

GENERAL TERMS AND CONDITIONS PROGMATIC INDUSTRIËLE AUTOMATISERING B.V.

Effective from February 1, 2025

These are the general terms and conditions of Progmatic Industriële Automatisering B.V., located at (4651 SM) Steenberghe at Leerlooierij 1, VAT number (811131403B01)), registered with the Chamber of Commerce in Breda under number 20108314. Progmatic Industrial Automation B.V. will be referred to as 'Progmatic' in these general terms and conditions. Its counterparty will be referred to as 'client'.

Article 1. Definitions

1. In these general terms and conditions, recurring terms are used in the following meanings:
 - Progmatic Industrial Automation B.V., hereinafter 'Progmatic': contractor, specialized in industrial automation, with its office in Steenberghe;
 - Client: a legal entity with whom Progmatic enters into an agreement or from whom Progmatic receives an assignment to carry out work;
 - Assignment: the work agreed upon between Progmatic and the client that Progmatic will carry out on behalf of the client;
 - Material: all systems, models, diagrams, programs, software, documentation, work instructions, and all other documents provided by or on behalf of Progmatic in connection with the execution of the assignment;
 - Equipment: all machines and installations, including peripheral equipment, with which data on information carriers are recorded or processed, as well as the associated components;
 - Usage right: the right of the client to use the software (such as but not limited to applications, programs, packages) for the purpose for which it was designed.

Article 2. Applicability

1. These general terms and conditions apply to and form part of all offers from Progmatic, assignments given to it, products and/or services delivered by it, and agreements concluded by it, regardless of their name, as well as to their execution.
2. Progmatic performs its work and offers its products and/or services exclusively under these general terms and conditions.
3. Progmatic explicitly rejects the applicability of any terms and conditions used by the client, except in cases where the parties have expressly agreed otherwise in writing.
4. These general terms and conditions remain applicable in the event Progmatic changes its name, legal form, or owner in whole or in part.
5. In the event that Progmatic and the client make specific written agreements that deviate from the provisions in these general terms and conditions of Progmatic, the written deviation between the parties will always prevail over these general terms and conditions.

Article 3. Offer, quotation, assignment confirmation, and agreement

1. All offers and quotations from Progmatic are completely without obligation unless a written acceptance period has been set.
2. An agreement between Progmatic and the client is established at the moment that:
 - Progmatic has received a signed assignment confirmation, quotation, or agreement from the client;
 - Progmatic has accepted the assignment from the client and confirmed it in writing to the client; or
 - Progmatic has started the execution of the work requested by the client after consultation with the client.
3. All tariff/price proposals and other data provided in the offer or quotation are only binding on Progmatic if Progmatic has expressly confirmed this in writing to the client. In all other cases, the client cannot derive any rights from the content of an offer or quotation.
4. Statements in order confirmations or invoices from Progmatic that are demonstrably based on an error or contain a clerical or calculation error are never binding. The client cannot derive any rights from this.

5. Progmatic may enter into an agreement with the client for the performance of one-time work or a one-time delivery. Progmatic can also enter into an agreement with the client for the periodic or regular performance of work for a specified duration. The duration of the agreement - for a fixed or indefinite period - will always be agreed upon in writing, including an applicable notice period.

Article 4. Execution of the agreement

1. Progmatic will execute the assignment for the client to the best of its ability and understanding in accordance with the written agreements made with the client.
2. The period within which or the time at which Progmatic must have completed the agreed work or deliveries is established with the expectation that the circumstances under which the delivery will take place will not change after acceptance of the assignment.
3. If Progmatic and the client have agreed to execute the agreement in phases, Progmatic is entitled to suspend the execution of the next phase until the client has given written approval for the preceding phase.
4. Progmatic is only obliged to follow instructions from the client if they are provided in a timely manner and are, in Progmatic's opinion, of added value in order to execute the assignment in accordance with the written agreements made with the client.
5. If the information required for the inspection or testing work described in the assignment is not, not timely, or not provided in accordance with the assignment by the client, the work already carried out by Progmatic will be deemed to have been accepted by the client.
6. Progmatic is entitled to charge an additional fee to the client if the changes or instructions desired by the client result in extra - not previously agreed - work.
7. Progmatic has the right to have certain work carried out by a person or third party appointed by Progmatic if, in Progmatic's opinion, this is desirable for an optimal execution of the assignment for the parties.
8. Shipment, transport, and/or transfer of goods, including materials, information carriers, and equipment, are always at the expense and risk of the client.

Article 5. Obligations of the client

1. The client is obliged to provide full cooperation to Progmatic or a third party engaged by Progmatic and to provide all the information and data required for the execution of the assignment at the time the assignment is given.
2. If Progmatic and the client have agreed that the client will provide Progmatic with equipment, material, information carriers, and/or data, these will fully comply with the specifications provided by Progmatic to the client.
3. The client ensures that the location of the client, where Progmatic performs its work, complies with the requirements set by Progmatic in terms of temperature, humidity, draft-free environment, and any other conditions requested by Progmatic, ensuring that Progmatic can perform its work safely.

Article 6. Obligations related to Machine Safety and Certifications

1. The client is obliged to carry out or have carried out a full Risk Inventory & Evaluation (RI&E) of the machine and/or installation for which Progmatic will provide the control.
2. The client is obliged to inform Progmatic in writing about the necessary safety functions of the machine and/or installation when placing the order.
3. Progmatic is never responsible for the safety of the machine and/or installation.
4. The client is fully responsible for obtaining and providing the certification and/or markings (including CE/UL/CSA and others).
5. The client indemnifies Progmatic against all claims, costs, and compensations, including those arising from accidents or safety incidents related to the client's failure to meet the required certifications, markings (such as CE), or safety regulations.

Article 7. Cybersecurity

1. The client is and remains responsible for implementing and controlling adequate security measures, such as firewalls, antivirus software, and access control.
2. The client declares not to be a provider of an essential service nor a provider of another service whose continuity is of vital importance to society.
3. Unless explicitly agreed otherwise, Progmatic's delivery or service does not aim to comply with the requirements of the WBNI (Network and Information Systems Security Act).
4. Progmatic advises the client to periodically perform audits to check the security of the systems and to take out insurance that covers damage caused by cyber-attacks.

Article 8. Prices

1. The prices used by Progmatic are in Euros (€), excluding VAT and excluding any other levies imposed by the government unless otherwise agreed in writing.
2. Other prices or different pricing arrangements may apply if expressly agreed upon in writing between the parties.
3. If an agreement has already been concluded between the parties, Progmatic is still entitled to change its prices. Such a price change gives the client the right to terminate the agreement with Progmatic.

Article 9. Payment

1. Progmatic applies a payment term of 30 days after the invoice date unless otherwise agreed in writing.
2. Payment by the client is only deemed to have been made when the amount due has been credited to Progmatic's bank account.
3. Progmatic is entitled, before proceeding with (further) execution of the assignment, to require advance payment or adequate security from the client, up to the amount that Progmatic is owed or will receive from the client.
4. If the client fails to meet their payment obligation on time, the client is in default after being given notice of default by Progmatic, and Progmatic is entitled to charge statutory commercial interest and extrajudicial collection costs on the outstanding amount. This is in addition to all other costs that Progmatic will be forced to incur to get the client to pay.
5. Any amount that Progmatic receives from the client will first be used to fulfill all possibly due interest and costs, and then always to fulfill the oldest outstanding invoice.

Article 10. Ownership

1. Unless otherwise agreed in writing, the equipment, information carriers, and materials made available to the client in connection with the execution of the assignment remain the property of Progmatic.
2. Items delivered by Progmatic to the client remain property of Progmatic until the client has paid Progmatic all amounts due, including non-collectible amounts.
3. Progmatic reserves all industrial and intellectual property rights with regard to materials provided by it and the inventions, drawings, models, and copyrighted works contained therein. Rights to inventions and know-how, even if acquired during the performance of work for the client, always remain the property of Progmatic. Material, information carriers, systems, models, diagrams, documentation, work instructions, and paper made available to the client together with equipment and software developed for the client only become the property of the client if agreed in writing by the parties.

Article 11. Usage Right

1. The client obtains the usage right of the software after the client has paid the amounts due to Progmatic.
2. The software remains, unless otherwise agreed, under all circumstances the inalienable property of Progmatic.
3. The usage right is not exclusively granted to the client.
4. The client is not permitted to make or have made copies of the software, including related materials and/or user manuals. Nor is the client permitted to provide the software to third parties or have third parties make changes to the software.

Article 12. Suspension, dissolution, and interim termination of the agreement

1. Progmatic is entitled to suspend compliance with its obligations or to dissolve the agreement if:
 - The client does not fulfill the obligations of the agreement, does not fulfill them fully, or does not fulfill them on time;
 - Circumstances that have come to the attention of Progmatic after concluding the agreement give good reason to fear that the client will not fulfill the obligations;
 - If due to delay on the part of the client, Progmatic can no longer be expected to comply with the agreement under the originally agreed conditions.
2. If the agreement is dissolved, Progmatic's claims against the client are immediately due and payable. If Progmatic suspends compliance with its obligations, it retains its claims under the law and agreement.
3. If Progmatic proceeds with suspension or dissolution, it is in no way liable for compensation of damages and costs.
4. In the event of liquidation, (application for) suspension of payments, or bankruptcy, seizure at the client's expense, debt restructuring, or another circumstance that prevents the client from freely disposing of its assets, Progmatic is free to terminate the agreement with immediate effect or to cancel the offer/agreement without any obligation on its part to pay any compensation or indemnification. The claims of Progmatic on the client are then immediately due and payable.

5. If the client cancels the agreement in whole or in part, the work already performed or advice provided prior to the cancellation, plus any additional costs incurred, will be charged to the client in full.

Article 13. Warranty

1. Progmatic guarantees the soundness of the products and services provided by it after they have been accepted and approved by the client. If, within the agreed warranty period, a defect occurs as a direct result of the use of poor material, it will be repaired free of charge under the warranty.
2. If Progmatic provides a warranty, the client is obliged to cooperate fully to allow Progmatic to repair the defect. Cooperation includes, among other things, performing simple replacement work, providing access to, or making the installation available.
3. The warranty period starts after the (partial) installation is put into operation, a delivery inspection has taken place, or the hardware has been delivered. The warranty period is always one year after the start, unless otherwise agreed in writing.
4. The following items are excluded from the warranty: transport costs, travel and accommodation costs, inspections, advice, inspections, and validation costs.

No warranty is provided:

- When changes are made to the products and/or services provided by Progmatic other than by Progmatic itself or without the written consent of Progmatic;
 - On software that has not been developed by Progmatic but purchased by Progmatic. In that case, the warranty conditions of the supplier/manufacturer of this software apply. This mainly concerns operating systems such as Windows and SCADA packages. Updating these packages and providing services are in accordance with the license agreements of the respective supplier/manufacturer of this software;
 - On materials not supplied by Progmatic;
 - For damage due to incorrect use, overvoltage, and/or improper use. Progmatic is entitled to charge the costs of detecting and repairing defects that are not covered by the warranty under this provision to the client at the applicable rates;
 - When the operating or maintenance instructions are not observed or if the delivered product is used in a manner other than normal use;
 - In case of normal wear and tear or aging;
 - In case of assembly, installation, or repair by the client or third parties without the written consent of Progmatic;
 - If the client obliges Progmatic to use materials without Progmatic supporting this choice;
 - On materials, items, methods, and constructions provided by the client or third parties.
5. Indirect damage such as consequential damage, business damage, production loss, loss of turnover or profit, or depreciation or loss of products, as well as amounts that would be included in execution costs, are not covered by the warranty and will not be compensated by Progmatic.
 6. The client must develop an acceptance test for client-specific software and internet applications to check the correct operation. Progmatic accepts no liability for defects and/or imperfections in the developed software, insofar as these have not come to light during the acceptance test. Progmatic will be given sufficient time to correct errors found during the acceptance test.
 7. The presence of errors (bugs) in client-specific software that does not hinder the functionality of the software never gives the client the right to reject the software in whole or in part. Progmatic will remedy these, if possible, in a subsequent version of the software or, in the case of third-party purchased software, will encourage the manufacturer to remedy the errors in a subsequent version of the software.
 8. Progmatic does not guarantee that the software will function without interruption(s). Any repair is performed free of charge within the warranty period when the work has been contracted at a fixed price. When work has been carried out on a time-and-materials basis, the repair will be carried out at the applicable rates.
 9. Progmatic is never obliged to restore mutilated or lost data.
 10. Progmatic does not guarantee that the website or application software it developed works properly in combination with all types or new versions of web browsers and any other software or equipment.
 11. If the client does not, not properly, or not timely fulfill any obligation arising from the agreement concluded with Progmatic or a related agreement, Progmatic is not obliged to fulfill any warranty obligation with regard to these agreements.
 12. If Progmatic replaces parts to meet warranty obligations, the replaced parts become the property of Progmatic if desired.

13. If there is good reason to fear that the client is unable or unwilling to fulfill their contractual obligations to Progmatic, as well as in the event of bankruptcy, suspension of payments, closure, liquidation, or complete or partial transfer of the client's company, Progmatic is entitled to demand appropriate security for all contractual obligations of the client and, pending this, to suspend warranty obligations.

Article 14. Liability

1. For all direct damage of the client caused by a demonstrable attributable non-, late, or improper fulfillment of the assignment, Progmatic's liability is limited to the amount that is paid out for the relevant case under Progmatic's liability insurance, plus the deductible that Progmatic must bear under these insurances. If, for any reason, Progmatic's liability insurance decides not to pay, Progmatic's liability is limited to the invoice amount for the products and/or services provided belonging to the project for which Progmatic has been held liable by the client, with a maximum total of 50,000 euros.
2. Progmatic is not liable for damage of any kind arising because Progmatic relied on incorrect and/or incomplete information provided by or on behalf of the client.
3. Progmatic is never liable for indirect damage, including consequential damage, lost profits, missed savings, and damage due to business stagnation.
4. The condition for the creation of any right to compensation is always that the client reports the damage to Progmatic in writing as soon as possible after it occurs. Any claim for compensation expires simply by the lapse of 6 months after the claim arose unless the client has instituted legal proceedings for compensation before that period has expired.
5. The client indemnifies Progmatic against claims from third parties for damage caused because the client has provided incorrect or incomplete information to Progmatic.

Article 15. Force Majeure

1. In these general terms and conditions, force majeure means, in addition to what is understood by law and jurisprudence in this regard, all external causes, whether foreseen or not, over which Progmatic cannot exercise influence, but as a result of which Progmatic is unable to fulfill its obligations.
2. If Progmatic cannot, cannot timely, or cannot properly fulfill its obligations under the agreement as a result of a cause not attributable to Progmatic, including but not limited to stagnation in the regular course of business within its company, those obligations are suspended until the moment that Progmatic is still able to fulfill them in the agreed manner.
3. During the period that force majeure continues, the parties may suspend the obligations under the agreement. If this period lasts longer than two months, either party is entitled to dissolve the agreement, without any obligation to compensate the other party for damage.
4. Obligations that have already been partially fulfilled by Progmatic at the time force majeure occurs will be charged by Progmatic to the client. The client is obliged to pay this declaration as if it were a separate agreement between the parties.

Article 16. Information and Processing of Personal Data (GDPR)

1. The client provides Progmatic with all information that the client reasonably knows or should know is important for the proper execution of the assignment by Progmatic, as well as the information that is considered necessary by Progmatic and requested by Progmatic for the work to be performed by Progmatic.
2. If certain data - which are important or necessary for performing the service(s) - change, the client will inform Progmatic.
3. Progmatic and the client guarantee that all information received from the other party before and after entering into the agreement will remain confidential unless otherwise agreed in writing.
4. Progmatic and the client guarantee that all legal requirements concerning the data to be processed, in particular the requirements set by or pursuant to the GDPR or any replacement legislation, will be strictly observed and that all prescribed notifications have been made. The client, as the controller, is responsible for notifying data processing and indemnifies Progmatic as the processor against any form of liability.

Article 17. Transfer of Rights and Obligations

1. The client is not entitled to transfer its rights and obligations under the agreement with Progmatic in whole or in part to a third party without prior written consent from Progmatic.



Article 18. Null/Voidable Provisions

1. If one or more provisions in these general terms and conditions are proven to be wholly or partially null and void or are annulled, the remaining provisions of these general terms and conditions shall remain in full force and effect. In such cases, Progmatic and the client will enter into consultation to agree on new provisions to replace the null and void or annulled provisions, taking into account as much as possible the purpose and intent of the original provisions.

Article 19. Applicable Law and Disputes

1. All legal relationships to which Progmatic is a party are exclusively governed by Dutch law.
2. The Zeeland West-Brabant District Court has exclusive jurisdiction to hear any disputes between Progmatic and the client unless the law prescribes otherwise.
3. Parties will only appeal to the court after they have made every effort to resolve a dispute by mutual agreement.

Article 20. Location and Amendment of Terms and Conditions

1. The general terms and conditions of Progmatic are filed with the Chamber of Commerce in Breda and can also be consulted at www.progmatic.nl.
2. The latest filed version or the version that applied at the time of the conclusion of the agreement with the client
3. In the event of any inconsistencies or differences in interpretation between the Dutch version and the English translation of these terms and conditions, the Dutch version shall prevail.