

TERMS AND CONDITIONS of PURCHASE of EFTEC North America L.L.C.

1. **ACCEPTANCE** – This is not an acceptance of any offer to sell but is an offer to purchase. It may be accepted within fifteen (15) days of the order's date only by Buyer's receiving seller's written acknowledgment or commencement of performance by Seller. Acceptance is expressly limited to the terms and conditions of this offer; by acceptance whether through acknowledgment or performance Seller expressly assents to terms and conditions contained on the reverse side of this purchase order to the exclusion of all other terms and conditions including any contained in any invoice ,acknowledgment, acceptance letter, quote or other writing of Seller prior to simultaneously with or after acceptance. Any proposal for additions or different terms of this offer in Seller's invoice acceptance or acknowledgment as a rejection of this offer shall be deemed accepted by Seller without said additional or different terms.
2. **ADDITIONAL OR DIFFERENT TERMS; ENTIRE AGREEMENT** – Each and every term and condition of this order is deemed to be of the essence. After acceptance the terms contained in this order, with any attachments will constitute the entire and only agreement of the parties and will supercede all prior discussions representations, writings, oral agreements and understandings or any language in the acknowledgment or acceptance of Seller to the contrary. Buyer objects to any additions to change modification of revision of deletion, or waiver of any of the terms and conditions of this order, irrespective of whether such different or additional terms and conditions materially alter this order, such different or additional terms and conditions will be invalid and rejected unless specifically agreed to in writing by Buyer. No course of performance or any course of dealing or usage of trade shall vary the express terms hereof.
3. **DELIVERY** - Time is of the essence in this order and substitutions outside of or overruns above normal accepted standards will not be accepted unless agreed upon by Buyer in writing. If delivery of items or rendering of services is not complete by the time promised, Buyer reserve the right without liability. In addition to its other rights and remedies, to terminate such contract by notice effective when received by Seller as to items not yet shipped or services not yet rendered and to purchase substitute items or service elsewhere and charge Seller with any loss incurred. Any documents necessary to enable Buyer to obtain the goods from the carrier when tendered will be mailed to Buyer at the delivery address. Goods shall be shipped FOB Buyer's business, and shall be at Seller's risk until no longer in possession of Seller and title has passed to Buyer. Unless otherwise specified in writing, place for delivery of goods is Buyer's business.
4. **WARRANTIES** – Seller warrants that all goods or services furnished hereunder will conform to applicable specification, instructions, drawings, data and samples will be merchantable, will be of good material and workmanship and free from defects, that the goods or services will be fit and sufficient for the purpose intended. If such intent is

known to Seller, and that all goods will be free from all liens, encumbrances and patent, trademark, copyright, trade secret or other intellectual property right infringement or claims. These warranties will be in addition to all other warranties, expressed or implied, and will survive acceptance of any payment for any and all goods or services ordered and will run to Buyer, its successors, assigns, customers and users of its products. Seller shall extend all warranties it receives from its vendors to Buyer, and Seller's warranties shall extend to Buyer's customers.

5. **PRICE WARRANTY** – Seller warrants that the price quoted hereunder are the lowest prices for which these or similar articles are sold by Seller to other customers, and in the event of any price reduction between execution of the purchase order and delivery of the goods, Buyer shall be entitled to such reduction. Seller warrants that prices shown on this purchase order shall be complete and no additional charges of any type shall be added without Buyer's express written consent.
6. **INSPECTION AND TESTS** – Payment for the goods delivered under this purchase order shall not constitute acceptance of such goods. Buyer reserves the right to inspect such goods and to reject any and all of said goods which are in Purchaser's judgment defective or nonconforming. Goods rejected and goods supplied in excess of quantities required herein may be returned to Seller at Seller's expense and in addition to Buyer's other rights. Buyer may charge Seller all expenses of unpacking, examining, repacking and reshipping such goods. In the event Buyer receives goods whose defects or nonconformity is not apparent on examination, Buyer reserves the right to require replacement as well as payment of damages. Nothing contained in this purchase order shall relieve Seller from the obligation of testing, inspection and quality control. It is expressly agreed that inspections and/or payment prior to, at the time of, or after delivery will not constitute a final acceptance of the goods or services.
7. **CONFIDENTIALITY** – All information, drawings, specifications or data furnished by Buyer to Seller shall be kept confidential. All such information, drawings, specifications or data, unless this requirement is waived expressly in writing by Buyer, and will return the same, including all copies made by or for Seller, upon request. Seller shall not in any manner advertise or publish the fact that it has furnished to Buyer the goods or services herein mentioned without prior written consent of Buyer.
8. **USE OF INFORMATION** – the Seller agrees that all information furnished or disclosed to Buyer by Seller in connection with this order is furnished or disclosed as part of the consideration for this order. Notwithstanding the foregoing, Seller clearly identifies in writing information which Seller considers to be confidential or proprietary. Buyer will protect and not disclose such information except for information: (a) which is already known to Buyer through Buyer's first receipt of information relating to Seller's development from Seller; or (b) which is or becomes generally available to the public through no fault of Buyer; or (c) which is properly obtained from a third party who has a right to make such disclosure.

9. EQUIPMENT, BUYER'S PROPERTY – all equipment, tools, materials, vehicles and/or other articles required for Seller's performance of this order shall be furnished by Seller, maintained in good condition and replaced when necessary at Seller's expense. Title to and a right of immediate possession of any nature whatsoever furnished or paid for by Buyer shall remain in Buyer.
10. FORCE MAJEURE - In the event of fire, accidents, abnormal weather conditions, government acts, strikes or other labor disputes. Acts of God, war, riots and other civil disturbances, or any other conditions beyond either party's reasonable control which prevent manufacture, transportation, delivery, acceptance, or Buyer's prompt utilization of the goods or services covered by this order (such events collectively referred to as "Force Majeure") the affected party may without any liability or penalty, delay delivery, manufacture, transportation, acceptance, or utilization by written notice effective when received by the other party, until such event and the consequences of such event of force majeure shall have terminated. Said notice of an event of force majeure shall contain the reason for any delay which the notifying party considers to be an event of force majeure under the provision of this paragraph. An event of force majeure shall not include events within the total or partial control of the party giving notice including, but not limited to poor business judgment or estimates, materials or labor shortages, or unanticipated engineering or technical difficulties.
11. TERMINATION – Buyer may terminate performance of the work under this order, in whole or in part for any reason whatsoever, by written notice to Seller. Upon receipt of such notice, Seller shall immediately discontinue all work and the placing of all orders for materials, facilities, and supplies pursuant to this order. Upon termination by Buyer under the paragraph for reasons other than force majeure (as set out in 12). Buyer shall negotiate payment to Seller based on Seller's non-recoverable, reasonable and actual documented costs and expenses; in no case, however, shall payments made under this paragraph exceed the aggregate price specified in this purchase order, less payments otherwise made or to be made. Nothing contained in this paragraph shall be construed to limit or affect any remedies which Buyer may have as provided in paragraph 10 and 12.
12. DEFAULT-CANCELLATION – If Seller's financial condition, based on reasonable and objective criteria, is found to be or becomes unsatisfactory to Buyer during the term of this contract, Buyer reserves the right, without incurring any liability to Seller, to cancel this order by written notice and terminate this contract and receive a refund of any deposits, down payments or other advance payment (except for goods or services already delivered). Buyer also reserve the right to terminate products or services whether or not Seller may otherwise be in default, and no rights shall accrue to Seller against Buyer on account of such termination. The foregoing rights of Buyer are in addition to, and not in lieu of, any rights Buyer may possess under 2-609 or other provisions of the Uniform Commercial Code, or other provisions of the law.

If Seller fails to perform as specified in this order or breaches any of the terms hereof, Buyer reserves the right, without incurring any liability to Seller, and upon giving Seller written notice, to (a) cancel this order in whole or in part, and Seller shall be liable to Buyer for all damages, losses and liability incurred by Buyer directly or indirectly resulting from Seller's breach; or (b) obtain the goods or services ordered herein from another source, with any excess cost resulting therefrom chargeable to Seller; (c) setoff or reduce all claims for money due from Buyer to Seller to the extent Buyer is damaged by Seller's failure to perform, or other breach of any term hereof. The remedies herein provided shall be cumulative and in addition to any other remedies provided at law or in equity Buyer's failure to insist on performance of any of the terms and conditions herein or to exercise any rights or privilege, or Buyer's waiver of any breach hereunder, shall not thereafter waive any other terms, conditions, or privileges, whether of the same or similar type.

13. COMPLIANCE WITH LAWS – Seller agrees to comply fully with all applicable laws, ordinances, rules, regulations and orders of all foreign nations (or government subdivision thereof) and all applicable domestic (United States of America) federal, state and local laws, ordinances, rules, regulations and orders pertaining to the production and sales of the goods or services ordered and upon request. Seller shall furnish Buyer certificates of compliance. These laws shall include, without limitation, the following : the Robinson Patman Act, the Fair Labor Standards Act of 1938, as amended. Federal and State OSHA requirements: the equal opportunity clause in 2002 of Executive Order #11246, as amended, Veterans Employment and Readjustment Act of 1972 (amending the Vietnam Era Veterans Readjustment Assistance Act of 1972): the rules and regulations of the office of Federal Contract Compliance; 503 of the Rehabilitation Act. Toxic Substances Control Act and the Federal Hazardous Substances Act. With specific references to the toxic Substances Control Act. Seller warrants that each chemical substance delivered under this order shall be on the inventory of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to Section 8 of the Toxic Substances control Act. Seller further warrants that it shall notify Buyer in writing of each chemical substance or product delivered under this order that is subject to Sections 4, 5, 8, 12 and 13 of the Toxic Substances Control Act. If this order is placed, directly or indirectly, under a contract to which the United States or any state or other governmental authority is a party, then all terms and conditions required by law or regulation or contained in the government contract with respect to this order are incorporated herein by reference. Seller expressly agrees to indemnify and hold harmless Buyer, its successors, assigns customers and users of its products from any costs expenses damages claims, suits, fines, penalties or any liability whatsoever, including attorney's fees, resulting from the failure of Seller to comply, in the furnishing of goods or services under this order with all applicable foreign or domestic federal, state, or local laws, ordinances, rules, regulations or order as set out hereinabove.

14. INDEMNIFICATION – Except to the extent that any injury or damage is due solely and directly to Buyer’s negligence. Seller agrees to indemnify and hold harmless Buyer, its successors assigns, customers and users of its products against all suits at law or in equity and from all damages, claims and liabilities arising out of the death of or injury to any person, or damage to any property including damage to any article or goods in which Seller’s goods are incorporated, alleged to have resulted from the goods or services hereby ordered and upon the tendering of any suit or claim to Seller, to defend the same at Seller’s expense as to all costs, losses, expenses, damages, claims, suits, or any liability whatsoever. Including attorney’s fees. The foregoing indemnification shall apply whether the death, injury or damages is caused by the sole or concurrent negligence of Seller.

To the extent that Seller’s agents, employees, or subcontractors enter upon premises of Buyer, Seller shall take all necessary precautions to prevent injury or death to any persons or damage to property arising out of acts or omissions of such agents, employees or subcontractors and except to the extent that any such agents, employees or subcontractors and except to the extent that any such injury or damage is due solely and directly to Buyer’s negligence shall indemnify, defend and hold buyer, its officers, employees, and agents harmless from any and costs, losses, expenses, damages claims, suits, or any liability whatsoever, including attorney’s fees, arising out of any act or omission of Seller. Its agents, employees or subcontractors. Seller shall maintain and require its subcontractors to maintain(a)public liability and property damage insurance (including contractual liability), both general and vehicle in amounts sufficient to cover obligations set forth above (b) worker’s compensation and employer’s liability insurance covering all employees engaged in the performance of this order. Seller shall furnish upon Buyer’s request certificates evidencing such insurance.

15. PATENT AND INTELLECTUAL PROPERTY RIGHT INDEMNIFICATION – Seller shall indemnify and save harmless Buyer, its successors assigns customers or users of its product, or Buyer’s officers, employees, and agents, from and against all costs, losses, expenses, damages, claims ,suits or liability whatsoever, including attorney’s fees, resulting from any claim that the manufacture use, sale or resale of any goods or services supplied under this order infringe any patent, copyright, trademark or other intellectual property rights; and Seller when notified, shall at Buyer’s sole option either defend any action or claim of such infringement at its own expense, or reimburse Buyer’s expenses, attorney’s fees, and other costs of defending such action or claim

16. ASSIGNMENT – This order may not be assigned by Seller nor may Seller delegate the performance of any of its duties hereunder without Buyer’s prior written consent.

17. APPLICABLE LAW – The validity , interpreted, and performance of these terms and conditions and all rights and obligations of the parties shall be governed by the laws of the State of Michigan

18. CAPTIONS – The captions appearing at the beginning of each paragraph of these terms and conditions are for convenience only and are not be construed as a substantive part of said terms and conditions
19. SEVERABILITY – The terms and condition of this order are severable and if any terms and conditions or portions of any terms unenforceable for any reason whatsoever the legality, validity or enforceability of the remaining terms and conditions shall not be affected thereby
20. VENUE ARBITRATION – All disputes arising directly or indirectly from Seller’s sale of goods or services to Buyer shall be brought. If at all in and before a court located in the State of Michigan or an arbitrator located in Michigan to the exclusions of any other forum in any other state. Both Buyer and Seller hereby consent to the jurisdiction of any local state or federal court located in the State of Michigan and to the jurisdiction of arbitrator located in Michigan. Any claims of less than \$ 100,000.00 shall be submitted for binding arbitration in Michigan before a mutually selected arbitrator belonging to the American Arbitration Association (AAA) in accordance with the AAA’s rules and procedures as then in effect . The arbitration fees shall be split equally between or among the parties to the dispute.