



# **Terms and Conditions**

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## 1. General provisions

### 1.1 Definitions and applicability

1. Contractor: AT Automation BV, domiciled in Weert, registered with the Chamber of Commerce under number 12060910.
2. Client: any legal entity or natural person from whom goods and/or services of any kind are provided. This also includes their representative(s) and authorized agent(s).
3. These general terms and conditions apply to all offers, legal relations, and agreements in which the Contractor provides goods and/or services of any kind to the Client. Deviations and additions to these general terms and conditions are only valid if expressly and agreed upon in writing.
4. Every offer made by the Contractor is without obligation. An offer is valid for 30 days after its date, after which it expires.
5. The Client must communicate any special requirements for the agreement to be concluded in writing to the Contractor. The Contractor may assume the correctness and completeness of what is provided when making an offer.
6. These conditions also apply to agreements with the Contractor for the execution of which third parties need to be involved.
7. The Dutch text of these general sales conditions prevails over translations thereof.

### 1.2 Offers and agreements

1. All offers and other expressions made by the Contractor, in whatever form, are entirely without obligation, unless expressly indicated otherwise by the Contractor in writing.
2. The Contractor is entitled to revoke its offer immediately after it has been accepted by the Client.
3. The agreement is concluded by and at the moment of sending an order confirmation to the Client, or by the written or unwritten confirmation by the Contractor of an order, or by the actual commencement of work and/or services by the Contractor, or by the Client providing the product to be processed and/or relevant documents, materials, necessary for the assignment to the Contractor.
4. If the acceptance by the Client deviates from the offer included in the quotation or offer, the Contractor is not bound by it. The agreement is then not concluded in accordance with this deviating acceptance, unless the Contractor indicates otherwise in writing.
5. If the Contractor or a third party engaged by it takes care of the shipment of the purchased equipment and software, the Contractor will always charge the shipping and packaging costs to the Client.

### 1.3 Prices and payment

1. All prices used by the Contractor are in euros, excluding VAT and other government levies as well as any costs to be incurred in the context of the agreement such as shipping and administration costs, unless otherwise agreed.
2. The Contractor is entitled to adjust the applicable prices and rates with a notice period of at least three months. The Client is entitled to terminate the agreement as of the date the adjustment commences within thirty days after notification.

3. Unless otherwise agreed in writing, payment of the invoice/agreed price shall be made within 30 days from the invoice date.
4. Objections to the amount of an invoice do not suspend the payment obligation.
5. If the Client fails to make timely payment, they are in default without further notice and owe interest of 1.5% per month, with a portion of the month counted as a full month, as well as all administrative costs of 5% of the invoice amount, judicial and extrajudicial costs.

#### **1.4 Confidentiality**

1. Each of the parties guarantees that all data received from the other party, of which it knows or should know that it is of a confidential nature, remains confidential, unless a legal obligation requires disclosure of such data. Data shall in any case be considered confidential if so designated.
2. The responsibilities arising from this article also extend to those whom the Contractor uses for the execution of the agreement, unless deviating agreements have been made in the specific case and the Client is informed thereof.
3. Upon request, the Contractor shall immediately return the (copies of) documents, correspondence, files, and/or other (business) information or products of the Client at the end of the agreement and shall not retain any files, documents, or copies thereafter.

#### **1.5 Retention of title**

1. Delivered goods (including equipment) remain the property of the Contractor until the Client has fulfilled all the following obligations from all agreements concluded with the Contractor:
  - a. a. the consideration for delivered or to be delivered goods itself;
  - b. b. any claims due to non-performance by the Client of these agreement(s).
2. As long as ownership of the goods has not passed to the Client, the Client may not pledge the goods or grant any rights thereto to third parties, except in the normal course of its business. In that case, the claim against the Client becomes immediately due and payable.
3. Rights are granted or transferred to the Client on the condition that the Client pays the agreed compensation in a timely and complete manner.
4. If the Client (partly) forms a new item from goods supplied by the Contractor, the Client shall only hold that item for the Contractor and shall keep the newly formed item for the Contractor until the Client has paid all amounts due under the agreement in full; in that case, the Contractor retains all rights as owner of the newly formed item until full payment by the Client.
5. If the Client fails to fulfill its obligations or if there is a justified fear that it will not do so, the Contractor is entitled to remove or have removed the delivered goods subject to the retention of title referred to in paragraph 1 from the Client or third parties holding the goods for the Client. The costs incurred by the Contractor in this regard shall be borne by the Client. The Client is obliged to provide all cooperation thereto under penalty of a fine of 10% of the amount due by the Client, per day. In that case, the claim against the Client becomes immediately due and payable.

#### **1.6 Risk**

1. The risk of loss, theft, embezzlement, or damage to goods, data (including: usernames, codes, and passwords), documents, software, or data files produced, delivered, or used in the context of the execution

of the agreement passes to the Client at the moment they are placed under the actual control of the Client or one of its auxiliary persons.

## **1.7 Intellectual property**

1. If the Contractor is willing to commit to the transfer of intellectual property rights, such commitment shall only be made in writing and expressly. If the parties agree in writing that intellectual property rights with regard to specifically developed software, data files, equipment, or other materials for the Client will transfer to the Client, this shall not affect the Contractor's right or possibility to use and/or exploit the components, general principles, ideas, designs, documentation, works, programming languages, protocols, standards, and the like, without limitation for other purposes, whether for itself or for third parties. Nor does the transfer of intellectual property rights affect the Contractor's right to make developments for itself or a third party that are similar to or derived from those made for the Client.
2. All intellectual property rights in the software, data files, equipment, or other materials developed under the agreement or made available to the Client, such as analyses, designs, documentation, reports, quotations, as well as preparatory material thereof, belong exclusively to the Contractor, its licensors, or its suppliers. The Client obtains the usage rights expressly granted in these general terms and conditions, the agreement concluded in writing between the parties, and the law. The right of use granted to the Client is non-exclusive, non-transferable, non-pledgeable, and non-sublicensable.
3. The Client is not permitted to remove or modify any indication(s) regarding the confidential nature or concerning copyrights, trademarks, trade names, or any other intellectual property right from the software, websites, data files, equipment, or materials.
4. Even if the agreement does not explicitly provide for it, the Contractor is allowed to implement technical measures to protect the equipment, data files, websites, provided software, software to which the Client is granted access, and the like, in connection with an agreed limitation on the content or duration of the right of use of these objects. The Client shall not (have) remove(d) or circumvent(ed) these technical measures.
5. The Contractor indemnifies the Client against any claim by a third party based on the assertion that software, websites, data files, equipment, or other materials developed by the Contractor itself infringe any intellectual property right of that third party, provided that the Client promptly informs the Contractor in writing of the existence and content of the claim and leaves the handling of the matter, including any settlements, entirely to the Contractor. To this end, the Client shall grant the necessary powers of attorney, information, and cooperation to the Contractor to defend against these claims. This obligation to indemnify expires if the alleged infringement is related i) to materials provided by the Client to the Contractor for use, processing, manipulation, or maintenance, or ii) to modifications made by the Client or at its behest to the software, website, data files, equipment, or other materials without written consent from the Contractor. If it is irrevocably established in court that the software, websites, data files, equipment, or other materials developed by the Contractor itself infringe any intellectual property right belonging to a third party or if, in the opinion of the Contractor, there is a reasonable chance that such infringement will occur, the Contractor shall, if possible, ensure that the Client can continue to use the delivered items, or functionally equivalent other software, websites, data files, equipment, or materials. Any other or further obligation of indemnification by the Contractor for infringement of any third-party intellectual property right is excluded.
6. The Client warrants that no third-party rights prevent the provision to the Contractor of equipment, software, materials intended for websites, data files, and/or other materials and/or objects, with the

purpose of use, maintenance, processing, installation, or integration. The Client indemnifies the Contractor against any claim by a third party based on the assertion that such provision, use, maintenance, processing, installation, or integration infringes any right of that third party.

## **1.8 Cooperation**

1. Parties acknowledge that the success of activities in the field of information and communication technology depends on correct and timely mutual cooperation. The Client shall always provide timely all cooperation reasonably requested by the Contractor.
2. The Client bears the risk of selecting the goods and/or services to be provided by the Contractor. The Client shall always exercise utmost care to ensure that the requirements to which the Contractor's performance must comply are accurate and complete. Measurements and data stated in drawings, images, catalogs, websites, quotations, advertising materials, standardization sheets, and similar documents are not binding on the Contractor, unless expressly stated otherwise by the Contractor.
3. If the Client fails to provide, provide in a timely manner, or provide in accordance with the agreements the data, equipment, software, or personnel necessary for the performance of the agreement, or if the Client otherwise fails to fulfill its obligations, the Contractor has the right to suspend the execution of the agreement in whole or in part and has the right to charge the resulting costs according to its usual rates, without prejudice to the Contractor's right to exercise any other legal right.
4. If the Client uses personnel and/or assistants in the execution of the agreement, such personnel and assistants shall have the necessary knowledge and experience. In case employees of the Contractor perform work at the Client's premises, the Client shall timely and free of charge provide the necessary facilities. The Contractor is not liable for damages or costs due to transmission errors, malfunctions, or unavailability of these facilities, unless the Client proves that such damages or costs are the result of intent or gross negligence on the part of the management of the Contractor.
5. The workspace and facilities shall comply with all legal requirements. The Client indemnifies the Contractor against claims from third parties, including employees of the Contractor, who suffer damage in connection with the execution of the agreement, which is the result of actions or omissions of the Client or unsafe situations in the Client's organization. Before commencing work, the Client shall inform the employees deployed by the Contractor of the applicable internal house rules and security regulations within its organization.
6. The Client ensures that the Contractor can timely obtain the licenses or approvals necessary for the execution of the agreement.

## **1.9 Delivery**

1. The delivery time / execution period stated by the Contractor is approximate and therefore never constitutes a deadline.
2. The Contractor is only in default after exceeding the aforementioned period if the Contractor has received a written notice of default from the Client, specifying a reasonable period to proceed with delivery / completion.
3. If there is a risk of exceeding a deadline, the Contractor and the Client shall consult as soon as possible.

### 1.10 Termination of agreement

1. The Contractor is authorized to suspend the performance of its obligations or to terminate the agreement immediately and with immediate effect if:
  - a. a. the Client fails to fulfill, fully fulfill, or timely fulfill the obligations under the agreement;
  - b. b. circumstances that became known to the Contractor after the conclusion of the agreement give good reason to fear that the Client is not or will not be able to fulfill its contractual obligations towards the Contractor;
  - c. c. the Client was requested to provide a bank guarantee or security for the fulfillment of its obligations under the agreement upon conclusion of the agreement, and this bank guarantee or security is not provided or is insufficient;
  - d. d. there is liquidation of the Client, suspension of payment or bankruptcy, attachment – if and to the extent the attachment is not lifted within 1 month – against the Client, debt rescheduling, or any other circumstance whereby the Client can no longer freely dispose of its assets;
  - e. e. circumstances arise that are of such a nature that the performance of the agreement is impossible or that the unaltered maintenance of the agreement cannot reasonably be demanded from the Contractor.
2. If the agreement is terminated, the claims of the Contractor against the Client become immediately due and payable. If the Contractor suspends the performance of its obligations, it retains its rights under the law and the agreement.
3. In case of suspension or termination pursuant to clause 1, the Contractor is entitled to demand immediate payment of the invoices already sent for the performance of the agreement.
4. The Client is authorized to terminate the agreement if the Contractor fails to fulfill, fully fulfill, or timely fulfill the obligations under the agreement, after a written notice of default specifying a reasonable period for rectification of the default.
5. If an agreement, which by its nature and content does not end upon completion, has been entered into for an indefinite period, it can be terminated by either party after good consultation and stating reasons by written notice. If no explicit notice period has been agreed upon between the parties, a reasonable notice period must be observed upon termination. Parties shall never be liable for any damages due to termination.

### 1.11 Liability

1. The liability of the Contractor for an attributable failure in the performance of the agreement or any other legal ground is at all times limited to compensation for direct damages up to a maximum of the agreed price for that agreement (excl. VAT). If it concerns a continuing performance agreement, the maximum liability shall be the agreed price for that agreement, set at the total of the fees agreed for one year. In no event shall the total liability of the Contractor for direct damages, on any legal ground, exceed €500,000.00.
2. The Contractor is not liable for:
  - a. a. indirect damages and/or consequential damages: including but not limited to loss of profits, loss of production, loss of earnings, diminished goodwill, transport costs, and travel and accommodation expenses;
  - b. b. damages resulting from claims by clients of the Client;



- c. c. damages related to the use of goods, materials, or software of third parties prescribed by the Client to the Contractor;
  - d. d. damages related to the engagement of suppliers prescribed by the Client to the Contractor;
  - e. e. damages directly or indirectly resulting from damage or loss, for whatever reason, of goods provided by the Client.
- 3. Any right to compensation must be reported to the Contractor in writing as soon as possible after its occurrence. Any claim for compensation against the Contractor expires one year after the occurrence of the claim.
- 4. Unless performance by the Contractor is permanently impossible, the liability of the Contractor for an attributable failure in the performance of an agreement arises only if the Client promptly notifies the Contractor in writing of the default, specifying a reasonable period for the rectification of the default, and the Contractor continues to fail to perform its obligations after that period. The notice of default must contain the most complete and detailed description possible of the default, so that the Contractor is given the opportunity to respond adequately.
- 5. The Client shall indemnify and hold the Contractor harmless against all claims from third parties – including shareholders, directors, supervisory board members, and employees of the Client as well as affiliated legal entities and enterprises and others involved in the organization of the Client – arising from or related to the activities of the Contractor on behalf of the Client.

### **1.12 Force majeure**

- 1. In case of force majeure, the Contractor is entitled to suspend its delivery and other obligations. Force majeure means any circumstance beyond the control of the Contractor, whether foreseeable or not. Such circumstances include, but are not limited to, incomplete, untimely, or non-performance by suppliers of their obligations to the Contractor, regardless of the reason or cause thereof, defects in goods, equipment, software, or materials of third parties, the use of which is prescribed by the Client to the Contractor, government measures, power failure, disruption of internet, data network, or telecommunication facilities, war, and general transportation problems.
- 2. Force majeure also exists if the circumstance that prevents (further) performance occurs after the Contractor should have fulfilled its obligation.
- 3. During force majeure, the delivery and other obligations are suspended. If force majeure lasts longer than 3 months, each party is entitled to terminate the agreement, but only for that part of the obligations that has not yet been fulfilled.
- 4. The Client cannot claim any compensation whatsoever.

### **1.13 Choice of law and forum**

- 1. If any provision of these general terms and conditions is found to be invalid or unenforceable, the Client and the Contractor shall remain bound by the other provisions. The parties shall replace the invalid or unenforceable provision with a provision that is valid and the effect or consequences of which are as similar as possible to those of the provision being replaced.
- 2. Dutch law exclusively applies to all legal relationships between the parties, excluding the Vienna Sales Convention as well as any other international regulations that allow for exclusion.

3. All disputes (including those considered as such by only one of the parties) arising out of or in connection with the agreement or resulting additional agreements shall be submitted exclusively to the competent court in Amsterdam, the Netherlands, as the court of first instance.

## 2. Service provision

The provisions of this chapter apply (additionally) if the Contractor provides services, such as consultancy, feasibility studies, consultancy, training, courses, support, secondment, designing, developing, implementing, or managing software, information systems, and networking services. These provisions do not affect the provisions regarding specific services, the development of customized software, and maintenance contained in these general terms and conditions.

### 2.1 Execution

1. The Contractor shall execute the agreement to the best of its insight and ability, and in accordance with the requirements of good professional practice, all according to the current state of the art.
2. Due to the necessity of the Client's cooperation in the execution of the agreement by the Contractor, the Client shall always provide all useful and necessary information in a timely manner, which shall be accurate and complete.
3. The Client is responsible for the correct use and application of the delivered equipment, software, and services of the Contractor, as well as for the control and security procedures and adequate system management.
4. If necessary information for the execution of the agreement is not available to the Contractor, not provided in a timely manner, or not in accordance with the agreements, or if the Client otherwise fails to fulfill its obligations, the Contractor has the right to suspend the execution of the agreement and to charge the Client for the resulting costs according to its usual rates.
5. In case employees of the Contractor perform activities at the Client's premises, the Client shall provide, free of charge, the facilities reasonably required by those employees, such as - if applicable - workspace with telephone, data communication facilities, access to secure equipment and/or software, and the like.

### 2.2 Changes and additional work

1. If the Contractor has performed work or other services at the request or with the prior consent of the Client that fall outside the scope or extent of the agreed services, the Client shall compensate the Contractor for these work or services according to the Contractor's usual rates. Additional work also includes an extension or modification of a system analysis, design, or specifications. The Contractor is never obliged to comply with such a request and may require a separate written agreement for it.
2. The Client accepts that as a result of work or services as referred to in clause 1, the agreed or expected completion time of the service provision, and the mutual responsibilities of the Client and the Contractor, may be affected. The fact that (a demand for) additional work arises during the performance of the agreement is never grounds for the Client to dissolve or terminate the agreement.
3. If a fixed price has been agreed upon for the service provision, the Contractor shall inform the Client in writing in advance about the financial consequences of those additional work or services, upon request.

### 2.3 Training, courses, and workshops

1. If the service provision of the Contractor consists of providing training, courses, or workshops, the Contractor may require payment thereof before the start. The consequences of cancellation of participation in a training, course, or workshop are governed by the usual rules of the Contractor.
2. If the number of registrations gives rise to it in the opinion of the Contractor, the Contractor is entitled to combine the training, course, or workshop with one or more other training, courses, or workshops, or to reschedule them to a later date or time.

### 2.4 Secondment

1. Secondment, as referred to in these terms and conditions, occurs when the Contractor provides an employee (hereinafter: the seconded employee) to the Client to perform work under the supervision and direction or control of the Client.
2. The Contractor endeavors to ensure that the seconded employee remains available during the term of the agreement, without prejudice to the right of substitution.
3. The Client is entitled to request the replacement of the seconded employee (i) if the seconded employee demonstrably does not meet expressly agreed quality requirements and the Client notifies the Contractor of this in writing within three working days after the start of the work, or (ii) in case of prolonged illness or termination of employment of the seconded employee. The Contractor shall promptly prioritize the request. The Contractor does not guarantee that replacement is always possible. If replacement is not or not immediately possible, the Client's claims for further performance of the agreement, as well as all claims of the Client due to non-performance of the agreement, lapse. The Client's payment obligations regarding the work performed remain in effect.
4. The Contractor is obliged to timely and fully pay the wage tax and (advance) social security premiums due for the seconded employee in connection with the agreement. The Contractor indemnifies the Client against all legal claims of the tax authorities or social security institutions relating to taxes and social security premiums directly related to the secondment by the Contractor of the seconded employee (the so-called liability of the principal), provided that the Client leaves the settlement of the relevant claims entirely to the Contractor, provides full cooperation, and provides all necessary information and, if requested by the Contractor, process authorizations.
5. The Contractor accepts no liability for the selection of the employee or for the results of work performed under the supervision and direction or control of the Client.

## 3. Custom software

The provisions of this chapter apply (additionally) if the Contractor develops custom software at the request of the Client.

### 3.1 Software

1. The Contractor shall specify in writing to the Client the software to be developed or used, or outline how the assignment will be carried out. The Contractor shall carry out the development with care based on data provided by the Client, for the accuracy and completeness of which the Client is responsible.
2. If it appears during the execution of the agreement that it is necessary to modify or supplement the work to be performed for proper execution of the Agreement, the parties shall make further agreements on this in a timely manner and in mutual consultation.

### **3.2 Delivery and acceptance**

1. The Client delivers the software in accordance with the agreed specifications in writing. Delivery is completed upon installation of the software at the Client's premises. The software is deemed accepted upon delivery.
2. If software is delivered in phases, rejection of a particular phase does not affect the approval of an earlier phase.

### **3.3 License**

1. The Contractor shall provide the agreed software and user documentation to the Client based on a license for the duration of the agreement. The right to use the software is non-exclusive, non-transferable, non-pledgeable, and non-sublicensable.
2. The Client's right to use the software does not extend to the source code of the software unless otherwise agreed upon in writing between the parties.
3. The Client shall strictly adhere to the agreed restrictions on the right to use the software of any kind.
4. The Client is entitled to use the software solely within and for the benefit of its own company or organization, and only to the extent necessary for the intended use.
5. The Client is prohibited from selling, renting, alienating, or granting restricted rights to the software and the media on which the software is or will be recorded, or in any way making the software available to a third party for any purpose or under any title.
6. The Client is prohibited from granting a third party access to the software or hosting the software with a third party.
7. The Client shall, at the request of the Contractor, cooperate in an investigation to be carried out by or on behalf of the Contractor regarding compliance with the agreed usage restrictions.

### **3.4 Warranty**

1. Due to reasons related to the state of science and technology, the Contractor cannot guarantee that the software will operate without interruption, errors, defects, or other imperfections, or that all errors, defects, or other imperfections will be corrected.
2. If the warranty concerns software produced by a third party, the warranty is limited to the warranty provided by that third party.
3. The Contractor will make reasonable efforts to rectify any errors and/or defects, if they are reported in writing and in detail by the Client to the Contractor within three months of discovery by the Client, by registered mail.
4. The warranty provided by the Contractor expires if the errors and/or defects are the result of incorrect, careless, or incompetent use and/or external causes and/or other causes not attributable to the Contractor and/or not reported within the period mentioned in Article 21 paragraph 3.
5. The Client is responsible for making timely and correct backups.

## **4. Equipment**

The provisions of this chapter apply if and to the extent that the Contractor undertakes to supply equipment.



#### **4.1 Delivery**

1. The risk of loss and damage to the equipment passes to the Client at the moment when the Client has actual control.
2. Installation of the equipment takes place only if agreed upon in writing.

#### **4.2 Warranty**

1. The Contractor warrants that the equipment is free from design, material, and manufacturing defects for a period of 3 months after delivery.
2. If the warranty concerns equipment produced by a third party, the warranty is limited to the warranty provided by that third party.
3. The warranty provided by the Contractor expires if the errors and/or defects are the result of incorrect, careless, or incompetent use and/or external causes and/or other causes not attributable to the Contractor.

### **5. Maintenance**

The provisions of this chapter apply (additionally) if and to the extent that the Contractor provides maintenance services of any kind to the Client.

#### **5.1 Maintenance conditions**

1. The obligation of the Contractor includes maintenance with regard to the software described in the agreement, unless expressly agreed otherwise in writing by the parties.

#### **5.2 Execution of the agreement**

1. The Contractor guarantees that the maintenance performed under the agreement will be carried out in a professional manner and in accordance with reasonable standards of trade. The Contractor does not guarantee that the operation of the software will be uninterrupted or error-free or that all errors and/or defects can be corrected.
2. The Contractor will make every effort to perform its services with care, as appropriate according to the written agreements and procedures established with the Client. All services provided by the Contractor are based on a best efforts commitment, unless and to the extent that the Contractor has expressly promised a result in the agreement and the relevant result is also sufficiently described in the agreement.

#### **5.3 Changes and additional work**

1. At the request or with the prior consent of the Client, the Contractor may perform other or additional work. The Client shall compensate the Contractor for these services according to the Contractor's standard rates. Additional work also includes an expansion or modification of a program of requirements, a design, or technical specifications. The Contractor is not obliged to comply with a request and may require a new written agreement to be concluded.
2. The Client accepts that if it is agreed that the services to be provided are expanded or modified, the completion time of the service provision may be affected.



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