

**General Terms and Conditions**  
of  
**Altronic, LLC**  
**(A member of the HOERBIGER Group)**  
for  
**Product Deliveries and Services**

**Version valid as of June 1, 2021**

**1. GENERAL**

These General Terms and Conditions apply to all purchases of Products from Altronic LLC and to any Services performed by Altronic. They shall form an integral part of the Agreement entered into with the Buyer. All quotations and order acknowledgements made by Altronic shall be deemed to incorporate these General Terms and Conditions by reference. All orders shall be deemed to be an offer by the Buyer to purchase the Products and/or the Services pursuant to these General Terms and Conditions. Acceptance of the Products delivered and/or Services performed shall be deemed conclusive evidence of the Buyer's acceptance of these General Terms and Conditions.

These General Terms and Conditions, as amended or supplemented from time to time, shall also apply to any product supplied in the frame of the Services and to any subsequent services regardless of any agreement or explicit provision with respect to their applicability to such subsequent services. References by the Buyer to terms and conditions of the Buyer shall be deemed not made. Such references shall not have any effect on the applicability of these General Terms and Conditions. Diverging provisions shall only be applicable if agreed between the Buyer and Altronic in writing.

**2. DEFINITIONS**

**Altronic:** ALTRONIC, LLC (A member of the HOERBIGER Group) (designated in the Agreement as contracting party) supplying Products and/or performing Services under these General Terms and Conditions.

**Buyer:** The company (designated in the Agreement) for whom Altronic, LLC supplies Products and/or performs Services.

**Agreement:** Mutual agreement between Altronic and the Buyer in any written form on which the deliveries/Services of Altronic are based. Unless expressly otherwise provided herein, in the case of contradiction between the Agreement and these General Terms and Conditions, the Agreement shall prevail, except that the arbitration provisions in Paragraph 29 shall not be superseded or abrogated by any subsequent Agreement between Altronic and Buyer.

**Product:** The object(s) to be supplied by Altronic under these General Terms and Conditions.

**Service(s):** Service(s) for hire to be performed by Altronic under these General Terms and Conditions. Herein after referred to as Services or Service

**Acceptance Tests:** Tests which are carried out before delivery in order to ensure that the Product is in compliance with the Agreement or with any requirements agreed in writing by Altronic and the Buyer

**Equipment:** Such plant, machinery or parts of plant or machinery on which or with respect to which the delivered Products shall be installed and/or Altronic shall perform the Services.

**Location:** Such place on which the Equipment of the Buyer (as stated in the Agreement) is located and where the Products shall be used and/or the Services shall be performed.

**PROVISIONS FOR PRODUCT DELIVERIES**

**3. PRODUCT INFORMATION**

All information and data contained in general Product documentation and price lists, whether in electronic or any other form, are binding only to the extent, that they are by reference expressly included in the Agreement.

2. In support of installation, operation, and maintenance of the Products, Altronic shall provide the Buyer with free of charge information and drawings.
3. Such information and drawings shall be supplied in the number of copies agreed upon or at least one copy of each. Altronic shall not be obliged to provide manufacturing drawings for the Products or for spare parts.

**4. DRAWINGS AND DESCRIPTIONS**

1. All drawings and technical documents relating to the Products or manufacture submitted by Altronic to the Buyer, prior or subsequent to the formation of the Agreement, shall remain the property of Altronic. Drawings, technical documents, or other technical information received by the Buyer shall not, without the consent of Altronic, be used for any other purpose than that for which they were provided. They may not, without the written consent of Altronic, otherwise be used or copied, reproduced, transmitted, or communicated to a third party.

**5. ACCEPTANCE TESTS**

1. Acceptance tests will be carried out only if explicitly agreed in the Agreement.
2. Acceptance tests provided for in the Agreement shall, unless otherwise agreed, be carried out in conformity with the norms of Altronic, at the Place of Manufacture during normal business hours. If the Agreement provides for the quality specifications of the Buyer to be applicable, the Acceptance Test shall be done in conformity with the regulations set forth in the Agreement; or where applicable or agreed, in conformity with the norms of qualified suppliers, and in the absence of such norms, in accordance with applicable international norms which reflect the recognized international state of the art technology.
3. Altronic shall notify the Buyer in writing of the Acceptance Tests in due time to permit the Buyer to be present or to

arrange for a representative. If the Buyer is not present or represented, the test report, and other documented evidence of conformity for Altronic, shall be sent to the Buyer.

4. If the Acceptance Tests show the Products not to be in accordance with the Agreement, Altronic shall remedy any deficiencies in order to ensure that the Product complies with the Agreement. New tests shall then be carried out at Buyer's request, unless the deficiency does not impact the performance and/or safety of the Product.
5. Unless otherwise agreed in the Agreement, the Buyer shall bear all costs for Acceptance Tests carried out at the Place of Manufacture. The Buyer shall also bear all travelling and living expenses for him or his representative.

#### **6. DELIVERY, PASSING OF RISK**

1. Any agreed trade term shall be construed in accordance with the INCOTERMS 2010. If no trade term is specifically agreed, the delivery shall be FCA.
2. Transport insurance coverage shall only be provided by Altronic upon explicit request by the Buyer and at the Buyer's cost.
3. Partial shipments shall be permitted unless otherwise agreed.

#### **7. ORDERS**

1. Altronic shall not be obliged with respect to any order of Products by the Buyer until accepted in writing by Altronic.
2. Once accepted by Altronic, orders placed cannot be cancelled or modified by the Buyer without Altronic's written consent.

#### **8. EXPORT CONTROL**

1. The Products may be subject to export and re-export restrictions under the laws of the United States or other countries. Any export, re-export or re-transfer may require the approval of the respective government.
2. If the Buyer transfers the products (regardless of the mode of provision) to a third party, the Buyer shall comply with all applicable national and international (re-)export control laws, orders, and regulations. The Buyer shall obtain any necessary governmental export permits or similar authorizations which may be required.
3. Prior to any transfer to a third party of the Products, the Buyer shall without limitation check and guarantee by appropriate measures that such transfer does not violate embargoes or restrictions on trade with some countries, entities, persons, and organizations. The Buyer shall check and guarantee that the products are not used in activities that involve the development, production, use or stockpiling of nuclear activities of any kind, chemical or biological weapons or missiles, unmanned aerial vehicles, or microprocessors for military use, nor will use the Products in any facilities that are engaged in activities relating to such weapons or applications without prior government authorization.
4. If required to enable authorities or Altronic to conduct export control checks, the Buyer, upon request by Altronic, shall promptly provide Altronic with all information pertaining to the particular end customer, the particular destination and the particular intended use of the products.
5. The Buyer shall indemnify and hold harmless Altronic from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with (re-)export control laws, order or regulations, embargoes, and/or governmental export permit laws by the Buyer, and the Buyer shall compensate Altronic for all losses (whether direct or indirect) and expenses resulting thereof, including attorneys' fees and litigation costs.

### **PROVISIONS FOR SERVICES**

#### **9. SCOPE OF Services**

1. Services shall include, but not necessarily be limited to, installation, commissioning, troubleshooting, training, etc. directly related to Altronic Products.
2. Unless otherwise agreed, the Services shall be carried out during Altronic's normal business hours.

#### **10. ALTERATIONS TO THE EQUIPMENT**

1. The Buyer is required to immediately notify Altronic of any changes in the Location of the Equipment, any changes of the required intervention or required time, to the extent such circumstances are relevant to the performance of the Agreement. Any agreed fees affected by these changes shall be re-determined by Altronic in accordance with the affected changes.
2. The Buyer shall without undue delay inform Altronic by notice in writing of any alterations concerning the Equipment or its operation or other measures taken by the Buyer which may affect Altronic's obligations under the Agreement. If such alterations or measures seriously affect Altronic's obligations, and if the parties fail to agree on how to amend the Agreement in respect thereof, Altronic may, with immediate effect, terminate the Agreement by notice in writing to the Buyer. Altronic shall in case of such termination also be entitled to compensation for increased costs resulting from Services performed and/or Products delivered.

#### **11. HEALTH AND SAFETY**

1. The Buyer shall ensure that the Services is not carried out under dangerous or unhealthy conditions and shall take all necessary measures to protect Altronic's personnel from exposure to any safety or health hazard. Moreover, the Buyer shall ensure that Altronic's personnel are informed of any safety regulations in force at the place where the Maintenance is carried out.
2. Altronic is entitled but not required to communicate to the Buyer suggestions with respect to the security of the Equipment and the operation thereof.
3. Altronic is entitled to interrupt the performance of the Agreement if he is of the opinion that the security conditions at the Location required for the performance of the Agreement are not sufficiently provided and/or guaranteed by the Buyer, and Altronic shall in such case be entitled to withdraw his personnel affected thereby or his entire personnel from the Location. The Buyer shall be liable for all resulting detriments and disadvantages and shall indemnify and hold harmless Altronic from and against any claim, suit or proceeding for damages resulting from such dangerous and/or unhealthy conditions of the Location.
4. At all times during the Services work, the Buyer shall ensure that a qualified operator representative of the Equipment owner or operating entity is present at all times and shall bear full responsibility for machine operation and safety.
5. The Buyer agrees to indemnify and hold harmless Altronic for any damage to the Equipment or to injury to personnel during the performance of the Services other than damage directly related to the Altronic Products directly impacted by the Services work.

## **JOINT PROVISIONS**

### **12. PAYMENT, DELAY OF PAYMENT**

1. Unless expressly otherwise stipulated in the Agreement, all fees and prices are in US Dollars, and the offers, prices, and fees of Altronic are without engagement.
2. Payment shall be made against invoice no later than 30 days after invoice date. Whatever means of payment used, payment shall not be deemed to have been effective before Altronic's account has been fully irrevocably credited.
3. Upon a payment default by the Buyer in the form of non-payment, incomplete payment or late payment, Altronic shall be entitled to interrupt the delivery of the Products and/or the performance of the Services. Any applicable time periods for the delivery of the Products or the provision of the Services by Altronic shall be extended by the duration of the interruption and until current payment is made as well as by an appropriate time period for the preparation of the continuation of the services. Any additional costs arising in connection with such interruption shall be borne by the Buyer.
4. Furthermore, Altronic is entitled to interest for default from the due payment date. Unless otherwise agreed, the rate of interest shall be seven (7) percentage points above the on due date defined base rate, which shall be defined as the Wall Street Journal prime rate.
5. If the default is not remedied by the Buyer within the period set by Altronic, Altronic shall be entitled to immediately rescind the Agreement. Altronic shall in this case be due the entire consideration as well as compensation for any direct, actual, incidental, and/or consequential losses incurred, less any non-incurred expenses.
6. In each of the above cases, the Buyer shall be liable for any damages incurred by Altronic as a result of the payment default.

### **13. WARRANTY**

Altronic LLC limited warranty can be obtained from **FORM W-AS 6-21**, or its latest version, from Altronic website at [www.altronic-llc.com](http://www.altronic-llc.com) or by contacting Altronic directly.

### **14. DELAYS FOR WHICH ALTRONIC SHALL NOT BE HELD LIABLE**

1. Unless expressly otherwise stipulated in the Agreement, delivery dates and/or dates for the fulfilment of the Services specified by Altronic are estimates only.
2. Altronic shall not be liable for delayed, interrupted Products deliveries or provision of the Services or otherwise delayed performance or partial or total non-fulfilment of the Agreement to the extent such delay or partial or total non-fulfilment is due to reasons which shall not be ascribed to Altronic, such as, without limitation:
  - Force majeure (see Section 19).
  - Acts or omissions of the Buyer that impede Altronic's delivery of the Products and/or performance of the Services.
3. Altronic shall also notify the Buyer within appropriate time periods of any circumstances which will lead to a delay or interruption of the Product deliveries and/or of the performance of the Services.
4. Altronic shall be entitled to an adequate adjustment of prices for any delays that are not the fault of Altronic. Any further additional costs shall be borne by the Buyer.
5. Altronic shall be entitled to rescind the Agreement if services to be performed or parts to be provided by the Buyer have not been delivered or performed within a reasonable time period necessary to allow for the delivery of the Products and/or timely performance of the services.
6. In the event that any delays or interruption of the performance of the Agreement, for which Altronic is not at fault, is not remedied within 120 days each of the parties shall be entitled to rescind the Agreement, provided that the Buyer shall only be entitled to rescind the Agreement if he is not at fault for the delay. In such case, Altronic shall be compensated for any Products already delivered and

Services already performed by Altronic shall be remunerated and all expenses incurred in connection hereto shall be reimbursed to Altronic by the Buyer.

7. Except as specified in this Section the Buyer shall not be entitled to any compensation for Altronic's delay.

### **15. NO RIGHT TO SET-OFF**

Any set-off against accounts receivable of Altronic for monies owed by Buyer pursuant to the Agreement as well as the withholding of services by the Buyer in connection with disputes against Altronic shall be prohibited.

### **16. RETENTION OF TITLE**

Altronic shall have a lien and right of first priority with respect to any Product delivered to Buyer until full payment for said Product is made to Altronic. Nothing in this Section shall affect the parties' rights and obligations under Section 6 of these General Terms and Conditions.

### **17. INSURANCE**

Altronic has entered into a factory insurance and product liability insurance policy covering the usual risks and undertakes to maintain this insurance coverage throughout the performance of the Agreement. In excess thereof, Altronic shall only enter into or maintain any further insurance as agreed in the Agreement.

### **18. LIMITATION OF LIABILITY**

Notwithstanding the provisions of Section 15, the following shall apply.

1. A The liability of Altronic shall be limited to the Products deliveries/Services agreed in the Agreement. Services outside of the Agreement provided in connection with the performance of the Agreement shall not give rise to any liability of Altronic.
2. Altronic shall not be liable for defects in the Equipment, which were not readily discoverable, and which arose in connection with the provision of Services by Altronic or with the use of the delivered Products.
3. Altronic shall not be liable for parts or services provided by the Buyer or any third party. Altronic shall not be required to examine such parts or services.
4. Altronic shall not be liable for the acts and/or omissions of personnel provided by the Buyer, regardless of the use of the Buyer's personnel together with Altronic's personnel.
5. In no event shall Altronic be liable for any indirect, special, incidental or consequential damages or losses arising out of or in connection with any failure to perform obligations under these General Terms of Conditions and/or the Agreement or for any negligent or tortious act. Indirect, special, incidental or consequences damages or losses as defined in this Section and in Section 15, includes in particular, without limitation, the exclusion of liability for lost profit or revenue, financial loss, production stop, restriction of the use of the Equipment or parts of the Equipment or other installations of the Buyer, costs of eventual replacements or other substitutions, costs of energy supply etc.

### **19. FORCE MAJEURE**

1. Either party shall be entitled to suspend performance of its obligations under this Agreement, if impeded by force majeure. The same applies to unforeseeable events which impedes or excessively hampers the fulfilment of the obligations under the Agreement, which value for force majeure and for which the Party is not to be held liable. Such circumstances include, without limitation, interruption of operations, strike, official order, war, military mobilization, requisition, riots and insurrection, the cessation of import or export possibilities include embargo, acts of God, restrictions in the use of power as well as defects or delays in deliveries or work by sub-contractors caused by any such circumstances referred to in this Section.

2. A circumstance referred to in this Section, occurring after the formation of the Agreement, shall give a right to suspension only if this effect on the performance of the Agreement could not be foreseen at the time of conclusion of the Agreement.
3. Regardless of what might otherwise result from these General Terms and Conditions, either party shall be entitled to terminate the Agreement by notice in writing to the other party, if performance of the Agreement is suspended for reasons mentioned under this Section for more than 120 days.

**20. INDEMNIFICATION FOR THIRD-PARTY CLAIMS FOR BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, AND PRODUCT LIABILITY**

1. The Buyer shall, at all times during and after the term of this Agreement, indemnify, defend, and hold harmless Altronic from and against any and all losses, claims, suits, proceedings, expenses, recoveries, and damages, including attorneys' fees and costs, arising out of any claim by a third party relating to any aspect of the performance of this Agreement, to the extent such liability results from the negligence or willful misconduct of the Buyer, any defect in the Product and/or failure to warn caused and/or aggravated by the Buyer, or any breach of a contractual obligation, representation, or warranty made by the Buyer.
2. Each party shall maintain a comprehensive product liability insurance policy with respect to the Products, in an amount of \$ 1.000.000 per occurrence with a deductible of not more than \$ 50.000. Each party shall promptly provide the other party with a certificate from the applicable insurance company verifying the above. Each party shall notify the other party at least thirty (30) days prior to the expiration or termination of such coverage.

**21. NON-EXCLUSIVE DISTRIBUTION**

It is understood that the Products and Services are non-exclusive to the Buyer, and Altronic has the right to market and sell its Products and provide its Services to businesses other than the Buyer, even if said business is a competitor of the Buyer. Buyer's decision to devote all or some of its business efforts to the Products or Services of Altronic is solely in the discretion of the Buyer.

**22. MARKETING PRACTICES**

The Buyer will at all times perform in a professional manner hereunder and in accordance with this Agreement and any guidelines issued by Altronic. The Buyer shall: (a) conduct business in a manner that reflects favorably at all times on the Products and the good name, goodwill and reputation of Altronic; (b) avoid deceptive, misleading or unethical practices that are or might be detrimental to Altronic, including but not limited to disparagement of Altronic or its Products/Services; and (c) make no false or misleading representation with respect to Altronic or its Products/Services.

**23. TERMINATION**

1. Notwithstanding anything in these General Terms and Conditions that may be interpreted to the contrary, Altronic may terminate its Agreement with the Buyer without cause and without liability upon 30 days' prior written notice to the Buyer.
2. The Buyer acknowledges and agrees that Altronic is not responsible for the Buyer's dependence on revenues hereunder, and the Buyer agrees to release, hold harmless and indemnify Altronic from any and all claims and liabilities relating to the Buyer's revenues, financial forecasts or economic value that may result from any termination by Altronic of its Agreement with the Buyer.
3. Termination of this Agreement will not relieve either party from its obligations arising hereunder prior to such expiration or termination. Rights and obligations that, by

their nature, should survive will remain in effect after termination of the Agreement between Altronic and Buyer.

**24. CONFIDENTIAL INFORMATION**

1. Confidential Information provided by Altronic and the Buyer to each other shall be clearly labelled, stamped, provided with a sign or otherwise evidenced in writing as confidential.
2. In addition to the provisions of 25.1, Altronic and the Buyer agree to treat all information received directly or indirectly from the other party as confidential and to only use such Confidential Information in connection with the performance of the Agreement only. The parties agree not to disclose or provide access to such information to third parties in any form. For the purposes of these General Terms and Conditions, third parties shall be deemed to include any person or entity other than corporate affiliates of the Buyer or Altronic.
3. Confidential Information pursuant to 25.2 shall include but is not limited to:
  - know-how and results of internal processes, organizations, etc. of the Buyer or Altronic achieved or used in connection with the performance of the Agreement.
  - description of the performance of the Agreement, timetables, goals and ideas for the performance of the Agreement.
  - any other not publicly available information which is obtained by either party from the other party in connection with the performance of the Agreement.
4. The provisions regarding the Confidential information shall apply to all employees and agents of the parties regardless of the type and legal form of employment or agency. The parties agree to ensure that these persons shall be subject to appropriate confidentiality agreements.
5. The confidentiality provisions shall not apply to the extent that the relevant information is or has become publicly known through no fault of the receiving party, has been legally obtained from a third party, and/or is already known and available to the receiving party at the time the information is provided.

**25. COMPLIANCE**

1. The Buyer warrants that it will comply with all applicable laws, regulations and other legal requirements regarding the export, import, sale, distribution, marketing and service of the Products and/or Services, including without limitation with the anticorruption laws and anti-bribery laws of any country having jurisdiction over the Buyer or the transaction involving the Products or the Services.
2. The Buyer shall not, whether passively or actively, directly or indirectly commit an act which in particular could lead to sanctions for corruption, undue advantage, fraud, infringement of competitions law or insolvency. In the event that the provisions of Section 26 are violated, Altronic shall have the right to immediately terminate the Agreement as well as all other agreements, orders or otherwise business relationship with the Buyer, and the Buyer shall indemnify and hold harmless Altronic from any claim, suit or proceeding resulting from Buyer's conduct that violates this Section, and Altronic shall be entitled to any other remedy, whether legal or equitable, for said violation, including injunctive relief.

**26. WRITTEN FORM**

Contractual communications, in particular regarding the performance of contractual services and/or notification of defects, damage claims, and notifications in accordance with contractual or legal requirements shall be made in writing.

## **27. APPLICABLE LAW**

Except to the extent otherwise agreed in the Agreement, the contractual relationship between the parties shall be exclusively governed by the laws of the State of Ohio, except for reference norms of these laws and the provisions of the United Nations Convention on Contracts for the International Sale of Goods.

## **28. ARBITRAL JURISDICTION**

1. Any and all disputes arising out of, relating to, or in connection with the Agreement and/or these General Terms and Conditions shall be submitted to arbitration and settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said rules.
2. Arbitration proceedings shall be conducted within the State of Ohio.

## **29. COURT OF JURISDICTION**

Unless the Agreement excludes the application of the rules of arbitration, or for whatever reasons Section 29 cannot be applied, any legal action brought under, or in connection with, the Agreement or these General Terms and Conditions shall be brought only in the United States District Court for the Northern District of Ohio, Youngstown Division, or, if such court would not have jurisdiction over the matter, then only in a court sitting in Mahoning County, Ohio.