

1. **DEFINITION:** Each order acknowledgement together with these Terms and Conditions appearing hereof (collectively, "Agreement") supplied by ECM-USA ("Seller") to the party whom such acknowledgement is addressed and party's applicable affiliates and subsidiaries ("Buyer") is limited to the purchase of materials, products, labor, and services (collectively, "Goods") described therein.
 2. **ACCEPTANCE:** This Agreement is expressly limited to and made conditional upon Buyer's acceptance of the terms and conditions herein and in the quotation, if any, previously furnished to Buyer by ECM-USA. Acceptance of the quotation indicates agreement to the conditions hereto, notwithstanding any additional or contrary clauses provided by Buyer. Validity of the term of sale is subject to our acceptance of Buyer's order.
 3. **COMPLETE AGREEMENT:** This Agreement is the complete, exclusive statement of the terms and conditions of the Agreement between ECM-USA and Buyer and supersedes any previous accord, understanding or Agreement, expressed or implied. Terms and conditions proposed by Buyer deviating from the provisions in this Agreement are expressly rejected by ECM-USA and shall not be binding to this Agreement. A confirmed order is considered firm and final and shall not be subject to total or partial termination of the Agreement by Buyer.
 4. **MODIFICATION:** No modification of any part of the Agreement shall be binding unless agreed to in writing by an authorized ECM-USA representative.
 5. **GUARANTEE:** All products manufactured by ECM-USA are guaranteed to be free from defects in material and workmanship under normal use and service when installed, used and serviced as directed. The period of guarantee is six months after original date of shipment.
 6. **LIMITED GUARANTEE:** Repair or replacement of eligible components at the discretion of ECM-USA that are appropriately acknowledged to be defective from fault or defect, not including in any way the expenses and consequences of equipment downtime. Seller's recommendations in relation with the use of the Goods are based upon tests believed to be reliable, but Buyer shall assume all risks and liabilities for the results obtained with the use of the Goods. Except representations and warranties given by Seller herein, Seller disclaims any implied warranties of any kind including the implied warranties of merchantability, fitness for a particular purpose and non-infringement. Seller shall in no event be liable for any indirect, incidental, special or consequential damages arising out of or in relation to the sale or use of the Goods.
 7. **VOID GUARANTEE:** *Including but not limited to:*
 - a.) Normal wear and tear and in particular without limitation, the wearing of ineligible parts and consumables, notably thermocouples, fuses, gaskets, lubricants, lamps or heating elements;
 - b.) If the defect arises from Buyer or any affiliate of Buyer;
 - c.) If the defect is the result of an intervention by Buyer or a third party on the Goods carried out without Seller's authorization, and/or negligence or failure to carry out maintenance by Buyer;
 - d.) If the defective operation results from Buyer's failure to comply with statutory regulations relating the operation of the Goods or with operating or installation, assembly, operation and/or service instructions provided by Seller;
 - e.) If the defective operation results from accidental variation or an accidental change or removal of the distribution on the systems installed including but not limited to electricity, water or compressed air and fluids;
 - f.) If the purchaser fails to inspect the Goods upon delivery and notify ECM-USA of such defects within 48 hours after receipt of shipment and/or fails to issue claims to the carrier within due time;
 - g.) If the defective operation results from a force majeure case.
 8. **MAINTENANCE:** Buyer agrees to and understands the maintenance schedule set forth to maintain proper working order of all equipment. All instances of equipment lack of performance due to improper maintenance shall be the responsibility of Buyer.
 9. **PRICE:** ECM-USA has a minimum purchase order amount of \$100 or Buyer agrees to a \$35 handling fee. Unless otherwise stated in our offers, our prices are before tax, EX-WORKS (Incoterms 2010). All incidental expenses, notably packaging, transport, insurance and customs fees, export, import, transit fees and other authorizations and certifications are Buyer's responsibility. In cases where we have included packaging, transport and other incidental expenses in our offer and delivery terms, or if these have been taken into account for a determined amount in our offer or in confirmation of the order, we reserve the right, in cases of non-negligible tariff modifications, to modify our prices as a consequence. Our prices are established according to the economic terms in use at the time of drafting the offer and may be revised at the discretion of ECM-USA at any time. Buyer will be responsible for remitting any transactional tax to the applicable taxing authority except for those states or jurisdictions where Buyer has provided ECM-USA with an appropriate exemption certificate.
 10. **SUPPLEMENTARY SUPPLIES:** Prices and new lead times will be discussed with Buyer and are dealt with separately from the initial order. The supplementary supply terms shall in no case prejudice those of the main order. All modifications requested by Buyer, during execution of the order, shall entail as of right, amendments to the contractual prices and delivery dates.
 11. **CREDIT TERMS:** Payment must take place within 30 days from the receipt of order completion unless agreed upon by an authorized ECM-USA representative in writing. Payment terms shall not be extended on any grounds whatsoever including case of dispute. In cases of late payment, the amounts due will accrue interest due to Seller at the maximum rate of interest allowed by law. An immediate credit hold will be applied to Buyer's account until full payment of invoices at or exceeding contractual payment terms as well as all accrued interest has been received and processed by ECM-USA. Terms are subject to change at any time at the discretion of ECM-USA in any occurrence of credit hold or other noncompliance to this Agreement. All orders and shipments shall at all times be subject to the approval of the ECM-USA Credit Department. ECM-USA reserves the right to decline to make shipment whenever, for any reason, there is doubt as to Buyer's financial responsibility and we shall not in such event be liable for breach or nonperformance of this Agreement in whole or in part.
 12. **DELIVERY SCHEDULE:** Delivery dates are provided for reference only and are not guaranteed. We reserve the right to postpone the delivery dates in the case of:
 - a.) If the terms of payment are not met;
 - b.) If the information required for execution of works has not been surrendered to ECM-USA in the required time or if said information is subject to prior modification;
 - c.) If the delay of a third party supplier inhibits the timeline in any way;
 - d.) In case of force majeure;
 - e.) Any other cause or condition beyond our reasonable control.
- Late delivery does not give the purchaser the right to cancel the sale or to refuse the property. It shall not lead to withholding payments, penalties or damages.
13. **TRANSPORT, CUSTOMS & DELIVERY:** In the absence of shipping and packing instructions, ECM-USA shall use our choice of carrier and method of packing. All items are sold EX-WORKS (Incoterms 2010) unless otherwise agreed upon in writing by an authorized ECM-USA representative. Seller shall not be responsible for insuring shipments unless specifically requested by Buyer and any insurance so requested shall be at Buyer's expense. As soon as the Goods leave the works, all transport, customs, insurance and handling operations are Buyer's responsibility in terms of finance, fees and risk unless otherwise agreed upon in writing by an authorized ECM-USA representative. Buyer is also responsible for verification of the dispatched property upon their arrival and to exercise their right, if required, to make claims against the transport company, even if the dispatch was carried out free of charge. Upon Buyer's receipt of shipment, Buyer shall immediately inspect all contents of the order. Unless Buyer provides ECM-USA with written notice of any claim of shortages or defects 48 hours after receipt of shipment, such Goods shall be deemed finally inspected and accepted by Buyer.
 14. **LEGAL RESOLUTION CLAUSE:** This Agreement will be terminated as of right, in case of failure to meet payment terms by the client. The resolution will take effect eight days following an unsuccessful summons to this effect. In this case, our company shall claim, in addition, compensation corresponding to the total of the outstanding amount from the client in debt including any interest, as a penalty clause.
 15. **INTELLECTUAL PROPERTY & CONFIDENTIALITY:** All the intellectual property rights attached to the Goods, including copyrights, patents, trademarks or know-how and, in particular, but not limited to, all studies, plans, drawings, processes, designs, methods, technical specifications or data communicated to Buyer remain the exclusive property of Seller. Buyer undertakes to keep confidential, not to copy, replicate, reverse engineer and/or communicate to third parties, unless with the prior and written authorization of Seller, any information of technical, financial or commercial nature disclosed by Seller and, generally, all documents handed over or sent by the latter, and not to use it for any purpose whatsoever, except for the performance of the Agreement.
 16. **PATENTS, INVENTIONS & TECHNICAL DATA:** Buyer does not and shall not acquire ownership or any rights in ECM-USA's patents, inventions and/or technical data under an order, regardless of when such patents, inventions, and/or technical data may be or have been issued, conceived, generated or produced. All ECM-USA patents, information and/or technical data are reserved by Seller, and the same shall not be reproduced or used by Buyer for any purpose whatsoever without Seller's written permission.
 17. **OWNERSHIP RESERVE:** Unless otherwise agreed upon in writing, ECM-USA maintains full ownership of the sold property until payment of the total price in principal and interest is received by ECM-USA. Failure to pay any one of the installments may give rise to property claim. These arrangements shall not prevent transfer to Buyer, from the time of delivery, of risks of losses or deterioration of the sold property as well as damages that said risk may entail.
 18. **RETURNED PRODUCTS:** Returning delivered Goods to Seller requires prior written approval from an authorized ECM-USA representative before such Goods will be accepted. We reserve the right to deny returning Goods for any reason. Handling, inspection, restocking and invoicing charges of up to 20% will be applied at our discretion, in addition to any outgoing packing and freight expenditures paid by ECM-USA. All returns must be shipped to ECM-USA prepaid and must be unused in as-shipped condition. Goods that are processed to Purchaser's specifications are not returnable.
 19. **APPLICABLE LAW & SETTLEMENT OF DISPUTES:** The Agreement shall be interpreted and enforced in accordance with the laws of the State of Wisconsin, regardless of any choice of law principles. Any dispute in relation to this order, even in case of guarantee claims or plurality of defenders, failing amicable agreement, shall be brought before the exclusive jurisdiction of the commercial court in which Seller's registered office is located.
 20. **LIABILITY FOR INJURY:** Buyer agrees to be responsible for, and to indemnify and hold harmless ECM-USA and its employees from any and all injury, death, damage and loss to persons or property arising out of or incident to the work to be performed by Buyer pursuant to this order whether performed on the premises of ECM-USA or Buyer or elsewhere. Buyer and ECM-USA agree to carry and maintain insurance coverage's satisfactory to cover the above for their own employees, and upon our request to furnish certificates or other appropriate evidence of such insurance within five business days of the request.
 21. **CANCELLATION:** Orders may only be canceled with the written approval of ECM-USA and only in cases of Force Majeure. In the event of cancellation of an order, or any part hereof, incorporating special material, party, components, etc., Buyer shall pay: The contract price of all completed or ordered items.
 - a.) That portion of the contract price that is equal to the degree of completion of products in process, effective on the date notice of cancellation is received.
 - b.) The cost of any materials and supplies which Seller shall have purchased to perform.
 22. **FORCE MAJEURE:** ECM-USA shall not be liable for any delay in delivery or non-delivery, in whole or in part, caused by the occurrence of any contingency beyond the control either of ECM-USA or our suppliers, including but not limited to failure or delay in transportation, acts of any government or any agency or subdivision thereof, judicial action, labor disputes, fire, accident, acts of nature, shortage of labor, fuel, raw material or machinery or technical failure. If such occurs, Seller may allocate production and deliveries among Seller's customers.
 23. **WAIVER:** The failure at any time to require performance of Buyer for any provision of this contract will in no way affect the right to require such performance at any time thereafter, nor will the waiver of one specific provision of this contract constitute a waiver of any succeeding breach of the same or any other provision.
 24. **SEVERABILITY:** If any term of this contract is invalid or unenforceable under applicable law or regulation, such term will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such applicable law or regulation, and the remaining provisions of this contract will remain in full force and effect.