

# OMNI Control Technology

# Basic Terms & Conditions

These BASIC TERMS & CONDITIONS apply to any purchased order ("AGREEMENT") relating to goods/services (individually "GOODS" "SERVICES" and collectively "GOODS/SERVICES") between seller ("SELLER") and buyer ("BUYER") (individually "PARTY"; collectively "PARTIES"). All terms and conditions set forth herein shall be deemed to apply to the subject matter of such AGREEMENT as if fully set forth therein.

1. SPECIFICATIONS. Seller shall perform and BUYER shall purchase SERVICES and/or Seller shall sell and BUYER shall purchase GOODS in strict compliance with the specifications as agreed upon BUYER and SELLER as incorporated herein by reference and forming a part hereof ("SPECIFICATIONS").
2. DISPOSAL. In the event that any material, product or equipment, that is associated or identified with BUYER'S marketed or previously marketed products or which incorporates BUYER'S IP RIGHTS requires disposal while under SELLER'S ownership or control, then SELLER is responsible for ensuring that the disposal is carried out under SELLER'S direct control and full supervision in order to ensure that the DISPOSAL ITEM is made entirely unsalvageable.
3. RETURN, SCRAPPING & REWORK. Any GOODS DELIVERED by SELLER to BUYER that are not in full compliance with the terms and conditions of this AGREEMENT may at BUYER'S option be (i) returned to SELLER at SELLER'S expense for credit to BUYER at the full price plus all costs and expenses associated with such return; (ii) scrapped by BUYER, at SELLER'S expense, in which case BUYER shall be relieved of any payment obligations with respect to such GOODS or (iii) reworked by BUYER or SELLER, at SELLER'S expense. The rights and remedies set forth in this Section are not exclusive and nothing herein limits the PARTIES' rights and remedies under this AGREEMENT or at LAW.
4. SERVICES NOT IN COMPLIANCE. If any SERVICES provided by SELLER to BUYER are not in full compliance with the terms and conditions set forth in this AGREEMENT, then BUYER is entitled to credit for the full price; or to withhold payment in whole or in part as long as the SERVICES are not in full compliance with this AGREEMENT. The rights and remedies set forth in this Section are not exclusive and nothing herein limits the rights and remedies either PARTY may have under this AGREEMENT or at LAW.
5. REDUCTION OR DISCONTINUANCE. BUYER may deem it necessary, from time to time, to reduce or discontinue purchases of the GOODS covered by this AGREEMENT because of reasons such as product or packaging reformulation or others.
6. PRICE. The price for the GOODS/SERVICES shall be as agreed upon by the PARTIES ("PRICE") and include any goods and services necessary to fulfill this AGREEMENT.
7. PERIOD. The price for the GOODS/SERVICES shall be as agreed upon by the PARTIES ("PRICE") and include any goods and services necessary to fulfill this AGREEMENT.
8. TERMINATION FOR CONVENIENCE. BUYER may, for any reason and at any time, terminate this AGREEMENT upon at least five (5) calendar days written notice to SELLER, without penalty, liability or further obligation.
9. INVOICING AND PAYMENT. BUYER shall pay SELLER as agreed upon by the PARTIES. For all payments, whether subject to discount for prompt payment or not, the discount period and the due date for payment shall be calculated from the date the accurate invoice is received at the location as designated by BUYER, the date of DELIVERY of the corresponding GOODS or the date of performance of the corresponding SERVICES, whichever is later. BUYER may withhold payment if SELLER'S invoice is incorrect or does not conform to BUYER'S invoicing instructions. SHIPMENT TERMS FOR GOODS. "DELIVERY" and its derivatives mean delivery as agreed upon by the PARTIES. SELLER shall retain title and risk of loss for GOODS in accordance with these terms.
10. GENERAL REPRESENTATIONS & WARRANTIES. SELLER represents and warrants that as of DELIVERY of the GOODS to BUYER, and covenants that, continuously thereafter, the GOODS and any parts thereof shall be in strict compliance with all SPECIFICATIONS; be safe and otherwise appropriate and fit for BUYER'S intended use; be of merchantable quality and free from defects, whether latent or patent; be in full compliance with all applicable LAW. SELLER represents and warrants that at the time of performance of the SERVICES, the SERVICES and any parts thereof shall be in strict compliance with all SPECIFICATIONS; be done in a competent, workmanlike manner and free from defects in materials and workmanship, whether latent or patent; be in conformity with the standards of care employed by leading vendors in the services industry for projects of this kind and scope; and be in full compliance with all applicable LAW.
11. TITLE. SELLER represents and warrants that upon DELIVERY of the GOODS, SELLER shall pass to BUYER, and BUYER shall receive, good and marketable title to such GOODS, free and clear of all liens, claims, security interests, pledges, charges, mortgages, deeds of trusts, options, or other encumbrances of any kind ("LIENS").
12. LIENS. SELLER shall at all times keep any of BUYER'S property in the possession of SELLER or any of its subcontractors or under SELLER'S or any of its subcontractors' control free and clear of any LIENS, and hereby grants BUYER the right to file such protective financing or similar statements to confirm and record BUYER'S ownership thereof.
13. THIRD PARTY IP RIGHTS. SELLER represents and warrants that the GOODS/SERVICES and any parts thereof and BUYER'S use, sale, offer to sell and/or importing of such GOODS/SERVICES and any parts thereof, do not infringe any copyrights, design, patents, utility patents, trademarks, trade secrets or similar intellectual property rights (collectively "IP RIGHTS") of any third party; and at the EFFECTIVE DATE there are no claims currently being asserted and no actions pending or threatened against SELLER by any third party that the GOODS/SERVICES and any parts thereof allegedly infringe, violate or misappropriate third party IP RIGHTS. SELLER shall provide BUYER with immediate notice of such claims or actions as they arise.
14. CHILD LABOR & FORCED LABOR. SELLER shall not employ children, prison labor, indentured labor, bonded labor or use corporal punishment or other forms of mental and physical coercion as a form of discipline. In the absence of any national or local law, BUYER and SELLER define "child" as less than 15 years of age. If locate LAW sets the minimum age below 15 years of age, but is in accordance with exceptions under International Labor Organization Convention 138, the lower age will apply.
15. COMPLIANCE WITH LAW. SELLER shall at all times be in full compliance with all applicable governmental, legal, regulatory and professional requirements (collectively "LAW").
16. PRIVACY. SELLER shall at all times comply with BUYER privacy policy and security requirements as set forth on [www.omnicontroltech.com](http://www.omnicontroltech.com) which is incorporated herein and shall form part hereof.
17. SUPPLIER DIVERSITY PROGRAM. If SELLER has operations (production, sales, administrative) physically located in the United States of America which are involved in SELLER'S performance under this AGREEMENT, then SELLER is expected to develop procurement and contacting strategies aimed at meeting the goals of BUYER'S minority business development program.
18. APPLICABILITY & SURVIVAL OF REPRESENTATIONS AND WARRANTIES. SELLER'S representations, warranties and covenants set forth in the "GENERAL REPRESENTATIONS AND WARRANTIES" section shall terminate and expire with respect to each delivery of the GOODS 1 year after the date of receipt of the GOODS at BUYER'S final destination and with respect to each performance of a SERVICE 1 year after the date of such performance; provided, however, that in the case of a latent defect in GOODS/SERVICES, such SELLER'S representations, warranties and covenants shall terminate and expire 1 year after the date on which BUYER discovered or is notified of such defects, which is earlier. Any other of SELLER'S representations, warranties, covenants and other obligations set forth in this AGREEMENT shall be subject to all applicable statutes of limitation, similar statutes and other similar defenses provided by law or equity.
19. INDEMNIFICATION. SELLER shall, in addition to SELLER'S obligation to indemnify BUYER, its parent, its affiliates and subsidiaries and their respective agents, officers, directors and employees ("BUYER INDEMNITEE") by law, in equity or otherwise, at its own expense at BUYER'S option defend, indemnify and hold harmless BUYER INDEMNITEE from and against all claims, including third-party claims, allegations, demands, liabilities, fines, losses, damages, costs and expenses, including reasonable fees and expenses of attorneys and any amounts paid in settlement (collectively "CLAIMS"), arising out of or related to any of the following: (i)

20. IP INFRINGEMENT INDEMNIFICATION. If any GOODS/SERVICES or are likely to become, the subject of an action resulting from SELLER'S alleged breach of the "Third Party IP RIGHT" section, then SELLER shall at SELLER'S expense (i) defend, indemnify and hold harmless BUYER INDEMNITEE from and against all claims. Arising out of or related thereto; and (ii) promptly secure any rights necessary to make the GOODS/SERVICES non-infringing, or at BUYER'S option (a) replace/modify such GOODS/SERVICES to make them non-infringing or (b) remove such GOODS/SERVICES or any parts thereof and refund BUYER all related fees and charges. Additionally, in the event either PARTY is served with a warning letter and/or a lawsuit is filed against either PARTY, alleging that the GOODS/SERVICES or any parts thereof or BUYER'S use, sales, offer to sale and/or importing of the GOODS/SERVICES, respectively infringe, violate or misappropriate third party IP RIGHTS, then BUYER, at its sole discretion, shall be entitled to immediately terminate this AGREEMENT without any penalty, liability or further obligation, in addition to its rights hereunder. Notwithstanding the foregoing, BUYER shall hold SELLER harmless with respect to liability for infringement of a design patent by reason of SELLER making or furnishing to BUYER hereunder any article or articles the ornamental appearance of which was specified by BUYER and not offered by Seller as an option.
21. IP RIGHTS OWNERSHIP. BUYER shall own all creative ideas, developments and inventions, including designs drawings and calculations which SELLER, prior to or after the EFFECTIVE DATE, develops, invents or creates or causes to be developed, invented or created specifically relating to the GOODS/SERVICES or parts thereof, its intended use or relating to SELLER'S performance in accordance with this AGREEMENT ("BUYER'S IP RIGHTS"). Nothing herein shall limit SELLER'S rights to IP RIGHTS owned by SELLER to the extent not developed, invented or created specifically relating to the GOODS/SERVICES or parts thereof hereunder is considered a "work made for hire". In the event that the work is not considered "work made for hire," SELLER hereby irrevocably grants to BUYER a perpetual, non-exclusive, worldwide, royalty free and freely assignable license with the right to sublicense all copyrights, to the extent permissible by LAW including the right to reproduce, disseminate, publicize, translate and to use. Concurrently with the DELIVERY of the GOODS/SERVICES or parts thereof, SELLER shall (i) transfer BUYER'S IP RIGHTS to BUYER and execute any documents that BUYER determines are necessary to document BUYER'S ownership and their physical incorporation in any form and fashion and (ii) grant to BUYER a perpetual, non-exclusive, worldwide, royalty free and freely assignable license with the right to sublicense to SELLER'S IP RIGHTS to make, have made, use, sell, offer for sale, and import in conjunction with the GOODS/SERVICES or parts thereof, particularly including maintenance, spare parts and improvements of the GOODS/SERVICES or parts thereof and provide their physical incorporation in any form and fashion to BUYER. To the extent legally permissible, SELLER shall cause its employees to agree to assign to SELLER such BUYER'S IP RIGHTS as may be made by such employees in connection with their employment by SELLER.
22. INSURANCE. SELLER shall maintain and cause its subcontractors to maintain at their expense sufficient and customary insurance coverage with generally acceptable underwriters. Such insurance shall include BUYER INDEMNITEE as additional insured in connection with SELLER'S performance under this AGREEMENT to be stated explicitly on the Certificate(s) of Insurance. SELLER hereby irrevocably and unconditionally waives and shall cause its insurers to irrevocably and unconditionally waive any rights of subrogation for claims against BUYER INDEMNITEE, to be documents to BUYER'S satisfaction.
23. CONFIDENTIALITY. During this PERIOD, SELLER, its subcontractors and/or their employees (collectively "RECEIVER") may become privy to certain proprietary information, in writing, orally or in any other form, whether or not marked as confidential or other similar designation, of BUYER, its parents, its affiliates and/or its subsidiaries (collectively "DISCLOSER") and proprietary information furnished to DISCLOSER by a third party on a confidential basis (collectively "INFORMATION"). ALL INFORMATION is the valuable property of DISCLOSER and RECEIVER shall not have or obtain any rights therein. RECEIVER shall hold the INFORMATION in confidence, not use nor disclose INFORMATION to any third party, other than for SELLER'S performance under this AGREEMENT. The commitments set forth in this Section shall not extend to any portion of INFORMATION which, as established by relevant documentary evidence satisfactory to BUYER, (a) is already in SELLER'S lawful possession at the time of disclosure by the DISCLOSER; (b) is through no act on the part of the SELLER, generally available to the public; (c) corresponds to that furnished by the DISCLOSER to any third party on a non-confidential basis; (d) corresponds in substance to that furnished to SELLER by a third party having no obligation of confidentiality to the DISCLOSER; or (e) is required to be disclosed by law or government regulation, provided that SELLER provides reasonable prior notice of such required disclosure to the BUYER, SELLER shall, at BUYER'S option, return or destroy all INFORMATION promptly upon the earlier of termination or expiration of this AGREEMENT. BUYER shall be entitled to specific performance and injunctive relief as remedies for any breach or threatened breach of any provision of this Section, without the necessity of posting bond or proving actual damages, which remedies shall not be deemed to be exclusive remedies for such breach or threatened breach by SELLER, but shall be in addition to all other available remedies. The rights and obligations as set forth in this provision shall survive the termination or expiration of this AGREEMENT.
24. ASSIGNMENT. SELLER shall neither transfer nor assign this AGREEMENT nor any of its rights or obligations hereunder, whether in whole or in part, by delegation, subcontracting, operation of law, or otherwise, without the prior written consent of BUYER. Any such transfer or assignment without BUYER'S prior written consent shall be null and void. Buyer may, without restriction, transfer or assign this agreement in whole or in part or any of its rights or obligations hereunder, by delegation, operation of law, or otherwise without the prior written consent of BUYER. Any such transfer or assign this AGREEMENT in whole or in part or any of its rights or obligations hereunder, by delegation, operation of law, or otherwise without the prior written consent of Seller.
25. CONTRACTOR STATUS. The PARTIES are and shall remain independent contractors with respect to each other, and nothing in this AGREEMENT shall be construed to place the PARTIES in the relationship of partners, joint ventures, fiduciaries or agents. In no case shall SELLER, the employees, workers, laborers, agents or subcontractors of SELLER be deemed employees of BUYER.
26. PUBLIC DISCLOSURES. Except as required by law or with BUYER'S prior written consent, SELLER shall neither (i) disclose the existence, or the terms and conditions, or the subject matter of this AGREEMENT to any party (collectively, "AGREEMENT INFO"), (ii) issue press releases or any other publication regarding AGREEMENT INFO, (iii) issue statements as to the existence of a relationship between the PARTIES, nor (iv) use BUYER'S, its parents', its affiliates' or subsidiaries' corporate names or trademarks.
27. MODIFICATION & WAIVER. No modification or amendment of any provision of this AGREEMENT shall be valid or binding unless it is executed and delivered by both PARTIES hereto in writing subsequent to the date hereof and specifically states that it is intended to take precedence over this AGREEMENT. Any other modification, amendment or waiver shall be null and void.
28. SELLER SUSTAINABILITY. SELLER shall comply with and cause its employees to comply with BUYER'S supply sustainability policy (website???)
29. GOVERNING LAW, CONSTRUCTION & LANGUAGE. This AGREEMENT shall be governed by and interpreted for any and all purposes in accordance with the internal laws of the Country, state or province where the BUYER is located ("LOCAL") applicable to contracts made and to be performed wholly within the LOCAL without reference to principles of conflicts of laws and the United Nations Convention on International Sale of Goods shall have no force or effect on transactions under or relating to this AGREEMENT. The courts sitting in, or having principal jurisdiction over the LOCAL shall have exclusive jurisdiction of all disputes hereunder. Whenever the word "including" is used in this AGREEMENT, it is deemed to be followed by the words "without limitation". SELLER represents and warrants that (i) the AGREEMENT shall prevail over any general terms and conditions of trade, including but not limited to seller's general terms and conditions and has been reviewed and accepted by SELLER and (ii) performance against this AGREEMENT constitutes SELLER'S unconditional acceptance of the AGREEMENT. OCTD-460 REV - OCT 2014