



# JR AUTOMATION™

## JR AUTOMATION STANDARD TERMS OF SALE

All sales of goods and services by J.R. Automation Technologies, LLC (“**Seller**”) are made on the following terms and conditions. In these Standard Terms of Sale, any goods sold by Seller to the Buyer named in Seller’s proposal or acknowledgment (“**Buyer**”) are referred to below as “**goods**” and any services sold by Seller to Buyer are called “**services**.”

1. **Agreement.** If Buyer has not otherwise agreed to these Standard Terms of Sale, then Buyer’s acceptance of delivery of, or payment for, the goods or services shall constitute Buyer’s agreement to these Standard Terms of Sale. Seller objects to and will not agree to any terms that are additional to or different from these Standard Terms of Sale. Terms that are printed on or contained in a purchase order or other form prepared by Buyer which are additional to, in conflict with or inconsistent with these Standard Terms of Sale shall be considered to be inapplicable and shall have no force or effect. If Buyer objects to any of the provisions of these Standard Terms of Sale, Buyer must bring such objection to the attention of Seller in a writing separate from any purchase order or other printed form of Buyer, which shall be deemed to be proposals for different terms and conditions that may be accepted only in writing signed by an authorized representative of Seller. All orders are subject to the approval of Seller’s credit department.

2. **Prices; Payment Terms.** Prices quoted are firm for 30 days from the date of quotation by Seller, with the exception that Seller reserves the right to correct any and all typographical errors. Unless otherwise specified in Seller’s quotation or acknowledgment, payment in full of the price is due 30 days after shipment of the goods or performance of the services, without discount, except that if at any time Seller determines that Buyer’s financial condition does not justify a sale on credit or if Buyer shall at any time be in default in any indebtedness or obligation owing to Seller, then Seller may require advance payment or may ship C.O.D., and may withhold shipments on orders being shipped in installments. Any payment not made when due shall accrue a late charge of 1.5% per month. Payment must be made at Seller’s office in Holland, Michigan. If Buyer requests and Seller agrees to any changes in Buyer’s order after its receipt by Seller, Buyer shall pay all charges reasonably assessed by Seller with respect to those changes. Seller have the right to increase its prices at any time upon notice to Buyer to reflect any unusual or unforeseen increase in Seller’s costs, including, but not limited to, an increase in the cost of materials. Buyer may not offset or recoup any claim against amounts due Seller.

3. **Delivery and Risk of Loss.** Unless Seller agrees otherwise in writing, Seller shall deliver the goods EXW (Incoterms 2010) Seller’s facility from which the goods will be shipped. Risk of loss of the goods shall pass to Buyer upon delivery, as stated above, or movement to storage. Shipping, delivery and performance dates are estimates only, calculated from the date of receipt of Buyer’s order and complete drawings, specifications, designs, samples and other information reasonably requested by Seller to manufacture the goods and perform the services, and time is not of the essence. Seller shall not incur any liability, direct or indirect, nor shall any order be canceled because or as a result of any delays in meeting such dates or schedules. Seller reserves the right to recalculate any projected shipping, delivery or performance dates upon receipt of Buyer’s order. Seller may ship all the goods at one time or in portions from time to time. Seller shall have the right to determine the method of shipment and routing of the goods, unless otherwise stated in Seller’s quotation or acknowledgment. The quoted delivery time and schedules depend upon prompt agreement on complete definition of the detailed scope of supply and receipt of information, including design data, drawing approval and manufacturing release according to the established project schedules. Delays by the Buyer in providing such agreement or information may result in an appropriate adjustment of the Agreement in accordance with Section 7 herein.

4. **Sample Parts.** A sufficient quantity of production parts is required for systems development and tryout. These parts may be destroyed in debug. Sample parts are considered to be representative of standard production dimensions. Dimensional and/or geometrical deviations from part print may cause malfunction of equipment and such deviations shall void Seller’s warranty provided below. Buyer is responsible for transport of all sample parts.

5. **Taxes and Duties.** Seller’s price does not include any privilege, occupation, personal property, value-added, sales, excise, use or other taxes, or any tariffs or customs duties, and Buyer shall be liable for all such taxes and duties, whether or not Seller invoiced Buyer for them.

6. **Unavoidable Delay.** If Seller is not able to finish and deliver the goods to Buyer, or to perform the services, on time because of anything Seller cannot control (including but not limited to casualty, labor trouble, unavailability of supplies or transportation, Buyer’s failure to approve production samples, fire, flood, governmental act or regulation, riot, terrorist act, equipment or power failure, unscheduled maintenance, accident or act of God), then the estimated delivery or performance time shall be extended accordingly, and Seller shall not be liable to Buyer for any damages caused by the delay.

7. **Changes.** Seller shall have the right to make design or engineering changes in its parts, equipment, processes and methods of production of the goods or performance of the services, but Seller will not make any changes in operational or dimensional specifications that Buyer submits, unless otherwise agreed upon by Buyer and Seller. Buyer may request changes in the scope of the goods and services and, if accepted by Seller, the price, schedule and other pertinent parts of the Agreement shall be adjusted by written agreement of the parties prior to implementation of the change. Stenographical and clerical errors in quotations are subject to correction.

### 8. **Warranties; Defects; Remedies.**

A. **Goods.** If any item manufactured by Seller that has been properly installed, with the exception of perishable tooling, proves to be defective within 1 year (“**Warranty Period**”) after Seller delivers the goods to the Buyer and Buyer returns the item to Seller within the Warranty Period, F.O.B. Seller’s plant or

## JR AUTOMATION STANDARD TERMS OF SALE CONTINUED

notifies Seller of the defect within the Warranty period, then Seller shall, at Seller's option, either repair or replace the defective item, at Seller's expense, or refund the purchase price for the defective goods. If Seller fails to repair or replace any defective item within a reasonable time, then Seller shall be liable to Buyer for the lesser of (1) the reasonable costs of repair or replacement by a third party or (2) that part of the purchase price of the defective goods that shall have been paid by Buyer, but Buyer shall not obtain repair or replacement by a third party without giving Seller at least 15 days prior written notice, during which time Seller may repair or replace the defective item. An item shall be considered "defective" if Seller finds that it is defective in materials or workmanship and if the defect materially impairs the value of the goods to Buyer, except that the goods will not be defective if they conform to industry accepted tolerances or Buyer's specifications or the goods are used for applications not specified in Seller's quotation for the goods. This paragraph sets forth Buyer's sole and exclusive remedies for any defect in the goods. Seller does not warrant the workmanship of others who have performed work on or used the goods.

**B. Services.** If a service proves to be defective (as defined below) within 1 year after Seller performs the service and if, in the case of a service involving Seller's processing of goods furnished by Buyer, Buyer returns the goods to Seller within that period, F.O.B. Seller's facility in Holland, Michigan, then Seller shall, at its option, either re-perform the service, at Seller's expense, or refund to Buyer the price that Buyer paid to Seller for that part of the service that was defective and shall reimburse Buyer for reasonable freight charges incurred in returning the goods to Seller. A service shall be considered "defective" if it is found by Seller to have failed to meet the standards in Seller's industry and if that failure materially impairs the value of the services to Buyer, except that if (1) Buyer shall have approved or furnished to Seller specifications for the services, then the services shall not be considered defective to the extent they conform to the specifications, (2) the services will not be defective if they conform to industry accepted tolerances, and (3) Seller makes no warranty as to Services that were not completed by Seller for any reason. This paragraph sets forth Buyer's sole and exclusive remedy for any defect in the services.

**C. Conditions and Limitations.** The warranties and remedies set forth herein are condition upon Buyer's receipt, handling, storage, installation, testing, operation and maintenance of the goods in a normal and proper manner with competent supervision in accordance with the recommendations of Seller to the extent applicable, and otherwise in accordance with generally accepted industry standards and practices. Seller's warranties are only intended for goods and services provided by Seller and do not apply to purchased components integrated into the goods or systems subject to the Agreement. Seller agrees to transfer to Buyer any manufacturer's warranties for any and all purchased components included as part of agreement. This warranty shall not apply to any alleged defect that results from damage, physical abuse, vandalism, misuse, alterations, modifications, additions or repairs made without Seller's prior consent, excessive electrical loads, exposure to water or corrosive liquids or other substances, exposure to excessive heat, or use other than as intended by Seller. Also excluded from Seller's warranty is any warranty, except as to title, with respect to goods manufactured and/or designed to Buyer's specifications or services performed to Buyer's specifications, and the Buyer shall, at Buyer's own expense, (1) defend and hold harmless the Seller from and against any claim, suit or other expense which is asserted or brought against Seller by reason of its manufacture or sale of such goods or its performance of the services, and (2) pay to Seller for any service charges on such goods or services. Notice of any defect must be given to Seller within 30 days of discovery by Buyer of the defect. **EXCEPT AS STATED IN THIS PARAGRAPH, SELLER DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTY AS TO THE GOODS OR SERVICES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.** Buyer is solely responsible for determining the proper application and use of the goods. Seller shall not have any tort liability to Buyer with respect to any of the goods or services and shall not be liable for consequential, incidental, special, exemplary, indirect or punitive damages that arise from any product defect, delay, non-delivery, recall or other breach, including but not limited to such damages arising out of personal injury, death, property damage, lost profits or other economic injury. Seller shall not be liable to Buyer or any other person in tort for any negligent design or manufacture of the products, or for the omission of any warning with respect thereto, or for the negligent performance of the services. Neither Buyer nor any other person may modify or expand this warranty, waive any of the limitations, or make any different or additional warranties with respect to the products. No statement to the contrary shall bind Seller unless made in a writing signed by an authorized officer of Seller. Buyer shall not have any right of rejection or of revocation of acceptance of the goods or services.

**9. Limitation of Liability.** Notwithstanding any language to the contrary, under no circumstances will Seller be liable to Buyer for any incidental, indirect, special, or consequential types of damages arising out of any action or inaction relating to Seller's performance hereunder. Additionally, Seller will not be liable for direct damages in an amount greater than the total aggregate value of the contract or the applicable insurance coverage, whichever is less.

**10. Solvency and Security Interest.** Buyer represents that Buyer is solvent. Seller retains title to the goods until the invoiced price is fully paid in immediately available funds. Seller retains and Buyer grants a security interest in the goods and all proceeds to secure payment of the price and all other indebtedness now and in the future owing by Buyer to Seller.

**11. Permits and Compliance.** Seller is not responsible for obtaining any permit, inspection or license that is required for installation or operation of the goods or performance of the services. Seller does not make any promise or representation that the goods or services will conform to any law, ordinance, regulation, code or standard.

**12. Safety Features.** Buyer shall install and operate the goods and any equipment on which Seller has performed the services properly and according to Seller's operating instructions and shall not remove or change any safety device, warning or operating instructions that Seller placed on the goods or other equipment.

**13. Components of Another Product.** If any of the goods constitute parts or components that are to be incorporated or installed in a product that is manufactured or assembled by or for Buyer, or if the services are performed on any components that are to be incorporated or installed in a such a product, then (1) Buyer shall obtain, or cause the end-user of the product to obtain, all permits, inspections and licenses required for installation or operation of the product, (2) Buyer shall cause the product to conform to all applicable laws, ordinances, regulations, codes and standards and (3) Buyer shall place on the product all safety devices and warnings, and shall furnish to its Buyer all operating instructions, that are necessary or desirable to prevent any death, personal injury or property damage from being caused by any use or operation of the product.

**14. Resale.** On any resale of the goods, Buyer shall contractually limit its Buyer's rights and remedies against both Buyer and Seller to the same extent as Buyer's rights and remedies are limited under these Standard Terms of Sale.

**15. Intellectual Property and Confidentiality.** All inventions (whether or not patentable), devices, technologies, ideas, improvements, processes, systems, software and other works and matters that Seller creates or develops in the course of Seller's design, development or manufacture of the goods or performance of the services and all drawings and specifications that Seller provides to Buyer ("Intellectual Property") shall be Seller's sole property, and Buyer assigns, and agrees to assign, to Seller all right, title and interest that Buyer now has or in the future acquires in the Intellectual Property. Buyer shall not disclose or use any of the Intellectual Property or any information about Seller's business, operations or activities, except to the extent necessary for Buyer to use the goods or services. In the absence of a separate Seller's license agreement, Buyer is granted a nonexclusive, non-transferable license to use Seller's Intellectual Property solely in conjunction with Seller provided goods, with no rights to sublicense, disclose, disassemble, decompile, reverse engineer, or otherwise modify the

## JR AUTOMATION STANDARD TERMS OF SALE CONTINUED

Intellectual Property. Seller also has a proprietary interest in the proposal and Agreement, and accordingly, neither document will be disclosed in whole or in part to third parties without the prior written permission of Seller.

16. **Cancellation.** Any purchase order for the Seller's goods and services may not be cancelled for any reason, in whole or in part, without Seller's prior written approval. In the event a cancellation is approved or initiated by Seller then, unless otherwise agreed, Buyer shall pay Seller (i) all costs and expenses Seller incurred in relation to the order before Seller received the cancellation request, (ii) a cancellation charge equal to 25% of the invoice price of any goods cancelled from the order, and (iii) any shipping charges and other out of pocket expenses incurred by Seller in relation to the cancellation.

17. **Suspension.** If performance under this Agreement is held, delayed or rescheduled for more than 30 days at the request of Buyer, it will be subject to Section 7, as set forth above. If performance under this Agreement is held, delayed or rescheduled for more than 90 days at the request of Buyer, Seller may define these actions as a request by Buyer to cancel the Agreement by Buyer, and Seller will then be entitled to recover all costs and fees as set forth Section 16 above.

18. **Insecurity and Adequate Assurance.** If Seller ever believes in good faith that it has grounds for insecurity as to Buyer's performance under the Contract, then Buyer shall provide adequate assurance of due performance within ten (10) days after Seller demands the assurance, which shall be considered to be a reasonable time. Buyer's failure to do so shall be considered to be a repudiation by Buyer of the Contract and of all other then-existing contracts that provide for Buyer to purchase goods and/or services from Seller ("**Outstanding Contracts**"). "Grounds for insecurity" include, without limitation, (1) Buyer's failure to make a payment to Seller or to perform another obligation under the Contract or an Outstanding Contract, (2) Buyer's insolvency, (3) a deterioration in Buyer's financial condition after the Contract was entered into and (4) Buyer's failure to provide financial statements and other financial information to Seller promptly upon Seller's request. "Adequate assurance of due performance" includes, without limitation, providing a letter of credit or comparable security for all obligations of Buyer that then exist or that will arise in the future under all Outstanding Contracts.

19. **Indemnity.** Buyer shall indemnify and hold harmless Seller with respect to all damages, losses, claims and expenses, including but not limited to consequential and incidental damages and attorney fees, that Seller incurs as a result of Buyer's breach of any of Buyer's obligations under these Standard Terms of Sale or any claimed unfair competition or patent, trademark or copyright infringement or any other claim resulting from Seller's manufacture of the goods, or performance of the services, to Buyer's specifications.

20. **Seller's Rights.** Seller has all rights and remedies given to Seller by applicable law, and Seller's rights and remedies are cumulative and may be exercised from time to time. A waiver by Seller of any right on one occasion will not be a waiver of any future exercise of that right.

21. **Time for Bringing Action.** Any action that Buyer brings against Seller for breach of this Agreement or for any other claim that arises out of or relates to the goods or their design, manufacture, sale or delivery or the services must be brought within 1 year after the cause of action accrues.

22. **Applicable Law.** This agreement between Seller and Buyer shall be considered to have been made in the State of Michigan, and it shall be governed by and interpreted according to Michigan law. Either party may bring any action that arises out of or relates to this agreement in any federal or state court in Grand Rapids, Michigan, that has jurisdiction of the subject matter, and Buyer irrevocably consents that any such court shall have personal jurisdiction over Buyer and waives any objection that the court is an inconvenient forum.

23. **Complete Agreement; Amendment.** The terms on Seller's quotation or acknowledgment and these Standard Terms of Sale contain the entire agreement between Buyer and Seller. Any change in this agreement must be by a signed writing. This agreement is not assignable or transferable by either party, except to its successor, or to the transferee of all or substantially all the party's assets to which this contract relates.

1157040-1