

Electronic Maintenance Associates, INC.

Standard Terms and Conditions of Sale

Effective July 31, 2009 supersedes all previous terms and conditions

1. GENERAL:

(a) Any sale of products or services by Electronic Maintenance Associates Inc. ("EMA") is governed exclusively by these Standard Terms and Conditions of Sale ("Standard Terms") and shall supersede any inconsistent or additional terms on Buyer's purchase order or any other document. These Standard Terms constitute the final, complete and exclusive agreement between EMA and the Buyer as to the subject matter hereof. EMA hereby objects to any inconsistent or additional terms. This Agreement may be amended only in writing signed by an authorized representative of EMA.

(b) Any order placed with EMA must be in the form of a written purchase order or letter from Buyer ("Order") and shall set forth all information necessary for EMA to fill the Order, if accepted. All proposals, quotations or similar communications from EMA will be considered invitations to Buyer to submit an Order. A binding sales contract will result only when EMA accepts Buyer's Order.

2. WARRANTY:

(a) EMA warrants that each new and unused product sold by EMA shall be free of defects in material workmanship for a period of one (1) year from the date the from the date of shipment. EMA warrants that its services shall be free of defects in workmanship for a minimum period of ninety (90) days from the date they are first provided. See EMA Field Service and Shop Service terms for specific warranties applicable to shop or field services provided by EMA. Within the applicable warranty period, EMA will, at its sole discretion, either repair, replace or return the purchase price paid to EMA for any product, part or service found by EMA to be defective; provided that the subject product is used under normal conditions for which it was designed and installed, operated and maintained in accordance with EMA's instructions and (subject always to such instructions) in accordance with generally accepted industrial practices.

(b) EMA's warranty obligation shall be conditioned upon receipt by EMA of written notice of any alleged defects within sixty (60) days after discovery. EMA will not be responsible or accept invoices for unauthorized repairs, spare parts, or new parts, to any products, even if defective. EMA shall not be responsible for any products which have been altered, abused, misused, or improperly installed or repaired, or for any loss, damage, defect, claim or non-performance resulting from or attributable to Buyer's specifications.

(c) Where EMA supplies equipment or parts manufactured by a third-party, EMA will, to the extent permitted, pass through to Buyer any warranty of the manufacturer. As to such items, Buyer's sole remedy for breach of warranty shall be the remedy offered by and available from the manufacturer. EMA shall have no liability, whether in contract, tort or otherwise, for such products.

(d) EMA does not guarantee production rates or the quality of goods made using EMA's products or services, nor shall any longer warranty periods apply, except as agreed in writing signed by an authorized EMA representative.

(e) EMA'S WARRANTY HEREIN IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES OF EMA AND ALL PARENT OR AFFILIATED COMPANIES OF EMA. ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE OR USE, ARE HEREBY EXCLUDED.

(f) UNDER NO CIRCUMSTANCES SHALL EMA, OR ANY PARENT OR AFFILIATED COMPANY OF EMA, BELIEVE TO BUYER OR ANY ENTITY FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER ARISING FROM BREACH OF CONTRACT, TORT, NEGLIGENCE, MISREPRESENTATION, STRICT LIABILITY OR OTHERWISE, INCLUDING FOR LOST PROFITS, IMPAIRMENT OF GOODS, WORK STOPPAGE OR OTHERWISE, IN ANY WAY ARISING OUT OF OR RELATED TO GOODS OR SERVICES SUPPLIED BY EMA OR ANY TRANSACTION TO WHICH THESE STANDARD TERMS APPLY. THE MAXIMUM LIABILITY OF EMA, INCLUDING, BUT NOT LIMITED TO, WITH RESPECT TO THE DESIGN, MANUFACTURE, SALE, DELIVERY, RESALE, INSPECTION, ASSEMBLY, INSTALLATION, TESTING, REPAIR, REPLACEMENT, MAINTENANCE OR USE OF ANY PRODUCT OR THE PERFORMANCE OF ANY SERVICE, SHALL NOT EXCEED THE PURCHASE PRICE PAID TO EMA FOR THE DEFECTIVE PRODUCT OR SERVICE.

3. DRAWINGS/MEASUREMENTS:

All drawings, tables, graphs and the like submitted by EMA or contained in EMA's publications shall be regarded as approximations only. Weights, measurements, capacities and all other particulars of products or services offered by EMA are approximations only. EMA is not responsible for such approximations, including, in particular, based on data supplied by Buyer.

4. INFRINGEMENT:

EMA's liability for infringement (and the liability of any parent or affiliated company of EMA) is limited to EMA's defense of any suit or proceeding brought against Buyer based on a claim that products sold hereunder, when employed in the manner intended by EMA, constitutes an infringement of any patent of the United States. If Buyer's use of the products in the manner intended by EMA is finally enjoined in such action, EMA shall, at its option, procure for Buyer the right to continue using the products, replace the same with non-infringing products, modify the products so that they become non-infringing equivalent products, or refund the purchase price (less allowance for use, damage or obsolescence). EMA makes no warranty against patent infringement resulting from portions of the products made to Buyer's specifications or the use of products in combination with any other products or in the practice of any process, and if a claim, suit or action is brought against EMA or any parent or affiliate of EMA, Buyer shall defend, indemnify and save EMA (and its parent/affiliates) harmless from and against any and all claims, losses or damages arising therefrom.

5. SHIPMENT, FORCE MAJEURE, PRICES AND ERROR:

- (a) Shipment/delivery dates are approximations only. EMA shall not be liable to pay any penalty or damages, including consequential damages, for any delay in shipment.
- (b) In no event shall EMA be liable for any damages, including consequential damages, caused by delays or non-performance resulting from or related to force majeure or other causes beyond EMA's reasonable control, including, but not limited to, war, blockade, civil disturbances, strikes and lockouts, labor shortages, fire and other casualties, acts of nature, accidents and governmental acts (including regulations concerning export and import licensing and currency exchange). In case of non-delivery, EMA's obligation shall be limited to the refund of any advance payment received from Buyer.
- (c) All claims for loss of or damage to products, whether concealed or obvious, must be made, in writing, to the carrier and to EMA by Buyer as soon as possible after receipt of shipment, and in no case beyond 30 days of shipment, or such claims shall be deemed waived. EMA will render reasonable assistance in providing information necessary for Buyer to process such damage claims with the carrier or any insurance company.
- (d) EMA's quoted prices are firm for thirty (30) days from the date of EMA's written proposal. Thereafter, the applicable prices are those in effect at the time Buyer's Order is placed with EMA. EMA will notify Buyer of any price changes for incorporation into a revised Order prior to acceptance by EMA. Pricing based on volume discounts is subject to adjustment by EMA if actual shipping volumes do not meet minimum volume requirements of agreement. Clerical errors in any element of a proposal, purchase order, invoice or contract are subject to correction by EMA.
- (e) (1) Buyer agrees to accept delivery within fifteen (15) days following the anticipated date of delivery. If Buyer refuses to take delivery within the fifteen (15) day period, EMA reserves the right to charge Buyer for storage charges plus interest.
(2) All shipments are F.O.B. EMA's (or its suppliers') facility or warehouse. EMA will, at Buyer's expense, arrange for the transportation of the products from the facility or warehouse designated by EMA. Buyer is responsible to timely procure all necessary export and import licenses and all permits required for the consummation of the transaction.

6. TERMS OF PAYMENT:

- (a) All payments are due within thirty (30) days of EMA's invoice. EMA reserves the right to require payment in advance, or satisfactory security, for any shipment or sale. EMA may cancel any shipment or Order for any Buyer which has failed to make payment or comply with any other provision of these Standard Terms. EMA reserves the right to seek any other remedy available at law or equity. Payment shall be made at the agreed time, to the place specified, and in U.S. dollars. Buyer's failure to pay at the agreed time and place constitutes a waiver of Buyer's right to demand EMA's performance under the contract.
- (b) When an account becomes past due according to its payment terms, Buyer shall pay interest on the balance due, at the greater of 1.50% per month (18% per annum) or the maximum permitted by law, until paid in full.
- (c) If delivery and/or payment in installments is accepted by EMA, Buyer's failure to pay any installment when due shall give EMA the right to suspend work or delivery until such payment is made. In the event that any such default by Buyer continues for more than fifteen (15) days, EMA may then cancel the contract by written notice to Buyer. Upon cancellation of an installment contract, all items already delivered to and paid for in full by Buyer will be transferred to Buyer "AS IS, WHERE IS," without any warranty.
- (d) All duties, tariffs, fees, costs and other charges connected with shipment, insurance, exportation and importation of the products are the responsibility of Buyer, and, if paid by EMA, such expenses may be recovered by EMA from Buyer, and Buyer shall indemnify EMA against claims for the same. Buyer is responsible for all taxes applicable or related to this transaction, including all sales, use and excise taxes.

7. RISK OF LOSS:

Risk of loss and/or damage to the products shall pass to Buyer upon delivery thereof to Buyer or its representative, or to a carrier for shipment to Buyer or its designated customer, as the case may be, at the facility or warehouse of EMA or its supplier. Buyer is responsible to obtain insurance coverage on all shipments of products supplied by EMA.

8. RETURNS/CANCELLATION CHARGES:

Buyer shall not return any product to EMA without the written consent of, and upon terms agreed to, by EMA. If Buyer refuses to accept delivery, or improperly revokes acceptance of product, Buyer shall be responsible for EMA's cancellation charges and expenses. Except for approved warranty returns, EMA may accept for return and credit, new, unused, current stock items, in the original packaging and undamaged. Buyer shall be responsible for all freight charges, import/export charges, duties, tariffs, taxes, insurance and risk of loss/damage regarding return shipment to EMA.

9. SECURITY INTEREST:

To secure any indebtedness due and owing from Buyer from time to time, Buyer hereby grants to EMA, and EMA hereby reserves, a continuing purchase money security interest in all products heretofore or hereafter sold and delivered to Buyer by EMA, and all related parts, components and accessories therefore, and all proceeds arising from the sale or other disposition of the foregoing, including, but not limited to, cash, accounts, contract rights, accounts receivable, instruments and chattel paper. Buyer shall at no time grant any security interest that conflicts with that granted to EMA herein. Buyer shall cooperate with EMA, and hereby appoints EMA as its attorney-in-fact, to execute and file, on Buyer's behalf, any documents necessary to evidence and perfect EMA's security interest.

10. GOVERNING LAW, FORUM AND JURY WAIVER:

These Standard Terms and the relationship of the parties hereto shall be governed by the internal laws of the State of Georgia, U.S.A., without regard to its choice of law rules. For all claims or disputes arising out of or relating to the sale of products or services by EMA and/or the relationship of Buyer and EMA, Buyer shall file any and all lawsuits or claims exclusively in the state or federal courts located in Gwinnett County, Georgia. Buyer hereby submits to the personal jurisdiction of said courts and waives any claim of improper or inconvenient venue. To the fullest extent permitted by law, Buyer hereby agrees to waive the right to trial by jury for all claims or disputes arising out of or relating to the sale of products or services by EMA and/or the relationship of Buyer and EMA. The parties agree that U.N. Convention of Contracts for the International Sale of Goods shall not apply to their relationship or the sale of products by EMA.

11. MISCELLANEOUS:

- (a) Failure on the part of EMA to enforce any of its rights derived from this contract shall never be construed as a waiver of any of EMA's rights.
- (b) The invalidity of one or more of the clauses herein shall not affect the validity of the other clauses, which for this purpose are considered severable.
- (c) Any use by Buyer of any EMA trademark must be approved by EMA in writing.
- (d) Buyer may not delegate its performance or assign its rights under this Agreement except upon the express written consent of EMA. In any case, these Standard Terms shall be binding upon the successors and legal representatives of Buyer.
- (e) Buyer shall comply with all applicable laws and regulations regarding the use, import and export of the products sold hereunder. The products and services to be sold hereunder are not intended for use in any nuclear, chemical or weapons production or environmental damage. If Buyer uses the products or services for such or other impermissible purposes, it shall indemnify, hold harmless and defend EMA, all parent and affiliated companies of EMA, from and against all related claims and damages.
- (f) All rights and remedies available to EMA under the Uniform Commercial Code and other applicable law are reserved to EMA as remedies in the event of Buyer's default.