

1. Interpretation.

In these conditions "Automation Direct" means AUTOMATION DIRECT PTY LTD and "Buyer" means the person, or body, firm or company with whom AUTOMATION DIRECT enters into a contract for the sale of goods and/or supply of services.

2. Incorporation

2.1 These conditions govern every contract of sale of goods and/or supply of services by Automation Direct to Buyer and, except as modified in accordance with Clause 2.2 constitute all the terms and conditions agreed between them to the exclusion of all other terms and conditions.

2.2 No modification to these Conditions, whether put forward in Buyers purchase order, specification or otherwise, shall bind Automation Direct unless agreed to in writing by its authorised employee.

2.3 These Conditions supersede any terms and conditions which have previously governed contracts for the sale of goods or supply of services by Automation Direct to the Buyer.

3. Quotations

Any quotation given by Automation Direct is a mere invitation to do business and does not constitute contractual offers. All quotations lapse (30) days after issue, but Automation Direct may vary or withdraw a quotation at any time.

4. Orders

4.1 Orders for goods or services shall not be binding upon Automation Direct until accepted in writing by its authorised employee. Automation Direct reserves the right to accept orders in whole or part. Any part order not accepted in the manner prescribed shall be regarded as having been refused.

4.2 Once Automation Direct has accepted an order, Buyer may not alter or modify it unless the written consent of an Automation Direct's authorised employee is first obtained.

5. Price and Payment

5.1 In the absence of contrary express agreement, the price for goods supplied shall be the Automation Direct list price ruling at the date of shipment and the charge for services supplied shall be at Automation Direct's prevailing rates at the time of supply. Prices quoted in published price lists or by Automation Direct representatives are subject to change without notice and are not binding on Automation Direct.

5.2 All prices are expressed net of any applicable freight charges, sales tax and customs duty, which shall be added to the amount to be paid by the Buyer.

5.3 If Buyer has an approved credit account with Automation Direct, the goods and services supplied must be paid for within thirty (30) days of the date of invoice or thirty (30) days of date of shipment, whichever occurs first. Where Buyer is overdue with any payment, Automation Direct is in receipt of credit references which it regards as unsatisfactory, Automation Direct reserves the right to change Buyer to a COD account. Where Buyer has a COD account, all goods and services shall be paid for, before they are supplied.

5.4 All payments shall be made in the currency specified in the invoice, without deduction or set off of any kind.

5.5 Without prejudice to any other remedy, Automation Direct reserves the right to charge a default charge on any overdue payments at an annual rate equal to 2% above the rate notified by the Westpac Banking Corporation from time to time, as being that Bank's indicator lending rate.

6. Delivery and Risk

6.1 Risk in the goods will pass to the Buyer ex Automation Direct's warehouse upon the goods being placed upon the vessel or vehicle which is to deliver the goods to the Buyer. Buyer shall be responsible for arranging delivery insurance of the goods. Automation Direct shall not be liable to Buyer in the event of any failure to arrange insurance.

6.2 While Automation Direct shall use all reasonable endeavours to meet agreed delivery dates, Automation Direct shall not be liable to Buyer for any loss or damage whatsoever should it be delayed or prevented from delivering goods, supplying services or otherwise performing any of its contractual obligations due to any cause or circumstances of any kind whatsoever. In the event of any delay in delivery or supply, as aforesaid, the due date shall be deferred for a period equal to the time lost by reason of the intervening cause or circumstance.

6.3 Automation Direct reserves the right to deliver in instalments and all such instalments, when separately invoiced, shall be paid for without regard to the delivery of subsequent instalments.

7. Retention of Title

Automation Direct shall retain title to goods supplied to Buyer until it has received payment in full for them. If payment is overdue, or Buyer enters into bankruptcy, liquidation, a composition with its creditors, has a receiver or manager appointed over all or any part of its assets or becomes insolvent, Automation Direct shall be entitled, without prejudice to any other remedy, to repossess goods belonging to it and to enter any premises, without notice, for this purpose.

8. Claims

Buyer shall inspect all goods supplied upon delivery. Automation Direct shall not be liable for shortages or other errors in delivery, unless Buyer submits a written claim to Automation Direct within seven (7) days of the delivery to which the claim relates.

9. Cancellation and Returns

9.1 Buyer may return goods supplied for a credit against subsequent orders within seven (7) days of delivery, provided the following conditions are satisfied:-

- (a) Automation Direct's written approval has first been obtained and the invoice number and date have been quoted for reference.
- (b) The goods are returned in their original condition, and
- (c) Buyer agrees to pay Automation Direct a handling charge equal to 15% of the price paid for the goods

9.2 Buyer may cancel, in whole or in part, any contract for the supply of goods or services before supply has been made, provided the following conditions are satisfied:-

- (a) Automation Direct's written approval has first been obtained, and
- (b) Buyer agrees to pay any cancellation charge, being a genuine pre-estimate of Automation Direct's loss, that Automation Direct shall specify.

9.3 Automation Direct reserves the right immediately to cancel any contract for the supply of goods and services, or suspend any such supply without incurring any liability to Buyer, in any of the following circumstances:-

- (a) Buyer is overdue with any payment or otherwise in breach of these conditions,
- (b) Buyer enters into bankruptcy, liquidation or a composition with its creditors, has a receiver or manager appointed over all or any part of its assets or becomes insolvent, or
- (c) Contractual performance is delayed or prevented due to any cause or circumstances. Cancellation by Automation Direct under this clause 9.3 shall be without prejudice to Automation Direct's right to Recover payment from Buyer for the goods and services previously supplied.

10. Warranty

10.1 Goods not manufactured by Automation Direct are supplied by Automation Direct to Buyer on an "as is" basis without warranty of any kind. However Automation Direct shall assign to Buyer, insofar as it is able to do so, the benefit of any condition, warranty or guarantee, express or implied, in Automation Direct's contract with its own supplier.

10.2 Automation Direct warrants to perform services with reasonable care and skill and shall investigate any bona fide complaint that any services have been performed unsatisfactorily. If satisfied that such a complaint is justified and as its sole liability to Buyer in respect of that warranty, Automation Direct shall supply those services again at no extra charge to Buyer.

10.3 Certain legislation, including the Trade Practices Act 1974, imply warranties or conditions or impose obligations upon Automation Direct which cannot be excluded, restricted or modified or which cannot be excluded, restricted or modified except to a limited extent. These conditions must be read and construed subject to such statutory provisions. Where such statutory provisions apply, to the extent to which Automation Direct is entitled to do so, its

liability shall be limited at its option to:-

- (a) In the case of supply of goods,
 - (i) The replacement of the goods or supply of equivalent goods.
 - (ii) The payment of the cost of replacing the goods or acquiring equivalent goods.
 - (iii) The payment of the cost of having the goods repaired, or
 - (iv) The repair of the goods, and
- (b) In the case of services,
 - (i) The supply of the services again, or
 - (ii) The payment of the cost of having the services supplied again.

11. Limitation of Liability

To the extent permitted by law and subject only to any express exceptions contained in these conditions, Automation Direct shall under no circumstances be liable in any way whatsoever to Buyer for any form of loss, damage or expense sustained or incurred by Buyer or any other party in consequence of or resulting in, directly or indirectly, out of the supply of goods or services by Automation Direct, the use or performance thereof, any breach by Automation Direct of any contract incorporating these conditions or the negligence of Automation Direct.

12. Infringement Claims

12.1 Automation Direct shall at its own expense and with the legal representatives of its choice, defend or at its option settle any action brought against Buyer to the extent that it consists of a claim that Buyer's use or re-sale of goods supplied by Automation Direct infringe any Australian intellectual property right belonging to a third party, provided that:-

(a) Buyer notifies Automation Direct in writing of such claim within thirty (30) days of receiving notice of it.

(b) Buyer allows Automation Direct complete control of the defence and settlement of the claim, and

(c) The goods in question have not been modified without Automation Direct's approval or used for a purpose other than that for which they were supplied. Automation Direct shall pay any final award costs and/or damages in any claim defended by Automation Direct under this clause 12.1.

12.2 Buyer shall indemnify Automation Direct from or against any award of damages and/or costs made against Automation Direct in respect of any claim that goods manufactured or supplied by Automation Direct in accordance with specifications or designs proposed by Buyer, infringe the intellectual property rights of a third party.

12.3 This clause 12 states Automation Direct's entire liability and the sole remedy of Buyer with respect to any claim that Buyer's use or re-sale of goods supplied by Automation Direct, infringe any intellectual property right belonging to a third party.

13. Law and Jurisdiction

The construction, validity and performance of any contract incorporating these conditions shall be governed by the laws of the state of Queensland and Buyer shall submit to the jurisdiction of the courts of that state.

14. General

The Buyer shall comply with all laws and regulations of the Commonwealth and State and Territories of Australia And provide all necessary information to, and obtain all necessary permits, approvals, licences, consent, authorisation and exemptions from, any government authority or other appropriate body in respect of the Buyer's use, marketing, distribution or re-supply of goods acquired from Automation Direct under these conditions of trading, including, but not limited to all applicable export control laws and regulations, such as the customs (Prohibited Exports) regulations.