

SICK, INC. GENERAL TERMS AND CONDITIONS OF SALE

- 1. APPLICABILITY:** These General Terms and Conditions of Sale (these "Terms") govern all sales of products (the "Products") and services (the "Services") by SICK, Inc. ("SICK"). Upon receipt by Buyer of an express acceptance by SICK or upon commencement of performance by SICK, these Terms and Buyer's purchase order (the "Purchase Order"), as modified by SICK's acceptance or order acknowledgment, become a binding contract between Buyer and SICK on the terms reflected in those documents (this "Agreement"). In case of a conflict between these Terms and the Purchase Order, these Terms prevail except where SICK has expressly agreed to the conflicting term in the Purchase Order in its acceptance or order acknowledgment. SICK objects to any provisions contained in any Purchase Order or other related documents that differ from the terms of sale contained herein. In case of a conflict between the Purchase Order and SICK's acceptance or order acknowledgment, the acceptance or order acknowledgment prevails. No modification or waiver of any of the provisions hereof will be valid unless in writing and signed by an authorized representative of each party.
- 2. PRICES:** Buyer shall purchase the Products and Services at the prices (the "Prices") set forth in SICK's quote/proposal or absent a quote/proposal the published price list in effect as of the date that SICK accepts Buyer's Purchase Order. Prices quoted for software are for nonexclusive, nontransferable licenses, subject to SICK's End User License Agreement (available at <https://www.sick.com/us/en/terms-and-conditions/w/tac>), the terms of which are incorporated herein by reference. Prices are subject to change at SICK's discretion for reasons including, and not limited to, adjustments for changes in SICK's price list, material, labor, inflation or currency exchange. Furthermore, SICK reserves the right to adjust Prices based on changes requested by Buyer, including (but not limited to) any reschedules in excess of 45 days. All Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such taxes, duties, and charges; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, SICK's income, revenues, gross receipts, personnel or real or personal property or other assets.
- 3. PAYMENT TERMS:** For Purchase Orders involving project management and either an amount over \$250,000 or a delivery duration more than 90 days, payment shall occur immediately according to the following milestones basis (percentage related to total purchase order value): 25% upon order, 40% upon Goods being ready to ship, 25% upon delivery of Goods; 10% upon acceptance. Buyer shall pay all invoiced amounts due to SICK within thirty (30) days from the date of SICK's invoice when milestones are not implicated. Buyer shall make all payments hereunder by wire transfer or check and in US dollars. Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse SICK for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which SICK does not waive by the exercise of any rights hereunder), SICK shall be entitled to suspend the delivery of any Products or Services if Buyer fails to pay any amounts when due hereunder and such failure continues for three (3) days following written notice thereof. Buyer shall not withhold payment of any amounts due and payable by Buyer and by reason of any set-off of any claim or dispute with SICK, whether relating to SICK's breach, bankruptcy or otherwise. Back-ordered Products may be invoiced separately. SICK reserves the right to limit or cancel the credit of Buyer, and SICK may require or demand payment or adequate assurances of performance from Buyer.
- 4. DELIVERY:** Delivery of the Products will be made either: FCA Bloomington, MN, FCA Stoughton, MA, FCA Houston, TX, or EXW fabrication location (Incoterms 2010). SICK shall determine method and route of shipments unless otherwise agreed to in writing. Shipping charges incurred shall be added to the invoice. Risk of loss passes to Buyer upon delivery of the Products at the delivery point. Shipping and delivery dates are estimates only. SICK reserves the right to ship up to thirty (30) days in advance of shipping date, unless a specific shipping schedule is agreed to by the parties in writing. SICK may, in its sole discretion, without liability or penalty, make partial shipments of Products to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped following such shipment in its whole or partial fulfillment of Buyer's Purchase Order.
- 5. INSPECTION AND ACCEPTANCE:** Buyer shall promptly inspect Products and Services upon receipt and shall deliver written notice to SICK of any nonconformity or defect within fourteen (14) days following receipt, or it shall be conclusively presumed to have accepted the Products or Services, as the case may be, and to have waived any right to revoke acceptance.
- 6. BUYER'S ACTS OR OMISSIONS:** If SICK's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Buyer or its agents, subcontractors, consultants, or employees, SICK shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay.
- 7. LIMITED WARRANTY:**
- (a) SICK warrants to Buyer that for a period of one (1) year from the date of delivery of the Products, that such Products will materially conform to SICK's published specifications in effect as of the date of manufacture and be free from material defects in material and workmanship.
- (b) SICK warrants to Buyer that it shall perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement.
- (c) EXCEPT FOR THE WARRANTIES SET FORTH IN SECTIONS 7(A) AND (B), SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS OR SERVICES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.
- (d) SICK shall not be liable for a breach of the warranties set forth in this Section 7 unless: (i) Buyer gives written notice without undue delay of the defective Products or Services, as the case may be, reasonably described, to SICK when Buyer discovers or ought to have discovered the defect; (ii) if applicable, SICK is given a reasonable opportunity after receiving the notice of breach of the warranty to examine such Products or Services and Buyer (if requested to do so by SICK) returns any defective Product to SICK's place of business at Buyer's expense for the examination to take place there; and (iii) SICK can reasonably verify the breach.
- (e) The warranties set forth in this Section are subject to normal wear and tear and normal maintenance. They do not cover defects which SICK determines are due to accident, alteration, modification, negligence, misuse, abuse, failure to perform adequate maintenance, or service by any party other than SICK.
- (f) Subject to Section 7(d) and Section 7(e) above, SICK shall, in its sole discretion, either: (i) repair or replace any defective Products (or the defective part); (ii) repair or re-perform any defective Services; or (iii) credit or refund the price of such defective Products or Services at the pro rata contract rate provided that, if SICK so requests, Buyer shall, at SICK's expense, return any defective Products to SICK.
- (g) WARRANTY CLAIMS MUST BE MADE WITHIN ONE (1) YEAR FROM DELIVERY OR PERFORMANCE. THE REMEDIES SET FORTH IN SECTION 7(F) ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES AND SELLER'S ENTIRE LIABILITY PURSUANT TO THIS AGREEMENT.
- 8. SOFTWARE:** Any software and/or firmware and updates thereto (collectively, the "Software") furnished hereunder shall be subject to SICK's End User License Agreement (available at <https://www.sick.com/us/en/terms-and-conditions/w/tac>), the terms of which are incorporated herein by reference. SICK or SICK's third party licensor shall retain all rights of ownership and title in such Software, including without limitation all rights of ownership and title in any copies thereof.
- 9. PRODUCTIVITY FIGURES:** Productivity figures provided by SICK are estimates only and based on field and application data available to SICK at the time of testing. These figures are contingent on the internal processes of Buyer and other factors beyond the control of SICK and are not guaranteed or warranted by SICK.
- 10. INDEMNIFICATION:** TO THE MAXIMUM EXTENT ALLOWED BY LAW, BUYER SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS SICK AND ITS AFFILIATES AND THEIR RESPECTIVE EMPLOYEES AND AGENTS FROM AND AGAINST ALL LIABILITIES, ACTIONS, DAMAGES, AND OTHER EXPENSES (INCLUDING INVESTIGATION EXPENSES AND ATTORNEYS' FEES) THAT ANY OF THEM MAY INCUR OR BE OBLIGATED TO PAY AS A RESULT OF: (i) BUYER'S NEGLIGENCE, USE, OWNERSHIP, MAINTENANCE, TRANSFER, TRANSPORTATION OR DISPOSAL OF THE PRODUCTS; (ii) BUYER'S VIOLATION OR ALLEGED VIOLATION OF ANY FEDERAL, STATE, COUNTY OR LOCAL LAWS OR REGULATIONS, INCLUDING WITHOUT LIMITATION THE LAWS AND REGULATIONS GOVERNING PRODUCT SAFETY, LABELING, PACKAGING AND LABOR PRACTICES; (iii) LIENS BY THIRD PERSONS AGAINST ANY INDEMNITEE AND THEIR PROPERTY, BECAUSE OF LABOR, SERVICES, MATERIALS, OR ANY OTHER TYPE OF LIEN, FURNISHED TO BUYER, ITS ASSIGNEES, CONTRACTORS OR SUBCONTRACTORS, IN CONNECTION WITH THE GOODS SUPPLIED BY SICK; AND (iv) BUYER'S BREACH OF THIS AGREEMENT. IT IS THE INTENTION OF SICK AND BUYER THAT SUCH INDEMNITY SHALL APPLY REGARDLESS OF WHETHER THE LIABILITIES ARISE IN WHOLE OR IN PART FROM THE ACTUAL OR ALLEGED COMPARATIVE, CONCURRENT, ACTIVE, PASSIVE, OR CONTRIBUTORY NEGLIGENCE OF INDEMNITEE.
- 11. INDUSTRIAL SAFETY:** Buyer shall obtain advance written permission from SICK before removing, disabling or modifying safety features or markings on any Product. Buyer shall further not operate any Products with inoperative, defective, or missing safety features or markings. Safety-related Products or Services do not relieve Buyer from its duty of care towards employees, customers, visitors, or other third parties.
- 12. INTELLECTUAL PROPERTY INDEMNITY:** SICK agrees to defend Buyer against any claim that a Product, as delivered, infringes a valid and enforceable United States patent, United States copyright, United States trademark or other United States intellectual property right ("IP Claim"), and indemnify Buyer against any damages arising from such IP Claim that are awarded to a third party by a court of competent jurisdiction or in a settlement approved by SICK, provided that Buyer promptly advises SICK of any such IP Claim or related action and Buyer provides SICK with sole control of the defense and settlement of any such action. Buyer shall provide SICK with all information and assistance reasonably requested by SICK to defend any such IP Claim. SICK shall not be responsible for any settlement or compromise made without its prior written consent. If at any time use of a Product is the subject of a IP Claim or, in the opinion of SICK, is likely to become the subject of an IP Claim, SICK shall have the right, but not the obligation, at its sole option and expense, to either procure for Buyer the right to continue using the Product, replace or modify the Product so that it becomes non-infringing or accept the return and grant Buyer a credit for the Product as depreciated. SICK shall not have any liability to Buyer for any infringement or other violation of a third party right that is based in any way upon (i) the use of the Product in combination with other components, equipment or software not furnished by SICK or any third party software furnished by SICK; (ii) the use of the Product in practicing any process or method; (iii) any Product that has been modified or altered; (iv) the manner in which the Product is used even if SICK has been advised of such use; (v) SICK's compliance with Buyer's designs, specifications or instructions; (vi) the use of the Product after Buyer has received notice of such infringement or other violation, and SICK has offered a replacement, modification or refund therefor, or (vii) compliance with an industry standard or communication protocol. THE ABOVE INDEMNITY STATES BUYER'S SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT AND IS IN LIEU OF ALL EXPRESS, IMPLIED AND STATUTORY WARRANTIES WITH RESPECT TO INFRINGEMENT.
- 13. LIMITATION OF LIABILITY:** IN NO EVENT SHALL SICK'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), INDEMNITY, OR OTHERWISE, EXCEED THE PRICE PAYABLE UNDER THE PURCHASE ORDER. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF BUYER'S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.
- 14. CONFIDENTIALITY:** All non-public, confidential or proprietary information of SICK, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, pricing, discounts, or rebates, disclosed by SICK to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by SICK in writing. Upon SICK's request, Buyer shall promptly return all documents and other materials received from SICK. SICK shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.
- 15. INTELLECTUAL PROPERTY OWNERSHIP:** SICK retains all rights in and to all design, engineering details, and other data pertaining to any Products or Services and to all discoveries, inventions, patent rights, and other intellectual property rights, arising from work done in connection with this Agreement and to any and all Products developed as a result thereof, including the sole right to manufacture and re-sell to third parties any and all such Products.
- 16. CANCELLATIONS:** Any Purchase Order placed with SICK may be cancelled only with SICK's prior written consent, which consent it may withhold in its sole discretion. SICK reserves the right to impose a cancellation fee. SICK also reserves the right at any time after receipt of the Purchase Order to accept, decline, or limit such order for any reason.
- 17. PRODUCT RETURNS:** Returns are not allowed without SICK's prior written consent, with consent it may withhold in its sole discretion. SICK will only consider for credit unused Products in original packaging and suitable for resale for which a return authorization number has been obtained. The restocking charge will be at a minimum the higher of thirty percent (30%) of the purchase price invoiced for such Products or SICK's costs and expenses in connection with restocking the returned Products. All return shipping and customs clearance charges must be prepaid by Buyer. Buyer shall securely package the Products and be responsible for the risk of loss during shipment. Products not accepted for credit (such as used or damaged Products, or Products with missing accessories or packaging materials) will be returned freight collect to Buyer.
- 18. SECURITY INTEREST:** SICK reserves and Buyer grants to SICK a security interest in all Products sold and all substitutes, replacements, and proceeds to secure the full payment and performance of all obligations of Buyer to SICK, whether now existing or hereafter arising. Buyer authorizes SICK to prepare and file one or more UCC financing statements, as deemed necessary or desirable by SICK, covering the Products.
- 19. SUBSTITUTIONS AND MODIFICATIONS OF PRODUCTS:** SICK may modify the specifications of the Products or substitute the Products with substantially similar products provided the modifications or substitutions do not adversely affect the performance of these products.
- 20. FORCE MAJEURE:** SICK is not liable for any loss or damage resulting from failure to deliver or delay caused by acts of God, transportation delays, accidents, fire, strike, civil or military authority, pandemic or any other cause which is unforeseen or beyond SICK's reasonable control. Buyer waives any obligation of SICK to notify if of any such delay.
- 21. ENTIRE AGREEMENT:** This Agreement and any documents referred to herein constitute the complete and final agreement between the parties hereto and supersede all prior proposals, negotiations, counterproposals, understandings, and agreements between SICK and Buyer, either written or oral, on its subject. No other agreement, quotation or acknowledgment in any way purporting to modify any of the terms of this Agreement is binding upon SICK unless made in writing and signed by SICK's authorized agent. This Agreement may not be altered or modified except by written agreement of SICK and Buyer. Any other representations or warranties made by any person, including employees or other agents of SICK, that are inconsistent with this Agreement must be disregarded by Buyer and are not binding upon SICK. If any model or sample was shown to Buyer, such model or sample was used merely to illustrate the general type and quality of goods and not to represent that the Products would necessarily conform to the model or sample. No course of prior dealings between the parties shall be relevant to supplement or explain any term used in this Agreement. Acceptance or acquiescence in the course or performance rendered under this Agreement shall not be relevant to determine the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection.
- 22. ASSIGNMENT:** Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of SICK. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.
- 23. COMPLIANCE WITH LAWS:** Buyer shall comply with all applicable laws, regulations and ordinances. Buyer shall maintain in effect all permits and licenses required in connection with the purchase, installation, shipment or use of any of the Products. Buyer shall comply with all applicable import and export control laws, regulations, orders and requirements, including without limitation those of the United States and the European Union, and the jurisdictions in which SICK and Buyer are established or from which Products or Services may be supplied. SICK is entitled to cancel all or part of any Order in the event of Buyer's breach of this Section. Buyer agrees to provide SICK with information, including but not limited to usage and end-users, requested by SICK to assure compliance with this section.
- 24. EXPORT ORDERS:** If an Order requires Goods or Services to be exported, such Order shall not be binding until all required approvals are obtained, and SICK is not responsible for any delays caused by export controls (even if SICK has confirmed the order or timing). Buyer shall provide all information required by SICK to obtain approvals. Such orders may be subject to additional taxes, which shall be the responsibility of Buyer, unless applicable export certificates are received by SICK.
- 25. APPLICABLE LAW; SUBMISSION TO JURISDICTION:** This Agreement shall be governed by, and construed, interpreted and enforced in accordance with the substantive laws of the State of Minnesota, without regard to its conflict of laws principles. SICK and Buyer specifically disclaim the application of the United Nations Convention on Contracts for the International Sale of Goods. Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the State of Minnesota in each case located in Hennepin County, Minnesota, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. With respect to any suit, action or proceeding (the "Proceeding") relating to this Agreement, each party irrevocably waives any objection which it may have at any time to the laying of venue of any Proceeding brought in any such court, and waives the right to object, with respect to such Proceeding, that such court does not have jurisdiction over such party. Nothing in this Agreement precludes either party from enforcing in any jurisdiction any judgment, order or award obtained in any such court.