



# General Terms of Sale

Nexus Automation, Inc.

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Last Updated: December 1, 2022

These general terms of sale (the "**General Terms of Sale**") apply to any purchase of goods and services ("**Parts**") by a customer ("**You**") from Nexus Automation, Inc., having its place of business and manufacturing facility at 2021 Las Positas Court, Suite #141, Livermore, CA 94551. ("**Nexus Automation, Company, we, our and us**"). All additional terms, guidelines, and rules, including our **Privacy Policy**, and our **Terms of Use**, are incorporated by reference into these General Terms of Sale.

## 1. General

- 1.1. BY PLACING AN ORDER WITH NEXUS AUTOMATION FOR PARTS OR SERVICES, INCLUDING BUT NOT LIMITED TO THE SUBMISSION OF A PURCHASE ORDER (AN "**ORDER**"), YOU ACCEPT AND ARE BOUND TO THESE GENERAL TERMS OF SALE (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT. IF YOU DO NOT AGREE WITH ALL THE PROVISIONS OF THESE GENERAL TERMS OF SALE, DO NOT PLACE AN ORDER.
- 1.2. YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO AN AGREEMENT WITH NEXUS AUTOMATION (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT). YOU MAY NOT PLACE AN ORDER OR ACCEPT THESE GENERAL TERMS OF SALE IF YOU ARE NOT AT LEAST 18 YEARS OLD OR OVER THE LEGAL AGE REQUIRED TO ENTER INTO A VALID CONTRACT UNDER LAW APPLICABLE TO YOU.
- 1.3. With respect to the technical specifications for Your Order only, including material, surface finish and quantity, the specifications written on Your quote will prevail over these General Terms of Sale and/or any drawings (including 2D technical drawings) or 3D model. In all other cases, in the event of a conflict between the provisions contained in the Order and these General Terms of Sale, the General Terms of Sale will prevail.
- 1.4. **This General Terms of Sale shall take priority over any specific terms and conditions provided by You, even if included in a quote, Order, website, or elsewhere, unless otherwise expressly agreed to in writing by Nexus Automation.** No addition, alteration, or substitution of these General Terms of Sale will bind Nexus Automation, even if included within a quote, Order, website, or elsewhere, and no preprinted terms

within an Order, will bind Nexus Automation, unless explicitly accepted in writing by Nexus Automation. All of such nonbinding terms are hereby rejected by both parties. Nexus Automation's failure to object to provisions contained in any Order or fulfillment of an Order shall not be construed as a waiver of these General Terms of Sale nor an acceptance of any such provisions.

- 1.5. Our website, products, and services are designed for businesses and their representatives. We do not target consumers – individuals who seek to use our services for their personal or household purposes.

## 2. **Orders**

- 2.1. You are responsible to ensure that all information provided in a quotation request or Order is accurate and complete and the specifications for Your Order are in accordance with any instructions of Nexus Automation and take into account all manufacturing and other limitations as specified by Nexus Automation on its website, including its manufacturing standards or as otherwise made available to You.
- 2.2. An Order submitted by You constitutes a binding commitment by You to purchase the Parts described therein, to which these General Terms of Sale apply.
- 2.3. Nexus Automation is under no obligation to accept an Order and can reject any Order at its sole discretion before it has accepted the Order. Orders are deemed accepted by Nexus Automation only if expressly confirmed by Nexus Automation in writing. Nexus Automation may perform a credit check on You and require a prepayment by credit card or other assurance of payment prior to acceptance.
- 2.4. Acceptance of any Order is subject to the conditions precedent that: (i) there are sufficient resources available to Nexus Automation to complete Your Order within the stated timelines and at the stated price, (ii) Your Order was not placed on the basis of incorrect information, including but not limited to information regarding pricing and specifications, (iii) the content included in Your Order complies with our **Content Policy** (as defined in Section 10.5) and (iii) the satisfactory fulfillment of any credit check or receipt of prepayment or other assurance of payment, as requested in Nexus Automation's sole discretion.
- 2.5. Nexus Automation is permitted to apply limited deviations with regard to color, or (shore) hardness of Parts, unless Nexus Automation specifically agrees to the contrary in writing. Unless You object in writing to such deviations, You assume all responsibility and liability for those deviations as part of Your original Order.
- 2.6. Any changes made by You to an Order after it has been submitted are subject to Nexus Automation's acceptance and may be subject to additional charges, including additional delivery charges.

- 2.7. Once in production, as the Parts are produced for You based on Your specifications (made to order), it is not possible for You to cancel or terminate Your Order without cost. In the event of termination, Nexus Automation reserves the right to invoice You for all goods produced or services performed prior to receipt of notice of termination, as well as for any materials used or purchased to make Your Parts.

### 3. **Subcontracting**

- 3.1. You understand and agree that Nexus Automation may use its vetted partners or Hudson Street Solution sister companies to fulfil Your Order.
- 3.2. Orders may be delivered directly from a partner or sister company of Nexus Automation to You and not via or through Nexus Automation. Therefore, it is of utmost importance that You inspect the Parts upon delivery and inform Nexus Automation in case of any discrepancies in accordance with these General Terms of Sale.

### 4. **Prices**

- 4.1. All prices stated by Nexus Automation are exclusive of state and local tax, or any other taxes, unless expressly stated otherwise herein. You are responsible for all taxes associated with the Order (other than taxes based on Nexus Automation's income). Without limiting the foregoing, You shall pay all applicable taxes Nexus Automation charges You in addition to the prices quoted.
- 4.2. In the event of changes to cost price factors, Nexus Automation reserves the right to pass on such additional costs to You.
- 4.3. If special packing or shipping instructions are agreed by Nexus Automation, You shall be liable for any additional charges incurred by Nexus Automation as a consequence thereof, as indicated by Nexus Automation.

### 5. **Payment**

- 5.1. Unless prepayment is required, You must pay all invoices within 30 days from date of invoice.
- 5.2. Nexus Automation may invoice parts of an Order separately.
- 5.3. For all Orders that include tooling, Nexus Automation may require You to pay the cost of tooling prior to acceptance of Your Order. Nexus Automation is not responsible for any delay in carrying out Your Order caused by Your delay in making payments.
- 5.4. Nexus Automation may require an advance payment before it fulfills Your Order. Nexus Automation is not responsible for any delay in carrying out Your Order caused by Your delay in making payments.

- 5.5. The amounts due shall, unless otherwise agreed, be paid by credit card or bank transfer, as indicated by Nexus Automation. All costs related to the method of payment shall be Your responsibility.
- 5.6. All amounts due to be paid by You to Nexus Automation shall be paid in full and without any deduction. You shall not be entitled to any right of setoff. Nexus Automation shall be entitled to set off any amount due by Nexus Automation to You against amounts due by You to Nexus Automation.
- 5.7. If any amount due is not paid when it becomes due and payable, a late payment interest of two percent (2%) per month, or the highest amount permitted by applicable law, whichever is higher, shall be due and payable with respect to such amount, to be calculated from the time such amount became due until the time such amount is paid in full.
- 5.8. In addition, Nexus Automation may, in the event of any overdue payment, suspend any delivery of Parts to You or prevent You from placing any future Orders until all amounts due are paid.

## 6. **Specifications of Parts and Tooling**

- 6.1. You are responsible for providing Nexus Automation with correct and complete 3D CAD data and/or drawings to produce the Parts and tooling. All relevant files required for the production of Your Parts and tooling must be uploaded by You to our website or, in the event of a specific or special Order, provided to Nexus Automation in the agreed upon manner and with any and all requirement representations and warranties. Nexus Automation does not have an obligation to review any of the specifications, data, or drawings that You provide and reserves the right to reject or cancel any Order that is not uploaded by You to our website.
- 6.2. Nexus Automation uses the 3D CAD data and/or drawings, as may be provided by You, to generate parts and tooling. 2D technical drawings will prevail over 3D CAD models only with respect to parameters for tolerances and/or threads, if specified. In all other cases, 3D CAD data will take precedence during production, if these have been provided before we accepted Your Order, or unless otherwise agreed. Nexus Automation is not responsible for discrepancies between 3D CAD data and 2D technical drawings.
- 6.3. If an Order includes threads or specific tolerances, it is Your responsibility to provide a technical drawing with the relevant specifications, and to ensure to indicate this in the quotation request and to check if this is reflected correctly in the Order.
- 6.4. You retain sole legal responsibility for the design specifications and performance of the goods that are the object of the Order. You are also solely responsible for ensuring the goods and services purchased from Nexus Automation meet applicable regulatory requirements. Nexus Automation will not be responsible for incorrectly designed parts, parts

that do not assemble correctly, parts with thick cross-sections that produce sink marks, warp, or parts produced based on incorrectly provided CAD data or technical drawings.

- 6.5. Nexus Automation rejects all responsibility for material selection and material suitability for Your application. Nexus Automation is not responsible for the fit or assembly of Parts unless specifically agreed upon in writing.

## **7. Tooling Ownership and Storage**

- 7.1. All custom tooling developed by You for Your parts shall be Your property, however reusable proprietary components or components developed by Nexus Automation or its manufacturing partners, will remain the property of Nexus Automation and/or its manufacturing partners. All custom tooling will remain at Nexus Automation's or its manufacturing partner's production facility, unless otherwise agreed between the parties in writing.
- 7.2. As long as Nexus Automation is making parts for You at Nexus Automation's or its manufacturing partners' production facilities, Nexus Automation will guarantee Your tooling for the agreed upon tool life (as stated in the Order). Subject to Section 7.3, Nexus Automation will, in its sole discretion, repair or replace worn or damaged tooling at Nexus Automation's expense for the agreed upon tool life.
- 7.3. After a two-year period of inactivity of the tooling, Nexus Automation may, in its sole discretion, destroy the tooling, including any custom tooling.

## **8. Delivery, Inspection, Acceptance, Complaints, and Retention of Title**

- 8.1. Shipments are sent by the commercial carrier selected by Nexus Automation or its manufacturing partners. Nexus Automation will pre-pay and add delivery costs to the invoice as a convenience and courtesy.
- 8.2. Nexus Automation will use commercially reasonable efforts to ship an Order on the agreed upon dates, however shipping or delivery dates are estimates only. Nexus Automation accepts no liability for delays in the delivery or shipment of Orders and/or any damage or loss caused as a result of such delays. Nexus Automation's failure to meet a shipping date or delivery period shall not constitute a breach of the Order or these General Terms of Sale.
- 8.3. Nexus Automation shall be entitled to suspend its delivery obligations under an Order in the event there are, in Nexus Automation's sole discretion, reasonable and objective grounds to doubt whether You are able or willing to fully and timely fulfil Your payment obligations or whether You fully comply with any of the other terms and conditions of these General Terms of Sale.

- 8.4. You must inspect the parts immediately upon receipt and notify Nexus Automation within thirty (30) working days of the date of delivery of the parts, in writing, if You believe any part of an Order is missing, defective, wrong or damaged. Unless You have so notified Nexus Automation, specifying the nature of what is missing, wrong, or damaged within thirty (30) working days of delivery, the parts will be deemed accepted, non-returnable and non-refundable.
- 8.5. Any dispute must be raised in the timeframe specified in Section 8.4 herein and if requested by Nexus Automation, You must return the parts to Nexus Automation within ten (10) working days from the time of the request, unless otherwise agreed in writing by Nexus Automation. Any parts that You return to Nexus Automation after the expiry of this period will not be processed or refunded.
- 8.6. If after receiving Your Order You alter the parts in any way without the prior written consent thereto of Nexus Automation, the parts will be deemed accepted, non-returnable and non-refundable.
- 8.7. Nexus Automation shall retain the ownership to the parts until You have paid all amounts related to the delivered parts in full, including any interests, collection costs or other amounts due with respect to such parts, at which time title to the parts will pass to You.

## 9. **Intellectual property rights and publicity**

- 9.1. By providing data to Nexus Automation, You grant Nexus Automation a non-exclusive, royalty-free, fully paid up, worldwide and transferable right to use, copy, distribute and display the data (including 3D CAD Data and drawings), documentation, drawings, and specifications You provide in order for Nexus Automation to be able to produce, ship and sell the parts to You.
- 9.2. You shall retain sole ownership of the copyright in files, all text, illustrations, software files and other materials provided by You to Nexus Automation as well as of any deliverables, designs, including modifications or derivative works thereof, that may be produced for You during the course of Nexus Automation's performance of services.
- 9.3. Nexus Automation retains sole ownership in all proprietary software, processes, and procedures developed by Nexus Automation for the quoting, analysis, design, automation, and manufacturing of machined parts, assemblies, injection molds, injection molded parts, and 3D printed parts. Nexus Automation retains ownership of the copyright in all text, illustrations or other materials provided by Nexus Automation to You in a quote. You will not, without prior written approval of Nexus Automation (which may be withheld for any reason), remove any of Nexus Automation's markings or change Nexus Automation's Intellectual Property in any way.
- 9.4. By placing an Order, You authorize Nexus Automation to use Your trademarks, logos, name, or signs for marketing purposes. This means

that Nexus Automation may mention You as a customer of Nexus Automation on our website and in other promotional material such as advertising, press releases, interviews, promotional materials or presentations. We will not use Your name if You are a natural person, and the substantive content provided by You continues to be governed by the confidentiality clauses in these General Terms of Sale.

- 9.5. You are not allowed to use Nexus Automation trademarks, trade names or any other indications in relation to the parts, or to publicly make any reference to Nexus Automation, whether in press releases, advertisements, sales literature or otherwise, except with Nexus Automation prior written consent.

## 10. **Your representations**

- 10.1. You represent and warrant that You have the right authority and capacity to enter into these General Terms of Sale (on behalf of Yourself or the entity that You represent) and that You are authorized to place an Order. You represent and warrant that You are 18 years or older, are able to conclude legally binding agreements.
- 10.2. You represent and warrant that You have the full right and authority to provide us with all data (including 3D CAD data and drawings), documentation, drawings and specifications, all data You provide is accurate and truthful, and You are authorized to grant the license referred to in Section 9.
- 10.3. You also represent and warrant that You will use parts in strict accordance with all applicable state, federal and local laws and requirements.
- 10.4. You represent and warrant that You understand and agree with, including making the relevant certifications under, this Nexus Automation export control policy (the "**Export Control Policy**"), as follows:
  - 10.4.1. **You understand that Nexus Automation does not accept Export Controlled Data.** "Export Controlled Data" is defined as data which is controlled for export under United States ("**U.S.**") Law. This includes (technical) data and/or end parts that are: (1) controlled under the [International Traffic in Arms Regulations](#), or (2) subject to the [Export Administration Regulations](#), and controlled at any level beyond EAR99.
  - 10.4.2. **You certify that Your data (including 3D CAD data and drawings) and/or Your Order DOES NOT include Export Controlled Data.**
  - 10.4.3. You certify that You understand that it is Your responsibility to determine and provide the appropriate export classification for the products and related technology and software to be provided to Nexus Automation and to comply with the prohibition on

Export Controlled Data provided herein. Nexus Automation relies entirely on You to provide accurate information for purposes of compliance with applicable export control laws. The export classification indicates whether the product and related technologies are controlled, the relevant jurisdiction or jurisdictions, when an export license is required, and whether the product and technology qualify for a license exception. An incorrect classification could result in export control violations, which could in turn lead to significant fines and other sanctions.

- 10.4.4. You represent and warrant that the production, shipping, sale and use of the parts or tooling by us in response to Your Order, does not violate any export control laws or regulations.
  - 10.4.5. You represent and warrant that You will not, directly or indirectly, (i) sell, export, reexport, transfer, divert, or otherwise dispose of any products, software, or technology (including products derived from or based on such technology) received from Nexus Automation to any destination, entity, or person prohibited by the laws or regulations of the U.S. and/or Your local jurisdiction or (ii) use parts for any use prohibited by the laws or regulations of the U.S., and/or Your local jurisdiction, without obtaining prior authorization from the competent government authorities as required by those laws and regulations.
  - 10.4.6. You may not use Nexus Automation's services if You are the subject of U.S. sanctions or of sanctions consistent with U.S. law imposed by the governments of the country where You are using Nexus Automation's services.
- 10.5. You further represent and warrant that Your uploaded data (including 3D CAD data and drawings) and/or Your Order comply with, and do not violate, the following Nexus Automation content policy (the "**Content Policy**"). You represent and warrant that Your uploaded data (including 3D CAD data and drawings), Your Order and/or the production, shipping, sale and use of the parts or tooling by us:
- 10.5.1. Does not contain any weapons. "Weapons" is broadly defined as:
    - 10.5.1.1. Firearms, firearm component parts, or ammunition. This includes, but is not limited to, (1) any device which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (2) any device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive; (3) any component part integral to the safe firing of a projectile by means of an explosive from a device described in (1) or (2); and (4) ammunition including cartridge cases, primers, bullets, or propellant powder designed for use in any firearm;

- 10.5.1.2. Bladed weapons. This includes, but is not limited to, knives that might cause bodily harm and any part or component thereof. A bladed weapon includes automatic knives, knives that are undetectable by a metal detector, stilettos, switchblades, butterfly knives, throwing knives, folding knives, gravity knives, and disguised knives (for example, a sword cane).
- 10.5.1.3. Explosive devices. This includes, but is not limited to, grenades, rockets, explosives, incendiary devices, missiles, land mines, and related parts or components thereof;
- 10.5.1.4. Toy guns or other items with arms-like appearance. This includes, but is not limited to, paintball guns, airsoft guns, training weapons, mock guns, mock weapons, weapon replicas and items that look like a gun or other weapon; and
- 10.5.1.5. Arms-related items and/or weapon accessories. Accessories, parts, or components to any weapon if that accessory/part/component contributes to the functioning of the weapon and/or attaches to the item. For example, this includes, but is not limited to, scopes, mounts, and knife handles because they are attached to a weapon, but would not include a knife case or holster because they are neither attached to nor contribute to the functioning of the weapon.
- 10.5.2. Does not violate, misappropriate or infringe any intellectual party rights (including but not limited to any copyright, patent, design right, trademark, trade secret or any other proprietary rights) or any third party rights;
- 10.5.3. Does not contain information, which is false, inaccurate, misleading, harassing, racially or ethnically offensive, discriminatory, harmful to minors, libelous or defamatory, including information used to produce counterfeit goods;
- 10.5.4. **Will not be implanted in a human body;**
- 10.5.5. Is not contrary to, or in violation of, any applicable law or regulations or public policy; and
- 10.5.6. Does not violate our **Export Control Policy**.
- 10.6. **Nexus Automation, at its sole discretion, might refuse to manufacture any critical (functional) parts for aerospace, watercraft, offshore, automotive and/or medical applications; A part is considered critical if: 1) it can affect (directly or indirectly) the stability/driving/braking/steering of the machine; 2) it can affect the propulsion, navigation, safety, or life support systems; 3) if defective, could lead to a product recall or could have a detrimental effect to**

**end users' safety or health; or 4) require any type of certification other than ISO 9001.**

- 10.7. Please be informed that the uploading of data (including 3D CAD data and drawings) to manufacture a firearm may be punishable by law. Nexus Automation has a (statutory) obligation to report data and/or Orders for firearms that it considers reasonably suspicious.
- 10.8. Nexus Automation reserves the right to reject any Order that is based on data it feels—in its discretion—violates this Content Policy. It is and remains Your sole responsibility to comply with this Content Policy when uploading data to our website and placing Orders. Nexus Automation is not obliged to check the uploaded data before accepting or executing any Order or having the Parts manufactured by its manufacturing partners.

**IF YOU HAVE ANY DOUBT WHETHER YOUR DATA (INCLUDING 3D CAD DATA AND DRAWINGS) IN YOUR ORDER AND/OR THE PRODUCTION, SHIPPING, SALE AND USE OF THE PARTS OR TOOLING BY US IS PERMITTED UNDER OUR CONTENT POLICY, DO NOT UPLOAD YOUR DATA.**

- 10.9. We reserve the right (but have no obligation) to review any data provided by You, and to investigate and/or take appropriate action against You in our sole discretion if You violate our Content Policy, any other provision of these General Terms of Sale or otherwise create liability for us or any other person. Such action may include removing or modifying Your data, terminating Your account, and/or reporting You to law enforcement authorities. Any attempt by You to damage our website or to undermine the legitimate operations of Nexus Automation's business or services may be a violation of criminal and civil laws, and should any such attempt be made; we reserve the right to seek damages from You to the fullest extent permitted by law.

## **11. Force Majeure**

- 11.1. Nexus Automation shall not be responsible for any delay or failure in delivery or performance of its duties under any Order due to events beyond its reasonable control or acts or omissions or any other occurrence commonly known as force majeure, including but not limited to war, riots, acts of terrorism, acts of God, pandemics, nature disasters, embargoes, strikes, or other concerted acts of workers, casualties or accidents, failure by any Nexus Automation's manufacturing partner to meet their obligations or any other causes or circumstances that prevent or hinder the manufacture or delivery of the parts.
- 11.2. Nexus Automation may suspend performance under an Order for so long as such performance is delayed by such occurrence or cancel the Order at its sole discretion, in which case Nexus Automation is not liable for any resulting damages.

- 11.3. Nothing in this Section 11 will excuse You from Your payment obligations for amounts due and payable under an Order.

## 12. **DISCLAIMER OF WARRANTIES**

- 12.1. ANY PARTS OR TOOLING IS PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS, AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEXUS AUTOMATION (AND OUR MANUFACTURING PARTNERS) EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, CONTRACTUAL OR STATUTORY, INCLUDING BUT NOT LIMITED TO ALL WARRANTIES, REPRESENTATIONS, GUARANTEES, OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. IF MANDATORY LAW REQUIRES ANY (STATUTORY) WARRANTIES WITH RESPECT TO THE PARTS OR TOOLING, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF DELIVERY.
- 12.2. You hereby release and forever discharge Nexus Automation (and our officers, employees, agents, successors, and assigns) from, and hereby waive and relinquish, each and every past, present and future dispute, claim, controversy, demand, right, obligation, liability, action, and cause of action of every kind and nature (including personal injuries, death, and property damage), that has arisen or arises directly or indirectly out of, or that relates directly or indirectly to, the parts and/or Your Order.
- 12.3. In the event that mandatory law does not allow any of the exclusions or limitations of liability or any of the disclaimers of warranties mentioned in these General Terms of Sale, such exclusions, limitations, or disclaimers shall be limited to the maximum extent permitted by applicable law.
- 12.4. No advice or information, whether oral or written, obtained from Nexus Automation, through the website or any representative will create any warranty not expressly made herein.

## 13. **LIMITATION OF LIABILITY**

- 13.1. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, AND SUBJECT TO THE FINAL PARAGRAPH OF THIS SECTION, NEXUS AUTOMATION (AND OUR MANUFACTURING PARTNERS) DO(ES) NOT ACCEPT LIABILITY FOR PARTS NOT BEING AVAILABLE FOR USE, OR FOR LOST REVENUE OR PROFITS OR LOSS OF BUSINESS OR OTHER ECONOMIC LOSS.
- 13.2. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, AND SUBJECT TO THE FINAL PARAGRAPH OF THIS SECTION, NEXUS AUTOMATION (AND OUR MANUFACTURING PARTNERS) WILL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY CLAIMS, ACTIONS, INJURY, PERSONAL INJURY OR DEATH, LOST PROFITS, LOST DATA, LOST INCOME, LOSS, OR DAMAGE TO PROPERTY, COSTS OF

PROCUREMENT OR SUBSTITUTE PRODUCTS OR ANY DIRECT OR INDIRECT, COMPENSATORY, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES UNDER ANY LEGAL THEORY OR FORM OF ACTION (INCLUDING BUT NOT LIMITED TO CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR WARRANTY OF ANY KIND) ARISING OUT OF OR RELATED TO PARTS, TOOLING, ORDERS, DELIVERY, OR OTHERWISE RELATING THESE GENERAL TERMS OF SALE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, OR FOR ANY CLAIM BY ANY THIRD PARTY.

13.3. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO ANY ORDER AND/OR THESE GENERAL TERMS OF SALE (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), WILL AT ALL TIMES BE LIMITED TO A MAXIMUM OF THE AMOUNT PAID BY YOU TO US UNDER THE ORDER UNDER WHICH THE LIABILITY AROSE. THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT. YOU AGREE THAT OUR MANUFACTURING PARTNERS WILL HAVE NO LIABILITY OF ANY KIND ARISING FROM OR RELATING TO THESE GENERAL TERMS OF SALE.

13.4. Because some jurisdictions limit or do not allow certain exclusions or limitations of warranties or liability, Sections 12 and/or 13 may not partially or entirely apply to You. To the extent that any such limitation or exclusion of liability or warranty is circumscribed, it shall be limited to the least extent possible under applicable law. These limitations shall apply notwithstanding any failure of essential purpose of any limited remedy provided herein.

#### 14. **Indemnification**

14.1. You agree to indemnify and hold Nexus Automation (and its officers, directors, employees, representatives, and agents), its affiliates (and their officers, directors, employees, representatives and agents), and its and its affiliates' (sub)contractors (including manufacturing partners) harmless from and against any and all loss, liability, penalty, third party claims, damages, demands, costs and other expenses (including reasonable attorneys' fees and court costs and litigation expenses) arising out of or relating to:

14.1.1. Your breach of the Order or these General Terms of Sale;

14.1.2. Any acts or omissions by You relating to our performance under an Order or these General Terms of Sale;

14.1.3. Any and all use, distribution and/or sale of parts; and

14.1.4. Any claim of third parties (including government authorities) arising out of an Order or these General Terms of Sale or the production, shipping or sale of the parts and/or Your data (including 3D CAD data and/or drawings), including but not

limited to a claim that the use of such data and technical drawings and/or the production, shipping or sale of parts violates any applicable law or the intellectual property or other rights of a third party.

- 14.2. You will, if instructed by us, defend us from any third party claim covered by the indemnity under Section 14.1 ("**Third Party Claim**"), at Your expense, using counsel reasonably acceptable to us. You will not consent to any settlement or judgment of any Third Party Claim without our prior written consent. We may participate in the defense of any Third Party Claim with our own counsel at our own expense.
- 14.3. Nexus Automation reserves the right, at Your expense, to assume the exclusive defense and control of any matter for which You are required to indemnify us, and You agree to cooperate with our defense of these claims. You agree not to settle any matter without our prior written consent. We will use reasonable efforts to notify You of any such claim, action, or proceeding upon becoming aware of it.

## 15. **Confidentiality**

- 15.1. Nexus Automation shall not disclose, and shall procure that its employees and (sub)contractors shall not disclose, any data (including 3D CAD data), documentation, drawings, and specifications provided by You, other than to its affiliates and (sub)contractors as necessary to produce, ship and sell the parts to You. This restriction will not apply in the event of a legal obligation or duty to disclose the information, or when the information is or becomes (publicly) known or is independently developed by Nexus Automation, its employees or its contractors without the use of such information, or if the information is disclosed to Nexus Automation by a third party.

## 16. **Termination**

- 16.1. Without prejudice to any other rights Nexus Automation may have under these General Terms of Sale or the applicable laws, Nexus Automation has the right to immediately terminate Your Order and/or Your account in whole or in part if, in its sole discretion:
  - 16.1.1. You are declared bankrupt, are granted a (temporary) moratorium on payment of Your debts, if You have filed a petition for bankruptcy or if a receiver is appointed for You,
  - 16.1.2. You go into liquidation or there is a threat of suspension of payments,
  - 16.1.3. You cease, or threaten to cease, to carry on Your business,
  - 16.1.4. You or Your representatives makes any libelous or slanderous statement, or are hostile or abusive against Nexus Automation, its employees or its representatives; or
  - 16.1.5. You breach these General Terms of Sale.

16.2. Upon termination pursuant to Section 16.1, Nexus Automation shall not have any liability for or obligation to deliver the parts. Any amounts that You paid Nexus Automation are nonrefundable, and any amounts that You still owe Nexus Automation under the Order become immediately due and payable in full.

## 17. **Miscellaneous**

17.1. If any provision of these General Terms of Sale is, for any reason, held to be invalid or unenforceable, the other provisions of these General Terms of Sale will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it most closely matches the original provision and is valid and enforceable to the maximum extent permitted by law. The remaining provisions shall be enforced.

17.2. These General Terms of Sale shall be construed as if both parties drafted it jointly, and shall not be construed against either party as principal drafter.

17.3. A waiver by us of any right or remedy under these General Terms of Sale shall only be effective if it is in writing, executed by a duly authorized representative of ours, and shall apply only to the circumstances for which it is given. Our failure to exercise or enforce any right or provision of these General Terms of Sale shall not operate as a waiver of such right or remedy, nor shall it prevent any future exercise or enforcement of such right or remedy. No single or partial exercise of any right or remedy shall preclude or restrict the further exercise of any such right or remedy or other rights or remedies.

17.4. Orders and these General Terms of Sale, including Your rights and obligations therein, may not be assigned, subcontracted, delegated, or otherwise transferred by You without our prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void. Nexus Automation may freely assign any Order or these General Terms of Sale. The terms and conditions set forth in any Order or these General Terms of Sale shall be binding upon assignees.

17.5. All notices sent under these General Terms of Sale shall be in writing and delivered by prepaid commercial courier or by email. Notices to Nexus Automation shall be sent to Nexus Automation, Inc. at 2021 Las Positas Court, Suite #141, Livermore, CA, United States of America, and [ofor@nexusautomation.com](mailto:ofor@nexusautomation.com) and notices to You shall be sent to the contact person provided by You in Your Order. Notices are deemed delivered upon dispatch of mail or email.

17.6. These General Terms of Sale, together with an accepted Order, the Privacy Policy (defined below) and our Nexus Automation Terms of Use, constitute the entire agreement between the parties relating to the subject matter herein and supersedes all previous agreements, arrangements, and undertakings between the parties with respect to

that subject matter (including but not limited to provisions in Your Order that are rejected).

- 17.7. All provisions within these General Terms of Sale which by their nature are intended, whether express or implied, to survive the termination or the expiration of an Order, including but not limited to Your payment obligations and Sections 2 through 18 shall survive.
- 17.8. These General Terms of Sale are subject to occasional revision. If we make any substantial changes, we may notify You by emailing You to the last email address You provided to us (if any), and/or by prominently posting notice of the changes on our website. You are responsible for providing us with Your most current email address. In the event that the last email address that You have provided us is not valid, or for any reason is not capable of delivering to You the notice described above, our dispatch of the email containing such notice will nonetheless constitute effective notice of the changes described in the notice. Placement of an Order following notice of such changes shall indicate Your acknowledgement of such changes and agreement to be bound by the terms and conditions of such changes. If You do not place an Order within thirty (30) calendar days following our dispatch of an email notice to You (if applicable) or thirty (30) calendar days following our posting of the changes on our website (if applicable) nor explicitly object to the applicability of the changes in writing within thirty (30) calendar days after our dispatch of the e-mail notice or (if applicable) our posting of the changes on our website, then the expiration of the thirty (30) days will indicate Your acknowledgement of such changes.
- 17.9. If, contrary to Section 1 hereto, these General Terms of Sale are used in a situation in which You are a consumer and not a professional customer, some terms, and conditions will not apply to You. In this case, these General Terms of Sale are applicable to the extent permitted by applicable consumer law; Your rights under these laws are not affected or limited by these General Terms of Sale. Because Your parts are custom, made to order, no right (statutory or otherwise) of withdrawal or cancellation applies.
- 17.10. Information about how we collect and/or process Your personal data is provided in our privacy policy ("[Privacy Policy](#)").
- 17.11. Your relationship to Nexus Automation is that of a user, and neither party is an employee, agent, partner, franchisee, owner, joint venture or representative of the other party.
- 17.12. The communications between You and us use electronic means, whether You use our website or send us emails, or whether Nexus Automation posts notices on our website or communicates with You via email. For contractual purposes, You (a) consent to receive communications from us in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that we provide to You electronically satisfy any legal

requirement that such communications would satisfy if it were being in a hard copy writing. The foregoing does not affect Your non-waivable rights.

- 17.13. The contractual relationship is non-exclusive. Each party is free to contract with other third parties subject to its obligations under these General Terms of Sale. You agree that nothing (including reviewing Your files and/or quote) will preclude us from manufacturing other parts or working with other companies, whether those companies or parts are substantially similar to, or competitive with, Your files, parts, or Order and/or the services that we provide to You.
- 17.14. All the words, phrases, terms, and meanings under these General Terms of Sale shall only be construed and interpreted in the English language. All the notices, documents, legal, or arbitration proceedings initiated or given pursuant to these General Terms of Sale shall be in English language only.

## 18. **Governing Law and Exclusive Forum**

- 18.1. The applicability of the UN Convention on the International Sale of Goods is excluded.
- 18.2. Unless provided otherwise by operation of applicable mandatory law, any dispute, claim, clause of action or proceeding arising out of, or in connection with, these General Terms of Sale, the relationship between Nexus Automation and You or Your use of our services, on any basis whatsoever, shall be brought in the state or federal courts located in Alameda County, California, and the parties shall submit to the exclusive jurisdiction of such courts and waive any and all jurisdictional, venue and inconvenient forum objections to such courts. The laws of the State of California will apply, respectively, to any disputes arising out of or relating to these General Terms of Sale, without regard to conflict of laws principles.
- 18.3. We are located at the address listed in these Terms.

Nexus Automation, Inc.  
2021 Las Positas Court, Suite #141  
Livermore, CA 94551

+1 925-443-3296

legal@nexusautomation.com

Further contact information, including country specific contact information, may be found on <https://www.nexusautomation.com>.