

# Environmental Wall Systems, LTD.

## Standard Terms and Conditions

- A. Purchase and Sale Obligation.** Upon acceptance of the attached price quotation without amendment, the Customer agrees to purchase from Environmental Wall Systems, LTD., and Environmental Wall Systems, LTD. agrees to sell to the Customer the quantities of products specified in such quotation. The parties may add additional products by written agreement from time to time.
- B. Prices and Terms of Payment.** The purchase price and certain other terms and conditions of sale shall be as provided in the price quotation attached. Unless specifically set forth in the quotation or in an additional Attachment to this quotation: (i) all orders shall be accompanied by a written purchase order and a deposit equal to fifty percent (50%) of the invoice total for such order; (ii) invoices shall be rendered at the time of shipment to Customer or shipment to storage; (iii) the balance of the purchase price and other applicable charges shall be paid by the Customer without deduction or offset of any kind, within fifteen (15) days of date of invoice; and (iv) product prices stated do not include freight, insurance, installation costs, or any goods and services taxes, sales, use, excise, processing or other taxes. Overdue accounts shall bear simple interest at a rate of one percent (1%) per month (12% per annum) until paid. It is also understood that prices specified in this agreement or in any Schedule attached to it are subject to change in the event of any increase prior to delivery in the customs duties, applicable taxes, exchange rates, or values for duty purposes. The Customer agrees to make payment of any and all such taxes either to Environmental Wall Systems, LTD. or, if authorized by law, directly to the taxing authority, or in lieu thereof to provide Environmental Wall Systems, LTD. with a tax exemption certificate acceptable to the Environmental Wall Systems, LTD. and the relevant taxing authority.
- C. Manufacturing Lead Times.** Except as provided below or otherwise waived by the Customer, Environmental Wall Systems, LTD. agrees that it will generally cause the manufacture of all orders within six (6) weeks of Environmental Wall Systems, LTD.'s receipt of a Purchase Order, applicable deposit, and a completed Project Information Checklist. Standard lead times may be adjusted from time to time. For the purposes of this section, a "Project Information Check List" means all information, specifications and non-standard materials necessary for Environmental Wall Systems, LTD. to cause the manufacture of any particular order. The Customer agrees to provide all of such information within its control as soon as it is available and in any event not less than five weeks prior to the anticipated shipping date. For greater certainty, the six (6) week manufacturing period runs from the date of receipt by Environmental Wall Systems, LTD. of the Project Information Check List, not the date that the purchase order is received. Lead times may be affected by (i) orders that are changed by the Customer; (ii) errors or omissions in the Project Information Check List or products which require rework or replacement by Environmental Wall Systems, LTD.; or (iii) any products or components which are not manufactured by Environmental Wall Systems, LTD., unless specifically agreed in writing by Environmental Wall Systems, LTD.
- D. Warranty and Service Agreement.**
- a. Environmental Wall Systems, LTD. warrants its products to be free from defects in material and/or workmanship under normal periodic use according to Environmental Wall Systems, LTD.'s published instructions for a period of 2 years.
  - b. All warranties for products manufactured by Environmental Wall Systems, LTD. run from the date of shipment from the Environmental Wall Systems, LTD.'s manufacturing facility or other points of origin as designated by Environmental Wall Systems, LTD.
  - c. The warranty on all products not manufactured by Environmental Wall Systems, LTD. shall be for the period, and on the terms specified by the original manufacturer.
  - d. Where the Customer wishes to make a warranty claim or service request hereunder, the Customer shall not return the goods but shall notify Environmental Wall Systems, LTD. immediately in writing, stating full particulars of the claim or service request, whereupon Environmental Wall Systems, LTD. will, at its option, (i) replace the goods upon return of them; (ii) dispatch a qualified service technician to the Customer's premises to service or repair the goods, or (iii) otherwise adjust the matter fairly and promptly.

- e. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Environmental Wall Systems, LTD.'s liability on any claim of any kind, including negligence, for any expense, injury, loss or damage arising out of, or connected with, or resulting from this agreement of the performance or breach thereof, or from the manufacture, sale, delivery, resale, repair or use of any goods covered by or furnished under this agreement or any amendment or supplement hereto, shall in no case exceed the purchase price paid for the goods, or to the part or parts of such goods, which give rise to such claim. In no event shall Environmental Wall Systems, LTD. be liable for any special, consequential, indirect or incidental damages of any kind, including loss of profits.
- f. This warranty shall not apply to, and Environmental Wall Systems, LTD. shall have no liability in respect of defects which are attributable to misuse, negligence, alteration, improper assembly, disassembly or repair by non- Environmental Wall Systems, LTD. approved personnel, or use other than normal periodic use. Natural variations which may occur in materials such as wood, marble, leather and other natural products, including colorfastness and matching of such materials, such variations not being defects but a normal incident to the use of such materials. Defects attributable to normal wear and tear not resulting in loss of functionality of the product.

#### **E. Delivery and Freight.**

- a. For shipments to addresses within the continental U. S., Environmental Wall Systems, LTD.'s responsibility for loss or damage to goods ceases upon delivery of the product in good order at their destination. Unless otherwise specified by Environmental Wall Systems, LTD. in writing, for shipments to addresses outside of the continental U. S., Environmental Wall Systems, LTD.'s responsibility for loss or damage to goods ceases upon delivery of the product in good order to the carrier, FOB Environmental Wall Systems, LTD.'s production facility in Ohio, U. S. A. (or other such point of origin as may be designated by Environmental Wall Systems, LTD.), and all goods are at the sole risk of the Customer from that point.
- b. The cost of freight shall be in addition to any other amounts referred to in this price quotation, and shall be charged to the Customer in accordance with Environmental Wall Systems, LTD.'s prevailing freight pricing, current as at the date of shipment.
- c. Where Environmental Wall Systems, LTD. has not received the Project Information Check List with respect to any order, or where site conditions are not in accordance with the Installation terms (Paragraph F), or are not otherwise suitable to permit effective and efficient installation, the manufacture and/or delivery of products pursuant to this price quotation may be delayed, and such event shall constitute a delay by the Customer. When manufacture and/or delivery is delayed by the Customer or at the Customer's request: (i) Environmental Wall Systems, LTD. may, at its option, present the invoice for the full price of the goods to the Customer as then due and payable; (ii) the Customer shall pay to Environmental Wall Systems, LTD. all reasonable storage, handling and other reasonable incidental expenses incurred by Environmental Wall Systems, LTD. in connection with such delay; and (iii) the Customer shall bear all risk of loss or damage to the goods being held by Environmental Wall Systems, LTD. for the Customer. If the delay is due to any cause beyond Environmental Wall Systems, LTD.'s reasonable control, the date for shipment shall be extended during the continuance of such cause and for a reasonable time thereafter.

#### **F. Installation.**

- a. The cost of installation of any product purchased pursuant to this price quotation shall be charged in addition to any other amounts referred to herein, in accordance with Environmental Wall Systems, LTD.'s prevailing installation prices current as at the date of installation.
- b. Sufficient time shall be allocated by the Customer to allow the installation of all Environmental Wall Systems, LTD.'s products during normal working hours, Monday through Friday, 8:00am to 5:00pm. Where Environmental Wall Systems, LTD. is required or requested to perform installation work outside of such times, overtime rates shall be charged.

- c. Electrical hardwiring, plumbing and mechanical work is not included and shall be the responsibility of the Customer.
  - d. The installation site shall be free and clear of existing furniture, debris, or other obstructions (including construction in progress) and shall otherwise be in the reasonable opinion of Environmental Wall Systems, LTD. ready for installation of Environmental Wall Systems, LTD. product and shall be adequately heated and/or air-conditioned. Where unusual site conditions exist which impede or prevent the normal installation of Environmental Wall Systems, LTD. product, applicable extra charges shall apply at prevailing rates.
  - e. Environmental Wall Systems, LTD. shall be given free access to a freight elevator, loading dock and convenient trash facilities. Where these things are not available an additional charge may apply at prevailing rates for additional labor time.
- G. Cancellations and Alterations.** Environmental Wall Systems, LTD. will use reasonable efforts to accommodate any special requests for projects or orders which require a manufacturing lead time of less than six (6) weeks, and all such requests shall be made to the Customer Service Representative assigned by Environmental Wall Systems, LTD. to the Customer's order. Except where the Customer has acknowledged in writing that Environmental Wall Systems, LTD. has received and intends to manufacture the order based on the Project Information Check List, Environmental Wall Systems, LTD. will accommodate requests by the Customer for changes to the order until the date which is four (5) weeks prior to the original anticipated shipping date. After that date, any requests for alterations or modifications to the information relating to the Project Information Check List must be agreed to by Environmental Wall Systems, LTD. in writing, which consent, if granted, may include the requirement that Environmental Wall Systems, LTD. be reimbursed for reasonable expenses and losses attributable to such alteration or modification. Any request for cancellation of an order can only be affected with Environmental Wall Systems, LTD.'s prior consent. Notwithstanding the foregoing, orders are not subject to cancellation or modification where: (i) the order has been manufactured; (ii) materials requested by the Customer such as laminates, vinyl, fabrics, veneers, glazing and other materials have been procured by Environmental Wall Systems, LTD. for the specific order; or (iii) the order is in the process of manufacture.
- H. Force Majeure.** Environmental Wall Systems, LTD. shall not be liable for any loss, damage, detention or delay due to any cause beyond Environmental Wall Systems, LTD.'s reasonable control, including without limitation, acts or omissions of the Customer or its agents, acts of God, force majeure, civil or military disturbances, labor disputes, order of any applicable governmental authority, or difficulties beyond Environmental Wall Systems, LTD.'s reasonable control in obtaining necessary raw materials, labor, fuels and electric power, components or facilities. In the event of any such force majeure, the time for performance of any matter shall be extended during the duration of the force majeure and a reasonable time thereafter. Environmental Wall Systems, LTD. reserves the right to cancel any order or orders should fulfillment be materially delayed or rendered impossible by any of the foregoing.
- I. Passage of Title.** Title to all products sold to the Customer shall remain with Environmental Wall Systems, LTD. until all amounts owed by the Customer in connection with the applicable order have been paid in full. In the event of non-payment by the Customer of any part of the purchase price, Environmental Wall Systems, LTD. retains the right to remove the product, whether or not installed, and any additional charges for disassembly, crating, removal and shipping shall be for the account of the Customer.
- J. Entire Agreement.** This Standard Terms and Conditions constitute the sole agreement between the parties and supercedes any prior understanding or written or oral agreements between the parties. No waiver of any of the provisions of these Standard Terms and Conditions shall be binding on Environmental Wall Systems, LTD. unless expressly agreed in writing by a duly authorized officer Environmental Wall Systems, LTD.
- K. Governing Law.** This contract shall be governed by and construed according to the laws of the State of Ohio.