

TERMS AND CONDITIONS OF SALE

The following terms and conditions of sale shall apply to any sale of goods by Elkor Technologies Inc. (hereinafter called ETI)

1. GENERAL

In the event of any conflict between the terms and conditions of sale herein and the provisions contained in Purchaser's Order, ETI's terms and conditions of sale herein shall prevail. No waiver, alteration or modification of these terms and conditions shall be binding upon ETI unless made in writing and signed by a duly authorized representative of ETI.

2. QUOTATIONS

Unless otherwise stated ETI's quotation shall be null and void unless accepted by Purchaser within thirty (30) days from their date of quotation.

3. PRICE/COST OF TRANSPORTATION

All quoted prices are based on the current exchange rates, tariffs and costs of manufacture. Unless otherwise stated in the quotation, prices are subject to change by ETI with or without notice to Purchaser. Prices are subject to correction for error. Unless otherwise stated, all prices are FOB London, Ontario. Customary methods of transportation shall be selected by ETI and such transportation shall be at Purchaser's expense. Special methods of transportation will be used upon Purchaser's request and at Purchaser's additional expense provided reasonable notice of Purchaser's transportation requirements are given by Purchaser to ETI prior to shipment.

4. TAXES

For all sales outside Canada prices do not include Federal, Provincial or Municipal sales, use or similar tax. Accordingly, in addition to the price specified herein, the amount of any present or future sales, use, or similar tax applicable to the sale of goods hereunder to or the use of such goods by Purchaser shall be paid by Purchaser to the entire exoneration of ETI.

5. DELIVERY

Delivery schedules are approximate and are based on conditions applicable respectively at the time of ETI's quotation and ETI's acceptance of Purchaser's order. Delivery shall also depend on the prompt receipt by ETI of the necessary information to allow maintenance of the manufacturer's engineering and manufacturing schedules. ETI may extend delivery schedules or may, at its option, cancel Purchaser's order to full or in part without liability other than to return any deposit or prepayment which is unearned by reason of the cancellation. Unless agreed upon in writing ETI reserves the right to make partial shipments and to submit invoices for partial shipments.

6. FORCE MAJEURE

ETI shall not be responsible or liable for any loss or damage incurred by Purchaser herein resulting from causes beyond reasonable control of ETI including, but without limitation, acts of God, war, invasion, insurrection, riot, the order of any civil or military authority, fire, flood, weather, acts of the elements, delays in transportation, unavailability of equipment or materials, breakdown, sabotage, lock-outs, strikes or labour disputes, faulty castings or forgings, or the failure of ETI's suppliers to meet their delivery promises. The acceptance of delivery of the equipment by Purchaser shall constitute a waiver of all claims for loss or damage due to any delay whatsoever.

7. SHIPMENT/DAMAGES OR SHORTAGES IN TRANSPORT

Except for obligations stated under "Warranty", ETI's responsibility for goods ceases upon delivery to the carrier. In the event of loss or damage during shipment, Purchaser's claim shall be against the carrier only. ETI will however give Purchaser any reasonable assistance to secure adjustment of Purchaser's claim provided immediate notice of such claim is given by Purchaser to ETI. Claims for shortages must be made in writing ten (10) days after receipt of goods by Purchaser. If ETI does not receive written notification of such shortages within ten (10) days, it shall be conclusively presumed that the goods were delivered in their entirety.

8. TITLE

Title to the goods or any part thereof shall not pass from ETI to Purchaser until all payments due hereunder have been duly paid in cash, except as otherwise expressly stipulated herein. The goods shall be and remain personal or moveable property, notwithstanding their mode of attachment to realty or other property. If default is made in any of the payments herein, Purchaser agrees that ETI may retain all payments which have been made on account of the purchase price as liquidated damages, and ETI shall be free to enter the premises where the goods may be located and remove them as ETI's property, without prejudice to ETI's right to recover any further expenses or damages ETI may suffer by reason of such nonpayment.

9. LIABILITY

ETI shall not be liable for and shall be held harmless by Purchaser from any damage, contractual or delictual, consequential or incidental, direct or indirect, arising out of, in connection with or resulting from the sale governed hereby or the goods, including, but without limitation, the manufacture, repair, handling, installation, possession, use, operation or dismantling of the goods and any and all claims, actions, suits, and proceedings which may be instituted in respect of the foregoing.

10. WARRANTY

Goods sold hereunder are covered by a warranty against defects in material and workmanship provided the goods are subjected to normal use and service. The applicable warranty period is twelve (12) months from the date of installation or eighteen (18) months from delivery to Purchaser of any item of the goods, whichever occurs first, or any other warranty period otherwise stipulated under the sale. For components not supplied by ETI the original manufacturer's warranty shall apply to the extent assignable by ETI. The obligation under this warranty is limited to the repair or replacement, at ETI's option of defective parts FOB London, Ontario provided that prompt notice of any defect is given by Purchaser to ETI in writing within the applicable warranty period and that upon the Purchaser's return of the defective parts to ETI or, if designated by ETI, to the location where the works are made, properly packed and with transportation charges prepaid by Purchaser, an inspection thereof shall reveal to ETI's satisfaction that Purchaser's claim is valid under the terms of this warranty. Purchaser shall assume all responsibility and expense for dismantling, removal, re-installation and freight in connection with the foregoing. The same obligations and conditions extend to replacement parts furnished by ETI hereunder. ETI does not assume liability for installation labour or consequential damages. ETI makes no warranty other than the ones set forth herein. All other warranties, legal, expressed or implied, including but not limited to any expressed or implied warranty of merchantability, of fitness for the intended use thereof or against infringement are hereby expressly excluded.

The applicable warranty ceases to be effective if the goods are altered or repaired other than by persons authorized or approved by ETI to perform such work. Repairs or replacement deliveries do not interrupt or prolong the term of warranty. The warranty ceases to be effective if Purchaser fails to operate and use the goods sold hereunder in a safe and reasonable manner and in accordance with any written instructions from the manufacturers.

11. INSTALLATION

Unless otherwise expressly stipulated the goods shall be installed by and at the risk and expense of Purchaser, in the event that ETI is requested to supervise such installation, ETI's responsibility shall be limited to exercising that degree of skill customary in the trade of supervising installations of the same type. Purchaser shall remain responsible for all other aspects of the work including compliance with the local regulations.

12. RETURNED GOODS

No goods may be returned to ETI without ETI's permission. ETI reserves the right to decline all returns or to accept them subject to a handling charge. Even after ETI has authorized the return of goods for credit, ETI reserves the right to adjust the offer in accordance with conditions of the goods on arrival in ETI's warehouse. Credit for returned goods will be issued to Purchaser, where such goods are returned by Purchaser, and not by any subsequent owners of the goods. Restocking fees in the amount of 30% will apply to all standard ETI products returned in good condition. No returns will be accepted after ninety (90) days.

13. TERMS OF PAYMENT

Unless otherwise stated, invoices on "open account" shipment are payable within thirty (30) days of invoice date. No cash discount shall be available to Purchaser. Should payment not be made to ETI when due, ETI reserves the right, until the price has been fully paid in cash, to charge Purchaser with interest on such overdue payments at the rate of eighteen percent (18 %) per annum. The charging of such interest shall not be construed as obligating ETI to grant any extension of time in the terms of payment.

14. CHANGES AND CANCELLATION

Orders accepted by ETI are not subject to changes or cancellation by Purchaser, except with ETI's written consent in such cases where ETI authorizes changes or cancellation. ETI reserves the right to charge Purchaser with reasonable costs based upon expenses already incurred and commitments made by ETI. Sales of all custom, customized or large quantity orders of standard products are final. These orders will be accepted only on a "Non-Cancellable, Non-Returnable" condition.

15. THE AGREEMENT

An acceptance and official confirmation of Purchaser's order by ETI shall constitute the complete agreement subject to the terms and conditions of sale herein set forth, and shall supercede all previous quotations, orders or agreements. The law of the Province of Ontario shall govern the validity, interpretation and enforcement of the sale and any contract of which these provisions are a part.