

**BYSTRONIC TERMS AND CONDITIONS FOR PROVIDING  
MAINTENANCE, REPAIRS, SERVICE AND PARTS**

1. **Definitions:** As used in this Agreement, the following terms have the following meanings:

(a) The term “Agreement” means all of the terms and conditions contained herein and in any Bystronic quote, proposal, maintenance contract, work order or parts order between Bystronic and the Customer.

(b) The term “Customized Tool” or “Customized Tools” means application specific special tools which are not Standard Tools.

(c) The terms “Bystronic” means Bystronic Inc., Bystronic Canada Ltd., and any of their affiliated or related companies.

(d) The term “Customer” means the person, corporation or other entity requesting Bystronic to provide maintenance, repairs, service and/or parts.

(e) The term “Facility” shall mean the location designated by the Customer where the Services are to be performed.

(f) The term “Price or Prices” shall be the stated price under the Agreement payable in USD or CD as set forth therein.

(g) The term “Services” shall include the providing by Bystronic to Customer of maintenance, repairs, service, parts, Standard Tools, Customized Tools, or the training of personnel on Bystronic machines or equipment located at the Facility.

(g) The term “Standard Tool(s)” shall mean tools published in the Bystronic Standard Tooling Catalogue from time to time.

2. **Terms and Conditions of Services:**

- All manpower time and cost projections provided to Customer, whether written or verbal, will be considered estimates, unless explicitly stated to be otherwise, and such estimates will not be binding on Bystronic.
- Bystronic may subcontract the performance of any of the Services. Bystronic will be responsible for the performance of its subcontractors under this Agreement. For the purpose of this Agreement, reference to Bystronic personnel or similar wording shall be deemed to include any subcontractor or subcontractor’s personnel.

- Bystronic retains the sole right to determine personnel assignments but will attempt to respect Customer's request for the assignment of particular Bystronic personnel consistent with sound business practice.
- Customer shall insure that the Services to be provided under this Agreement can be completed without interruptions.
- Customer shall insure that the Facility where the Service is to be provided is prepared and accessible. Required preparatory work not performed by the Customer will be billed as per the then current Bystronic Field Service Rate Sheet.
- Customer is to provide assistants at no charge. Such assistants must be familiar with mechanical and electrical applications and equipped with adequate hand tools.
- Services will be carried out during normal working hours (Monday to Friday 8:30 A.M. to 5:00 P.M. CT) excluding travel days. Services requested outside of the normal working hours will be billed as per the then current Bystronic Field Service Rate Sheet. All time outside of the normal working hours must be agreed upon by Bystronic, the Customer and the Field Service Technician performing the Services.
- Customer shall insure that all installations at the Facility comply with any provincial, federal, state, local, and other standards, laws, regulations, ordinances, and other legal requirements. If special rules apply, it is the Customer's responsibility to inform the Bystronic personnel at the Facility.
- Customer shall insure that for the entire time Bystronic personnel are at the Facility there is at least one person employed by Customer who can provide any necessary first aid.

3. **Terms and Conditions of Maintenance Contracts:**

- The Preventative Maintenance Program is designed to supplement, not replace, the periodic maintenance to be performed on any machine or equipment, as stipulated in the machine or equipment documentation.
- Customer is responsible for insuring that all materials and supplies required for maintenance are available at the Facility before the maintenance work starts.
- The machine or equipment must be available in a clean condition when the technician arrives. Required preparatory work not performed by the Customer will be billed per the then-current Bystronic Field Service Rate Sheet.
- If repair work not covered by the Maintenance Contract is required it must be scheduled and will be billed separately.

- Revisions (update of a machine or parts thereof) are not covered by the Maintenance Contract.
- The log book for each machine or equipment must be kept up to date by the Customer. A signed copy of the Bystronic service technician's report must be filed in the logbook.
- Bystronic reserves the right to amend its Field Service Rate Sheet at any time without notice.

4. **Terms and Conditions of Orders for Parts and Tools:**

- "Parts" herein consist of any and all parts, spare parts, and tools offered by Bystronic other than Standard Tools and Customized Tools.
- Bystronic retains the sole and absolute right to decide which parts, Standard Tools and/or Customized Tools to keep in stock and which parts are to be manufactured specifically for Customer.
- Bystronic requires any Customer purchase order, requisition, or any other type of document for an order of parts, Standard Tools or Customized Tools to be in reference to a Bystronic quote. Bystronic shall confirm its acceptance of a Customer order in the form of a Bystronic "Confirmation of Order," issued by Bystronic's office in Elgin, Illinois, whereupon Bystronic will begin to process such order. However, Bystronic shall not process any order for Customized Tools until such time as Bystronic receives written approval of Customer of special tool drawings describing such Customized Tools.
- Orders for parts, Standard Tools or Customized Tools may not be cancelled for any reason after Bystronic issues a "Confirmation of Order."
- Notwithstanding anything to the contrary, upon submission of a purchase order, requisition, or any other type of document for an order, a Customer shall be deemed to have accepted and assented to the terms and conditions contained in or referenced in the Bystronic quote to which the order or document related. Any inconsistent terms or conditions contained in any Customer order or document are hereby expressly rejected by Bystronic.
- All prices are stated in USD or CD, as set forth in the applicable Bystronic quote.
- Customer is responsible for any and all city, state, federal, and international and other applicable taxes and customs and duties attributable to sales.
- Risk of loss or damage shall pass to Customer, and delivery deemed to be completed and parts, Standard Tools or Customized Tools deemed to be accepted, upon delivery of parts to Customer's dock.

**A. Parts Return Policy:**

- This Parts Return Policy is applicable to all parts, spare parts, and tools which are not Standard Tools or Customized Tools.
- All parts must be returned in the original packaging.
- No returns are allowed on opened electrical items. All other opened or used items will be given credit at the sole and absolute discretion of Bystronic.
- All returned parts are subject to inspection for damage, misuse or improper packaging. It is within the sole and absolute discretion of Bystronic to provide credit appropriate to the condition of the parts. The Customer assumes all risk of loss or damage until returned parts are accepted by Bystronic.
- All parts returns must have a Return Authorization Number issued by Bystronic. Any return received without a Return Authorization Number will be shipped back to the original destination at the Customer's expense.
- Returned parts must be received at Bystronic no more than 14 days from the issuance of the Return Authorization Number. Warranty claims will no longer be valid after 14 days, after which only partial credit will be given.
- All parts over 6 months in age from the date of the original invoice may not be returned and will be considered final sale.
- All parts must be returned with the freight prepaid. Any parts return shipment which arrives as freight collect will be shipped back to the original destination at the Customer's expense.
- Parts ordered for a Preventative Inspection and not performed by a Bystronic technician are not returnable.
- Upon the return of a part accepted by Bystronic, a credit for the full value of the original "Bystronic to Customer" freight charge will be issued on shipments that were sent using standard ground delivery. Any "Bystronic to Customer" freight charge incurred for methods of shipment other than standard ground delivery will not be credited upon return.
- A 20% restocking fee is assessed on the then current price of each part returned.
- Notwithstanding anything to the contrary, Customized Tools are not returnable.

**B. Standard Tools Return Policy:**

- This Standard Tools Return Policy is applicable only to Standard Tools.
- In addition to the terms and conditions provided under the Parts Return Policy, but in no way limiting or varying any terms and conditions set forth below in this Standard Tools Return Policy, Standard Tools may be returned for credit if, in Bystronic's sole and absolute discretion, the Customer satisfies each of the following conditions:
  - i. Standard Tools must be returned in unused condition.
  - ii. Standard Tools must be returned in the original packaging.
  - iii. Standard Tools must be accompanied by proof of purchase and a Return Authorization Number issued by Bystronic (Customer must obtain a Return Authorization Number issued by Bystronic prior to making any returns).
  - iv. Standard Tools must be returned within 30 days of the original invoice date.
  - v. All Standard Tools must be returned with the freight prepaid. Any Standard Tool return shipment which arrives as freight collect will be shipped back to the original destination at the Customer's expense.
- A 25% restocking fee is assessed on the then-current price of each Standard Tool returned.
- Notwithstanding anything to the contrary, Customized Tools are not returnable.

6. **Scheduling:**

- All non-warranty calls will have a four hour minimum charge for labor and all the related travel expenses will be charged to the Customer.
- Customers with machines that are in a non-operating condition will be given scheduling priority whenever possible.
- All non-warranty Service calls must be booked with a Purchase Order Number.

- Technician Service reports must be signed when the technician leaves the Facility. If the Customer is not satisfied with the Services, Customer shall indicate this on the signed Service Report.
- A work order must be issued for each machine indicating specific problems. A Purchase Order must be supplied for each Work Order issued to the technician.
- Bystronic will utilize its best efforts to have a technician at the Facility within 48 hours of a request and the receipt of a Purchase Order Number.

7. **Terms of Payment:**

- Terms are payment in full within 30 days of invoice date. All goods remain the property of Bystronic until paid for in full. Overdue accounts past 60 days may result in future orders for parts, Standard Tools, Customized Tools, and/or Services being placed on credit hold until all balances due have been paid in full.
- Payments must be made only by Customer's Company Check, Accepted Credit Card (U.S. only), or Electronic Transfer.
- Balances that remain outstanding past 60 days will incur late payment of 6% per annum, compounded daily, on the balance due until payment in full. Customer agrees to reimburse Bystronic for all legal and other costs incurred to collect any balance due beyond 90 days.
- Returned checks will subject to a \$25.00 charge.

8. **Warranty:** BYSTRONIC AND ITS RELATED AND/OR AFFILIATED COMPANIES, MAKE NO WARRANTIES OR REPRESENTATIONS WHICH EXTEND BEYOND THOSE EXPRESSLY SET FORTH HEREIN AND DISCLAIM ALL LIABILITY FOR ANY LOSS OR DAMAGE, DIRECTLY OR INDIRECTLY, ARISING FROM THE SERVICES OR FOR CONSEQUENTIAL DAMAGES, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED.

IF NOT OTHERWISE AGREED TO, IN WRITING, BY BYSTRONIC, ALL PARTS SOLD AFTER THE ORIGINAL MACHINE WARRANTY EXPIRES WILL BE VALID FOR A PERIOD OF 30 DAYS OR TO THE EXTENT OF THE ORIGINAL MANUFACTURER'S WARRANTY, WHICHEVER IS LATER. THE PART WARRANTY DOES NOT COVER THE INSTALLATION OF THE PART NOR THE EXPENSES ASSOCIATED WITH THE INSTALLATION OF THE PART. HARD DRIVES AND ALL CONSUMABLE ITEMS ARE EXCLUDED FROM THIS WARRANTY. SUBSEQUENT DEFECTS THAT ARE IDENTIFIED AT THE TIME OF, OR AFTER, THE INSTALLATION OF THE PART BUT WHICH ARE NOT DIRECTLY RELATED TO PART ITSELF ARE NOT COVERED UNDER WARRANTY.

9. **Limitation of Liability:** THE REMEDIES OF THE CUSTOMER SET FORTH HEREIN ARE EXCLUSIVE, AND THE TOTAL LIABILITY OF BYSTRONIC TO CUSTOMER WITH RESPECT TO THE AGREEMENT OR THE SERVICES FURNISHED HEREUNDER, IN CONNECTION WITH THE PERFORMANCE

OR BREACH THEREOF, WHETHER BASED ON CONTRACT, WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE PRICE OF THE SERVICES UPON WHICH SUCH LIABILITY IS BASED.

BYSTRONIC AND ITS SUPPLIERS SHALL IN NO EVENT BE LIABLE TO THE CUSTOMER, ANY SUCCESSORS IN INTEREST OR ANY BENEFICIARY OR ASSIGNEE OF THIS CONTRACT FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF THIS AGREEMENT OR ANY BREACH THEREOF, OR ANY DEFECT IN, FAILURE OF, MALFUNCTION OF THE SERVICES HEREUNDER, WHETHER BASED UPON LOSS OF USE, LOST PROFIT OR REVENUE, INTEREST, LOST GOODWILL, WORK STOPPAGE, IMPAIRMENT OF OTHER GOODS, LOSS BY REASON OF SHUTDOWN OR NON-OPERATION, INCREASED EXPENSES OF OPERATION, COST OF PURCHASE OF REPLACEMENTS OR CLAIMS OF CUSTOMER FOR SERVICE INTERRUPTION WHETHER OR NOT SUCH LOSS OR DAMAGE IS BASED ON CONTACT, WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHERWISE.

10. **Force Majeure:** Except with respect to the payment of monies due hereunder and Customer's obligations under Sections 2 through 6 hereof, neither party hereto shall be responsible for failure to perform hereunder or for any loss or damage due to causes beyond its reasonable control, including but not limited to acts of God, fires, civil disobedience, war, acts of terrorism, riots, political unrest, strikes, work stoppage, floods, water/elements, epidemics, changes in governmental requirements, export control regulations, sanctions or inability to secure equipment, raw material or transport. Notice to this effect ("Notice of Force Majeure") shall be given at once to the other party. Performance shall be resumed as soon as practicable after the cessation of the cause of delay.

11. **Entire Agreement:** The entire agreement between Bystronic and Customer with respect to the Services is embodied solely within the Agreement, which supersedes all prior agreements, understandings, representations or warranties, whether oral or written between Bystronic and Customer relating to such Services. No statement, recommendation or assistance made or offered by Bystronic through its representatives in connection with suitability, capacity, performance or compliance with Customer's specification of the Services shall be or constitute a waiver by Bystronic of any provision hereof. No statements subsequent to the acceptance of the Agreement shall be binding upon Bystronic, nor shall the Agreement or such terms or conditions be amended or modified, unless consented to in writing by a duly authorized officer of Bystronic in a document referencing these terms and conditions.

12. **Attorney's Fees:** In the event of any litigation or collection action arising out of Customer's purchase of Services, Bystronic shall be entitled to reimbursement from Customer for its actual reasonable attorney's fees and costs.

13. **Survival; Severability; Assignment:** Notwithstanding any expiration or cancellation of Customer's Agreement, Customer shall remain obligated under all those provisions of the Agreement which expressly or by their nature extend beyond and survive such expiration or cancellation. If any provision or any portion of any provision in the Agreement shall be held to void or unenforceable hereof and the remaining portions of any provision of the Agreement held void or unenforceable in part shall continue in full force and effect. The

Agreement shall not be assigned, subscribed, or delegated, in whole or part, without Bystronic's prior written consent.

14. **Governing Law; Venue:** This Agreement and all rights and obligations arising in connection herewith shall be governed by and interpreted under the law of the State of Illinois, provided, however, that if a court determines that Illinois Law shall not apply, then the validity and enforceability of this Agreement shall in no way be affected or impaired. Bystronic and Customer agrees that any legal suit, action or proceeding arising out of or relating to the Agreement shall be instituted in a Illinois State or Federal Court located in the County of Kane, and State of Illinois and that such is the convenient and appropriate forum. Bystronic and Buyer irrevocably submit to the jurisdiction of any such court in any such suit, action or proceeding, and agree to receive service of process by certified or registered mail or any other proper method and waive any objection which they may now or thereafter have to venue or to convenience of any such suit, action or proceeding.