

Sales - Terms and Conditions

1. **General** – Unless otherwise stated within Delco’s quote or proposal, or as otherwise agreed to in writing by Delco, these terms and conditions (“**Terms**”) shall apply to the sale of all goods and services (“**Products**”) provided by Delco Automation Inc. (“**Delco**”) to the buyer (“**Buyer**”). These terms and conditions, as they appear herein, shall be binding upon the Buyer and its successors and permitted assigns and shall not be altered or modified without the prior written consent of Delco. Delco objects to and rejects any other terms and conditions that may be proposed by the Buyer or that appear on or are referenced in the Buyer’s purchase order or requisition that are in addition to or otherwise not consistent with the terms and conditions set forth herein. These Terms supersede and take precedence over any commercial terms and conditions that may be referenced in any project specifications or document supplied by the Buyer in order for Delco to provide a quotation. By issuing any purchase order, the Buyer acknowledges, accepts and agrees to these Terms.
2. **Payment Terms** – Payment shall be N30 with approved credit, otherwise advanced payment is required. If payment is not received by Delco by the due date, the Buyer agrees to pay interest on all past due amounts at the rate of 1.5% per month or 18% annually. The Buyer further agrees to pay all costs of collection incurred by Delco including, without limitation, all court costs, legal fees on a solicitor and own client basis and collection agency fees. Failure to make payment in full on or before the due date will constitute a material breach of these terms and conditions and will also void any and all warranties. Any payment terms extended by Delco are subject to Delco’s written approval of the Buyer’s credit.
3. **Payment** – Payment may be made by cheque mailed to Delco Automation Inc. 3714 Kinnear Place, Saskatoon, SK S7P 0A6 Canada, Attn: Accounts Receivable. Or contact AR@delcoautomation.com regarding options for other payment methods.
4. **Taxes** – All taxes, assessments, fees, tariffs, and charges applied by any government or regulatory body to the Product or its sale, delivery, shipment or use will be added to the purchase price and will be paid by the Buyer. For greater clarity, the Buyer shall pay or reimburse Delco for all applicable taxes, fees, and charges whether provincial, federal or otherwise.
5. **Quotations** – Unless otherwise stated, written quotations issued by Delco automatically expire within 30 days from the date quoted. Quotations are based upon the information supplied by the Buyer. Delco is not responsible for any liability, delay or price change due to information that is incorrect, incomplete, unclear, unspecified or contradictory. Moreover, Delco is not responsible or obligated to detect or recognize any problems with the information supplied by the Buyer. It is the sole responsibility of the Buyer to ensure that the quotation provided by Delco meets their application and/or specification. No other goods, service work or materials are considered to be included in a quotation other than that specifically expressed therein. Any stenographic and clerical errors are subject to correction.
6. **Invoicing** – Where goods are completed and ready for shipment or services are ready to be performed, but shipment or performance is held or delayed at the request of the Buyer or otherwise delayed for reasons outside of Delco’s control, such Product may be invoiced at the sole discretion of Delco. Interim, milestones or progress invoices may be rendered as such work is completed, at the discretion of Delco.
7. **Retainage** – The Buyer will not withhold any amount of the invoice as retainage unless explicitly stated and agreed to in the original quote. In the event retainage is applicable to a project, the Buyer will withhold no more than the statutory amounts dictated by applicable provincial statutes. For clarity, no holdbacks will be allowed on material supply only.
8. **Price Changes** – Delco reserves the right to, at any time, increase or decrease any price quoted for the supply of goods and/or services with any such increase or decrease to apply to any portion(s) of the sale that is unshipped as of the effective date of such change.
9. **Delivery** – Delivery risk and cost shall be the responsibility of the Buyer unless otherwise agreed to in writing by the parties, as per Incoterms (2020) EXW. Scheduled or stipulated shipping dates are approximate dates only and Delco’s obligations under this contract are and shall be subject to prompt receipt of the product specifications and other necessary information from the Buyer. Delco’s obligations under this contract shall also be subject to acts of God, acts of the Buyer, acts or orders of civil or military authorities, fire, accidents, strikes, lockouts, labour disputes, flood, epidemic, quarantine restrictions, war, riot, delays in transportation or delivery of goods, inability to obtain necessary engineering talent or other labour or materials or manufacturing facilities, or any other cause or causes, whether or not similar to any of the foregoing, beyond Delco’s reasonable control. Delco shall not be liable for any loss or damages of any kind or nature whatsoever, whether direct, indirect or consequential, suffered by any person including, without limitation, the Buyer and any customer of the Buyer, as a result of any such causes or any delay resulting therefrom. In the event of delay due to cause beyond the reasonable control of Delco, the delivery date(s) shall be extended for such reasonable length of time as may be necessary to permit delivery of the order(s). However, Delco reserves the right to terminate this contract should fulfillment hereof, in whole or in part, be delayed or rendered impossible by any of the foregoing causes. In the event of such termination, Delco’s liability and obligations under or arising out of this contract shall immediately cease except with respect to any goods shipped or services delivered hereunder prior to such termination and the Buyer shall remain liable to accept and pay for goods and services shipped or delivered.
10. **Order Cancellation** –Orders may not be canceled by the Buyer, in whole or in part, without the written consent of Delco. In the event that Delco consents to the cancellation of any order(s), in whole or in part, Delco’s liability and obligations under or arising out of this contract shall immediately cease except with respect to any goods shipped or services delivered hereunder prior to such cancellation and the Buyer shall remain liable to accept and pay for goods and services, so shipped or delivered and the Buyer shall be liable for and shall pay all costs whatsoever incurred by Delco in connection with the cancelled order(s) including, without limitation, any taxes, assessments, fees, tariffs, or charges incurred, any labour expended costs on the order(s), any costs associated with materials and purchases allocated to the order(s), any return/restocking fees and any costs associated with any commitments made by Delco for purchased components and/or materials. Delco shall, under no circumstances, be required to use or attempt to resell any goods manufactured or materials obtained in connection with any cancelled order(s).
11. **Delays** – Delays in a project that are not under Delco’s control may be subject to additional costs and charges at the discretion of Delco.
12. **Product Specifications** – Delco has provided a price quotation(s) to the Buyer and will manufacture or supply the goods in accordance with the product specifications supplied by the Buyer. Delco shall not be liable for any losses or damages of any kind or nature whatsoever, whether direct, indirect or consequential, suffered by any person including, without limitation, the Buyer and any customer of the Buyer, resulting from errors or omissions in the specifications provided by the Buyer. The Buyer must notify Delco promptly and in writing of any changes to the product specifications supplied. The Buyer shall at all times, assume liability for and pay Delco for the cost of the material and resources, work-in-process and finished goods that have become obsolete or that can no longer be used due to any such changes to the specifications supplied, but only to the extent that said material and resources cannot be cancelled, rescheduled or reused.
13. **Limited Warranty** – Delco warrants that, for a period of one (1) year from the date of shipment of goods or the performance of services, the goods supplied to the Buyer, or the services performed for the Buyer, will be free from defects in material and workmanship by generally recognized, applicable and accepted practices and procedures in the industry. Any

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required deviation from industry standards shall be agreed to, in writing, by Delco and the Buyer prior to the manufacture of the goods or the performance of services. Claims of any kind or nature, including defects, must be made in writing within fifteen (15) calendar days after receipt of the goods or performance of the services, and in any event, prior to the processing or altering of the goods in any manner from the original condition of delivery or performance, whichever is earlier. Goods complained of must be held by Buyer for inspection by Delco. Any misuse, neglect, improper installation, improper operation, repair or alternation of or to the goods by the Buyer, or damage occasioned by delivery or unusual deterioration or degradation of the parts incorporated into the goods shall void this limited warranty. The limits of liability of Delco under this limited warranty, for any reason whatsoever, shall be to replace, repair or modify (at Delco's facilities and not in the field) goods rejected by the Buyer for proper cause, or to refund the price paid therefore by the Buyer and nothing more, at the sole option of Delco. Without limiting the generality of the foregoing, Delco shall not be liable for failure of the goods to conform with specifications or samples or for breach of any express, implied or statutory warranty, and Delco shall not be liable for any loss or damages of any kind or nature whatsoever resulting from failure to conform or breach of express, implied or statutory warranty, whether such damages are direct, indirect or consequential. Delco expressly disclaims and the Buyer acknowledges and agrees that no implied warranty of any kind, including any implied warranties provided by statute or otherwise, shall apply to any goods or services provided by Delco to the Buyer.

14. **Proprietary Property** – Delco's designs, specifications, documentation, inventions, prototypes, concepts, software, technologies and other information about its products or processes in whatever form, including that which may be embodied in goods or services provided, is deemed to be the proprietary property of Delco. All applicable rights to patents, copyrights, trademarks, trade secrets and other intellectual property rights associated with the proprietary property shall be with and will remain in Delco, regardless of whether such rights pertain to goods developed for the Buyer. The license to use the proprietary information provided by Delco is not transferable to any other application and cannot be assigned to any other third party without the written consent of Delco.
15. **Design Services** – In the event that Delco is retained for product design services, the Buyer assumes the responsibility to verify, validate, and approve the design prior to manufacture. Upon Buyer's acceptance of the design, the Buyer shall assume ownership of the design, except for portions containing 3rd party software or Delco's pre-existing proprietary software which shall remain Delco's. Buyer shall defend, indemnify and hold Delco harmless from any loss or damages, liability and/or expenses (including attorneys' fees) incurred or suffered by Delco as the result of any claims, suits, actions or demands of any kind as it relates to this design service.
16. **Software** – where Product is Software, the End User License Agreement terms will govern.
17. **Intellectual Property** – As a term and condition of this contract, the Buyer represents and warrants to Delco that the goods to be supplied or the manufacture thereof by Delco do not constitute infringement of any patents, inventions, trademarks, copyrights or other intellectual property rights of any person and the Buyer covenants to indemnify and save Delco absolutely harmless against any claims or damages from infringements.
18. **Termination** – In addition to the rights of Delco stated elsewhere in this contract, this contract may be immediately terminated by Delco in the following circumstances: a) the Buyer breaches any of its obligations under or arising from this contract; b) the Buyer is declared or adjudicated as bankrupt or makes a general assignment for the benefit of creditors or a proposal or arrangement under the *Bankruptcy and Insolvency Act* (Canada) or any successor legislation thereto, commits an act of bankruptcy or proposes a compromise or arrangement or institutes proceedings or admits in writing inability to pay debts generally as they become due, or a petition is filed against the Buyer under the *Bankruptcy and Insolvency Act* (Canada)

or a liquidator, trustee in bankruptcy, custodian, receiver, receiver and manager or any other officer with similar powers is appointed for the Buyer; or c) the Buyer takes any steps to wind-up, dissolve or terminated its corporate existence or its business. Subject to the limitations and other provisions of these Terms, any clause that must survive termination or expiration to fulfill its intended purpose will remain in effect after these Terms end.

19. **Covenant Not to Hire** – The Buyer covenants and agrees that it shall neither solicit nor hire, directly or indirectly, any of Delco's personnel either during the term of the purchase order or for a period of one (1) year after its completion or termination. In the event that any Delco employee is hired by the Buyer during such period, the Buyer shall be obligated to pay to Delco a placement fee in the amount of 100% of the first year's remuneration to such employee.
20. **Governing Law** – This contract and its interpretation shall be governed by the laws of the Province of Saskatchewan and the laws of Canada applicable therein. The parties hereto hereby irrevocably attorn to the exclusive jurisdiction of the Courts of the Province of Saskatchewan.
21. **Assignment** – This contract may not be assigned, in whole or in part, by the Buyer, without the prior written consent of Delco. This contract shall enure to the benefit of and be binding upon the successors and assigns of Delco and the Buyer respectively.
22. **Severability** – Any provision hereof which is contrary to law shall not invalidate any other provision hereof and may be severed from this contract without affecting the validity of the remainder.
23. **Limitation of Liability** – None of Delco, its parent companies, subsidiaries or their respective officers, directors, employees, shareholders, agents or representatives shall be liable to the Buyer under, or in connection with these Terms and Conditions in contract, tort, warranty, negligence, strict liability, product liability or other legal theory (other than for fraudulent or grossly negligent representations) or otherwise for any incidental, indirect, special, exemplary or consequential losses or damages, including, but not limited to, damages or costs incurred as a result of loss of time, loss of savings, loss of revenues and/or profits, or loss of goodwill, whether foreseeable or unforeseeable, that may arise out of or in connection with these terms and conditions, any services provided by Delco to the Buyer, or the use or operation of any product(s) supplied by Delco to the Buyer, even if Delco has been notified of the possibility or likelihood of such damages occurring. In no event will the total aggregate cumulative liability of Delco for any liability or damages incurred by the Buyer or Buyer's customer, to ever exceed the purchase price actually paid by the Buyer to Delco under these terms and conditions, regardless of the form of action. The limitation of liability under this section 23 shall be construed separately, applying and surviving even if for any reason one or any other of these provisions is held inapplicable or unenforceable in any circumstances and shall remain in force indefinitely notwithstanding the expiry or termination of this contract.