

# EFC Systems, Inc.

## CONDITIONS OF SALE

1. **ACCEPTANCE:** Any purchase order issued in response to this Proposal to sell is considered to be in Buyer's acceptance of the Terms and Conditions contained herein. Seller hereby objects to any additional, different or conflicting terms or conditions set forth in Buyer's purchase order. No terms, provisions, or conditions of Buyer's purchase order shall be effective unless expressly accepted by Seller in writing.

2. **ENTIRE AGREEMENT:** The provisions herein set forth, plus all drawings, constitute the entire contract between the Seller and Buyer and supersede all prior Proposals, purchase orders, correspondence and other communications, whether written or oral, between the Seller and the Buyer. No provisions of these Conditions of Sale shall be subject to change except by the written authorization of a properly authorized representative of the Seller.

3. **PRICES-PAYMENT:** Unless otherwise provided in the Proposal, terms of payment are net thirty (30) days and process are FOB Seller's factory exclusive of sales or use taxes. All payments shall be in the legal currency of the United States unless otherwise designated in this Proposal. All prices are subject to exception or change without notice. Pricing errors may be corrected at any time. All Orders are subject to a minimum of \$100.00. Any unpaid current balance shall bear interest at the rate of one and one-half percent (1½%) per month from and after the date payment is due. The seller may, at any time and without obligation, suspend performance or require payment in cash, security, or other adequate assurances satisfactory to the Seller when, in the opinion of the Seller in its sole discretion, the financial circumstances of Purchaser warrant such action.

4. **TAXES AND DUTIES:** The amount all applicable taxes, (federal, state, or local) will be charged unless the purchase order clearly states that the equipment or goods are tax exempt and an exemption certificate is on file at the Seller's location. Any personal property taxes assessable on the equipment or goods after delivery to FOB point shall be borne by the Buyer.

5. **DELIVERY:** Deliveries shall be FOB point of shipment unless otherwise provided in the Proposal. Shipping dates given by the seller are approximate and are based on prompt receipt of all necessary information regarding the order. The Seller will use its best efforts to meet the scheduled date shown on the face hereof, but does not guarantee to do so. Failure to make shipments as scheduled does not constitute a cause of cancellation and/or for damages of any character. In the event of any delay requested by the Buyer or any delay caused by lack of shipping instructions, the Seller will store all items ordered at the Buyer's expense and risk; and will invoice the Buyer for the full contract price of the equipment or goods on or after the date on which the same is ready for delivery.

6. **TITLE AND RISK OF LOSS:** Risk of loss or damage to the equipment or goods shall pass to Buyer F.O.B. Seller's plant. Buyer will keep the equipment or goods insured to the full purchase price with the Seller as the named loss payee and Seller retains a security interest in the equipment or goods until the purchase price is paid.

7. **ENGINEERING DATA:** All Engineering data, design information, engineering and shop drawings used on the completion of this order are the property of the Seller.

8. **RETURNS:** No Equipment or goods requiring repair or alleged to be defective is to be returned without written authorization by Seller.

9. **WARRANTY AND LIMITATIONS OF LIABILITY:** All equipment and goods are warranted by the Seller to be free from defects in material and workmanship as follows:

A. ALL ITEMS EXCEPT ELECTRICAL COMPONENTS FOR A PERIOD OF ONE (1) YEAR, OR TWO THOUSAND (2,000) HOURS OF USE, WHICHEVER COMES FIRST FROM THE DATE OF SHIPMENT.

B. FOR ELECTRICAL COMPONENTS FOR A PERIOD OF NINETY (90) DAYS FROM THE DATE THE EQUIPMENT OR GOODS WERE SHIPPED. THIS WARRANTY DOES NOT APPLY TO EQUIPMENT OR GOODS WHICH ARE MISUSED, ABUSED, DAMAGED FROM INSTALLATION, OR NOT USED IN ACCORDANCE WITH THE SELLER'S INSTRUCTIONS. NORMAL WEAR OF EQUIPMENT OR GOODS ARE NOT INCLUDED IN THIS WARRANTY. Equipment or goods not manufactured by the seller, but supplied through the Seller shall carry the warranty of the original manufacturer. THE SELLER'S SOLE LIABILITY UNDER THIS WARRANTY SHALL BE LIMITED TO EITHER REPLACING OR REPAIRING WITHOUT CHARGE, AT ITS FACTORY OR ELSEWHERE AT ITS DISCRETION, ANY EQUIPMENT OR GOODS NOT MEETING THIS WARRANTY, OR AT SELLER'S OPTION REFUNDING THE PURCHASE PRICE. THE SELLER SHALL IN NO EVENT BE LIABLE FOR ANY OTHER DIRECT OR ANY SPECIAL INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND UNDER THIS CONTRACT OR OTHERWISE. The warranties of the Seller do not cover, and the Seller makes no warranty with respect to, any defect, failure, deficiency or error which is:

a) Not timely reported to Seller: or

b) Due to misapplication, modification, disassembly, abnormal conditions of temperature, dirt or corrosive matter; or

c) Due to operation, either intentional or otherwise, above rated capacities or in an otherwise improper manner.

10. Seller assumes no responsibility for the quality or performance of coatings, adhesives or other materials used with Seller's equipment or goods. All claims must be brought within one (1) year of sale or identification of a defect. THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

11. **GOVERNING LAW:** THE LAWS OF THE STATE OF DELAWARE SHALL GOVERN ANY CONTRACT RESULTING OUT OF THIS PROPOSAL. Any legal action to enforce any right granted by this contract must be filed within one (1) year of the expiration of the applicable warranty period.