

Hyster-Yale Group, Inc.

Battery Portal Terms of Use

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5. Interactive Usage

Except for personally identifiable information and personal data, which is governed by our Privacy Notice and our Data Protection clause below, any information provided to HYG or posted on the web site in relation to the Services shall be provided and received by HYG on a non-confidential basis. HYG shall be free to use such information on an unrestricted basis and you award us a perpetual, non-exclusive, fully-paid up, unlimited and global licence to use this information. Any unauthorized or inappropriate material, as determined by HYG, is subject to removal by HYG. No solicitations may be placed on HYG's web site

without the approval of HYG. No person accessing the web site may place or create any offensive or disruptive materials. No User shall post any information that infringes on the intellectual property rights of a third party. In the event of such infringement, User shall be liable for all damages associated with or arising out of such infringement or arising from User's violation of these terms and conditions and shall defend and indemnify HYG from the same.

HYG reserves the right to discontinue User's access to this web site, or to discontinue or change the web site at HYG's sole discretion.

6. International Usage

Recognizing the global nature of the Internet, you agree to comply with all local rules regarding online conduct and acceptable content. You agree to comply with all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside.

HYG or its service providers control and operates this web site from within the United States of America, and has designed this web site to comply with U.S. and State of Ohio law. This site has no obligation to comply with non-U.S. law.

The English language Terms of Use is HYG's official agreement with Users of this web site. In case of any inconsistency between the English language Terms of Use and its translation into another language, if any, the English language document shall control.

7. Copyright Infringement Notification

If you believe that any of the information posted to this web site infringes a copyright, trademark, patent or other right of another party, please contact HYG at:

Director of Intellectual Property
Hyster-Yale Group, Inc.
4000 Blue Lake Road
Fairview, Oregon 97024
Tel: 503 721 6070
Fax: 503 721 6001
Email: inforhmg.com

8. Governing Law and Jurisdiction

These Terms of Use and any disputes arising under or related to these Terms of Use or this web site will be governed by the laws of Ohio without reference to conflict of law principles. Any disputes shall be resolved exclusively in the state or federal courts of Ohio located in the county in which HYG does business.

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- *Important: Read Terms and Conditions Below: *

Service. This agreement ("Agreement") is effective on the date the Order is placed (the "Effective Date"). Capitalized terms shall have the meanings set forth in this Agreement and the Order placed. . By placing an Order or by using the Services, you are accepting the terms and conditions of this Agreement. You acknowledge that the Service may require proximity to cellular communications or a wireless network and compatible coverage in order to operate. If you are unclear about the cellular or wireless communications coverage in your area, request a demonstration of the Service prior to entering into this Agreement. Though we will contract with a third party carrier for cellular or wireless communication for your use of the Service, we assume no liability for any failure of the cellular or wireless network. You are responsible for providing cellular or wireless network boosters if necessary for the proper operation of the Service.

- **License.** We hereby grant you a nonexclusive, non-transferable license (without the right to sublicense) to access and use the Service for the Term and for the Units specified in the Order placed
- **Access to Customer Portal.** You will be provided with log in credentials to access our customer portal. You are solely responsible for any access to the portal via your login credentials and for compliance with all rules of use of the customer portal. You agree to promptly notify us and reset your login credentials in the event you believe they may have been compromised.
- **Right to Disable a Licensed User.** We reserve the right to disable your access to the Service if your use of the Service violates this Agreement.
- **Transfer of Service.** You may transfer the Service from one Unit to another with our written consent. Transfer costs may apply and shall be agreed to by both of us in writing.
- **Ownership of Service.** The Service is our property or that of our licensors and is protected by copyright and other laws. Except for the limited licenses granted under this Agreement, the terms of this Agreement do not convey any ownership or other rights of any kind to you in or to the Service. We, or our licensors, retain all right, title and interest in the Service and the data stored in the Service to the extent the data is entered by us or our service providers. You will own the data that is entered into the Service or is transmitted into the Service via the Battery device. Unless expressly provided for in this Agreement, you have no right to receive any enhancements or other modifications to the Service. Except as may otherwise be permitted in this Agreement, you agree that you will not (a) reproduce, publish, display, distribute, sell, sublicense, transfer, rent, lease, broadcast, timeshare, loan, disclose, or otherwise make available the Service, or any part of the

Service, to any third party; (b) reverse engineer, disassemble, decompile or otherwise attempt to derive source code from the Service; (c) modify, translate, adapt, alter or create derivative works based upon the Service; (d) remove any proprietary notices, labels, or trademarks or service marks on any Service; (e) merge the Service with another program (unless otherwise authorized herein); (f) use the Service for any purposes other than those explicitly stated in this Agreement; (g) have any right to any source code for the Service (h) permit any party not specifically licensed in this Agreement to use the Service. You acknowledge that we may use your data as set out in this Agreement.

Data Protection.

- In this clause the following terms shall have the following meanings:
 - "controller", "processor", "data subject", "personal data", "processing" (and "process") and "special categories of personal data" shall have the meanings given in Applicable Data Protection Law;
 - "Applicable Data Protection Law" shall mean all applicable binding laws and regulations which apply to the parties in relation to the processing under this Agreement of personal data and an individual's privacy rights, including as applicable the EU General Data Protection Regulation (Regulation 2016/679), in each case together with any transposing, implementing or supplemental national legislation; and
 - "Model Clauses" means the Commission decision of 5 February 2010 on standard contractual clauses for the transfer of personal data to processors established in third countries (2010/87/EU).

Where we act as a controller

- You acknowledge that where we act as a controller, we will process personal data in accordance with Applicable Data Protection Law and that further information about how we may use personal data can be found in our Customers, Suppliers and Dealers Privacy Notice here: <https://www.hyster-yale.com/external-privacy-policy/> ("**Privacy Notice**"). Among other reasons, we may use personal information, to audit your access to and usage of the Service, to provide recommendations to you and for our other legitimate business purposes.
- You warrant that you have obtained all necessary consents, notifications and permissions required under Applicable Data Protection law to: (i) permit you to share such personal data with us; and (ii) allow us to otherwise collect, use or process such personal data in accordance with this Agreement (including but not limited to such personal data that we may collect directly from your Users and Operators via cookies or other means). As between us and you, you are solely responsible for disclosing to your Users, Operators and other end users that we are processing personal data in accordance with this Agreement and for notifying or otherwise directing such individuals to our Privacy Notice.
- You agree to notify us of: (i) any limitations in your privacy notice to data subjects; (ii) any changes in, or revocation of, consent by a data subject to use or disclose personal data; and (iii) any restrictions in the use

of personal data to which you have agreed in accordance with your data subjects, in each case to the extent that such limitations, changes or restrictions may affect our use or disclosure of personal data.

- We shall not act as joint controllers for the purposes of Article 26 of the GDPR in relation to any processing of personal data under this Agreement.

Where we act as a processor

- You (as controller) appoint us as a processor to process the personal data described in this Agreement (the "**Battery Personal Data**") for the purposes described in this Agreement and as further described in Annex A (or as otherwise agreed in writing by the parties) (the "**Permitted Purpose**"). Each party shall comply with the obligations that apply to it under Applicable Data Protection Law.
- You shall not disclose (and shall not permit any data subject to disclose) any special categories of personal data to us for processing.
- We shall not transfer the Battery Personal Data outside the European Economic Area ("**EEA**") unless we have taken such measures as are necessary to ensure the transfer is in compliance with Applicable Data Protection Law. Where so required to ensure that any transfer will be in compliance with Applicable Data Protection law, we agree that this Agreement shall incorporate the Model Clauses and that (i) Appendix 1 to the Model Clauses shall be as set out in Annex A; and (ii) Appendix 2 to the Model Clauses shall be as set out in this Agreement.
- We shall ensure that any person we authorize to process the Battery Personal Data (and "**Authorised Person**") shall protect the Battery Personal Data and shall be held subject to an appropriate obligation of confidentiality.
- We shall implement appropriate technical and organisational security measures to protect the Battery Personal Data from (i) accidental or unlawful destruction; and (ii) loss, alteration, unauthorized disclosure of or access to the Battery Personal Data (a "**Security Incident**").
- You consent to us engaging third party subprocessors to process the Battery Personal Data (and pre-approve all such subprocessors that we had been using to provide the Services prior to 25 May 2018) for the Permitted Purpose provided that: (i) we maintain an up-to-date list of our [subprocessors](#), (provided at [Annex B](#)), which we shall update with details of any change in subprocessors at least 10 days' prior to any such change; (ii) we impose data protection terms on any subprocessor we appoint that require it to protect the Battery Personal Data to the standard required by Applicable Data Protection Law; and (ii) we remain liable for any breach of this clause that is caused by an act, error or omission of our subprocessor. You may object to our appointment or replacement of a subprocessor prior to its appointment or replacement, provided such objection is based on reasonable grounds relating to data protection. In such event, we will either not appoint or replace the subprocessor or, if this is not possible, you may suspend or terminate this Agreement (without prejudice to any fees you have incurred prior to suspension or termination).
- We shall provide reasonable and timely assistance to you (at your expense) to enable you to respond to: (i) any request from a data subject to exercise any of its rights under Applicable Data Protection Law (including

its rights of access, correction, objection, erasure and data portability, as applicable) and (ii) any other correspondence, enquiry or complaint received from a data subject, regulator or other third party in connection with the processing of Battery Personal Data. In the event that such request, correspondence, enquiry or complaint is made directly to us, we shall promptly inform you providing full details of the same.

- If we believe or become aware that our processing of the Battery Personal Data is likely to result in a high risk to the data protection rights and freedoms of data subject, we shall inform you and provide reasonably cooperation (at your expense) in connection with any data protection impact assessment that may be required in relation to our Service under Applicable Data Protection Law.
 - If we become aware of a confirmed Security Incident, we shall inform you without undue delay and shall provide reasonable information and cooperation to you so you can fulfil any data breach reporting obligations that you may have (and in accordance with the timescales required by) Applicable Data Protection Law. We shall further take any such reasonably necessary measures or actions to remedy or mitigate the effects of the Security Incident and shall keep you informed of all material developments in connection with the Security Incident.
 - Upon termination or expiry of this Agreement, we shall (at your election) destroy or return to you all Battery Personal Data in our possession or control. This requirement shall not apply to the extent that we are required by applicable law to retain some or all of the Battery Personal Data, or to Battery Personal Data we have archived on back-up systems, which Battery Personal Data we shall securely isolate and protect from any further processing except to the extent required by law until deletion is possible.
 - We shall permit you (or your appointed third party auditors) to audit our compliance with these data protection obligations, and shall make available to you all information, systems and staff reasonably necessary for you (or your third party auditors) to conduct such audit. We acknowledge that you (or your third party auditors) may enter our premises for the purposes of conducting this audit, provided that you gives us reasonable prior notice of your intention to audit (which we agree shall be no less than 30 working days' prior notice), conduct your audit during normal business hours, and takes all measures to prevent unnecessary disruption to our operations. You shall not exercise your audit rights more than once in any twelve (12) calendar month period, except (i) if and when required by instruction of a competent data protection authority; or (ii) if you believes a further audit is reasonably necessary due to a Security Incident suffered by us.
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- **Term.** This Agreement shall commence on the Effective Date and at the end of the initial term will automatically renew on a month by month basis at the then current monthly fee.
 - **Termination of Agreement.** Either party may cancel this Agreement and/or an Order placed under this Agreement (a) upon written notice if the other party commits a material breach which it fails to cure within thirty (30) days of written notice of such breach; (b) immediately if a party has a receiver appointed, or enters

into bankruptcy, except as may be prohibited by law. After the initial Term, either party may terminate the individual Order for convenience upon thirty days prior written notice.

- **Survival.** The rights and obligations of the parties under the license, ownership of service, limited warranty and limitation of liability clauses shall survive the expiration or termination of this Agreement.
- **Payment Terms.** You agree to pay us or our Servicing Dealer the total sum payable for the Services as specified prior to placement of the Order. Payment is due monthly in arrears within (30) days after the invoice date. Except as specifically set forth in this Agreement, all amounts paid by you shall be non-refundable.
- **Late Payment.** We reserve the right to charge a late fee equal to the lesser of one and one-half percent (1.5%) per month, or the maximum charge permitted under applicable law, on any amounts not paid when due. You agree to reimburse us for all reasonable costs incurred (including reasonable attorneys' fees) in collecting past due amounts you owe.
- **Taxes.** All amounts payable are exclusive of taxes. Except for taxes based on our income, you will be responsible for payment of all applicable taxes, including without limitation, value-added, state or provincial and local excise, sales, withholding and use taxes and any other applicable governmental assessments ("Tax"). Notwithstanding the foregoing, you may provide us with a tax exemption certificate or a direct pay permit acceptable to the taxing authority. If you fail to pay any applicable Tax, then we may pay such Tax on your behalf and seek reimbursement from you.
- **Limited Warranty.** The Service provides certain data about the Unit on which it is installed. The Service is not intended for use as a critical system, and we cannot make any guarantee of the communication uptime of the Service; we will use commercially reasonable efforts to ensure that the Service is operational if the failure of the Service is due to a failure that is within our control. During the Term, we agree at our sole option and expense, to make commercially reasonable efforts to correct defects in the Service that are identified and documented by you, and confirmed by us. Our obligation and sole liability is to replace or make commercially reasonable efforts to take correct the Service. The remedy stated in this Section is our entire obligation and your sole and exclusive remedy for breach of warranty under this Agreement and shall be in lieu of any other remedy available to you at law or in equity. This warranty shall not apply if the Service or the Unit has been (a) altered, modified, or enhanced except by us; (b) subjected to misuse, negligence, computer or electrical malfunction; or (c) used, adjusted, installed or operated other than in accordance with the documentation provided with the Service, or as authorized in writing by us. No warranties shall apply in the event of an uncured breach of this Agreement by you for which notice of breach has been given. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, EXPRESS OR IMPLIED. WE SPECIFICALLY DISCLAIM ALL OTHER WARRANTIES OF ANY KIND INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, OR THE ABSENCE OF ASECURITY INTEREST, LIEN OR ENCUMBRANCE. SPECIFICALLY, AND NOT IN LIMITATION OF THE FOREGOING, WE DO NOT WARRANT THAT THE SERVICE WILL MEET CUSTOMER NEEDS OR REQUIREMENTS, THAT THE

OPERATION OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ANY DEFECTS IN THE SERVICE CAN OR WILL BE CORRECTED.

- **Intellectual Property Indemnity.** We agree to indemnify, defend, and hold you harmless from any claims, damages or other liabilities based on a third party claim (Claims) that the Service infringes a valid United States patent, copyright, trademark, or trade secret of a third party. This indemnification obligation is contingent upon (i) you notifying us within five days in writing of any Claim of which you are aware and for which indemnification is requested and (ii) you agreeing to provide reasonable cooperation in the defense or settlement of such Claim. We will have the sole control of the defense of any Claims and of all negotiations for its settlement, provided that we will not enter into a settlement that requires any admission of liability, fault, or wrongful act or conduct on your part. If your use of the Service is enjoined, or if in our judgment is likely to be enjoined, we may, at our option and expense, and as a complete remedy to you, either (a) substitute equivalent non-infringing Service, (b) modify the Service so that it no longer infringes but remains functionally equivalent, (c) obtain for the right for you to continue using the Service, or (d) if we determine none of the foregoing are commercially practicable, terminate this Agreement and the Service. We shall not have any liability to you to the extent that (i) any Claim arises from use of the Service in combination with equipment or software not supplied by us where the Service would not be infringing by itself, (ii) use of Service in an application or environment for which it was not designed or not contemplated under this Agreement, (iii) use of the Service in breach of this Agreement (iv) any Claims in which you or any of your affiliates have an interest or license.
- **Limitation of Liability.** We do not guarantee the uninterrupted working of the Service or of a Unit, and shall not be liable to you or any other person or entity for any damages whatsoever and howsoever caused, including indirect, incidental, consequential, exemplary or punitive damages or those resulting from a defective Unit, or resulting from failure to provide Service for any cause whatsoever, or for mistakes, omissions, interruptions, delays, errors in transmission, defects in transmission, failures or defects in Service or a Unit. Our aggregate liability under this Agreement for any cause of action or damages whatsoever shall not exceed the fees paid by you in the one-month period immediately preceding the claim. No credit allowance will be given for interruptions. We do not accept any liability to you or to any third party in relation to any employment law claims, losses, or any other damages which may arise as a result of your use of the Service.
- **General Provisions. Force Majeure.** We shall not be liable to you for any loss or damage resulting from any delay or failure of the Service or a Unit, or any part thereof, or our ability to perform our obligations hereunder, in any respect, if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond our control. Such events, occurrences, or causes include, without limitation, acts of God, strikes, lockouts, inability to secure materials, transportation or facilities, riots, acts of war, terrorist acts, governmental actions, floods, earthquakes, other natural disasters, fires, explosions, failure of any wireless or cellular network or the internet.

Assignment. You may not assign this Agreement in whole or in part, whether by operation of law or otherwise, without our advance written consent. Any purported transfer or assignment in violation of this section shall be null and void and of no force and effect and such consent shall not be unreasonably withheld.

Successors. This Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

Notices. All notices given hereunder shall be in writing, and shall be deemed to be duly given if delivered by any of the following methods: (i) by personal delivery; (ii) by registered or certified mail, postage prepaid, return receipt requested; or (iii) by a nationally recognized overnight courier. A notice sent by certified mail or express courier shall be deemed given on the date of receipt or refusal of receipt. Notices shall be sent to the respective addresses of each party as provided at time of the Order.

Severability. If any provision herein is held invalid or unenforceable by a court of competent jurisdiction, then such provision shall, to the extent of such invalidity or unenforceability, be severed. All other provisions shall continue in full force and effect and shall be construed so as to best effectuate the intention of the parties.

USA Contracts Only. Services licensed under this Agreement are Commercial Computer Software under United States Federal Government Acquisition Regulations and agency supplements thereto. Services are provided to the federal government and its agencies only under the Restricted Rights Provision of the Federal Acquisition Regulations applicable to commercial software developed at private expense and not in the public domain. The use, duplication or disclosure by the government is subject to restrictions as set forth in this Agreement.

No Third Party Beneficiary. This Agreement is made and entered into for the sole benefit of the parties hereto and is not intended to convey any rights or benefits to any third parties, nor will this Agreement be interpreted to convey any benefits or rights to any person except the parties hereto.

Governing Law and Venue. This Agreement and all disputes hereunder, and the rights and obligations of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Ohio without reference to its conflicts or choice of law provisions. All claims, disputes and/or lawsuits in connection with this Agreement shall be brought in the courts of the State of Ohio, and each party to this Agreement hereby irrevocably submits to the jurisdiction and venue of such courts.

Waiver. The failure or delay by any party in exercising any right or remedy hereunder shall not operate as a waiver of any such right, power or remedy. Waiver by any party of any default shall not waive any prior, concurrent or subsequent defaults by another party.

Headings. The descriptive headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

Entire Agreement. This Agreement and the Order constitute the entire understanding and agreement between the parties with respect to the subject matter thereof and supersede all prior and contemporaneous proposals, agreements and representations between them, whether written or oral. In the event of any conflict between the Agreement and any Order the Order shall govern. Any amendments to this Agreement must be in writing and signed by an authorized representative of each party. Any terms or conditions contained in any purchase orders or other documents you may issue shall be void and of no force or effect.

By placing an Order for the Services, I agree to terms & conditions.

ANNEX A: Data Processing Description

This Annex A forms part of the Agreement and describes the processing that we will perform on your behalf to provide the Services.

Controller

The controller is (please specify briefly the controller's activities relevant to the processing):

You, our customer who has contracted with us to receive our Services

Processor

The processor is (please specify briefly the processor's activities relevant to the processing):

Hyster-Yale Group Inc., a global company which provides you with the benefit of our Battery Services.

Data subjects

The personal data to be processed concern the following categories of data subjects (please specify):

Your employees and other end users, Users, or Operators to whom you provide access to the Services

Categories of data

The personal data to be processed concern the following categories of data (please specify):

Identification information: Name, company details, Language, time zone, email address, username, job role, facility code, personnel number, access type, location and department; Product ID; Service ID, permissions details

Security questions: Portal security questions and responses

Equipment: assigned equipment, serial number, full cell equipment details.

Session information: Operator, speed, use of Equipment, start and end date of session.

Battery misuse information: Opportunity charge, deep discharge, over charge, general damage on elements/battery components

Special categories of data (if appropriate)

The personal data to be processed concern the following special categories of data (please specify):

None

Processing operations

The personal data will be subject to the following basic processing activities (please specify):

Provider will process this personal information to allow Customer to use our Services via our online portal. Provider will use this information to configure Equipment and to collect information in relation to battery usage, such as charging cycles details and truck energy usage. Via the portal, Provider will enable Customer and its Users to manage Customer's Battery information; manage Equipment assignment to Trucks; report, monitor and manage equipment sessions (including utilization of Equipment) and battery misuse. The Customer instructs the Provider to delete, amend, aggregate or otherwise manipulate the personal information processed by the Provider in order to provide the Services over time to ensure that such information is stored efficiently by the Provider; and the Customer acknowledges that the Customer is solely responsible for maintaining its own back-ups/copies of all personal information used to provide the Services. As part of the Service, Provider may also provide to Customer reports relating to Equipment use and sessions, including: Fleet Analysis, Event Response, Operator Compliance and Energy Equipment. Provider do not condone, nor does it provide the Services for the purpose of assisting Customer with Customer's employment decisions relating to the suitability for or termination of employment to its employees, agents, contractors or anything other third parties.

We do not condone, nor do we provide the Services for the purpose of assisting you with your employment decisions relating to the suitability for or termination of employment to your employees, agents, contractors or anything other third parties.

ANNEX B: Sub Processors

1. ZTP S.R.L., a company established in Italy, with company number: P.I. IT01603520352 and a registered address: Via Bertona, 63 - 42028 Poviglio RE