

# General Terms and Conditions of Purchase of SICK (SSC08)

as at April 2022

## 1. General Provisions

These General Terms and Conditions of Purchase shall govern and apply to all orders placed by companies of the SICK group within the People's Republic of China, including Hong Kong (hereinafter referred to as "Purchaser"). Any deviating or additional general terms and conditions of Supplier shall only apply insofar as Purchaser has expressly approved them in writing. These General Terms and Conditions of Purchase shall also apply to all future business transactions with Supplier.

## 2. Orders

All orders, contracts and release orders shall require the written form (including email) in order to be binding. The same shall apply to any modifications and amendments of the contract.

## 3. Partial Deliveries, Date of Delivery and Delay

Supplier is not entitled to make partial deliveries, unless Purchaser has expressly approved them, or they are reasonable for Purchaser.

The date specified in the order for the delivery of the ordered goods or services ("Deliverables") is binding ("Delivery Date"). Supplier is obliged to immediately notify Purchaser in writing in case circumstances occur, or become apparent, which give rise to the reasonable expectation that the Delivery Date will not be observed.

If delivery or readiness for acceptance are delayed due to reasons attributable to Supplier, Purchaser is entitled to claim a contractual penalty in the amount of 0.2% of the order value for each business day of delay, up to a maximum of 5% of the order value. Purchaser will claim or reserve the right to claim the contractual penalty within ten business days of receipt of the delayed Deliverables or acceptance of the services or declare it by the due date of the final payment (whichever is later). The right to assert further claims for damages as well as the right to withdraw from the contract shall remain unaffected. Purchaser shall be entitled to claim the contractual penalty in addition to the performance; in such case, the contractual penalty shall be deducted from claims for damages.

## 4. Prices, Invoicing and Payment

Prices quoted in the order are binding. All quoted prices shall include delivery according to Incoterms agreed upon in section 6 hereof.

All invoices must comply with the applicable tax regulations and state Purchaser's order number and order item as set out in the order. The invoice must be addressed to the ordering entity. Supplier shall be liable for all consequences arising due to non-compliance with this obligation. Payment periods commence with receipt of a correct invoice, but in no event before receipt of the Deliverable or before acceptance (where required for the performance by contract or by law).

## 5. Packaging

Supplier shall use environmentally friendly packaging in compliance with legal regulations applicable at Purchaser's location. Purchaser reserves the right to return packaging at Supplier's cost.

## 6. Delivery

Unless otherwise agreed in writing, deliveries shall take place according to DDP (Incoterms 2010) place of destination as specified in the order. Each delivery shall be accompanied by a delivery note listing all order details and in particular the correct order reference number. If Supplier fails to do so, Purchaser shall not be held liable for any delays in order processing. The specified place of destination/point of departure shall be adhered to under any circumstances.

## 7. Execution, Documentation

Orders shall be carried out according to Purchaser's instructions, standards, delivery and test specifications, drawings, etc.

Deliverables shall conform to the rules of technology as well as any applicable statutory provisions regarding GB or equivalent or higher standard regulations and any other technical standards, in particular regarding safety and environmental protection. Supplier guarantees CCC conformity. In respect of figures, drawings, calculations and any other material and data provided by Purchaser, Purchaser reserves its proprietary rights and copyrights. They may not be made available to any third party without express written approval. Further, they may exclusively be used for processing the order. Upon completion of order processing, Supplier shall return them to Purchaser at its own initiative. They shall be kept confidential and may not be disclosed to any third parties. The confidentiality obligation shall remain in effect after the contract has been carried out; it shall expire if and to the extent that the know-how contained in the figures, drawings, calculations and other documents or data provided has become public knowledge.

## 8. Models and Tools

Models and tools produced by Supplier at Purchaser's cost shall become the sole and exclusive property of Purchaser upon payment and shall be permanently marked as property of Purchaser by Supplier. Supplier undertakes to use all models and tools solely and exclusively for the purpose of manufacturing the Deliverables. Supplier further undertakes to insure Purchaser's models and tools at its own cost against damages caused by fire, water, and theft at reinstatement value.

## 9. Preference, Supplier's Declaration

Supplier shall, upon request, provide to Purchaser certificates of origin, supplier's declarations, commodity codes or preference certificates as well as any other documents/data according to the pertaining export requirements.

## 10. Amendments and Modifications

Until delivery of the Deliverables (or where applicable until acceptance of the services), Purchaser may at any time and at its reasonable discretion request Supplier to make reasonable amendments and modification to the order. Supplier shall be obliged to propose to Purchaser any amendments and modifications to the Deliverables which Supplier deems necessary and expedient with regard to successful performance of the contract. After written approval by Purchaser, Supplier shall carry out such changes.

To the extent an amendment or modification results in an increase or reduction of costs and/or in the event a deadline can no longer be met, Supplier is obliged to point this out to Purchaser in his change proposal or immediately after receipt of Purchaser's change request and to submit a corresponding supplementary offer. The remuneration shall be adjusted taking into account the change in costs.

## 11. Compliance with Restriction of Hazardous Substances and Legal Obligations

Supplier guarantees to comply with all delivery requirements, prohibitions of substances as well as other legal obligations, in particular registration and reporting duties, in accordance with the statutory provisions in force at the location of Purchaser.

Supplier also undertakes to comply with the then current limit values of the China RoHS (effective from July 1, 2016) or of any successor regulation applicable at the time of delivery. This obligation shall also apply to products which do not fall within the scope of the China RoHS. Excepted from this rule are only products which, due to their nature or composition, cannot be components of electronic products from the Purchaser portfolio, e.g. stationery, office furniture, packaging, production equipment, etc. Supplier may request a list of the prohibited substances that Purchaser considers most critical; however, such list does not claim to be exhaustive. Supplier may not use any conflict minerals as defined in Section 1502 of the U.S. Dodd-Frank-Act for the production of the Deliverables and shall procure from its suppliers only products that do not contain such conflict minerals. In case a Deliverable contains mineral raw materials or their derivatives, their origin shall be disclosed upon request.

## 12. Return of Waste Equipment

Purchaser is fully and unrestrictedly entitled to all statutory claims regarding the return of waste equipment according to Chinese relevant laws and regulations about recycling electrical and electronic equipment, in particular the right to return waste equipment.

## 13. Compliance with the Supplier Code, Sustainability

Supplier undertakes to adhere to the principles laid down in Purchaser's Supplier Code (available at [www.sick.com/de/en/procurement/wprocurement/](http://www.sick.com/de/en/procurement/wprocurement/)). Supplier shall obligate its sub suppliers and subcontractors accordingly.

Supplier further undertakes to provide Purchaser with data for determining resource efficiency or drawing up an ecological balance sheet (e.g., CO2 emissions, total water consumption, etc.), to the extent that such data are collected on a statutory basis or are available to Supplier without any significant additional effort.

## 14. Compliance with Export Control Regulations

Supplier undertakes to make available items (goods, software, and technology including services) only in accordance with the applicable customs and foreign trade law. Supplier is obliged to make available to Purchaser all the information Purchaser needs for export, import, transit and re-export and all relevant amendments to such information no later than upon delivery or performance and, in any case, on the invoice.

In particular, Supplier shall provide the following information on every line item:

- all applicable export control classifications (provide the respective item classification number or mark the item as not listed) including those under the German foreign trade law, EU Dual-Use Regulation, US Export Administration Regulations (EAR) or the International Traffic of Arms Regulations (ITAR), and the US content contained therein
- commodity code (HS code)
- origin of the items (non-preferential origin) and, upon Purchaser's request, supplier declarations of preferential origin (for European Suppliers) or certificates of preferential origin (for non-European Suppliers)

Where items are included in an items list, Supplier shall additionally send the export control classifications with the Purchaser reference number (e.g., item number, order number) to [exportcontrol-data@sick.de](mailto:exportcontrol-data@sick.de) no later than 15 business days prior to the first delivery or performance.

## 15. Notification of Defects

Upon delivery, Deliverables shall be examined by Purchaser only with regard to obvious damage, in particular shipment damage, deviations as to identity or quantity, unless agreed otherwise in writing with Supplier. Defects shall be notified within reasonable time after their discovery.

## 16. Warranty

Purchaser is fully and unrestrictedly entitled to all statutory warranty claims and claims for damages in connection with defects in quality and defects of title.

Purchaser shall be entitled to choose the type of remedy – repair or replacement of the Deliverables / re-performance of the services.

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Should Supplier fail to remedy a defect within a reasonable time period specified by Purchaser, Purchaser is entitled, at Supplier's risk and expense, to remedy the defect itself or to have it remedied by a third party. In cases in which immediate remedy is reasonably necessary (e.g., due to particular urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), Purchaser shall have such right without prior notice.

Supplier shall ensure that no third-party rights are infringed in connection with the Deliverables and their use and shall verify this by taking appropriate action (e.g., research on the intellectual property rights of third parties). Should Supplier be or become aware of such rights, Supplier is obliged to immediately inform Purchaser thereof in writing and, upon Purchaser's request, provide all the documents and information required for a risk assessment.

The limitation period for defects in quality and defects of title shall be thirty-six (36) months from the date of transfer of risk. Longer limitation periods provided by applicable law shall remain unaffected.

In case Purchaser incurs any costs or expenses as a result of a defect, in particular costs for complaint management, sorting, transportation, transport infrastructure, work and material, installation, removal or for an incoming inspection exceeding the usual scope, Supplier shall bear such costs, unless the defect is not attributable to Supplier.

Further claims and rights of Purchaser provided by applicable law shall remain unaffected.

Supplier is accountable for the fault of its sub-suppliers and subcontractors as it is for its own fault.

## 17. Liability, Insurance

In addition to its warranty obligations, Supplier shall be liable for all damages caused by defects in the Deliverables unless such defects are not attributable to Supplier. If damage is caused to a third party, Supplier shall indemnify Purchaser from any claims of such third party. Any further statutory claims or rights remain reserved.

Furthermore, Supplier shall be liable for all damage arising out of an infringement of third-party rights associated with the Deliverables or their use, to the extent that Supplier is responsible for such infringements. In case third parties assert such claims against Purchaser, Supplier shall indemnify Purchaser from these claims.

Upon Purchaser's request, Supplier shall immediately provide to Purchaser the documents and information necessary for a defense against such third-party claims.

Supplier undertakes to maintain a product liability insurance with a lump sum coverage of EUR 5 million for each personal injury/property damage. Upon request by Purchaser and immediately upon change in the insurance status, Supplier shall provide adequate proof thereof. Any further claims for damages of Purchaser shall remain unaffected.

## 18. Force Majeure

Force majeure events, in particular natural disasters or other disruptions (e.g. major health threats, for example, due to pandemics such as Covid-19 or nuclear radiation), war, terrorist attacks, riots and similar occurring threats as well as industrial disputes or official interventions (e.g. import and export restrictions) or operational breakdowns through no fault of Purchaser shall exempt Purchaser, without prejudice to Purchaser's other rights, from the obligation to take and accept the Deliverables during the force majeure event. If the force majeure event lasts or is likely to last more than three months, Purchaser may withdraw from the contract, in whole or in part.

## 19. Open-Source Software

"Open-Source Software" means any software that is made available to an indefinite number of users, royalty-free, with the right to adaptation and/or distribution based on specific licenses or contractual provisions (e.g., Apache License, GNU General Public License (GPL), Mozilla Public License, MIT License).

Supplier guarantees that the Deliverables do not contain Open-Source Software, unless explicitly approved in advance by Purchaser in writing. The approval is at the sole discretion of Purchaser. However, the prerequisite is always that Supplier shall provide to Purchaser all information relevant for the use of Open-Source Software (e.g., source code, license text, version number, any copyleft terms, documentation on modifications, list of open-source files used).

## 20. Cyber Security, Information Security

Supplier shall comply with the SICK Cyber Security Requirements for Suppliers (available at <https://www.sick.com/de/en/procurement/w/procurement/>) to the extent that they apply to the scope of the contract. Supplier shall also comply with the SICK Information Security Requirements for Suppliers (also available at <https://www.sick.com/de/en/procurement/w/procurement/>).

## 21. Data Protection

Purchaser and Supplier shall comply with the respective applicable data protection laws.

If Supplier processes, as a processor, personal data for Purchaser, the parties shall sign a data processing agreement based on the template of Purchaser. Supplier shall immediately notify Purchaser in text form of this requirement.

## 22. Source Code

If the Deliverable is software or contains software for use in, or in connection with products manufactured or distributed by Purchaser, the source code shall be provided to Purchaser upon request. If, according to an explicit written agreement, the source code is not provided, Supplier shall, upon request of Purchaser, enter into a source code escrow

agreement for the benefit of Purchaser, with a reputable escrow agent selected by Purchaser.

## 23. Set-off, Retention

The Supplier may only offset such counterclaims and assert a right of retention on the basis of such claims which are undisputed or have been finally determined by a court, or which are reciprocal with claims of Purchaser.

## 24. Termination

Purchaser has the right to withdraw from the contract in whole or in part or to terminate the contract without notice for good cause. In particular, but without limitation, it shall be considered good cause if the financial condition of Supplier deteriorates significantly and the fulfillment of the contract is endangered, in the event of insolvency, over-indebtedness, liquidation or because Supplier ceases its business activities. To the extent that Supplier is responsible for the termination, Purchaser reserves the right to claim damages.

## 25. Reservation of Title

Unless the parties agree otherwise in writing, all forms of extended or prolonged reservation of title are excluded so any reservation of title effectively declared by Supplier shall apply only to the Deliverables supplied to Purchaser and only until said Deliverables have been paid for.

## 26. Assignment of Rights

The contract or individual rights and/or duties resulting therefrom may not be transferred, in whole or in part, to any third party without express written approval of Purchaser.

## 27. Minimum Wage / Release from Liability

Supplier warrants that all its employees are paid in accordance with the requirements of the Supplier is located.

To the extent Supplier uses sub-suppliers to perform services, or works and services, Supplier shall ensure that the sub-suppliers' employees are also paid in accordance with the requirements of the applicable minimum wage laws and other legal regulations and collective agreements. Where other minimum wage regulations apply to Supplier or its sub-suppliers, Supplier shall indemnify Purchaser from any claims arising out of an infringement or above requirements referring thereto by a) Supplier and/or b) a sub-supplier contracted by Supplier.

Supplier also undertakes to inform Purchaser on request at any time whether Supplier actually complies with the obligations of the applicable minimum wage laws, collective agreements or company agreements with employee representatives and to provide Purchaser with all documents that are necessary to allow Purchaser to verify the same.

## 28. Free-Issue Material

Material provided by Purchaser against payment or for free ("Free-Issue Material") shall remain ownership of Purchaser. To the extent payment is owed, this applies until the Free-Issue Material has been fully paid for. Free-Issue Material may only be used for the purpose for which they were provided. Any processing or combining of Free-Issue Material shall take place on behalf of Purchaser.

## 29. Severability, Place of Performance, Place of Jurisdiction, Applicable Law

If any provision stipulated herein or in any further agreements based thereon is or becomes invalid, void or unenforceable, the validity of the remaining provisions shall remain unaffected thereby. In such case, the invalid, void or unenforceable provision shall rather be interpreted, reinterpreted or replaced in such a way that the economic purpose pursued with it is achieved. Place of performance shall be the place of delivery or the place where services are rendered. Otherwise, the place of business of Purchaser shall be the place of performance.

Place of jurisdiction for all disputes arising directly or indirectly in connection with this contractual relationship shall be the place of business of Purchaser. Purchaser is further entitled, at its sole discretion, to bring legal action against Supplier either at the court of Supplier's registered office or branch or at the court of the place of performance.

The contractual relationship shall be governed exclusively by the laws of the People's Republic of China/Hongkong. The same shall apply in cases where Purchaser's registered office is outside of the People's Republic of China/Hongkong. The application of the UN Convention on the International Sale of Goods shall be excluded.