

# **ALTRA INDUSTRIAL MOTION DO BRASIL EQUIPAMENTOS INDUSTRIAIS LTDA**

## **General Supply Terms**

Rev. 12/31/18

### **1. DEFINITIONS**

"Seller":	Altra Industrial Motion do Brasil Equipamentos Industriais Ltda.
"Buyer":	The party that hires the Seller for the purchase of the Goods.
"Contract":	These General Supply Terms ("General Terms"), any contract issued by the Seller (including any quote or acknowledgment) and any commercial or technical specifications and conditions expressly agreed upon by the Seller in writing.
"Goods":	All or any part of the products, goods, work, equipment and services to be provided by the Seller under the terms of the Contract.

### **2. CONTRACT TERMS**

These Conditions shall apply to all quotes, offers and proposals are subject to these General Terms, and the "Acceptance" of the Contract must be subject to these General Terms. The Buyer shall be deemed to have accepted the Contract, including these General Terms, by communicating its purchase order number to the Seller by telephone, electronic communication or other means, sending their purchase order to the Seller by fax, electronic communication, letter or other means, or performing any other act indicating acceptance. The Seller will send an acknowledgment request to the Buyer, or other written communication confirming the Buyer's acceptance of these items. Any different or additional terms and conditions must be proposed by the Buyer prior to Acceptance, as defined above, and expressly agreed to by the Seller in writing. Any different or additional terms and conditions not provided by the Buyer to the Seller prior to Acceptance, and which were not expressly agreed to by the Buyer in writing, must be deemed to be expressly rejected and will not be part of the Contract.

These General Terms are created by the Seller to be an integral part of any offer, counter-offer or acceptance addressed to the Buyer. Upon Acceptance, the Contract shall constitute the final written expression of the entire agreement between the Buyer and Seller. All prior, current, or subsequent representations, negotiations or agreements, whether written or oral, including but not limited to any terms and conditions sent by the Buyer, shall have no legal effects and shall not become a part of the Contract unless expressly agreed to in writing by the Company and which form an integral part of this instrument. No statement or recommendation made or assistance offered by the Seller or its representatives constitute termination of any part of these General Terms, change the Seller's responsibility or constitute any warranty.

### **3. ORDER**

All orders are subject to acceptance and approval by the Seller's credit department. All orders must show the final prices, delivery dates, exact quantities, complete product description, and when acknowledged by the Seller in writing, will be considered full commitments. All modifications for an order requested by the Buyer shall be in writing, and the price must be agreed upon prior to the Seller carrying out any additional work. If the Seller agrees to make any modifications in accordance with this term, any dates cited for delivery or termination must be appropriately extended.

### **4. PRICE**

All quoted prices are subject to change without prior notice and at any time prior to Buyer's Acceptance. When the cost of raw materials and/or components increases due to unforeseen circumstances or any other event and/or (ii) a seller increases its prices or imposes a surcharge on the Seller, it reserves the right to increase the prices and/or charge a surcharge on the Buyer, and the Buyer agrees to accept such increase of price or surcharge until the term of such price increases or the surcharge ends or until the Contract ends. Such prices and surcharges may be adjusted by the Seller to reflect the change in basic costs. In the event of any delay in the transportation of any order due to any change requested by the Buyer, or as a result of any delay by the Buyer in providing the information requested to complete the order, the price agreed upon up to the time of Acceptance shall be subject to change. Except as expressly defined in the Seller's quote or unless otherwise agreed to by all parties in writing, prices are exclusive of all federal, state, or local taxes (including, without limitation, sales, use, tax, manufacturing, receipts, gross income, occupancy, goods and services, value added, exports and similar taxes). Any sales or other tax or customs tax that the Seller may request in order to collect or make payment at the time of sale of the quoted Goods will be added to the quoted price. If such an amount is not included in the bill for the Goods, it may be invoiced separately afterwards. Unless specifically included in the price, the cost of any requested operation and/or linked payment will be added to the price. The prices contained in the quote refer to the purchase of all items in a single purchase order. In the event of technical changes, the Seller reserves the right to revise the commercial terms to be agreed upon in a contract amendment.

### **5. TERMS OF PAYMENT**

Except as otherwise agreed in writing by the parties, all invoices may be paid within thirty (30) days from the date of receipt of a valid invoice. When the Goods are delivered in stages, the Seller may invoice each stage separately, and the Buyer must pay such invoices in accordance with this instrument. Unpaid invoices in accordance with the terms are subject to interest charges, with a rate of three percent (3.0%) per month, except if prohibited by applicable law, in which subsequent invoices will be subject to interest charges at the maximum legal rate. No dispute over the Contract or delays beyond the Seller's control shall interfere with the Buyer's immediate and complete payment for any invoice. The date and payment terms are essential to this Instrument, and if Buyer fails to comply with any of these points, or if the Buyer's financial liability is impaired or becomes unsatisfactory to the Seller, the Seller shall have the right to terminate services without prior notice, or postpone or discontinue other transportation in accordance with this instrument, until the late payments are made, or a satisfactory guarantee of the Buyer's financial liability is received by the Seller (however, no claims or rights in which the Seller may have in a legal or equality action may be impaired). Such right shall continue, independently of any previous failure on the part of the Seller to exercise such right. If the Seller is asked to make any request for collection through a lawyer, the Buyer agrees that all costs, attorney's fees and expenses of this collection shall be added to the amount delivered by the Buyer to the Seller.

### **6. SHIPMENT AND DELIVERY; INSPECTION**

Except as otherwise agreed by the parties, and in writing, all Goods will be shipped to the Seller's premises by EXW (Incoterms 2010), and both the title and the risk of loss (including delays and losses during transportation) shall be passed to the Buyer at the time of delivery by the shipping company, at the unloading point, irrespective of whether the Seller has made advance payment of the freight or not. The Seller reserves the right to prepay the freight and send the invoice to the Buyer to cover costs, including packaging costs. If the Buyer does not specify a shipping company, the Seller shall choose the method of transportation. The term is not of the Contract's essence; all delivery dates are estimates, and the Seller shall not be responsible for any type of delay. The delivery date shall in each case depend upon the immediate receipt of all necessary information, final instructions or approvals by the Buyer.

The Seller will endeavor to comply with the Buyer's requests to postpone delivery but shall have no obligation to do so. When delivery is postponed for reasons other than the Seller's non-compliance or in the event of the Buyer's refusal or inability to accept any transportation in accordance with the timing of any order, the Buyer shall be responsible for freight, express delivery, storage, extra handling costs and all other applicable costs incurred by the Seller due to such postponement, refusal or inability.

All Goods that have been altered or damaged may not be returned except through prior written consent by the Seller. To reject defective Goods during the inspection,

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the Buyer shall notify the Seller in writing and within seven (7) days of the rejection of the Goods. Before accepting or rejecting a claim, the Seller shall have the option to inspect either their facilities or the Buyer's facilities. Defects that do not damage the service will not be grounds for rejection. The Seller shall have the right to replace, within a reasonable period of time, any Goods which it believes are not in accordance with the order. No claims will be permitted for any Goods damaged by the Buyer or during transportation. Costs related to claims for which the Seller has no liability shall be charged to the Buyer. The Seller shall not be responsible for any work performed to correct errors except if such work is authorized in writing by the Seller.

If not previously agreed, the packaging used will be the Seller's design

### **7. TOOLS**

Any equipment (including all templates, matrices and tools) with which the Seller constructs or solicits for use in the production of materials for the Buyer, shall be and shall remain the exclusive property of the Seller and shall remain in its possession and control, and therefore, any expenses must be exclusively for the use of this equipment. The Seller shall endeavor to handle and store any materials or equipment carefully, whether in its possession or provided by the Buyer, but the Seller shall not be liable for damages or losses in accordance with the terms of this instrument. When, for three (3) consecutive years, no order requiring equipment or materials referred to in this paragraph is made, the Seller may dispose of it in any way it deems most convenient, without liability to the Buyer, provided that it sends a notice up to (30) days in advance. The tools required for the construction of standard designs may be quoted separately, as a single charge to the Buyer. Expenses will be invoiced when the manufacturing of the tools has been completed.

### **8. LIMITED WARRANTY; LIMITATION OF LIABILITY**

The Seller guarantees that the Goods are free from defects in the material and are in accordance with the technical standards for a period of eighteen (18) months from the issuance of the Bill of Sale and twelve (12) months of operation (with documentary evidence), whichever occurs first. The Seller's limited warranty excludes remedies for damage or defects caused by abuse, accidents, negligence, carelessness or incompetence; in the event that any corrosive fluid or agent does not resist corrosion or erosion, or due to deposits of foreign materials originating from any fluid; prolonged storage in inadequate places; modifications or repairs not performed by the Seller; improper installation or operation; defects or failures arising out of, and related to, or as a result, either direct or indirect, of the Buyer's failure to advise the Seller properly of all normal and special operating conditions, known to or suspected by the Buyer, when the Seller is manufacturing the Product for a specific operation; or natural wear and tear due to use. All weights specified in the Seller's catalog and listings are approximate and are excluded from this warranty. EXCEPT IF EXPRESSLY SET FORTH IN THIS PARAGRAPH, THE SELLER MAKES NO OTHER WARRANTY TO THE GOODS ISSUED UNDER THE TERMS OF THIS INSTRUMENT, AND EXPRESSLY EXEMPTS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND SUITABILITY FOR A PARTICULAR PURPOSE, WHICH MAY ARISE DUE TO THE APPLICATION OF THE LAW OR OTHERWISE.

In the event of any defect in the Goods, the Seller must be notified in writing and within a short time after the discovery of such defect (within thirty (30) days), and any defective Goods must be delivered within the above warranty period to the Seller's factory, with payment made in advance and with proof that the Goods have been properly installed, maintained and operated, in accordance with the Seller's instructions. If the Seller determines that such returned Goods are not in accordance with the warranty outlined in this instrument, the Seller shall, at its sole discretion and expense, arrange for their repair or replacement.

The Buyer's solutions outlined in this instrument are exclusive and are the Seller's sole responsibility under the terms of this document, whether based on contract, warranty, negligence, indemnity, limited liability or otherwise and shall not exceed the purchase price of the Goods which give rise to any liability claim process. IN NO EVENT SHALL THE SELLER OR ITS SUPPLIERS BE LIABLE FOR THE BUYER, ANY SUCCESSORS OR BENEFICIARIES OF THIS CONTRACT IN THE EVENT OF SPECIAL, INDIRECT OR ACCIDENTAL DAMAGES OR LOSSES, OR IN THE EVENT OF ANY SECONDARY OR ADMINISTRATIVE CHARGES, OR PUNITIVE DAMAGES, PENALTIES, FEES, EXPENSES AND OTHER CHARGES RESULTING FROM THE CONTRACT OR ANY BREACH THEREOF, WHETHER BASED ON LOSS OF USE, LOSS OF PRODUCTION, LOSS OF PROFITS OR INCOME, LOSS OF INTEREST, LOSS OF REPUTATION, INTERRUPTION OF WORK, DAMAGE TO OTHER GOODS, LOSS DUE TO SHUTDOWN OR NON-OPERATION OF THE EQUIPMENT, INCREASE OF OPERATING COSTS OR COMPLAINTS FROM THE BUYER'S CUSTOMERS DUE TO SERVICE INTERRUPTION OR ANY OTHER TYPES OF LOSS OR ECONOMIC DAMAGES, WHETHER THEY ARE OR WHETHER THEY ARE NOT LOSSES OR DAMAGES BASED ON NEGLIGENCE, CONTRACTS, INDEMNITY, LIMITED LIABILITY OR OTHERWISE.

NO RETURNS WILL BE ACCEPTED WITHOUT PREVIOUS FORMAL NOTIFICATION AND THE SELLER'S ACCEPTANCE

### **9. THIRD PARTY RIGHTS**

The Buyer shall bind the subsequent buyers or lessees of the Goods to the terms of the Contract so that the third parties have no rights other than those that the Buyer has with the Seller. The Buyer agrees to notify certain third parties of this provision and to make this a condition for any contract relating to the Goods. When the Seller is subject to any claims, losses, damages or expenses (including attorneys' fees) deriving from the Buyer's failure to comply with the terms of this paragraph, the Buyer shall indemnify and exempt the Seller from all such claims, losses, damages, or expenses (including attorney's fees).

### **10. OWNER INFORMATION; CONFIDENTIALITY**

All designs, models, documents, confidential records, software and other information provided by the Seller are provided under the express understanding that all copyrights and design rights are reserved for the Seller and that the Buyer, without written consent from the SELLER, may not distribute, lend, display or sell these designs, models, documents, confidential records, computer software or other information or extracts or copies thereof and may not use them in any way, except those that are part of the Goods related to the ones that are being issued.

The Buyer must consider all information provided by the Seller, which has not previously been disclosed by the Seller as confidential and shall not make copies or disclose any information to any other person or use such information for commercial purposes or make copies of such information without the Seller's written permission. The Buyer shall not disclose any information related to any order without the Seller's written consent. Except as otherwise agreed by the parties and in writing, no financial, commercial or technical information disclosed by the Buyer to the Seller in any manner or at any time shall be deemed to be secret or confidential, and the Buyer shall have no rights against the Seller in this case.

### **11. MANUALS AND NOTICES**

The Seller's instruction manuals and notices shall be provided to the Buyer, if necessary. The Buyer acknowledges and accepts full responsibility for ensuring that such manuals and notices and all future updates are made available to and used by all users of the Goods; and that these individuals are properly trained to operate the Goods competently and safely. The Buyer accepts full responsibility in making such instruction manuals and notices available to all future buyers of the Goods. The

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Buyer agrees to indemnify and exempt the Seller from any claims, losses, damages or expenses (including attorney's fees) arising out of or in any way connected to the Buyer's liability in the terms of this instrument.

### **12. TERMINATION/CANCELLATION**

Cancellation of orders already made with or accepted by the Seller may be done only with the Seller's consent. If the Buyer expresses the wish to make a cancellation of an accepted order due to any just cause, the Seller will accept such cancellation in accordance with the following terms:

(a) For all goods ready for delivery: The Buyer must make full payment of the purchase line price for all items already completed and ready for delivery; the Buyer make payment of a percentage of the purchase price for items that will not be complete, equivalent to the percentage of completion thereof; and the Buyer must make full payment for all costs of non-usable materials, matrices, tools, models and special accessories provided for the order, and shall have ownership and title to all such items, and shall be liable for all labor or other documented expenses related to these items. A Goods order may not be canceled for less than 100% of the purchase price if it is within thirty (30) days of the end of its manufacture.

(b) For all production Goods for inventory: The Buyer must pay (i) all costs and expenses to keep the canceled Goods in selling condition (restocking charge), (ii) any freight cost received or sent by the Seller related to the delivery and return of such Goods, if applicable, and (iii) all reasonable and necessary expenses incurred by the Seller and which are directly incident to the order up to the date of cancellation.

The invoices that cover these costs must be paid at the time the Seller accepts the cancellation. A request for work stoppage shall be considered a cancellation, and the provisions of this paragraph will be applicable.

### **13. REASONS FOR FORCE MAJEURE**

The Seller shall not be liable for non-delivery or delays in delivery or manufacture caused by reasons beyond its control, including but not limited to strikes, slower pace of labor, employer strikes, fires, floods, riots, disturbances, thefts, accidents, embargoes, export and import restrictions, war or other hostilities, terrorist activity, sabotage, rebellions, revolts or disturbances, natural causes, acts done by public enemies, unusual weather, non-procurement of space for delivery, machinery problems, shipping company delay, transportation interruptions or failures, utilities, computers or communications, delay in obtaining or not obtaining sufficient labor, as well as not obtaining materials, supplies or services, and any legal measure or in accordance with the regulations of any government agency or body, quasi-autonomous Government or supranational organization. In the event of such delays, (1) the time for compliance shall be appropriately extended, (2) the Seller and Buyer shall take legal action to reinstate the term defined in the Contract, and (3) an adjustment shall be made for the payment of additional costs to the Seller. If an event of Force Majeure results in termination of the Contract, the Buyer must reimburse the applicable costs defined in Section 12 above to the Seller.

### **14. GENERAL PROVISIONS**

Any term that is illegal or unenforceable will be eliminated and shall not affect the validity of the Contract in any way. The Seller's non-compliance with any rights or remedies available due to any non-compliance by the Buyer shall not be a waiver and shall not prevent the application of such rights if non-compliance continues to occur in the future. The Contract is entered into in São Paulo, Brazil, and shall be interpreted in accordance with applicable Brazilian laws in São Paulo, with the exclusion of any other legal system. The parties will make every effort possible to resolve any dispute amicably that may arise about the Contract. If no amicable resolution can be obtained related to any dispute, the parties will expressly agree to address themselves to the courts and jurisdiction of the courts of the City of São Paulo to resolve any disputes and explicitly renounce any other court. The Buyer will not be able to transfer the Contract or any order, or any interest, or any right expressed in this instrument without the prior written consent of the Seller. The Seller will have the right to transfer or subcontract all or part of its obligations in the terms of this Contract.

### **15. COMPLIANCE WITH LAWS**

The Buyer agrees to comply with all applicable foreign, local, state and federal laws, as well as statutes, decrees, codes, regulations, international conventions, rules or orders or other requirements of any administrative, regulatory or governmental agency, or authority or court or other court of law to which the Buyer is subject, as a result of activities contemplated by

### **16. EXPORT CONTROL REGULATIONS**

The Buyer must comply with all applicable export and re-export control laws, including but not limited to laws related to the resale and custody of the Goods (including export licenses, authorization and consent) related to the fulfillment of this instrument's obligations. The Buyer guarantees that it will not directly or indirectly sell, transfer, support or assist in any sale or transfer of products or product technology in countries or to users where or to whom sale, transfer or support is not permitted by applicable laws. The Buyer shall defend, compensate and indemnify the Seller from any subsequent damages if the Buyer fails to comply with this paragraph's specifications.

### **17. STENOGRAPHIC, ADMINISTRATIVE, AND PRINTING ERRORS**

The Seller is not responsible for printing errors made in any of its publications and other types of printing, or for any stenographic and administrative errors. All errors above are subject to correction.