

Exterior Technologies Group Inc. General Terms and Conditions

PLEASE NOTE: EACH DOCUMENT, REGARDLESS OF THE DOCUMENT'S TITLE, PERTAINING TO A TRANSACTION ("SALE") BETWEEN CUSTOMER AND ETG EXTERIOR TECHNOLOGIES GROUP INC. ("ETG") (COLLECTIVELY, "SALES DOCUMENTS"), IS SUBJECT TO AND CONDITIONAL ON CUSTOMER'S ACCEPTANCE OF THESE GENERAL SALES CONDITIONS ("CONDITIONS") UNLESS ETG OTHERWISE EXPRESSLY AGREES IN WRITING IN A "SPECIAL CONDITION."

1. Order Process: Acceptance, Additional or Conflicting Information

- a. Each sale of any product from ETG to the Customer (the "Product") and services related to the Product (the "Services") that ETG provides to the Customer is a contract entered into in the Province of Ontario according to these Conditions.
- b. the Customer must submit a written purchase order (the "Purchase Order") that contains the following information:
 - i. The Product and/or Services the Customer wishes to purchase; and
 - ii. A description and indication of quantity; and
 - iii. A requested delivery date.
 - iv. Project name and address for the project location(s)
- c. Each Purchase Order is subject to ETG receiving and accepting a written order acknowledgement ("Order Acknowledgement") signed by the Customer or an electronic communication by the Customer providing an Order Acknowledgement (for which purposes the electronic email message shall serve as an electronic signature of Customer). No oral or written communication binds ETG until ETG has received the Order Acknowledgement. The Customer is solely responsible for the proper selection, application, verification of quantities, use or incorporation of Product and Services.
- d. Prior to ETG providing the Customer with a written Order Acknowledgement or ETG commencing shipment of any Product, the Customer shall participate in ETG's internal credit review process (as ETG may change from time to time). As a result of ETG's internal credit review process, ETG may take, in its sole discretion, whatever action ETG deems appropriate, for example, require payment in full, require collateral, require other security or guarantees of payment/performance be provided. ETG's internal credit decisions are final. ETG is not liable, and the Customer shall defend, indemnify, and hold harmless ETG for any expenses arising from or related to ETG's internal credit review process. The Sale Documents govern each Sale. The Customer's terms do not apply to a Sale. The Customer's proposed, additional or different terms do not modify the Sale Documents, unless otherwise agreed to by ETG in writing. **ETG REJECTS ANY ADDITIONAL OR DIFFERENT TERMS AND/OR CONDITIONS THE CUSTOMER PROPOSES OR AS ARE CONTAINED IN ANY PURCHASE ORDER, COMMERCIAL DOCUMENT OR OTHER CORRESPONDENCE FROM THE CUSTOMER, REGARDLESS OF ANY KNOWLEDGE ETG MAY HAVE OF THE ADDITIONAL OR DIFFERENT TERMS, AND ANY ADDITIONAL OR DIFFERENT TERMS DO NOT BIND ETG.** If any of these Conditions conflict with

any other Sales Documents, these Conditions shall prevail, except when the conflicting term is contained in or labeled as a "Special Condition" that has been written and produced by ETG, in which case the "Special Condition" shall prevail over these Conditions.

- e. ETG may change a Purchase Order at any time to correct mathematical or clerical errors
 - f. ETG may submit invoices by facsimile, email, regular mail, or personal delivery.
- ## 2. Price and Payment
- a. Prices applicable to the Products are subject to change, and ETG may make such price changes without prior notice to Customer. Prices do not include freight, transfer or other tax, duty or assessment related to the Product or Services, which

- b. will be added separately on the invoice; freight charges and duty or assessment charges are based on warehouse shipping location and/or applicable importing fees.
- c. Notwithstanding the foregoing, the Customer will be billed for the Products according to the price in effect at the time they are ordered.
- d. Sales tax may be applied to all invoices unless a valid resale tax-exemption number and certificate is provided or is on file with ETG.
- e. The Customer shall pay the full price for the Product and/or Services within thirty (30) days of the invoice date, which is the earlier of:
 - i. Thirty (30) days after Product delivery or provision of Services;
 - ii. Customer's receipt of the Product; and
 - iii. 30 days after Product leaving ETG's premises.
- f. On Purchase Orders reasonably deemed appropriate by ETG, the Customer shall pay 50% of the purchase price no more than fifteen (15) days after ETG transmits the written order confirmation.
- g. If at any time, in its sole judgment, ETG has any doubt as to Customer's financial responsibility, expects the Customer's anticipatory breach, or the Customer has failed to make any payment when due, then ETG may decline to make further Product shipments, or to provide further Services, or both, to Customer or any Customer-affiliate, except after ETG's receipt of a deposit or other satisfactory security before shipment or provision.
- h. If the Customer fails to make any payment when due, then:
 - i. interest accrues at the lower of 1.5% per month and the maximum amount allowed by applicable Ontario law from the date the payment was due until ETG receives payment in full;
 - ii. Customer shall pay ETG's legal fees and other costs relating to collection of any past due amounts; and
 - iii. ETG may, in its sole discretion, take any of the following actions: suspend performance with respect to Customer or any Customer-affiliate; terminate any outstanding Sale for default; require Customer to pay the full price on any outstanding Sale; and take any other actions or pursue any other remedies under applicable law. ETG's failing to charge interest on late payments or to exercise Company's right to suspend performance is not a waiver of any legal or equitable remedies.

3. Delivery, Title and Risk of Loss

- a. Unless otherwise agreed in writing by ETG, delivery shall be made to the project location mutually agreed upon by ETG and the Customer. Title to and risk of loss and liability for Products relating to or arising out of ownership or use of Product shall pass from ETG to the Customer at the time ETG delivers the good to the carrier or to another named person nominated by the Customer. As collateral security for the payment of the purchase price of the Products, the Customer hereby grants to ETG a lien on and security interest in and to all of the right, title and interest of the Customer in, to and under the Products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Ontario *Personal Property Security Act, RSO 1990*.

4. Inspection

- a. The Customer may inspect, or provide for inspection of, the Product(s) at the point of receipt of shipment, upon which the Customer shall immediately notify ETG of any discrepancies,

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IART Architecture creative, simple, and sustainable.

- defects, damages, or shortfalls in the product and provide documentation to support the assertion.
- b. In any event, all claims for alleged discrepancies, defects, damages, or shortfalls in Product(s) are waived unless ETG is notified of the claim within two (2) days after receipt of shipment. No claim shall be effective if made after the Product(s) have been altered or used. The Customer shall provide ETG prompt and reasonable opportunity to inspect all Product(s) to which any claim is made.
 - c. No material shall be returned to ETG without ETG's express written consent, a return authorization, and return instructions.
- 5. Limitation of Remedies and Liability**
- a. NOTWITHSTANDING ANY CONTRARY PROVISION HEREOF OR THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, AND TO THE FULLEST EXTENT NOT PROHIBITED BY APPLICABLE LAW, ETG'S LIABILITY TO THE CUSTOMER IN ANY CAUSE OF ACTION, WHETHER BASED ON CONTRACT, TORT, INCLUDING WITHOUT LIMITATION NEGLIGENCE, OR ANY OTHER THEORY, SHALL BE LIMITED TO THE PRICE PAID BY THE CUSTOMER FOR THE SPECIFIC PRODUCTS GIVING RISE TO SUCH CLAIM. WITHOUT LIMITING THE FOREGOING, ETG SHALL NOT BE LIABLE, AND THE CUSTOMER WAIVES ALL CLAIMS AGAINST ETG, FOR ANY LOST PROFITS, WARRANTY CLAIMS, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES. ANY CAUSE OF ACTION THAT THE CUSTOMER MAY HAVE AGAINST ETG AND WHICH MAY ARISE IN CONNECTION WITH THE PRODUCTS MUST BE COMMENCED WITHIN SIX (6) MONTHS AFTER THE CAUSE OF ACTION HAS ACCRUED.
- 6. Indemnification**
- a. The Customer shall indemnify, defend and hold harmless ETG, its officers, directors, employees and agents from any and all claims, actions, suits, damages, liabilities, costs, obligations, and expenses, including but not limited to legal fees and consultants' fees arising from or relating to
 - i. selection, application, use or incorporation of Product and Services;
 - ii. processing or modifying Product
 - iii. violation, misappropriation, or infringement of any patent, trademark, copyright or other intellectual property rights of any person or entity related to compliance with the Customer's design, specifications or instructions,
 - iv. Product use exceeding the Company's Product specifications,
 - v. any misrepresentation (express or implied) made by the Customer, its employees, consultants, or agents, and
 - vi. any violation of law or regulation by, intentional or negligent act of, or unauthorized representation by the Customer, its employees, consultants, or agents in their marketing activities, sales, distribution or handling of Product. At ETG's request, Customer shall defend ETG, at the Customer's sole cost and expense, against any claim made against ETG.
- 7. Insurance**
- a. the Customer shall maintain commercial general liability, personal injury and property damage insurance policies, including wrongful death coverage, in reasonable amounts with a provincially recognized insurance company.
 - b. In the event ETG requests to review the Customer's insurance policy, the Customer agrees to provide ETG with a copy of their insurance policy within ten (10) business days.
- 8. Force Majeure**
- a. ETG shall not be liable for delays or failure to perform in any way resulting from events and causes beyond a party's reasonable control, for accidents, acts of God, acts and omissions of any governmental authority, declared or undeclared wars, terrorism, explosions, strikes or other labor disputes, fires and natural calamities, changes in the law, increase in tariffs, and delays in obtaining (or the inability to obtain) labor, materials or services through usual sources at usual prices. If the Product, or labor, materials or services for producing the Product, are not available through ETG's usual sources at usual prices, then:
 - i. ETG may allocate its supplies among its customers, including those not under contract, in any manner ETG deems appropriate without liability; and
 - ii. ETG is not required to provide the Product at the price set forth in the Sales Documents: ETG and the Customer shall re-negotiate the price based on ETG's actual cost increases. ETG is not required to purchase supplies to produce Product to enable it to fulfill any order.
- 9. Shortages**
- a. If shortages occur in ETG's supply of the Products for any reason other than a Force Majeure, ETG will allocate all Products produced among its customers, its own requirements, in a manner and amount that it deems fair and reasonable, without obligation to obtain similar goods from other sources. ETG may deduct any quantity not shipped to the Customer because of any such shortages of either Products or materials from the quantity specified in the Customer's Purchase Order.
- 10. Confidential Information**
- a. The Customer shall not disclose any confidential or proprietary information ("**Confidential Information**"), that ETG provides to the Customer unless the Confidential information is otherwise generally available to the public.
 - b. Despite any Conditions contained in this Agreement, and in relation to any information obtained by the Customer belonging to or provided by ETG, the Customer agrees to follow and abide by the *Personal Information Protection and Electronic Documents Act*.
- 11. No Partnership**
- a. ETG is an independent business. Nothing in this Agreement creates a partnership, association, or joint venture between the parties. The Customer is not entitled to enter any commitment on behalf of or otherwise bind ETG on any matter including making any representation or warranty on ETG's behalf.
- 12. Notices**
- a. All notices, requests and other communications to any party hereunder shall be in writing (including email or facsimile transmission) and shall be deemed received on the earlier of:
 - i. the date actually received as evidenced in writing, regardless of how sent; or
 - ii. three (3) business days after being mailed by certified or registered mail, return receipt requested, with postage prepaid; or
 - iii. the next business day, if sent by overnight courier.
- 13. Governing Law**
- a. The validity and interpretation of these terms and conditions shall be governed by the laws of Canada and/or the laws of the Province of Ontario.
- 14. Choice of Forum**
- a. The parties hereby agree that all demands, claims, actions, causes of action, suits, proceedings and litigation between or among the parties or arising out of these Conditions, subsequent Sale Documents, or any further agreements between the Customer and ETG shall be filed, tried and litigated only in a federal or provincial court located in Toronto, Ontario, Canada. In connection with the foregoing, the parties hereto irrevocably consent to the jurisdiction and venue of such court and expressly waive any claims or defenses of lack of jurisdiction of or proper venue by such court.
- 15. Severability**
- a. In the event that any of the provisions, or portions thereof, or interpretations by the parties or by either party of any provisions, or portions thereof, of these terms and conditions are held to be unenforceable or invalid by any court of competent jurisdiction, ETG and the Customer agree that a court of competent jurisdiction shall enforce such provision to the maximum extent permissible, and the other terms and conditions will remain in full force and effect.