

TERMS AND CONDITIONS OF SALE

1. Conditional Acceptance: Objections to Purchaser's Terms: Entire Agreement. EFTEC North America, L.L.C.'s ("EFTEC") acceptance of Purchaser's order is expressly conditional upon Purchaser's assent to the terms and conditions specified herein, except that if Purchaser's order is based on the EFTEC quotation, such order will be deemed to constitute an acceptance of the quotation and the terms and conditions specified therein. Any term or condition of Purchaser's order or other documentation supplied by Purchaser which is different from, in addition to, or inconsistent with any term of condition specified herein (or in the EFTEC quotation, if any) is hereby objected to and rejected and, unless hereafter specifically accepted in writing by an authorized representative of EFTEC, such term or condition will not be binding on or effective against EFTEC. In the event a separate agreement (purchase agreement, override agreement, etc.) covering terms and conditions of a purchase has been negotiated and agreed upon between the Purchaser and EFTEC, and said agreement is applicable, it should take precedence (to the extent of conflicts) and the terms and conditions set forth herein will be supplemental to those of such agreement. Except as otherwise specifically provided herein, this invoice embodies the entire agreement of the parties in relation to the subject matter hereof and supersedes all prior understanding, communications and representations between the parties, whether oral or written. No amendment to these terms and conditions will be effective unless in writing and signed by an authorized representative of EFTEC.
2. Limited Warranty: Disclaimers: Limitation of Warranties and Remedies. EFTEC warrants that for a Warranty Period of one year (or the period specified on the applicable Technical Data Sheet, whichever is less) from the date of shipment from EFTEC to the Initial Purchaser, this EFTEC product was manufactured in accordance with EFTEC's specifications on the date of shipment. These specifications are available upon request. This Warranty does not cover test data, or any defects, damages or other harms caused to any extent or in any way by failure to follow applicable EFTEC instructions, if any, or abuse or misuse of the product. **THE FOREGOING WARRANTY IS IN PLACE OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. EFTEC EXPRESSLY DISCLAIMS ANY OTHER WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** ALTHOUGH EFTEC MAY HAVE SUGGESTED THE PRODUCT OR DEVELOPED THE PRODUCT AT THE PURCHASER'S REQUEST, IT IS THE PURCHASER'S RESPONSIBILITY TO TEST AND DETERMINE THE SUITABILITY OF THE PRODUCT FOR THE PURCHASER'S INTENDED USE AND PURPOSE, AND PURCHASER ASSUMES ALL RISK AND LIABILITY WHATSOEVER REGARDING SUCH SUITABILITY. FOR ANY VALID CLAIM PRESENTED UNDER THE WARRANTY, EFTEC WILL REPLACE THE PRODUCT, OR AT ITS OPTION, REFUND THE PURCHASE PRICE. THIS REPLACEMENT/REFUND REMEDY IS THE PURCHASER'S SOLE AND EXCLUSIVE REMEDY AGAINST EFTEC. THE PURCHASER AGREES THAT NO OTHER REMEDY (INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST SALES, INJURY TO PERSON OR PROPERTY OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL LOSS) SHALL BE AVAILABLE TO PURCHASER FOR CLAIMS ARISING OUT OF ANY USE OF THE PRODUCT REGARDLESS OF THE LEGAL THEORY (CONTRACT, TORT OR OTHER). IN NO EVENT WILL EFTEC BE OBLIGATED TO PAY DAMAGES TO PURCHASER FOR ANY AMOUNT EXCEEDING THE PRICE THAT PURCHASER PAID FOR THE PRODUCT.
3. Limitation of Actions: Venue: Consent to Jurisdiction. Any claim made or action commenced by Purchaser under EFTEC's limited warranty as set forth herein must be brought within one year from the date of shipment from EFTEC to the purchaser. Purchaser agrees that all disputes arising from EFTEC's sale of products to Purchaser shall be brought, if at all, in and before a court located in the State of Michigan to the exclusion of the courts of any other state. Purchaser hereby consents to the jurisdiction of any local, state or federal court selected by EFTEC that is located within the State of Michigan, and shall not disturb such choice of forum by EFTEC.
4. Delivery. Deliveries shall be F.O.B. point of shipment, unless otherwise designated by EFTEC. EFTEC shall not be liable for any delay in production or delivery due to any cause whatsoever beyond the reasonable control of EFTEC. EFTEC shall not be liable for any damage to or loss of product following delivery to the F.O.B. point, including any damage or loss in transit,
5. Terms of Payment and Price. Subject to approval and continuation of credit by EFTEC, the terms of payment are 10 days net unless stated otherwise on the invoice. In the event EFTEC does not approve the credit of the Purchaser, or if at any time after approval of credit and before delivery, EFTEC in its sole judgment decides that the extension of further credit is unjustified, terms of payment shall be those specified by EFTEC, including but not limited to C.O.D. or cash in advance. All prices are subject to exception or change without notice. Pricing errors may be corrected at any time.
6. Fair Labor Standards. For sales within the United States, EFTEC certifies that goods sold hereunder comply with all applicable requirements of Sections 6, 7, and 12 of Fair Labor Standards Act, as amended, and of regulations and orders of the U.S. Dept. of Labor issued under Section 14 thereof.