

Aim Lab Automation Technologies Pty Ltd

TERMS AND CONDITIONS OF SALE

1. Definitions

In these terms and conditions ("terms"), 'ALAT' refers to Aim Lab Automation Technologies Pty Ltd and the 'customer' refers to the company, organisation, distributor or person receiving goods and services from ALAT.

2. Application of Terms

These terms govern the supply of goods and services by ALAT to the customer. They supersede all prior representations and agreements and override any inconsistent terms unless agreed to in writing by ALAT.

3. GST & Sales Tax

Where applicable, GST will be charged to the customer. Sales Tax & Duty of the customer's country will be charged to the customer.

4. Price

- (i) Prices are valid for the specified validity period and are in AU\$ unless specified.
- (ii) Where an exchange rate has been specified in the quotation, the prices quoted will be subject to variations in the exchange rate. The variation to sales price (higher or lower) will be calculated as follows:
- a) when the % change between the base rate (quoted rate) and the current rate (Westpac Spot Selling Rate on the day of invoicing) varies by more than the agreed variation (in absence of an agreed variation, then + or - 2%) then
- b) a credit or debit will be applied to the sales value by the rate of variation between the base rate and the current rate.

5. Information and drawings

All descriptive and technical specifications, illustrations, drawings, data, dimensions, and weights contained in brochures and literature are typical only and are subject to change without notice. These details do not form part of the quotation unless specified by ALAT in writing.

6. Order

ALAT may refuse to accept an order. If an order has not previously been accepted, supply of goods and services will constitute acceptance.

7. Cancellation

i) No cancellation or suspension of any order or part thereof by the customer shall be binding on ALAT unless accepted in writing by a duly authorised officer of ALAT and upon payment of ALAT's cancellation charges, which may include a restocking charge.

ii) In the event of ALAT agreeing to suspend or cancel an order or part thereof, ALAT reserves the right to demand what it considers to be a fair or reasonable price and/or compensation, at ALAT's option.

8. Delivery and Transportation

(i) ALAT will use its best efforts to supply goods and services by dates identified in accepted orders but does not represent or warrant that it will do so.

(ii) ALAT will arrange transportation of goods to the customer at the customer's cost. All goods shall be packed for shipment and storage in accordance with ALAT's standard commercial practices. It is the customer's obligation to notify ALAT of any special packaging requirements for the goods (which shall be at the customer's expense).

(iii) ALAT may allow a customer to arrange transportation at ALAT'S discretion.

(iv) If ALAT reasonably anticipates a delay in the delivery of the goods or services, ALAT shall notify the customer as soon as reasonably practical of such delay, the reason for such delay and the new scheduled delivery date, and follow the reasonable instructions of the customer in connection with such delivery delay. Customer agrees to take all commercially reasonable action to mitigate any additional costs or expenses that the customer may incur as a result of such delay.

(v) Delays with respect to ALAT's originally committed shipment dates which result from customer requested and ALAT's approved modifications to the goods or services in question shall be considered the customer's responsibility.

(vi) IN NO EVENT SHALL ALAT BE RESPONSIBLE FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING FROM A DELAY IN SHIPMENT.

(vii) If the customer is unable to accept delivery of the goods at the scheduled time, ALAT shall be deemed to have delivered the goods, and ALAT shall be authorized to invoice the customer for the goods as if shipment had been made and: (a) if ALAT is able to store such goods in its own facilities, the customer will pay ALAT reasonable transportation, handling, storage and insurance charges for the period of such storage; or (b) if ALAT is unable to store such goods in its own facilities, ALAT reserves the right to arrange handling and storage in a suitable warehouse with a reputable company on behalf of the customer at the customer's expense.

9. Payment

(i) The customer must pay the amount invoiced and any GST and fees within the time specified in the quotation unless otherwise agreed and confirmed by ALAT in writing. ALAT reserves the right to withhold any goods from the customer until they have paid all outstanding debts on underlying and other agreements.

(ii) The customer must pay interest on overdue amounts calculated and compounding daily at an annual rate being the Westpac Corporation Business Overdraft Rate plus 3% from the due date to the date payment is received.

(iii) The customer shall also be responsible for reasonable attorneys' fees and other costs of collection, if any, incurred by ALAT in attempting to collect any amounts due from the customer. ALAT reserves the right to require from the customer full or partial payment in advance, or other security, that is satisfactory to ALAT, at any time that ALAT believes in good faith that the customer's financial condition does not justify the terms of payment specified. All claims for monies due or to become due from the customer under these terms are subject to deduction by ALAT for any setoff or counterclaim that ALAT may have against the customer.

10. Risk and Title

Risk in goods passes to the customer on delivery or upon collection by the customer's nominated transport company. Title in goods (except for software) passes to the customer on payment in full for goods. Until full payment, the customer holds the goods as a bailee of ALAT. The customer owes fiduciary obligations to ALAT in respect of goods until full payment is received. At any time before full payment is received, ALAT may enter the premises of the customer and take possession of the goods. The customer must pay to ALAT the proceeds of sale of any goods for which ALAT has not received payment and the customer holds those proceeds in trust for ALAT until paid to ALAT.

11. Warranty

(i) ALAT warrants its products to be free from defective materials or workmanship for a period of 12 months from the date of supply unless otherwise agreed. The warranty is only applicable if any non-conformities are found in the ALAT goods by the customer, and reported to ALAT in writing, during the warranty period. It covers all parts that can be reasonably considered to be non-consumable as well as the labour to repair and/or replace these parts. It does not cover packing, freight & insurance from the customer's site to ALAT's repair location or travel and living expenses if repairs are effected on site (PathFinder products excluded), insurance on the shipment while in transit, consumable parts or damaged parts (whether caused by shipping or the operator). Warranty also does not include preventative maintenance servicing of equipment. Parts replaced under warranty become the property of ALAT.

(ii) Consumables or components that come in contact with heat, reagents, chemicals or samples are warranted for defects for a period of 30 days from the date of supply.

(iii) Components or modules sourced locally to fulfil a customer's order such as computer systems will be warranted by the local supplier according to their respective warranty conditions unless otherwise specified.

(iv) Warranty is void when the customer makes alterations on the warranted product or when the product is used outside specification, when abusing the product or using this product without sufficient knowledge of it, when maintenance and site preparation are shown to be improper, when modification by the customer has taken place without authorisation from ALAT or when the customer doesn't meet any of their obligations. The warranty cannot be extended to instrument computer systems, where such systems are not protected by power conditioners. Instrument failures caused by corrosive environmental conditions are excluded from the warranty.

12. Claims and Liability

(i) The customer shall inspect the goods immediately upon arrival and shall, within 7 days from receipt of goods, give notice to ALAT in writing of any matter or thing or reason whereof the customer may allege that the goods are not in accordance with the contract. If the customer should fail to give such notice, the goods shall be deemed to be in all respects in accordance with the contract and the customer shall be bound to accept and pay for the goods accordingly. No claim shall be made against ALAT unless at the time, the goods in question are intact as a whole.

(ii) Except in special circumstances, ALAT will not accept returns. For goods that are accepted for return, a 20% re-stocking fee will be charged. All returned goods are to be returned at the customer's expense.

(iii) Any liability incurred by ALAT is expressly limited to the repair or replacement of the goods, supplying of the services again or to refund the price paid by the customer. The customer accepts all risk and responsibility for consequences arising from the use of goods whether singly or in combination with other products. No claims for consequential damages will be entertained. THE FOREGOING WARRANTIES IN SECTION 11 ABOVE ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES NOT EXPRESSLY SET FORTH HEREIN, WHETHER EXPRESSED OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS

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FOR A PARTICULAR PURPOSE. ANY INSTALLATION, MAINTENANCE, REPAIR, SERVICE, RELOCATION OR ALTERATION TO OR OF, OR OTHER TAMPERING WITH, THE GOODS PERFORMED BY ANY PERSON OR ENTITY OTHER THAN ALAT WITHOUT ALAT'S PRIOR WRITTEN APPROVAL, OR ANY USE OF REPLACEMENT PARTS NOT SUPPLIED BY ALAT, SHALL IMMEDIATELY VOID AND CANCEL ALL WARRANTIES WITH RESPECT TO THE AFFECTED GOODS

(iv) ALAT accepts no liability or responsibility for damage to goods or shipping containers or packages and the like, or for labour charges in the counting and assessing of claims.

(v) Goods cannot in any circumstances be returned to ALAT without prior written consent by ALAT.

13. Intellectual Property

ALAT will own any copyright, specifications, software, materials, special dies, molds, patterns, jigs, fixtures, designs, inventions, drawings, and data resulting from goods or services supplied to the customer, and the customer must cooperate in taking any step necessary to ensure that ALAT has ownership. Nothing in these terms convey to the customer any rights to make or have made the goods supplied by ALAT. No rights or licenses with respect to the goods are granted or deemed granted hereunder or in connection herewith, other than those rights expressly granted in these terms. The customer indemnifies ALAT against any claim for infringement of patent, design, copyright, trade mark or other rights where the claim results from information supplied by the customer, as a result of ALAT complying with requirements of the customer or for any claims not attributable to ALAT.

14. Confidentiality

Except as required by law, the customer must keep any confidential information imparted to the customer as a result of the supply of goods or services by ALAT and must not use any such confidential information except for the purpose to which it was imparted.

15. Force Majeure

ALAT's obligation to perform in accordance with these terms will be suspended for the duration of any delay outside of ALAT's control including, but not limited to, fire, storm, flood, epidemic, earthquake, accident, war, materials or labour shortage, failure or delay in transportation, and act or omission of any government or government agency

16. Governing Law

These terms and all supply of goods and services by ALAT to the customer on these terms will be governed by the laws of the state of Delaware; excluding: (i) its conflicts of laws principles; (ii) the United Nations Convention on Contracts for the International Sale of Goods; (iii) the 1974 Convention on the Limitation Period in the International Sale of Goods (the "1974 Convention"); and (iv) the Protocol amending the 1974 Convention, done at Vienna April 11, 1980.

17. Acceptance of "Terms and Conditions of Sale"

Acceptance of goods by the customer will be deemed as acceptance of these "Terms and Conditions of Sale".

18. Limitations on Liability

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE LIABILITY OF ALAT UNDER THESE TERMS AND CONDITIONS OF SALE (WHETHER BY REASON OF BREACH OF CONTRACT, TORT, INDEMNIFICATION, OR OTHERWISE, BUT EXCLUDING LIABILITY OF ALAT FOR BREACH OF WARRANTY (THE SOLE REMEDY FOR WHICH SHALL BE AS PROVIDED UNDER SECTION 12 ABOVE)) SHALL NOT EXCEED AN AMOUNT EQUAL TO THE LESSER OF (A) THE TOTAL PURCHASE PRICE THERETOFORE PAID BY THE CUSTOMER TO ALAT WITH RESPECT TO THE GOOD(S) OR SERVICE(S) GIVING RISE TO SUCH LIABILITY OR (B) ONE MILLION DOLLARS (\$1,000,000). NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, IN NO EVENT SHALL ALAT BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF USE OF FACILITIES OR EQUIPMENT, LOSS OF REVENUE, LOSS OF DATA, LOSS OF PROFITS OR LOSS OF GOODWILL), REGARDLESS OF WHETHER ALAT (a) HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES OR (b) IS NEGLIGENT.

19. Changes and Discontinuance

ALAT reserves the right to make changes in the specification of the goods or parts thereof, or to discontinue manufacturing the goods. ALAT shall provide sixty (60) days written notice to the customer prior to such change or discontinuance. ALAT shall not incur any liability thereby or any obligation to provide such changes or improvements on goods previously purchased or sold by the customer.

20. Export Control

The customer will not knowingly export or re-export, directly or indirectly through the customer's affiliates or licensees any goods provided hereunder or under any ancillary agreements hereto in violation of any portion of any applicable export rules or regulations.

21. Use of Trademarks and Internet

The customer shall not alter, remove from the goods, or interfere with trademarks, trade names and service marks owned by ALAT (the "Marks"). Customer's use of the Marks hereunder shall be subject to such requirements as ALAT believes are appropriate to protect such Marks and ALAT's ownership rights therein, and ALAT shall have the right to monitor such use. Customer hereby does and shall at all times acknowledge ALAT's right, title and interest in and to the Marks and shall not in any manner represent that it has any ownership interest therein nor will it adopt or use any trademarks, trade names or service marks confusingly similar thereto. Customer shall not at any time do or permit any act to be done which may in any way impair the rights of ALAT in the Marks. Customer shall not use any of the Marks on or in connection with any goods or services other than the ALAT goods.

22. Insurance

ALAT and Customer shall each maintain:

(i) Comprehensive general liability insurance covering bodily injury, property damage, contractual liability, products liability and completed operations, and

(ii) Worker's compensation and employer's liability insurance.

Upon request of the other party, each party shall furnish to the other certificates evidencing such insurance. Each party shall notify the other at least thirty (30) days prior to the cancellation or change of any of the foregoing policies.

23. Survival Clauses

The expiration or termination of these terms shall not relieve either party of any liability which accrued prior to the termination or expiration date. Sections which by their nature shall extend beyond these terms shall survive the termination or expiration hereof.

24. Miscellaneous

(i) These terms may not assignable or transferable by the customer in whole or in part, except with the written consent of ALAT.

(ii) The failure of the customer or ALAT to enforce any of the terms or conditions of these terms shall not be deemed a waiver of any right to enforce any terms and conditions herein.

(iii) In case any one or more of the provisions, or portions of provisions, of these terms shall be deemed by any governmental authority to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions, or portions of provisions, contained herein shall not be in any way affected or impaired thereby.

(iv) The parties hereto agree that the customer shall operate as an independent contractor and not an agent or employee of ALAT. Customer has no expressed or implied authorization to incur any obligation or in any manner otherwise make any commitments on behalf of ALAT. Customer shall employ its own personnel and shall be responsible for them and their acts and in no way shall ALAT be liable to the customer, its employees or third parties for any losses, injuries, damages or the like occasioned by the customer's activities in connection with these terms, except as expressly provided herein.

(v) It is the responsibility of the customer to obtain, at its own expense, any non-United States government consents, authorizations, approvals, filings, permits or licenses required for each of it or ALAT to exercise its rights and to discharge its obligations under these terms.

(vi) These terms may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(vii) Headings in these terms are for reference purposes only, and shall not be used to interpret or construe these terms.

25. Software

(i) With respect to any software products incorporated in or forming a part of the goods hereunder, ALAT and the customer intend and agree that such software products are being licensed and not sold, and that the words "purchase", "sell" or similar or derivative words are understood and agreed to mean "license", and that the word "Buyer" or similar or derivative words are understood and agreed to mean "licensee". Notwithstanding anything to the contrary contained herein, ALAT or its licensor, as the case may be, retains all rights and interest in software products provided hereunder.

(ii) The grant to the customer of rights to the ALAT's software embedded in the goods which the customer purchases from ALAT hereunder is a non-exclusive royalty-free perpetual license to use such software in the operation of such ALAT goods. Customer may use the software only in machine readable form. A separate license is required for each ALAT good on which a copy of the software

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will be used. Customer shall not sell, assign, transfer, copy or sublicense such software, provided that a single copy may be made for archival and systems recovery purposes. Customer must reproduce and include the original copyright notice and other proprietary notices on any copy, in whole or in part, made of the software programs and related documentation.

(iii) It is recognized that in the course of the transactions contemplated by these terms, ALAT software may be delivered to the customer on a licensed basis in printed form, or in any of several possible machine-readable forms, including but not limited to magnetic tape or disk, paper tape or read-only memory (ROM) device. Such software and any copies thereof, and all copyright, trade secret, patent, trademark and other intellectual or industrial property rights therein, is and shall remain the sole property of ALAT.

(iv) The warranties described in Section 11 of these terms shall only apply to the current release of the software and shall not apply to any custom software or customer specific changes to the software. Software that contains bug fixes and

error corrections, as determined in ALAT's sole discretion, are included in warranty.

(v) It is understood and agreed by the customer that the software, and any enhancements thereto, including without limitation, unless otherwise expressly agreed to in writing between ALAT and the customer, those resulting from any tasks, work, assignments or services supplied by ALAT to the customer or its suppliers or customers (including training), shall be and remain the sole and exclusive property of ALAT.

(vi) Upon termination of these terms, the customer shall forthwith pay all sums invoiced to the customer by ALAT and return or destroy all copies of the ALAT software at ALAT's instruction and shall certify in writing by an officer of the customer that all copies and systems recovery copies thereof have been destroyed and/or deleted from the customer's computer libraries or storage facilities and are no longer in use.