

# General Terms of Delivery of SICK (ALB SICK)

as at November 2020

1. **Legally Binding Effect**

All deliveries and services provided by SICK AG or any German company of the SICK Group domiciled in Germany and affiliated with SICK AG in accordance with §§15 et seq. of the German Stock Corporation Act (Aktiengesetz - AktG) (hereinafter individually referred to as "Supplier") are subject to these General Terms of Delivery ("ALB SICK") and to separate contractual agreements, if any. Deviating or additional General Terms and Conditions of the Purchaser shall solely apply to the extent expressly confirmed in writing by the Supplier.
2. **Offer – Conclusion of Contract – Contents of Contract**

Unless expressly marked as binding, offers are non-binding. Binding offers must be accepted by the Purchaser within a reasonable time. Verbal or written orders are considered accepted when a written order confirmation is issued or the ordered goods are delivered within an adequate period of time.
3. **Scope of Delivery and Services**

The scope of delivery and services is subject to the offer of the Supplier or, respectively, to the Supplier's written order confirmation. Partial deliveries are permitted, if reasonable to the Purchaser.
4. **Prices and Payment**
  - 4.1 Price lists and other general price information are non-binding and are updated by the Supplier regularly.
  - 4.2 Prices are in EUR and, unless stipulated otherwise, are based on delivery according to DAP (Incoterms 2020) place of delivery within Germany, plus packaging and transportation as well as applicable VAT.
  - 4.3 Should delivery and/or service be carried out more than 9 (nine) months after the date specified in the order confirmation, the Supplier shall be entitled to adjust prices, provided the list prices and/or material, labor or other costs have changed in the meantime. The offered prices are valid only for the respective individual order. Fixed price agreements must be expressly agreed upon in writing.
  - 4.4 Costs for packaging, transportation and insurances, the latter to the extent expressly requested by the Purchaser, shall be calculated based on the prices effective at the time of the actual accrual and shall be charged separately.
  - 4.5 In case the Supplier is contractually obliged to carry out installation, assembly and/or commissioning, the Purchaser shall bear, in addition to the agreed remuneration for the delivery, the costs for installation, assembly and / or commissioning according to the price list of the Supplier effective at the time of performance as long as nothing to the contrary has been agreed upon.
  - 4.6 Invoices for deliveries shall be paid net within 30 (thirty) days from the invoice date by direct transfer to the Supplier's bank account.
  - 4.7 Invoices for services shall be paid net without delay by direct transfer to the Supplier's bank account.
  - 4.8 Payments must be made exclusively by wire transfer to the Supplier's account.
  - 4.9 The Purchaser is only entitled to retain payments or to offset counterclaims insofar as such counterclaims are undisputed, ruled with res judicata effect by a court of law or are ready for a decision after pending suit.
5. **Dates for Deliveries and Services, Force Majeure**
  - 5.1 The adherence to time periods and dates for deliveries and services shall be subject to the timely provision of all performances to be provided by the Purchaser, in particular, of any documents to be provided, of required permissions and releases – especially of plans – as well as to adherence to the agreed payment terms and to any other obligations of the Purchaser. If these prerequisites are not fulfilled on time, the time periods and dates shall be adequately extended.
  - 5.2 If delivery periods or dates cannot be met due to force majeure or other disruptions beyond the control of the Supplier ("Force Majeure Event"), the time periods for the performance by the Supplier will be extended by the duration of the Force Majeure Event plus an appropriate start-up period. Force Majeure Events shall include, but are not limited to, serious health hazards such as epidemics (e.g. Covid-19) or nuclear radiation, war, terrorist attacks, incomplete, incorrect or delayed delivery by suppliers, riots, and other similar occurring threats, industrial action, shortage of or impossibility to obtain employees, equipment, adequate or suitable raw materials or transportation facilities, sovereign acts, such as import and export restrictions, and disruptions of operations including Force Majeure Events at subcontractors and suppliers of the SICK Group. Alternatively, the Supplier shall have the right to withdraw from the contract in whole or in part without liability for any delay in performance or non-performance of their obligations.
6. **Installation and Assembly**
  - 6.1 To the extent that installation, assembly or commissioning has been agreed upon, the Purchaser shall, at their own expense, provide in due time:
    - a) any supplementary works foreign to the branch of trade such as earthworks, construction works, etc. including the required skilled workers and auxiliary staff, building material and tools;
    - b) the articles and materials required for assembly, installation and commissioning, such as scaffolding, wedges, lubricants, fuels, etc.;
    - c) operating power and water at the place of operation, including the necessary connections as well as heating and light;
    - d) suitably-sized, dry and lockable rooms for stocking machine parts, equipment, materials, tools, etc. as well as appropriate work and recreation rooms with appropriate sanitary equipment for the Supplier's employees at the installation site; furthermore, the Purchaser shall take the same steps he would take in order to protect his employees and belongings in order to protect the Supplier's employees and belongings at the construction site, but at least appropriate steps; and
    - e) protective clothing and protective devices necessary due to special circumstances at the installation site.
  - 6.2 Before the start of the work, the Purchaser must provide without request the necessary specifications concerning the location of hidden power, gas, or water pipes, or similar constructions, as well as the required static specifications.
  - 6.3 Before beginning with the installation, assembly or commissioning, free issue equipment as well as all other items necessary for the performance of the works must be set up at the agreed location and any preparatory works must be in such a state of completion that the installation, assembly or commissioning staff will be able to start their work as agreed after arrival and finish it without interruption. Access to as well as the site itself must be paved, cleared and freely accessible.
  - 6.4 Should the installation, assembly, or commissioning be delayed due to circumstances not attributable to the Supplier, the Purchaser shall be obliged to bear to a reasonable extent the costs arising from waiting periods or for the necessary travels of installation or assembly staff.
  - 6.5 Upon the Supplier's request, the Purchaser shall confirm in writing the working hours of the assembly staff as well as the completion of the installation, assembly or commissioning.
  - 6.6 The Supplier is entitled to demand acceptance of the works after completion. Acceptance will take effect after the Purchaser declares acceptance in writing. The same applies if the Supplier has set a reasonable deadline for acceptance upon completion of the works and the Purchaser has not refused acceptance by reporting at least one major defect by this deadline. Acceptance is also deemed granted if the work has been put into use, if applicable, after an agreed testing period.
7. **Passing of Risk**
  - 7.1 The risk shall pass to the Purchaser with the selection/provision of the delivery item. To the extent the Supplier has also assumed installation, assembly or commissioning, the risk shall pass to the Purchaser with the delivery of the delivery item at the place of installation, assembly or commissioning.
  - 7.2 Should the dispatch of the delivery item or installation, assembly or commissioning be delayed or omitted due to reasons attributable to the Purchaser, the risk shall pass to the Purchaser at the time when it would have passed to the Purchaser had no delay occurred.
  - 7.3 The Supplier shall, on request and at the expense of the Purchaser, insure the delivery item against theft, breakage, and damage caused by transportation, fire or water or against any other insurable risks.

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- 8. Claims for Defects**  
For defects regarding quality and title the Supplier – to the exclusion of further claims and subject to sec. 10 – provides warranty as follows:
- 8.1 Quality Defects:**
- 8.1.1** In case of any quality defects, the Purchaser shall promptly notify these to the Supplier.
- 8.1.2** Any parts or services which are defective shall, at the Supplier's sole discretion, be remedied by repair or replacement or be re-performed free of charge. The Purchaser shall not be entitled to reject delivery items due to insubstantial defects.
- 8.1.3** The Purchaser shall grant to the Supplier the required time and occasion to perform the necessary remedy and replacement. Only in urgent cases, where operational safety is at risk or to prevent disproportionately large damage, shall the Purchaser be entitled to remedy defects itself or have them remedied by third parties and to demand reimbursement of the accrued costs from the Supplier. The Supplier shall be notified in such cases without delay.
- 8.1.4** If the remedy is not accomplished within a reasonable time period to be notified by the Purchaser or fails, the Purchaser shall be entitled to withdraw from the contract. If the defect is insubstantial, the Purchaser shall only be entitled to a reduction in price. In any other case, the right to a reduction in price shall be excluded.
- 8.1.5** Of the costs caused by the remedy or replacement, the Supplier shall – provided the complaint is legitimate – bear the costs of the replacement part including shipment. Furthermore, the Supplier shall bear the costs of providing the necessary assemblers and helpers, if any, including travel costs, unless this would impose a disproportionate burden on the Supplier.
- 8.1.6** The claim for reimbursement of expenses pursuant to section 439 (3) BGB (German Civil Code) shall be limited to 50% of the (net) sales price of the respective product.
- 8.1.7** Quality defects are excluded in the following cases: Inappropriate or improper use, incorrect assembly and/or commissioning by the Purchaser or third parties, wear and tear, incorrect or negligent treatment, improper maintenance, use of unsuitable equipment, electrochemical or electrical influences – unless caused by the Supplier.
- 8.1.8** If the Purchaser or any third party remedies a defect improperly, the Supplier shall not be liable for the resulting consequences. The same applies to any changes made to the delivery item without prior approval by the Supplier.
- 8.1.9** In addition to this sec. 8.1, sec. 10 shall apply to claims for damages. Any further claims against the Supplier due to quality defects shall be excluded.
- 8.2 Defects of title:**
- 8.2.1** If the use of the delivery item causes an infringement of national intellectual property rights or copyrights, the Supplier shall, at their own cost, provide the Purchaser with the right to use the delivery item, or modify the delivery item in a way not unreasonable for the Purchaser as to avoid any further infringement of intellectual property rights.
- 8.2.2** If the former cannot be achieved using economically reasonable efforts or within reasonable time, then the Purchaser shall be entitled to withdraw from the contract. Subject to the aforementioned prerequisites, the Supplier shall also be entitled to withdraw from the contract.
- 8.2.3** Furthermore, the Supplier shall indemnify the Purchaser from undisputed or legally binding claims arising from the infringement of intellectual property rights.
- 8.2.4** The aforementioned obligations of the Supplier shall only apply if
- a) the Purchaser notifies the Supplier in writing about the claims asserted by third parties without delay;
  - b) the Purchaser does not admit an infringement and the defense remains entirely reserved to the Supplier;
  - c) the infringement of intellectual property rights is not attributable to the Purchaser;
  - d) the infringement was not caused due to particular specifications provided by the Purchaser, or by an application unforeseeable for the Supplier; and
  - e) the infringement does not result from a modification of the delivery item by the Purchaser or from the use of the delivery item in combination with a product not specifically released for such combination by the Supplier.
- 8.2.5** In case of other defects of title the provisions stipulated under sec. 8.1 shall apply accordingly.
- 8.2.6** In addition to this sec. 8.2, sec. 10 shall apply to claims for damages. Any further claims against the Supplier due to defects of title shall be excluded.
- 8.3** The warranty period shall be 24 (twenty-four) months from delivery or, if an acceptance is legally required, from acceptance.
- 9. Exclusion of Guarantees**
- 9.1** Specifications in catalogues, product descriptions, data sheets, quotations, drawings or any other documents regarding the measure, quantity, color, application, technical data and other features, in particular regarding availability, reading rates, measuring accuracy, etc. refer to the warranted properties of a delivery item, yet do not – unless expressly otherwise provided for – constitute guarantees (guarantees of quality or durability) within the meaning of §§ 443, 639 BGB (German Civil Code).
- 9.2** In case of non-compliance with warranted properties, the Purchaser shall be entitled to assert the rights stipulated under sections 8 and 10 against the Supplier.
- 10. Damages**
- 10.1** Supplier shall be liable for damages – regardless of the legal cause - solely:
- a) in the event of intent,
  - b) in the event of gross negligence;
  - c) in the event of injury to life, body and health;
  - d) in the event that Supplier has fraudulently concealed a defect,
  - e) insofar as Supplier has given an explicit guarantee; as well as
  - f) insofar as Supplier is liable pursuant to the Product Liability Act
  - g) in the event of violation of an essential contractual duty
- 10.2** In the event of violation of essential contractual duties pursuant to sec. 10.1 g) by ordinary negligence of Supplier, Supplier's liability for damages shall be limited to typical contractual losses that could have been foreseen. This also applies to loss of profits and any other financial loss. Essential contractual duties are duties the fulfillment of which is required for the due execution of a contract and the observance of which a Party relies on, and may rely on, regularly, as well as duties the breach of which will put the achievement of the contractual purpose at risk.
- 10.3** Supplier's liability for all damages arising out of or in connection with the contract and its performance and caused by the Supplier, its officers, subcontractors, employees, vicarious agents or associates, as well as any obligation to indemnify the other party, shall, regardless of the legal cause, except under the circumstances set out in section 10.1. a) to f) above, be limited to the amount of the order value (aggregate liability cap).
- 10.4** Insofar as the Supplier's liability is excluded or limited, this shall also apply to the personal liability of the Supplier's officers, subcontractors, employees, representatives, vicarious agents and associates as well as to the liability of affiliated companies within the meaning of sections 15 et seq. German Stock Corporation Code (AktG), suppliers and licensors.
- 11. Retention of Title**
- 11.1** Title to the delivered goods shall remain with the Supplier until all claims against the Purchaser are satisfied, irrespective of receipt of payment for specific goods.
- 11.2** The Purchaser shall inform the Supplier promptly of any enforcement measures by third parties against the reserved goods and provide the Supplier with the documentation required for an intervention – the same shall apply to any other sort of interference. Irrespective hereof, the Purchaser shall be obliged to inform third parties of the existing rights to the goods in advance. The Purchaser shall bear the costs of an intervention if the third party is not able to reimburse Supplier for such costs.
- 11.3** In case of a resale of the reserved goods, the Purchaser herewith assigns to the Supplier all claims against the Purchaser's customer resulting from such resale as security until all of the Supplier's claims have been satisfied.
- 11.4** If reserved goods are processed, reshaped or blended with other goods, the Supplier shall directly acquire a right of ownership in the new product in proportion to the delivery item's value. The new product shall be deemed a reserved good.
- 11.5** If the value of the reserved goods exceeds the claims of the Supplier by more than 10%, the Supplier shall, upon

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the Purchaser's request, release a corresponding quantity of securities of their choice.

## 12. Licenses to Firmware, Software and Open Source Software

12.1 To the extent that the deliveries and services include Firmware, Supplier grants to Purchaser a non-exclusive, non-sublicensable, perpetual right to use the delivered Firmware and documentation, which right is only transferable together with the respective delivery item. Such right of use shall be limited exclusively to the contractually agreed purpose of use. The Purchaser is not entitled to modify, reverse engineer, de-compile the Firmware or to extract parts thereof. "Firmware" is software which is embedded in a delivery item and is necessary for its elementary basic functions. For software which is not Firmware and which is installed and operated locally or in the Purchaser's area of responsibility (on-premise), the General Terms and Conditions for the Provision of Software Products ("AVB Software SICK", available at [www.sick.com](http://www.sick.com)) shall prevail. For software and services provided by the Supplier online the General Terms and Conditions for the Provision of Software as a Service ("AVB SaaS SICK", available at [www.sick.com](http://www.sick.com)) shall prevail. To the extent software or Firmware of other providers (third party software) is made available to the Purchaser, the Supplier does not grant the Purchaser any rights of use exceeding those granted to the Supplier by such third party provider.

12.2 If and to the extent that open-source software is provided to the Purchaser, the terms of use of the open-source software that are specified in the relevant documentation, readme files, note files or other documents or files of such kind ("OSS License Terms") shall apply additionally and shall prevail over the provisions in sec. 12.1. If the applicable OSS License Terms require the provision of the source code, the Supplier shall provide it upon written request and, as the case may be, against payment of the costs for shipment and handling. The Supplier shall inform the Purchaser about open source software being used and about the related terms of use, which Supplier shall provide to the Purchaser if so required in such terms of use.

## 13. Export Compliance

13.1 The Purchaser undertakes to use, distribute or in any other way make available items (goods, software and technology) provided by the Supplier only in compliance with all applicable export control regulations, foreign trade laws and sanctions, in particular of Germany, the European Union and the United States of America.

13.2 All business transactions are made with the reservation that each business transaction, in terms of its content and the natural persons and entities directly or indirectly involved in it, must be permitted according to all of the aforementioned regulations.

13.3 If a business transaction requires a license, the Supplier is entitled to delay the performance until an export license has been obtained or to withdraw in whole or in part from the contract. In such cases, the Supplier shall not be held liable for delayed performance or non-performance.

13.4 Upon the request of the Supplier, the Purchaser shall provide the Supplier without delay with all documents the Supplier deems useful or necessary for obtaining licenses from authorities or for export control checks of the Supplier. This includes but is not limited to information about the end user, the final destination and the intended end-use.

13.5 The Purchaser shall fully indemnify and hold harmless the Supplier and its affiliated companies within the meaning of §§ 15 et seq. AktG ("Affiliates") from and against all claims of authorities or other third parties against the Supplier and/or the Affiliates due to the Purchaser's non-compliance with the aforementioned export compliance requirements. The Purchaser undertakes to reimburse the Supplier and/or the Affiliates for any losses and expenses incurred by the Supplier and/or the Affiliates in this context.

13.6 The Purchaser also undertakes to comply with Supplier's internal export compliance regulations. In particular, the Purchaser shall not use, distribute nor in any other way make available any items (goods, software and technology) provided by the Supplier for use in weapons and/or weapons systems.

13.7 If the Purchaser violates any of the obligations in this sec. 13 and/or if a business transaction is partially or entirely prohibited, the Supplier is entitled to terminate the

contract or to withdraw in whole or in part for good cause with immediate effect. Any claims against the Purchaser shall remain unaffected.

## 14. Adjustment, Withdrawal and Termination

If the Purchaser is in delay with any payment or if the Supplier obtains knowledge of any circumstances which lead or may lead to a material deterioration of the Purchaser's economic situation, resulting in the fulfillment of the Purchaser's contractual and other obligations being at risk; or if due to other reasons the Purchaser is unable or unwilling to meet its payment obligations when they are due, the Supplier may, notwithstanding other rights, (a) withdraw from or terminate the contract with immediate effect; or (b) provide future deliveries or services only against prepayment. In the latter case, sec. 11 (retention of title) shall not apply to paid delivery items.

## 15. Anti-Corruption

Purchaser shall adhere to all applicable foreign or domestic laws and regulations regarding anti-bribery and anti-corruption. In particular, but without limitation, Purchaser shall not offer, promise, give, request or receive any bribes or other unlawful payments, including in relation to any public official.

## 16. Confidentiality

16.1 All commercial or technical information of the Supplier, including product characteristics, documents, price information, know-how, samples, prototypes, software or test results (hereinafter collectively referred to as "Confidential Information") must be kept secret from third parties if and to the extent that it is verifiably not publicly known or is not intended by the Supplier for distribution by the Purchaser. Confidential Information may only be made available to such employees of the Purchaser that have a need to know for the fulfillment of the contractual purpose and have been obligated to non-disclosure under terms at least equivalent to the contract. Upon request, all Confidential Information in its entirety (including any copies or records if available) must be returned or destroyed without delay and any use must cease immediately.

16.2 The Supplier reserves all rights to Confidential Information (including copyrights and the right to register industrial property rights). Documents containing Confidential Information that have been provided hereunder remain the property of the Supplier.

## 17. Statute of Limitation

All claims of the Purchaser – regardless of the legal cause - shall become time-barred 24 (twenty-four) months from the start of the statutory limitation period, unless a longer limitation period is required by mandatory law.

## 18. Place of Jurisdiction, Applicable Law

18.1 The exclusive place of jurisdiction for any disputes directly or indirectly arising out of or in connection with the contractual relationship shall be at the Supplier's place of business. However, the Supplier shall also be entitled to bring action before a court seated at the Purchaser's place of business.

18.2 All legal relations in connection with the contract shall be governed by German law. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

## 19. Severability

Should any of the provisions of this contract be or become invalid, void or unenforceable, the validity of the remaining provisions shall remain unaffected thereby. In such case the invalid, void or unenforceable provision shall be interpreted or substituted in such a way as to achieve the intended economic objective of the invalid or void provision. This shall not apply if adherence to the contract constitutes an unreasonable hardship for either contract party.