

# **GENERAL CONDITIONS OF SALE/SUPPLY**

## **AUTOMATION PLUS S.R.L.**

### **1. Introduction**

These General Conditions of Sale/Supply are prepared by Automation Plus S.r.l. in order to comply with the parallel conditions prepared by its sellers/suppliers.

They therefore have the specific function of regulating relations with its Customers, i.e. with the parties requesting and/or receiving an Offer or formalising an Order with Automation Plus S.r.l. as well as their successors and/or assignees.

An 'Offer' is intended as a written document by which Automation Plus S.r.l. submits to the Customer a Supply proposal under certain conditions (in any case unsuitable to constitute a Contract Proposal). The Offer may result in an 'Order', or a written document from the Customer (including any attachments and subsequent additions) and signed by the Customer, by which a specific 'Supply' is requested. The latter constitutes the object of the Order.

An 'Order Confirmation' is intended as a written document from Automation Plus S.r.l., with which the contractual agreement between the Parties is finalised. Through this document, Automation Plus S.r.l. confirms acceptance of the Order received.

'Parties' shall mean Automation Plus S.r.l. and the Customer. 'Contract' shall mean all the provisions contained in the Order, the Order Confirmation and these General Conditions of Sale/Supply.

The 'Price' is intended as the amount indicated by Automation Plus S.r.l. in the Order Confirmation.

The clauses expressed below represent a necessity for those who, as is the case for Automation Plus S.r.l., find themselves operating with multinational companies based all over the world; they therefore represent, essentially, a summary of what the economic operators in the market in which Automation Plus S.r.l. operates are expecting.

The Conditions drawn up herein, published on the company's website at <http://www.automationplus.it/en/sales-conditions> and available for viewing or copying at the company's head office, apply even if not expressly stated or referred to in the individual orders; by placing the Order the Customer confirms his or her acceptance of these conditions.

### **2. Offers and Orders; closing of sale/supply**

The Offers prepared by Automation Plus S.r.l., which are revocable and in any case not integral to the case provided for by Article 1326 of the (Italian) Civil Code, are valid for 30 days, unless otherwise indicated in the Offer.

Each individual Order is finalised at the time of acceptance/Order Confirmation communicated by Automation Plus S.r.l. or, in the absence of explicit acceptance, as a result of the execution of the Order by Automation Plus S.r.l. The Customer remains bound to the Order submitted by him/her upon receipt of the same by Automation Plus S.r.l., unless specifically agreed otherwise by the Parties.

Any terms and conditions proposed by the Customer that differ from those set forth in these General Conditions of Sale/Supply will be applicable only if approved in writing by Automation Plus S.r.l. in a document with a specific date prior to completion of the Order.

### **3. Content of the Order and nature of the consultancy provided by Automation Plus S.r.l.**

The Order shall be deemed to have been duly fulfilled, by Automation Plus S.r.l., with the supply of goods identified in the Order by the Customer, according to the delivery methods set forth in section 6 of these General Conditions of Sale/Supply.

Any cancellation or modification of the Order must be authorised in advance by Automation Plus S.r.l. and must be in writing.

Should Automation Plus S.r.l., in the pre-contractual phase and therefore prior to completion of the Order, provide, upon specific request, an opinion of a technical nature relating to the subject matter of the Order, the aforesaid advice shall in no way be binding for Automation Plus S.r.l., shall not be a source of liability for damages to the Customer or third parties and shall not constitute grounds for termination of the Contract.

The Customer declares to hold Automation Plus S.r.l. harmless from any liability referred to or referable to the technical advice provided, and shall take no direct action of any kind for compensation for any damages suffered as a result of the advice received.

### **4. Prices and payments**

The prices of the Supply are those expressly indicated in the Order Confirmation, or in any case resulting from a written agreement between the Parties..

Unless explicitly stated, they do not include services, charges, duties, taxes or commissions and, more generally, all tax and financial charges connected with the sale and export.

Automation Plus S.r.l. reserves the right to change the price of the Supply only if the cost of the goods and labour has changed considerably since the Order Confirmation; and in particular if Automation Plus S.r.l. is called upon to incur additional costs for the execution of the Supply, unforeseen at the time of the Order and resulting, for example, from legislative changes or elements beyond the control of Automation Plus S.r.l.

Payment shall be made according to the terms (to be considered binding) and methods indicated in writing in the Order Confirmation and/or invoice. If agreed payment terms are by cheque, bill of exchange or bank receipt, payment shall be deemed to have been made only when it has been confirmed.

In the event of deferred payment or payment in instalments, approved in writing by Automation Plus S.r.l. and also proposed in the same form by the Customer with signature at the foot of the request/proposal, the failure or delay in payment of even a single instalment shall entitle Automation Plus S.r.l. to declare that acceleration has occurred pursuant to Article 1186 of the (Italian) Civil Code,

allowing it to demand immediate payment of the entire amount, without prejudice to the right to compensation for further damages.

In the event of late payment by the Customer, the provisions of (Italian) Legislative Decree no. 231/2002, and subsequent amendments and additions, shall apply. Interest on late payment at the rate provided for by law shall commence on the day following the due date of payment without the need for Automation Plus S.r.l. to serve a formal notice of default, and shall be due until the date of actual payment, without prejudice to the right to be compensated for any further damages resulting from the delay or failure to pay.

In cases of default, or where the conditions provided for in Articles 1460 and 1461 of the (Italian) Civil Code apply, Automation Plus S.r.l. reserves the right to take appropriate action (including precautionary measures) to protect its credit, including the suspension of supplies, deliveries and payments.

The abovementioned action may also be taken by Automation Plus S.r.l. in the case of protests, enforcement procedures against the Customer, administrative receivership proceedings, arrangement with creditors or closure of the business.

## **5. Reservation of title**

All sales are in any case subject to reservation of title.

Ownership of the goods supplied remains with Automation Plus S.r.l. until full payment of the price – plus any taxes and duties that may be due as a result of the supply – pursuant to Article 1523 et seq. of the (Italian) Civil Code. It is the purchaser's responsibility to inform third parties, who may enter into any relationship with the goods supplied, of the existence of the reservation of title.

In the event of termination of the Contract, pursuant to Article 1526 of the (Italian) Civil Code, Automation Plus S.r.l. shall have the right to request the immediate return of the goods at the Customer's expense and/or to collect them from the purchaser, who in turn will lose the right to acquire ownership. The aforementioned right of Automation Plus S.r.l. remains even if the goods delivered have already been installed by the defaulting Customer and therefore also if they are already in operation on the system.

In the case referred to in the previous paragraph, any instalments or advances already paid by the defaulting purchaser will remain acquired by Automation Plus S.r.l., which is therefore exempted from reimbursement obligation, by way of indemnity.

## **6. Terms of delivery**

The delivery terms in the Orders are indicative and therefore have no legal and/or binding value. In connection with this, Automation Plus S.r.l. reserves the right to bring forward delivery dates if it is in a position to do so and deems it appropriate.

If the Parties intend to establish the delivery date as binding, thus giving it legal and/or binding value, they must agree and approve it in writing by separate document with respect to these General

## Conditions of Sale/Supply.

In the absence of the written agreement referred to in the previous paragraph, any delay in delivery will not give rise to any right – on the part of the Customer – to request termination and/or modification of the Contract, or to claim any compensation for damages or payment of sums as a penalty.

If the Parties agree in writing that the delivery date is binding, this term starts from the date of the Order Confirmation from Automation Plus S.r.l. and shall be binding only if all technical and commercial details related to the Order have been fully clarified at that time.

The binding delivery date is considered as adhered to by Automation Plus S.r.l. from the time the goods have been delivered to the carrier and leave the Automation Plus S.r.l. premises, or from the time the Customer is informed of the availability of the goods ordered for collection or shipment, or when the Customer collects the goods ordered in person.

If the Order received and confirmed by Automation Plus S.r.l. provides for the supply of more than one item, in the absence of an explicit written agreement, execution will be carried out according to the order that Automation Plus S.r.l. considers logistically most appropriate and cannot be the subject of any dispute.

Any penalties for late delivery must be expressly established in writing by the Parties. If Automation Plus S.r.l., in the event of delay in performance in the light of the written agreement concerning the binding nature of the delivery date, is required to pay a sum as a penalty, the same – pursuant to and for the purposes of Article 1382 of the Italian Civil Code – shall be considered as the only remedy available to the other Party, with the express exclusion of any claim for compensation for further damages. The amount by way of penalty can never exceed a percentage of the value of the Contract and will be agreed with the Customer from time to time.

In the absence of an agreement between the Parties on the percentage of the Contract value due as a penalty in the event of late delivery, no penalty sum shall be due from Automation Plus S.r.l. No penalty sum shall be due if the delay is caused by force majeure or is beyond the control of Automation Plus S.r.l.

The Customer expressly waives the right to offset any amounts owed by way of penalty with other sums due.

## **7. Transport**

Automation Plus S.r.l. includes transportation of the goods in the Supply using carrier partners. The conditions applicable to the delivery of the Supply are those of the carrier.

Therefore, the transport costs – unless otherwise agreed – are at the Customer's expense, pursuant to Article 1510 of the (Italian) Civil Code and the Supply will consequently be delivered Ex Works.

The risks connected to delivery and transportation are at the Customer's expense. Delivery takes place according to the procedures and times referred to above.

From the moment the delivery is finalised, the Customer assumes the risks related to the Supply.

## **8. Nature and use of goods sold**

The products sold/supplied by Automation Plus S.r.l. shall be used only and exclusively for the purposes indicated by the respective individual producers. The purchaser must therefore comply with the specifications of the products purchased, outlined by the manufacturer or the supplier.

In particular, the Customer undertakes not to use the goods sold, in any way, for military or nuclear applications, for the design and manufacture of weapons of mass destruction, chemical or biological weapons or weapons or components of the same, of any kind.

The Customer acknowledges to be aware of the safety regulations concerning the use of the goods supplied and undertakes to use them in compliance with the requirements.

Automation Plus S.r.l. provides the Customer with a toll-free number for technical assistance, as well as operating manuals related to the Supply.

The purchaser shall in any case respect any third party industrial and intellectual property rights (by way of example, trademarks, patents, rights and/or copyrights) to which the goods may be subject.

The purchaser shall indemnify and hold harmless Automation Plus S.r.l. and the manufacturer of the goods purchased, to the fullest extent permitted by law, from any liability, damage, charge or cost deriving from failure to comply with the above.

## **9. Return and termination of the Contract**

Any return of products covered by an Order of the Customer and consequent Supply by Automation Plus S.r.l. must be authorised in writing by the latter, who reserves the right to reject return requests when these are not based on acceptable reasons.

The return of the Supply must take place carriage free at a place indicated by Automation Plus S.r.l. in the authorisation phase, or in any case at the premises of Automation Plus S.r.l., with the Customer responsible for transport risks.

Before terminating the Contract, either Party must give written notice of performance pursuant to Article 1454 of the (Italian) Civil Code, granting the other Party a deadline of not less than 30 (thirty) days to comply.

Automation Plus S.r.l. may terminate the Contract, pursuant to Article 1456 of the (Italian) Civil Code, if the Customer does not comply with even one of the provisions set forth in these General Conditions of Sale/Supply, notifying by registered letter with return receipt or by PEC (certified email) of its intention to make use of the express termination clause.

## **10. Withdrawal**

Automation Plus S.r.l. may withdraw from the Contract in the cases expressly provided for by law and in the case of a change in company structure or ownership and 50 (fifty) days after a force

majeure event that prevents fulfilment.

In the event of dissolution of the Contract, whether by withdrawal or termination, Automation Plus S.r.l. acquires the right to be returned any documents in the possession of the Customer, without any obligation to pay compensation.

## **11. Warranty**

Automation Plus S.r.l. guarantees the Supply to the extent and in the manner required by existing legislation and, in particular, in accordance with the terms and conditions under Article 1490 et seq. of the (Italian) Civil Code.

Automation Plus S.r.l. and the Customer declare and acknowledge that the goods are supplied within the context of business-to-business commercial relationships and for this reason, the regulations pursuant to (Italian) Legislative Decree no. 206 of 06.09.2005 and any other consumer protection regulations do not apply to the aforementioned relationships.

In the event of failures or defects found in the goods supplied, to the extent that they do not result from incorrect assembly by the Customer or third parties; improper use of the goods; insufficient or omitted maintenance; physical wear; negligence by the Customer or third parties; carriage; improper storage; tampering by any person; and unauthorised repair/maintenance operation, Automation Plus S.r.l. undertakes, for the entire period of validity of the warranty, to attempt the repair at its premises, or to replace the defective products, in line with the warranty provided by the original manufacturer of the goods (in turn a supplier of Automation Plus S.r.l.).

The warranty will expire immediately if one of the events referred to above occurs, preventing repair or replacement.

The warranty is valid for one year from delivery of the goods being supplied.

Warranty work by Automation Plus S.r.l. shall be carried out at its premises, and remains subject to compliance with the payment conditions on the part of the Customer and the fault report, on the part of the Customer, within 8 (eight) days of discovery, pursuant to Article 1495, Paragraph 1 of the (Italian) Civil Code. The report must be made in written form and contain a specific date, under penalty of nullity of the same expressed in any other form.

After expiry of the warranty period without any dispute being raised, the goods covered by the Supply shall be deemed accepted.

Automation Plus S.r.l. guarantees the products supplied only for faults and defects that render them unsuitable for a standard use or significantly reduce the value, or due to the lack of essential quality standards.

Automation Plus S.r.l. does not provide any other warranty (by way of example but not limited to, guarantee of good functioning or compliance with promised quality standards). In addition, Automation Plus S.r.l. provides the information on the products sold as received from the manufacturers. The parameter for verifying the conformity of the goods shall therefore be that which is declared for information purposes by the manufacturer.

The Customer expressly indemnifies Automation Plus S.r.l. from any liability for damages that may derive from the lack of, erroneous or incomplete information from the manufacturer.

In accordance with Article 1513 of the (Italian) Civil Code, in the event of discrepancies in the quality or condition of the goods supplied, Automation Plus S.r.l. reserves the right to request verification, also under the terms established by Article 696 of the (Italian) Civil Code. If this right is exercised, the Customer undertakes not to establish and/or suspend any legal and/or protective action.

## **12. Changes to the products**

Automation Plus S.r.l. reserves the right to make changes to the pre-manufactured products and to the systems that will subsequently be supplied to the Customer, with no obligation of prior notice, provided that the aforementioned changes do not lead to changes in terms of functionality and intended use of the products and/or systems.

The Customer expressly waives any action towards Automation Plus S.r.l., unless the former can prove that the changes made have led to a negative change in terms of functionality, intended use or commercial value of the goods.

If the Customer wishes changes to be made to the product covered by the Order, the request must be made in writing and Automation Plus S.r.l. reserves the right to assess the opportunity to carry them out and in such cases change the agreed price, to include disbursements incurred and labour costs.

## **13. Intellectual property**

The Customer undertakes to respect the intellectual and industrial property rights with reference to the subject of the Supply, in full compliance with the relevant legal obligations. Specifically and by way of example, the Customer undertakes to respect trademarks, names and distinguishing features, avoiding unauthorised copying, reproduction or disclosure.

The Customer also undertakes not to use documentation, data, information and know-how received from Automation Plus S.r.l. for purposes unrelated to the subject of the Contract, also undertaking not to communicate data and information to third parties without the prior written authorisation of Automation Plus S.r.l.

In case of breach by the Customer of the abovementioned obligations, Automation Plus S.r.l. may request termination of the Contract pursuant to Article 1456 of the (Italian) Civil Code, with consequent right to compensation for all damages – financial and non-financial – suffered and to be suffered.

## **14. Responsibilities and damages**

The liability of Automation Plus S.r.l. arising from contracts, warranties or any other title shall be limited to cases of intent or gross negligence.

Apart from the abovementioned cases of intent or gross negligence, Automation Plus S.r.l. shall

not be liable for, by way of example but not limited to, direct, indirect or consequential damages; damages for loss of earnings or revenue; damages suffered by third parties who will claim compensation from the Customer; or damages relating to loss of profits, turnover or contract.

Except in cases of intent or gross negligence, if third parties with respect to the contractual relationship between Automation Plus S.r.l. and the Customer complain of damage by attributing it to Automation Plus S.r.l., the Customer shall indemnify the latter of any liability.

Failure by Automation Plus S.r.l. to dispute any communication, document or action of the Customer shall not be deemed as a waiver of rights by Automation Plus S.r.l.

### **15. Transfer of the Contract or the rights derived from it**

The Customer may transfer the rights and obligations deriving from the Contract only upon prior written acceptance of Automation Plus S.r.l.

### **16. Force majeure**

Automation Plus S.r.l. shall not be liable in any way for non-fulfilment, delayed fulfilment or non-performance of individual contracts, and the Customer will not be entitled to request termination of the Contract and/or compensation for damages, if this is due to force majeure.

Force majeure is understood as an event that occurs beyond the control and/or competence of the Parties. Acts of force majeure include, but are not limited to: war; hostile acts; warlike operations; use of weapons; riots; uprisings; civil wars; chemical or biological warfare; revolution; acts of terrorism or attacks of any kind; seizure; nationalisation; sanctions; blockage; embargo; act of an international, national or local authority; failure to obtain, or revocation of, import or export and/or marketing licences; customs restrictions; strike action; lockouts; service interruptions; road accidents; shipwrecks; epidemics and/or pandemics or plagues; catastrophes or major natural events (earthquakes, storms, tsunamis, tidal waves, flooding, fires); disasters or radioactive contamination; ionising radiation; radiation from nuclear transmutation; explosive materials; damage to infrastructure; power failures; system or machinery breakdown.

The non-fulfilment of contractual obligations justified by force majeure does not apply to the obligation of the Customer to make the payment provided for in the Contract.

If the performance due from Automation Plus S.r.l. is subject to a time limit agreed as binding by the Parties, an event of force majeure determines the immediate suspension of the start of the period, which will begin again upon conclusion of the event.

If an event of force majeure leads to the emergence of costs and/or expenses to be borne by Automation Plus S.r.l. connected with the correct execution of the Contract, Automation Plus S.r.l. shall be entitled to the reimbursement of these costs/expenses from the Customer.

In the event that a case of force majeure results in a considerable increase in the costs necessary for performance of the Contract that are charged to Automation Plus S.r.l., the latter shall have the right to withdraw from the Contract by notifying in writing the Customer, who shall be entitled



to the reimbursement of expenses and costs already incurred, but shall not be entitled to take any action, before any court, for any compensation for damages or further payments of sums for any reason whatsoever against Automation Plus S.r.l.

### **17. Privacy and confidentiality**

In compliance with the provisions of the General Data Protection Regulation (GDPR 2018), Automation Plus S.r.l. will use the data received from the Customer in accordance with the current provisions on privacy according to Regulation (EU) 2016/679, ensuring that this data is kept by adopting the most suitable security measures so as to reduce to a minimum the risk of destruction, loss or disclosure, unauthorised access and processing not allowed or not in accordance with the purposes of processing.

The Customer acknowledges and accepts that its data is used by Automation Plus S.r.l. to execute the Order, as well as for related instrumental obligations.

The Customer undertakes not to use and/or not disclose or in any case disclose to third parties, in any way (including through a third party) or by any means, the confidential information and data that it has become aware of during the pre-contractual and contractual relationship with Automation Plus S.r.l.

The Parties undertake to keep strictly confidential the data and information acquired during the pre-contractual and contractual phase, expressly undertaking to refrain from using this data and information for reasons unrelated to the subject of the Contract.

### **18. Applicable law**

All relations between Automation Plus S.r.l. and the Customer are governed exclusively by Italian law, even if the Customer is a foreign subject or the Supply concerns materials supplied abroad.

Any dispute that may arise in relation to the Contract governed by these General Conditions of Sale/Supply will be the competence of the Justice of the Peace of Novara or the Court of Novara, depending on the value of the dispute pursuant to Articles 7 et seq. of the (Italian) Code of Civil Procedure.

The Parties agree that The Vienna Convention on Contracts for the International Sale of Goods (1980) does not apply to this document.

### **19. Final provisions**

Any agreement regarding derogation, amendment or supplement to these General Conditions of Sale/Supply shall be valid only if made in writing and shall be subject to the approval of Automation Plus S.r.l.

For all matters not expressly provided for in these General Conditions of Sale/Supply, Italian law applies, in particular the provisions of the (Italian) Civil Code.

The nullity and/or ineffectiveness of any of the clauses of these General Conditions of

Sale/Supply shall not affect the validity of the other clauses, which shall therefore remain fully valid and effective.

Official communications relating to these General Conditions of Sale/Supply shall be sent to the Automation Plus S.r.l. PEC (certified email) address [automationplus@pec.cgn.it](mailto:automationplus@pec.cgn.it), or by registered letter with return receipt to the registered office of Automation Plus S.r.l.

The Parties shall elect domicile at their registered office and/or PEC (certified email) address.

Pursuant to and in accordance with Articles 1341 and 1342 of the (Italian) Civil Code, the Customer specifically approves the clauses:

1. Introduction; 2. Offers and Orders; closing of sale/supply; 3. Content of the Order and nature of the consultancy provided by Automation Plus S.r.l.; 4. Prices and payments; 5. Reservation of title; 6. Terms of delivery; 7. Transport; 8. Nature and use of goods sold; 9. Return and termination of the Contract; 10. Withdrawal; 11. Warranty; 12. Changes to the products; 13. Intellectual property; 14. Responsibilities and damages; 15. Transfer of the Contract or the rights derived from it; 16. Force majeure; 17. Privacy and confidentiality; 18. Applicable law; 19. Final provisions.

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