preserve the confidentiality of the Confidential Information in such circumstances.
		9.13 The Purchaser acknowledges and agrees that the unauthorized disclosure of Company's Confidential Information could cause harm and significant injury to the Company.
		<b>10. Insolvency/Liquidation</b> 10.1 If the Purchaser becomes insolvent or goes into liquidation or makes any composition with his creditors or if a receiver of any of his assets is appointed pursuant to an arrangement sanctioned in terms of the Companies Act, 2008, the Company shall be at liberty either:

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- to cancel the contract summarily by notice in writing without compensation to the Purchaser or

- to have the option of completing the contract provided agreement is reached between the Company and any trustee of the insolvent or, in the case of a company or close corporation any liquidator or receiver that may be appointed.

10.2 The exercise of any of the rights granted to the Purchaser under condition 10.1 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Company.

**11. Warranty and Liability**

11.1 The following warranty shall be deemed to be incorporated in these Conditions of Sale: Company warrants that the goods comply with the agreed specifications or, in the absence of an explicit agreement regarding the specification, Company's specification valid at the time of order confirmation. For a period of twelve months from the date on which a product both manufactured and sold by the Company is delivered to the Purchaser, the Company will exchange or repair at the Company's option any part or parts thereof requiring replacement or repair by reason of defective workmanship or material.

11.2 The Company shall not be responsible for any expense which the Purchaser may incur in removing or having removed or any replacement or having replaced any part or parts sent for inspection or in fitting of having fitted any new parts supplied in lieu thereof.

11.3 The Company shall not be responsible for any defect, which is the reasonable opinion of the Company was attributed to:

- Wear and tear;
- Any form whatsoever of improper use or use which was not in accordance with accepted practice;
- Abnormal corrosive or abrasive conditions;
- Non-compliance with any instructions issued by the Company concerning the use, fitting and servicing of the goods;
- Incorrect fitment;
- Faulty or irregular supply of electricity.

11.4 Modified goods supplied by the Company in accordance with Clause 6 of these Conditions shall not constitute a defect for the purposes of this warranty.

11.5 This warranty is limited to those parts of the goods that are manufactured by the SICK Group of Companies. Any parts which are not manufactured by the SICK Group of Companies shall be subject to such warranties and/or warranties (if any) as are given by the manufacturer of such parts.

11.6 Any goods exchanged due to warranty obligations of the Company or returned to Purchaser after a warranty repair will be subject to a period of warranty for twelve months, from the date of exchange or repair, in the latter case on the part or parts that were replaced during the repair. It is the liability of the Purchaser to verify the correct function of the device after return from exchange or repair.

11.7 Any goods that are outside of the initial sales warranty period and are exchanged or repaired against charge shall be subject to a further warranty period of three months from the date of the exchange or repair. It is the liability of the Purchaser to verify the correct function of the device after return from exchange or repair.

11.8 Company's and any of Company's affiliated companies' total liability for any claim arising out of or in connection with the sale of goods or provision of services by Company to Purchaser or the use of such goods or services by Purchaser, for breach of contract, warranty or statutory duty, or other delict including Company's negligence shall not exceed the agreed sales price for the relevant delivery of goods or services.

Neither Purchaser nor Company shall be liable to the other for any incidental, special, consequential, or punitive cost, expense, loss or damage including but not limited to loss of production, loss of use, loss from business interruption, indirect loss of profit, loss of business, loss of goodwill or reputation, or wasted expenditure. Any claim shall be made by Purchaser by written notice, setting forth fully the facts on which it is based, immediately after the date when the facts were discovered or should have been discovered.

No limitation or exclusion of liability shall apply in cases of death or personal injury caused by the Company's negligence or in cases of intentional conduct by Company.

11.9 The warranty set out in this clause is given in lieu of and excludes every other condition or warranty whether express or implied, statutory or otherwise.

**12. Claims**

No claim for credit, exchange or repairs can be considered unless prior approval of the Company is obtained by the Purchaser. Upon approval, an authorization number will be given by the Company which must be quoted in respect of all goods returned. In addition, any such goods must be returned on the risk of the Purchaser carriage paid to the Company and supported by the following particulars:

- the Company's reference on the product from which the part or parts were taken, and
- the defects, claims and the reasons for them, and
- the date of purchase and source from which the product was purchased.

**13. Force Majeure**

Should the Company be prevented from delivering at the agreed date by strikes, lockouts, act of God, war, fire, tempest, flood, accident, pandemic or damage to goods, or delay in obtaining or inability to obtain through scarcity of materials or for any other cause beyond the Company's control, the Company may suspend delivery until a reasonable time after the end of the happening and during such time as is reasonably incidental to the resumption of normal production of goods or cancel or vary the contract without compensation.

**14. Pledge**

In addition to any other security right to which the Company may be law be entitled, the Company shall have a general right to retain in ledge all goods of the Purchaser in the possession of the Company (whether or not payment for such goods or some of them may have been received for) for the unpaid price of any other goods sold and delivered to the Purchaser by the Company under the same or other contracts.

**15. Waiver**

The Company's rights shall not be affected or restricted by any indulgence or forbearance granted to the Purchaser. No waiver by the Company of any right arising from any breach by the Purchaser shall operate as a waiver of any later breach of the same or any other provision by the Purchaser.

**16. Addresses for Service**

The Company and the Purchaser each respectively chooses as the place at or to which all statements of account and notices and all summonses and other legal process shall be served upon or delivered or sent to the Company or the Purchaser, as the case may be, and as the place to which or at which the execution of any judgment or warrant of attachment may be served or delivered or executed or performed in relation to any claim or other matter, the following physical addresses;

16.1 The Purchaser's choice for all such documents intended for it is: the place of business of the Purchaser as specified in the order.

16.2 The Company's choice for all such documents intended for it is: the place of the Registered Office of the Company that it is required to register in terms of the Companies Act, 2008.

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**17. Applicable Law**

The rights and obligations of the parties hereunder and all the terms and conditions hereof and any disputes arising out thereof or in connection therewith shall be construed in accordance with the laws of The Republic of South Africa under the exclusion of the United Nations Convention of the International Sale of Goods. They shall be subject to the exclusive jurisdiction of the courts having jurisdiction at the address of the registered office of the Company. The Company shall however, at its sole discretion, have the right to bring claim against the Purchaser at any other court provided by law.