



**ALLEN-BRADLEY**

## **Allen-Bradley Company, Inc. Terms and Conditions of Sale (Products and Services)**

### **General**

Allen-Bradley Company, Inc. ("A-B") and Customer agree that the terms and conditions identified in this document and in any written A-B specification of services to be furnished hereunder shall govern exclusively the sale or licensing by A-B of all hardware, firmware, software and services (collectively referred to as "Goods") within the United States. The term "services" shall include without limitation any programming and commissioning of a control system, equipment start-up and repair, application engineering services, on- and off-site classroom training courses, and exchange and repair of Goods. No addition or modification to any of the terms and conditions as they appear in this document shall be binding upon A-B unless in writing and signed by an authorized representative at A-B Headquarters. A-B objects to other terms and conditions that may be proposed by Customer.

### **Terms**

Payment terms to Customers with satisfactory credit are net thirty (30) days from date of invoice.

If payment of any amount owed to A-B is not made when due, A-B reserves the right (in addition to and without limitation of its other rights) to suspend further performance, without liability, until such payment has been made.

### **Shipment**

Shipment will be F.O.B. A-B's factory, warehouse or other point of shipment by A-B, Customer to pay all shipping, insurance and related expenses. For Industrial Control Group Goods, A-B shall pay the lowest cost shipping expenses within the continental United States. Scheduled or stipulated shipping dates are approximate and based upon prompt receipt of all necessary information from Customer.

If shipment is delayed at the request of, or due to acts or omissions by Customer, A-B shall have the right to store the Goods at a place of its own choice at Customer's risk and expense.

### **Title and Responsibility**

Title to hardware shall remain with A-B as security only and until full payment therefor. Title for software or firmware remains with A-B and is licensed for use by Customer pursuant to A-B's license agreement. Risk of loss or damage shall pass to Customer upon shipment from F.O.B. point.

**AB Parts**

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All replacement Goods provided hereunder shall be furnished on an exchange basis, and may be new or used if equivalent to new in performance. The replaced Goods shall become the property of A-B.

**Export Packing**

A-B will pack Goods for air shipment and underdeck overseas shipment in accordance with its regular export standard at no additional charge to Customer. Where such packing for export must conform to definite specifications that differ from the A-B standard, the Customer will be charged for the extra cost incurred.

**Shipping Weights and Dimensions**

Published weights are careful estimates but are not warranted. Dimensions shown in catalog are approximate.

**Quotations**

All written quotations automatically expire unless accepted within (30) days from the date quoted. Verbal quotations expire the same day they are made. In order for catalog orders to be binding, quotations must specifically identify Goods and list the actual quantities involved. All stenographic and clerical errors are subject to correction. All quotations are subject to approval by an authorized representative at A-B Headquarters.

**Published Prices**

Prices shown in any A-B publication are subject to change without notice and are not to be construed as a definite quotation or offer to sell by A-B. Such publication is maintained only as a source of general information, and any prices shown therein are subject to confirmation with a specific quotation.

With respect to services, unless otherwise agreed in writing by A-B and Customer, (i) the price of any services shall be A-B's published price therefor in effect as of the date such services are provided; and (ii) A-B shall have the right to increase or decrease the price of any service, effective with respect to any portion of services which have not been provided as of the date of such price change.

Hourly service prices are based on a standard work day of 8:00 a.m. to 5:00 p.m. Monday through Friday. Unless otherwise agreed in writing between A-B and Customer, services provided outside the standard work day will be charged at one and one-half times the applicable base service rate, except on Sundays and holidays observed by A-B, in which case the services will be charged at two times the applicable base rate.

Billable service time includes all time A-B representatives spend traveling to and from the job site and all time A-B representatives are available for work and waiting (whether on or off the job site) to perform the services. In addition to billable service time, Customer shall pay or reimburse A-B at cost for all travel and living expenses incurred by A-B representatives (in accordance with A-B policies) in the course of providing services to the Customer, including without limitation hotel, meals, air, rail, bus, or taxi transportation, car rental, and automobile mileage cost reimbursement if a personal vehicle is used.

**Taxes**

The Customer shall pay or reimburse A-B for all sales, use, excise or similar taxes.

**Scope Change**

All changes affecting Goods, delivery date or otherwise affecting the scope of the order are to be documented in writing and subject to prior approval at A-B Headquarters. All changes approved by A-B may result in price, delivery, specification, and/or other changes.

**Warranty**

**A. HARDWARE:** Unless otherwise provided in writing and approved by A-B Headquarters, A-B warrants for a period of one (1) year from the date of A-B invoice that all hardware furnished under the order will be of merchantable quality free from defects in material, workmanship and design each as determined, at the date of shipment by A-B, by generally recognized, applicable and accepted practices and procedures in the industry – to include any specifications as specifically agreed to in writing by A-B prior to the date of shipment. A-B will not be liable for any design furnished by Customer and incorporated into hardware. Hardware includes products purchased by A-B for sale with the hardware manufactured by A-B when the decision to include such products is solely that of A-B. Otherwise, any warranty applicable to such products shall be limited solely to the warranty extended to A-B by the original manufacturer. Repaired or replacement hardware is warranted for a period of six (6) months from the date of invoice, or the remainder of the original warranty term, whichever is longer.

**B. SOFTWARE AND FIRMWARE:** Unless otherwise provided in an A-B or third party license agreement, A-B warrants for a period of one (1) year from the date of invoice that the software or firmware furnished under this order will perform in accordance with published or other written specifications prepared, approved, and issued by A-B Headquarters, when used with specifically identified hardware. In any event, A-B makes no representation or warranty, express or implied, that the operation of the software or firmware will be uninterrupted or error free, or that the functions contained in the software or firmware will meet or satisfy the Customer's intended use or requirements. Any software or firmware support is limited to the terms and conditions of the A-B license agreement or A-B extended support agreement. Software and firmware corrections are warranted for a period of three (3) months from the date shipped by A-B, or the remainder of the original warranty term, whichever is longer.

**C.** Satisfaction of this warranty, consistent with other provisions herein, will be limited to the replacement, or repair or modification of, or issuance of a credit for the Goods involved, at A-B's option, only after the return of such Goods with A-B's consent in accordance with RETURN OF EQUIPMENT. Any warranty service (consisting of time, travel and expenses related to such services) performed other than at A-B's factory, shall be at Customer's expense.

**D.** Such warranty satisfaction is available only if (a) A-B is promptly notified in writing upon discovery of an alleged defect and (b) A-B's examination of the subject Goods discloses, to its satisfaction, that any alleged defect has not been caused by misuse; neglect; improper installation; improper operation; improper maintenance, repair, alteration or modification; accident; or unusual deterioration or degradation of the Goods or parts thereof due to physical environment or due to electrical or electromagnetic noise environment. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WHETHER EXPRESSED, IMPLIED OR STATUTORY INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS and thereby excludes certifications or the like for product performance, use or design with respect to any standard, regulation or the like (unless and to the extent independently approved in writing at A-B Headquarters) AND EXTENDS ONLY TO CUSTOMER PURCHASING FROM A-B OR AUTHORIZED A-B RESELLER.

**Limit of Liability**

IN NO EVENT, REGARDLESS OF CAUSE, SHALL A-B ASSUME RESPONSIBILITY FOR OR BE LIABLE (a) FOR PENALTIES OR PENALTY CLAUSES OF ANY DESCRIPTION, OR (b) FOR INDEMNIFICATION OF CUSTOMER OR OTHERS FOR COSTS, DAMAGES, OR EXPENSES EACH ARISING OUT OF OR RELATED TO THE GOODS OR SERVICES OF THIS ORDER, OR FOR CERTIFICATION, UNLESS OTHERWISE SPECIFICALLY PROVIDED HEREIN, OR (c) FOR INDIRECT OR CONSEQUENTIAL DAMAGES UNDER ANY CIRCUMSTANCE, INCLUDING ANY LOSS, INJURY, OR OTHER DAMAGES. A-B'S MAXIMUM LIABILITY, INCLUDING DIRECT DAMAGES, SHALL NOT EXCEED THE AMOUNT OF THE PURCHASE ORDER. THIS LIMITATION OF A-B'S LIABILITY WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE. ANY ACTION AGAINST A-B MUST BE BROUGHT WITHIN EIGHTEEN (18) MONTHS AFTER THE CAUSE OF ACTION ACCRUES.

**Licensed Software and Firmware**

Software or firmware which is subject to A-B license agreement (a) is also subject to Terms and Conditions herein unless inconsistent with the A-B license agreement, in which case the license agreement shall govern, and (b) shall not be provided to Customer until Customer agrees to the terms and conditions of the A-B license agreement.

**Export Control**

Any goods or technical data supplied by A-B under these Terms and Conditions are subject to the United States Export Administration Act and Regulations thereunder, which includes the licensing of certain products. It is the responsibility of the exporter to comply with the Act and Regulations.

**Return of Equipment**

Approval for return of Goods, whether under the Warranty clause or otherwise, must be obtained from A-B Headquarters. No approval shall be granted for the return of Goods under any circumstances where the original invoice date for such Goods is more than ninety (90) days prior to the date that a request is made to A-B for such approval. All Goods returned must include reference to all pertinent order information for those Goods to include order, part, model and serial numbers as well as details of the system from which the Goods were removed, when appropriate. Except for Goods under warranty, cost for placing Goods returned for credit in a salable condition will be charged to Customer. Goods returned must be carefully packed so as to reach A-B without damage.

No credit will be issued for returned Goods where the net amount involved is less than \$100.00, except when an error made by A-B is to be corrected.

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Goods accepted for return, which are not covered by warranty, are subject to a **minimum** restocking charge plus all transportation charges incurred by A-B.

Replacement Goods returned to A-B must be in repairable condition; otherwise Customer will be billed per A-B policy.

Goods built to a Customer's specification or Goods that have been modified by the Customer cannot be returned for credit under any conditions.

All Goods to be returned must be shipped to locations stipulated by A-B at the time A-B approves the return of the Goods. The shipping container of all returned Goods must be clearly marked in accordance with A-B directives.

**Cancellation and Termination**

Any order or contract may be terminated by the Customer only by written notice and upon payment to A-B of reasonable and proper cancellation charges, including but not limited to all labor, facility, and equipment costs identified in the order or contract and which have been incurred prior to the date of notice of cancellation. All additional costs resulting from the cancellation and ten percent (10%) of the final net price will be included in the cancellation charges to compensate for disruptions in scheduling, planned production, and other direct costs. Payment shall be made within thirty (30) days from date of invoice.

A-B shall have the right to cancel any order or contract at any time by written notice for any breach of the order or contract by the Customer and A-B shall be entitled to collect cancellation charges as identified above.

No termination by Customer for default shall be effective unless and until A-B shall have failed to correct such alleged default within forty-five (45) days after receipt by A-B of the written notice specifying such default.

**Technical Training Courses**

The fee for classroom training ("Technical Training") courses shall include all course materials furnished by A-B, but A-B shall not be responsible for any transportation, lodging, meal and other expenses incurred by Customer or its representative in attending the course. Published course descriptions are for general reference only. A-B reserves the right without liability to Customer, to change course schedules, modify course content, discontinue courses, limit class size and cancel courses.

For Technical Training courses to be presented at A-B's premises, a cancellation charge equal to fifty percent (50%) of the course tuition shall be payable if A-B receives notice of cancellation less than fourteen days before the first day of training for which Customer's representative is scheduled. If a student fails to appear for a scheduled course, the full tuition will be payable.

For Technical Training courses to be presented at Customer's premises, a cancellation charge equal to fifty percent (50%) of the course fee shall be payable if A-B receives notice of cancellation less than thirty days before the first day of scheduled training.

**Force Majeure**

A-B shall not be liable for any loss, damage or delay in delivery due to acts of God or causes beyond its reasonable control including acts of the Customer, acts of civil or military authority, fires, strikes, floods, epidemics, quarantine restrictions, war, riots, delays in transportation, transportation embargoes, or inability due to causes beyond its reasonable control to obtain necessary engineering talent, labor, materials or manufacturing facilities. In the event of such delay, the delivery date shall be extended for that length of time as may be reasonably necessary to compensate for the delay.

**Intellectual Property**

A-B shall defend any suit or proceeding brought against Customer or any customer of Customer, so far as the same is based upon a claim that the design or construction of Goods sold by A-B infringe a United States Patent, Copyright or Mask Work Registration (excepting a claim based upon a design or modification incorporated in such Goods at the request of Customer); provided that Customer promptly notifies A-B of any such suit or proceeding in writing and provided that at A-B's expense (a) Customer gives A-B the right to defend or control the defense of any such suit or proceeding, including settlement, and (b) Customer provides all necessary information and assistance for defense. This obligation to defend shall extend, in the case of non-standard Goods sold by A-B to Customer, to a claim based upon the use of Goods but only when such use is not in combination with any other apparatus and only to the extent that A-B was informed by Customer of such use in writing prior to the date of A-B's shipment of the Goods. No implied license is granted to use the Goods in an infringing manner.

A-B will pay all costs and damages finally awarded or agreed upon by A-B which are directly related to any such claim. In the event the Goods, or any part thereof, is in such suit held to constitute infringement and the use of said Goods or part is enjoined, A-B will at its own expense, either procure for the Customer the right to continue using such Goods or part, or replace same with non-infringing Goods, or modify the same so it becomes non-infringing or remove the Goods and refund the purchase price and the transportation and installation costs thereof. **THIS PARAGRAPH SETS FORTH A-B'S ENTIRE LIABILITY WITH RESPECT TO INTELLECTUAL PROPERTY.**

**Government Clauses and Contracts**

No Government contract regulations or clauses shall apply to the Goods of this order or bind A-B unless specifically agreed in writing at A-B Headquarters.

Goods sold by A-B are not intended to be used, nor shall they be used, as a "Basic Component" under 10 CFR 21 (NRC).

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**Visitor Passes**

A-B shall be provided such access to Customer's premises as A-B deems reasonably necessary to enable A-B to provide services to Customer in accordance with these terms and conditions and any applicable specification relating hereto. Notwithstanding anything in any visitor pass form, premises access agreement or similar document presented by Customer to any A-B representative as a condition of access to Customer's premises, A-B and its representatives shall not (i) be liable for any claim, injury or damage to Customer, its agents, employees or contractors or any third party relating to or arising out of A-B's visit to Customer's premises, except for incidents occurring while A-B personnel are on Customer's premises and only to the extent such claim, injury or damage results directly from the negligence of A-B's representatives; (ii) waive any claim for loss or damage to person or property caused by Customer, its agents, employees, contractors, or any third party; (iii) release Customer, its agents, employees or contractors or any third party from any claim for injury, loss or damage to person or property occurring during A-B's visit to Customer's premises.

**Assignment**

This agreement may not be assigned by either party without the written consent of the other party.

**Governing Law**

This agreement shall be deemed to be made in and performed in the State of Wisconsin and shall be governed by and interpreted in accordance with the laws of the State of Wisconsin including its provisions of the Uniform Commercial Code, but specifically excluding the provisions of the 1980 UN Convention on Contracts for the International Sales of Goods.



As a subsidiary of Rockwell International, one of the world's largest technology companies — Allen-Bradley meets today's challenges of industrial automation with over 85 years of practical plant-floor experience. More than 13,000 employees throughout the world design, manufacture and apply a wide range of control and automation products and supporting services to help our customers continuously improve quality, productivity and time to market. These products and services not only control individual machines but integrate the manufacturing process, while providing access to vital plant floor data that can be used to support decision-making throughout the enterprise.

**With offices in major cities worldwide**

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