TERMS AND CONDITIONS OF SOFTWARE DEVELOPMENT

Introduction

The following terms and conditions apply to any contract entered into by SACE SRL a socio unico (hereinafter referred to as the Supplier) with the Customer (hereinafter referred to as the Customer) for the development and implementation of customized software (hereinafter referred to as the Software).

The development and implementation of the Software shall be governed by these terms and conditions and in accordance with the provisions of the Technical Annex_Description of the Design to Validation Process (Annex 1) and the Technical Annex_Technical and Functional Specifications (Annex 2) which form an integral part of the Contract

The Customer declares that he has carefully read and understood these terms and conditions, which are understood to be accepted in full upon acceptance of the commercial offer and/or transmission of the order and/or signing of the order confirmation.

It shall be understood that these terms and conditions shall prevail over any general or particular conditions of the Customer unless expressly agreed otherwise in writing and that any conduct of the Supplier shall never be construed as implied acceptance of these general or particular conditions.

In the light of the above, the following is hereby agreed.

Article 1 Introduction

The introduction forms an integral and substantial part of the content of this agreement.

Article 2 Object

The Customer entrusts the Supplier, who accepts, with the development and implementation of customized software in accordance with the specifications contained in Annex 2 and the design process described in Annex 1.

Article 3 Execution

The Parties have agreed on the time required to carry out the project phases, the aims and the results to be achieved.

The Supplier undertakes to develop and implement the Software on the basis of the technical/functional specifications defined and explained by the Customer in Annex 2, which must be delivered at the time of the order unless otherwise agreed in writing with the Customer.

For the development of the software, the Supplier shall use its own organization, its own personnel and its own means and shall operate on the basis of the binding instructions received from the Customer.

Any changes to the technical/functional specifications requested by the Customer (following the order) must be agreed upon in writing between the Parties. For any changes, the Customer shall pay the Supplier additional fees, which shall be calculated on the basis of the tariffs, if any, indicated in the commercial offer or as determined by an analysis of the Customer's request.

The Parties agree that the implementation of the changes may lead to a postponement of the software delivery dates specified in the commercial offer.

The Parties expressly acknowledge that the <<performance levels>> indicated in the Annexes refer, unless otherwise provided for, only to the electronic control units and to the software supplied by the Supplier, whereas the verification of the <<performance levels>> of the entire chain (input sensors, electronic control units/software, output valves) shall remain the responsibility of the Customer.

Article 4 Delivery and testing

The Supplier shall deliver the Software to the Customer within forty-five working days following the deadline specified in the commercial offer, together with the necessary user documentation.

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The Supplier shall install and configure the Software on the Customer's hardware for final testing.

The Customer is obliged to carry out the testing in the presence of the employees appointed by the Supplier.

The testing shall be carried out within 30 days from the delivery/installation of the Software at the Customer's premises unless otherwise agreed in writing.

If the Customer is not willing to carry out the testing within the prescribed time limit, the Parties shall agree that the testing shall be deemed to have been carried out successfully.

At the same time, the Parties shall draw up a test report drawn up in joint consultation and issued in two originals and duly signed.

The Customer shall be obliged to contest any discrepancies or flaws in the Software, under penalty of forfeiture, by e-mail or registered letter with acknowledgement of receipt, within 60 days of their discovery and no later than two years from the date of testing.

The Supplier shall be entitled to payment of the fee in the event of successful acceptance.

Article 5 Guarantees

The Supplier undertakes to guarantee the maintenance and/or modification work necessary to eliminate the discrepancies or flaws found by the Customer with respect to the technical/functional specifications indicated in Annex 2.

The guarantee shall not be due from the Supplier if the Customer has accepted the software and the discrepancies or flaws were known or recognizable to him.

The guarantee shall not apply in the case of discrepancies or flaws resulting from errors or omissions by the Customer or from software malfunctions for which the Customer is solely responsible, or in the case of use of the software by the Customer or a third party that does not comply with the instructions received from the Supplier, or in any case from causes for which the Supplier is not responsible.

Article 6 Responsibility of the Customer

The Customer, manufacturer of the machine/vehicle in which the software developed by the Supplier is installed, shall bear full responsibility for all direct and/or indirect consequences that may arise from the use of the machine/vehicle.
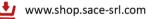
The Customer guarantees that the machine/vehicle will be manufactured and/or used and/or marketed in full compliance with the applicable regulations on product safety and workplace safety.

During the design and testing activities, should any activities be necessary that entail risks for property and/or persons, by way of example but not limited to (use of the machine for testing, debugging, etc., use of hardware and/or software that does not yet fully comply with the requirements), it shall be the exclusive responsibility of the Customer to carry out an appropriate risk assessment and to adopt all suitable measures to guarantee and safeguard the safety of its own workplaces and personnel, in accordance with the regulations in force.

In all cases in which the Customer requests a reduction of the safety functions for validation purposes during the planning and testing operations, the Customer must provide a coordination report signed by him indicating the safety measures that will be adopted under his own and exclusive responsibility. The Customer shall be fully liable for any damage to persons and/or property occurring during the above activities.

The Customer undertakes to define and explain in Annex 2 the technical/functional specifications of the Project and to deliver them to the Supplier at the time of the order unless otherwise agreed in writing with the Customer.

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In particular, these technical/functional specifications, with reference to the safety functions required and/or suggested by any legislative provisions and/or technical standards applicable to the machine/vehicle built by the Customer and the relative reaction logics, must be understood, to all effects, as instructions and directives that are binding on the Supplier.

In this regard, the Customer, by signing this Contract, declares that it has been expressly informed by the Supplier of the possible impact of such technical/functional specifications on the safety of the machine/vehicle and, as a result, has confirmed to the Supplier that it will proceed in accordance with the instructions given.

It is understood that any intervention by the Supplier in the course of the development of the Software can never be understood as a modification of the role of mere executor attributed to the same.

The Customer undertakes to hold the Supplier harmless and indemnified against any claims and/or legal proceedings brought against it by the end-user and/or third parties in connection with alleged defects in the machine/vehicle.

The Customer undertakes to hold the Supplier harmless and indemnified against any claims and/or legal actions brought against the Supplier due to alleged infringement of industrial and/or intellectual property rights relating to and/or connected with the machine/vehicle.

Article 7 Limitations of the Supplier's liability

The Supplier accepts no liability for any direct and/or indirect consequences caused by breakdowns or malfunctions of the machine/vehicle.

In particular in the following cases:

•The Supplier assumes no liability for any accidents caused by incorrect assembly or poor, insufficient or omitted maintenance of the machine/vehicle.

•The Supplier assumes no liability for misuse of the software by the Customer or the end-user, or if the system is programmed in such a way as to impair or jeopardise the general safety of the machine/vehicle, also in the light of the instructions expressly formulated by the Customer with regard to the safety functions, the relevant reaction logics and their compliance with the relevant standards.

Without prejudice to any mandatory legal provisions, the Supplier's contractual and non-contractual liability towards the Customer shall in any case not exceed half of the fee actually paid, net of VAT, by the Customer to the Supplier for the development of the Software.

Article 8 Authorization to subcontract

Notwithstanding the Supplier's direct liability towards the Customer, for the execution of the activities relating to the development of the Software, the Supplier may make use of third-party suppliers or professionals selected by it, even without informing the Customer.

Article 9 Obligations towards the personnel employed by the Supplier

The Supplier undertakes to develop and implement the Software using people of adequate professionalism linked to the Supplier by an employment relationship in accordance with the current social legislation.

The Supplier undertakes to observe all applicable provisions on employment and compulsory recruitment, social insurance and social security, accident prevention and accident insurance, as well as all applicable legal provisions on labour protection, in the interests of its employees involved in the implementation of the Software.

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The Supplier also undertakes to observe all the provisions of the applicable collective labour agreements in force in the interests of the employees involved in the development of the Software, applying an economic and regulatory treatment that is not inferior to that provided for in the said agreements and, in any case, not inferior to that provided for by law.

The Supplier undertakes to provide the Customer, at the latter's request, with all documents proving that it has fulfilled its obligations under the previous points.

Article 10 Fees

The fees due for the development of the software shall be specified in the commercial offer and shall be paid as described therein.

The Parties agree that, for further activities not expressly specified in the commercial offer, the Customer shall recognize additional fees, which shall be calculated on the basis of the rates that may be indicated in the commercial offer or determined by the Supplier according to what emerged following an in-depth analysis, subject to the Customer's written approval.

Article 11 Software use licence

Under the conditions and in the manner set out below, the Licensor grants the Licensee Customer, who accepts, the non-exclusive and indefinite right to use the Software indicated in the commercial offer, accompanied by the necessary documentation for its use.

The Software is supplied in executable format, with the exclusion of the possibility of obtaining the source code, of which the Supplier remains the exclusive owner.

The Software is the property of the Supplier and is protected by copyright law, international treaty provisions and all other applicable national laws.

The Supplier is granted the ownership of the intellectual property rights on the developed Software and in particular:

a) all moral rights, the Supplier being considered the sole author of the Software;

b) the rights of economic use of the Software, without prejudice to the authorization to market and distribute the Software in the machine for which it was designed;

c) all copyrights relating to the documentation developed for the design of the Software.

The Customer shall have the right to use the Software within the limits of the provisions of these terms and conditions and the contractual purpose envisaged by the Parties.

The Customer shall not be entitled to dispose of the logical and/or design documentation of the Software either in whole or in part.

The Customer shall not reverse engineer, transform, adapt or reassemble the Software or parts thereof, nor shall it create derivative products from the Software, nor shall it make copies of, translate or alter documents relating to the Software to which the Supplier claims any intellectual property rights.

The Customer shall take all appropriate steps or precautions in interests of the Supplier to prevent the breach of the intellectual property rights of the licensed software, including by third parties.

The Customer shall undertake to ensure that any person who is part of its organization and who is legitimately authorized to use the Software complies with the limits of use set forth herein.

If the execution of the Software development activity produces results that are patentable or otherwise protectable, the Parties acknowledge and declare that the ownership and the right of economic exploitation shall belong exclusively to the Supplier, which may take steps to obtain the best protection, in its own name, in Italy and abroad.

Article 12 Confidentiality

All the information exchanged between the Parties in the activity of development of the Software will be considered strictly confidential and will be used exclusively for the development of the same. Each Party, in order to prevent the disclosure of such information to third parties, shall take all appropriate precautions to protect its own confidential information and to prevent its disclosure.

The Parties mutually undertake to keep the contents of the Terms and Conditions and the Annexes thereto confidential.

By way of example but not limited thereto, the Parties hereby declare and acknowledge that Confidential Information includes:

a) data, technical knowledge, processes, formulas, know-how (whether patentable or not), developments, inventions, software including source codes;

b) documentation, diagrams, drawings, photos, schemes, formulas, sketches, surveys, samples, flow-charts, technical, experimental and development work;

c) experience, technology, models, prototypes, manuals, methods, databases and other information in the ownership and under the control of the Disclosing Party;

d) technical solutions resulting from planning, calculation, simulation, construction and prototype development activities;

e) market, sales, pricing and cost information, customer lists, inventory data, market and business plans, technical and commercial requirements of customers, agreements with customers, employees, licensees and suppliers, data and news relating to any aspect of production.

Without prejudice to the foregoing, the Parties mutually acknowledge that they shall have no obligation and shall be under no restriction with respect to any Confidential Information for which each Party can prove that:

a) it became public knowledge before or after its disclosure, but in that case without fault or negligence being attributable to it;

b) it has been lawfully received from a third party without restriction or violation of this Agreement, provided that such third party has no obligation of confidentiality to the other Party with respect to such information;

c) the use or disclosure has been authorized in writing by the Party from which it originates;

d) it has been disclosed in order to comply with an order or measure of a public authority the non-observance of which involves sanctions. In such a case the Receiving Party undertakes to inform the Disclosing Party of the request received from the authority and of the confidential information to be disclosed.

Each Party shall treat the other Party's confidential information with the utmost secrecy and as if it were its own confidential information. For this purpose, each Party undertakes:

a) to treat such information with the utmost secrecy and to take all precautions and security measures to protect and avoid any risk of unauthorized access, use or disclosure thereof;

b) to use the confidential information solely for the purpose of this project;

c) not to disclose to third parties any confidential information received and/or known without the prior written consent of the other Party;

d) not to duplicate, reproduce, copy, record, in any form or by any means, one or more of the confidential information received and/or held;

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e) to return and/or destroy, upon request of the Disclosing Party, all documents and media of any kind (including copies and extracts) received and/or held which contain or relate to the Confidential Information.

Therefore, each Party hereby represents and warrants that personnel involved in the development of the Software who become aware of such confidential information shall comply with the aforementioned obligations, without prejudice to each Party's liability for any failure of its employees and/or contractors to comply.

Each Party undertakes to promptly notify the other Party of any unauthorized use and/or disclosure of the communicated and/or known confidential information and to provide the other Party with all necessary assistance to stop such conduct.

In no event shall the disclosure by one Party to the other of its confidential information be construed as conferring on the Receiving Party any industrial and/or intellectual property rights and/or assignment and/or license to exploit such information, which shall remain the exclusive property of the Disclosing Party. The Receiving Party refrains from carrying out any activity to protect the industrial and/or intellectual property rights deriving from such information and any developments deriving therefrom and/or related and/or connected thereto, without claiming any right whatsoever.

The confidentiality obligation shall remain in force throughout the development of the Software and even after its termination for a period of 5 years.

Article 13 Processing of personal data

The Supplier guarantees full compliance with EU Regulation 679/2016 (GDPR) and current national legislation on the protection of personal data in all phases of the development of the Software.

The processing of personal data by the Supplier shall take place under the terms and in the manner indicated in the Privacy Policy pursuant to Article 13 GDPR, which can be consulted in full on the website www.sace-srl.com.

Each Party undertakes to hold the other harmless from any claim for damages arising from any unlawful processing of personal data resulting from non-compliance with the GDPR and applicable national legislation.

Article 14 Express termination clause

The Contract may be terminated in accordance with Article 1456 of the Italian Civil Code and with immediate effect, by sending a PEC or a registered letter with acknowledgement of receipt, in the following cases:

- if one of the Parties is declared bankrupt or undergoes other insolvency proceedings, or initiates an out-of-court settlement with its creditors or goes into liquidation;

- in the event of non-compliance by the Customer with the payment terms stipulated in the offer, regardless of the amount;

- in the event of breach of obligations pursuant to Articles 11 and 12;

- in the event of failure by the Customer to define the technical/functional specifications within the terms of Article 3.

Article 15 Jurisdiction and applicable law

Any dispute relating to or in any way connected with the Software development project, including non-contractual profiles, shall be subject to the exclusive jurisdiction of the Court of Bologna, with the exclusion of any competing jurisdiction.

The law applicable to relations between the Parties shall be Italian law.

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Article 16 Communications and domicile of the parties

The Parties are domiciled at their respective registered offices.

All communications between the Parties relating to the contract shall be made by means of an exchange of written correspondence by PEC or registered mail with acknowledgement of receipt.

Article 17 Final Provisions

Failure by any party to exercise its rights hereunder (and more generally its rights) shall not constitute a waiver of such rights, nor shall it operate in such a way as to prevent their future exercise.

The Customer shall not assign or transfer the Contract and/or its rights or obligations hereunder to third parties, either in whole or in part.

 The invalidity or ineffectiveness, in whole or in part, of one or more of the provisions contained herein, shall not affect the validity of the other provisions or the remainder of the provision.

The invalid or ineffective provision shall be replaced by a valid and effective provision whose scope shall be as close as possible to that of the original provision.

Any amendment to this Contract shall be in writing and signed by both Parties.

For all matters not expressly regulated in this document, the provisions of the Italian Civil Code relating to contracts in general and procurement shall apply insofar as they are compatible.

Date and place _____

The Customer _____

Pursuant to and for the purposes of Articles 1341 and 1342 of the Italian Civil Code, the Customer declares that it has carefully read and specifically approves the following articles: Article 4 (Delivery and testing); Article 5 (Guarantees); Article 6 (Responsibility of the Customer); Article 7 (Limitations of the Supplier's liability); Article 11 (Software use licence); Article 12 (Confidentiality); Article 13 (Processing of personal data); Article 14 (Express termination clause); Article 15 (Jurisdiction and applicable law); Article 17 (Final provisions).

Date and place   _____

The Customer _____

Annexes:

Annex 1 Description of the Design to Validation Process

Annex 2 Technical and Functional Specifications