



## **Orion Entrance Control, Inc. Terms and Conditions of Sales and Service**

### 1. GENERAL.

1.1 Application. These Terms and Conditions (the "Terms") shall apply to orders for equipment ("Equipment") sales and/or related services ("Services") rendered by Orion Entrance Control, Inc. (the "Company") to the Customer, as identified in the Quote.

1.2 Services. The Company shall perform the Services and manufacture and deliver the Equipment as set forth in the Quote attached hereto as Appendix "A" (the "Quote"). The Quote and the final, signed shop drawings depicting the layout and finishes (the "Acknowledgement Drawings") shall set forth the full nature and scope of the Equipment and Services, the Company's compensation for such Equipment and Services, and such other matters as Customer and the Company may mutually agree, all of which are incorporated herein by reference. The Company reserves the right to modify the pricing in the Quote in the event that the Acknowledgement Drawings call for levels of finish that are of higher grade than specified prior to issuing the Quote.

1.3 Shipment and Delivery. The Company will use reasonable efforts to meet acknowledged shipment dates shown on the Quote but will not be liable for delays caused by Customer or its representatives in finalizing Acknowledgement Drawings, providing payment, or for other reasons. Unless otherwise indicated in the Quotation, pricing includes crating and shipping by Company to the Customer site(s).

1.4 Site Preparation. Customer is responsible for all site preparations and facility improvements shown on the Quotation and Acknowledgement Drawings, or as otherwise necessary or advisable to accept and install the Equipment and enable Company to perform the Services. The site preparation shall include, at a minimum, the following:

Installation - 120 Volt Power- Wiring & Conduit

It is Customer's responsibility to provide 120-volt electrical power. It is also Customer's responsibility to provide and install all required conduit, junction boxes, and power/control wire. Customer shall mount and terminate all Equipment. If requested, Company will provide qualified supervisory labor at the job site for an additional charge.

1.5 Software. To the extent that the Equipment incorporate any third-party software, Customer acknowledges that such software (the "Software") is licensed (not sold) to Customer. Any and all software and Company's existing intellectual property rights in its designs, specifications, drawings, and technical documents included with or within the Equipment shall at all times remain the sole and exclusive property of Company and/or its suppliers. Company shall provide to Customer a limited, non-exclusive, license to use the Software solely in connection with Customer's use of the Equipment in accordance with these Terms for so long as Customer owns the Equipment, as the case may be. Customer may not reproduce, reverse-engineer, de-compile, disassemble, alter, translate, modify, adapt, market, resell, or sublease the Software. All rights not





specifically granted to Customer herein are specifically excluded and are hereby reserved by Company and/or its suppliers. In addition to the foregoing, Customer may also be subject to the terms of a software license agreement of the manufacturer of such software.

1.6 Commissioning. The applicable warranty period shall begin on the day of shipment by the Company. The applicable warranty shall be void if a Company-approved and accepted commissioning of the Equipment is not carried out. The commissioning may be completed by the Company for an additional fee or may be completed by a Company-approved vendor under Company-approved conditions but must be conducted and will only be considered complete upon acceptance by the Company using the Company-required forms (the "Commissioning").

## 2. QUOTATIONS; ACCEPTANCE OF ORDERS.

2.1 Quotations. Customers shall submit to Company all requests for Equipment and/or Services (a "Request"). In response to a Request, Company may issue to Customer a written Quote. The Quote shall only be deemed accepted and binding on Company upon execution of a binding purchase order ("P.O.") pursuant to Section 2.2.

2.2 Purchase Order. In order for any Request or other inquiry that resulted in a Quote to be accepted and binding upon the Company, a P.O. must be executed by Customer or site owner and an authorized representative of Company, and Company must have received the deposit set forth in the Quote, which is generally a 50% deposit, unless agreed upon in writing and noted in the P.O. Notwithstanding the receipt of a fully executed P.O. and the deposit, Company will not begin work, and any agreed-upon performance times shall not begin, until it has received Customer's final selections for all Equipment by providing the Acknowledgement Drawings, signed by the Customer, confirming the lane layout drawings, showing dimensions and lane widths and any special requirements. Any established performance milestones (typically a 10 week build time) shall be extended if there are delays in providing the deposit or Acknowledgment Drawings.

2.3 Changes. All changes, modifications, deletions or additions to a Quote, the P.O. or the Acknowledgement Drawings must be in writing signed by Company and Customer and may extend the build time of the Equipment.

## 3. FEES AND PAYMENTS.

3.1 Payment. Unless otherwise agreed in writing, fees charged by the Company shall be as stated in the Quote. All prices quoted are in US Currency unless otherwise noted. Order price does not include taxes, duties, other costs accrued or shipping outside of the continental United States. Company requires a 50% deposit with the P.O. A final invoice for the order balance will be issued upon *completion of fabrication* and all orders require payment in full prior to release for shipment. In the event of any cancellation after the Company has begun work on Equipment, the Company shall be entitled to keep the deposit, and in addition shall be entitled to pro-rata payment based upon the stage of





assembly reached, if in excess of the deposit amount.

3.2 Taxes. Unless otherwise stated on the Quote, the prices do not include sales, use, excise or other taxes or duties. Customer shall be responsible for paying any and all taxes which apply now or in the future to the Services or Equipment, other than taxes on Company's net income. In the event that Company may be required to collect or pay taxes for which Customer is responsible, Company may increase its charges to Customer by an equal amount.

3.3 Payment; Past Due Balance. Unless otherwise indicated in the Quote, Customer agrees to pay invoices upon receipt. Customer agrees that a monthly administrative and finance charge of 1.5% of the outstanding account balance, but not in excess of the maximum allowed by law, will be payable by Customer for any account past due for more than fifteen (15) days. Customer also agrees to pay Company's costs of collection, including attorneys' fees, incurred in collecting any past due amounts. If Company has payment concerns regarding Customer, Company may require prior payment in full on all open projects, or other acceptable security, and Company reserves the right to suspend its performance of Services or further work on any Equipment until payment is received in full for any or all open projects.

3.4 Title to Equipment. Title to the Equipment shall transfer to Customer only upon full payment of all amounts due. Customer hereby grants to the Company a purchase money security interest in the Equipment to secure payment of all amounts owed to Company. Customer agrees to promptly execute any documents requested by the Company to document, perfect and/or protect such security interest, or to allow the Company to execute and file the UCC documents needed to perfect such security interest in the name of the Customer. The Quote, the P.O. and these Terms will serve as the security agreement and financing statement for all purposes and may be filed by the Company in order to perfect its security interest.

3.5 Restocking Fees. Any replacement or repair parts held in stock by Customer and later returned shall be subject to a restocking fee, which shall be applied to any credit issued by the Company.

3.6 Cancellations and Return Policy. Once the project has been paid and shipped, there are no cancellation.

Orion's return policy in general is a "No Returns" policy. Upon request in writing, within 30 Days of purchase, Orion ECI will consider on a case-by-case basis, RMA authorization for unused parts only. Upon receipt of parts with valid RMA, the parts will be subject to inspection for re-sellable condition, current part revision match, and will be subject to a 20% restocking fee for credit approval. Parts received without an RMA will not be considered for return credit, until an RMA is authorized and issued. All requests for return RMA must be submitted by email to the Customer Care email address, [Service-support@orioneci.com](mailto:Service-support@orioneci.com) A case will be created to track the request. Parts must be returned in original packaging and at the expense of the company requesting the return credit authorization. The outside of the package must display the name, address of company and pending RMA number for reference. Orion ECI will take no

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longer than 30 days to authorize or deny credit approval. If return credit is approved, a credit memo will be issued to the requesting company and will be available for redemption on the next purchase.

If return credit is not approved, the requesting company is responsible for return shipment of parts.

4. IMPOSSIBILITY.

If the Company's performance is prevented, restricted, or interfered with by reason of a force majeure event (as defined below), then the Company shall be excused from that performance to the extent of that prevention, restriction, or interference. The Company shall resume its performance promptly whenever such causes are removed. "Force majeure events" shall be any cause or condition beyond the reasonable control of the Company, including but not limited to natural catastrophes, acts or omissions of a government or its agencies or departments, labor strikes, pandemics or disease, lockouts or other disturbances, wars, riots or difficulties in procuring labor, energy shortages, shortage of suitable parts or materials, computer malfunctions, transportation problems, Customer's failure to fulfill its obligations or delays in delivery by Company's vendors.

5. LIMITED WARRANTY.

5.1 Equipment Warranty. Company warrants, for a period of three (3) years from the date of shipment ("Equipment Warranty Period"), that the Equipment will be free of material defects under normal use. In addition, the manufacturer of a product or component integrated into the Equipment by Company may provide a warranty, which shall apply for the benefit of the Customer. If Company repairs or replaces a product under the foregoing warranty, the Equipment Warranty continues for the remaining portion of the original Equipment Warranty Period, or ninety (90) days from the date of the repair whichever is longer. This warranty shall be void if the Customer does not complete a Commissioning of the Equipment.

5.2 Notification of Warranty Breach and Remedies. In order to present a claim under the warranties herein, Customer must notify Company prior to the end of the applicable Warranty Period. If Company confirms that the problem is covered by these warranties, it will, at its option, re-perform such Services or repair or replace such part at no charge to Customer. Shipping charges to return such item to Customer will be paid by Company, unless the claim is not covered by the warranty (in which case Customer is responsible for such shipping charges). The remedies set forth above are Customer's sole and exclusive remedies for breach of any warranty relating to Equipment or Services. Company does not warrant that the Services specified in the Quote will resolve all issues with the particular equipment item.

5.3 Warranty Disclaimers. EXCEPT AS EXPRESSLY SET FORTH HEREIN, COMPANY, ITS DISTRIBUTORS, AND AGENTS, DISCLAIM ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES AGAINST INFRINGEMENT, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS OR ADEQUACY FOR ANY PARTICULAR PURPOSE FOR USE, OR QUALITY, OF EQUIPMENT, FITNESS OR OF CAPACITY, WITH RESPECT TO ANY EQUIPMENT OR COMPONENT THEREOF. NO OBLIGATION OR LIABILITY SHALL ARISE OR FLOW OUT OF COMPANY RENDERING

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TECHNICAL OR OTHER ADVICE IN CONNECTION WITH THE EQUIPMENT (OR ANY COMPONENT THEREOF) OR SERVICES. THE CUSTOMER AGREES THAT ITS SOLE REMEDY IN CASE OF ANY DEFECTS IN ANY EQUIPMENT OR COMPONENT THEREOF, OR IN ANY SERVICE SHALL BE SUCH REMEDY AS IS AFFORDED HEREIN OR AS APPLICABLE BY THE ORIGINAL MANUFACTURER'S WARRANTY. THE OBLIGATIONS OF COMPANY UNDER THE APPLICABLE LIMITED WARRANTY HEREINABOVE ARE CUSTOMER'S EXCLUSIVE REMEDY AND COMPANY'S SOLE LIABILITY FOR ANY BREACH OF WARRANTY.

5.4 Company Service Plans. The Company also offers a number of services plans that will, if purchased by Customer, supplement and extend the warranties offered.

6. LIMITATION OF LIABILITY; INDEMNIFICATION.

6.1 Damages. COMPANY SHALL NOT BE RESPONSIBLE TO CUSTOMER OR ANY OTHER PARTY CLAIMING THROUGH OR UNDER CUSTOMER FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES IN CONNECTION WITH OR ARISING FROM ANY ACTION OR OMISSION OF COMPANY RELATING IN ANY WAY TO THE EQUIPMENT OR SERVICES PROVIDED OR TO THESE STANDARD TERMS AND CONDITIONS OR A QUOTE OR P.O., EVEN IF COMPANY SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE, REGARDLESS OF WHETHER ANY CLAIM FOR SUCH RECOVERY IS BASED ON THEORIES OF CONTRACT, DEFECT, NEGLIGENCE OR TORT (INCLUDING STRICT LIABILITY). COMPANY'S ENTIRE LIABILITY, FOR ANY CAUSE RELATED TO OR ARISING OUT OF THESE TERMS, REGARDLESS OF THE FORM OR NATURE OF THE ACTION, SHALL IN NO EVENT EXCEED THE FEES PAID BY CUSTOMER UNDER THE APPLICABLE QUOTE AND P.O. No claim may be asserted by either party against the other party with respect to any event, act or omission for which a claim accrued more than two (2) years prior to such claim being asserted.

6.2 Indemnification. Customer agrees to indemnify, hold harmless and defend Company from any and all claims, losses, damages, costs and expenses (including reasonable attorneys' fees) arising out of or relating in any way to any act or omission of the Customer in the use or operation of the Equipment, including strict liability claims. Such indemnity will not apply to claims based on the actual gross negligence or willful misconduct of the Company.

7. ORDER OF PRECEDENCE; WAIVERS.

7.1 Order of Precedence. In the event of any conflict between the Quote and these Terms and the P.O., the Quote and these Terms will control. Notwithstanding any language to the contrary therein, no terms or conditions stated or referenced in Customer's acceptance, the P.O., or other order documentation, shall be incorporated into or form any part of or otherwise be effective to vary the Quote and these Terms, and all such other terms or conditions are rejected, shall be null and void and not form or become part of the Quote or these Terms.

7.2 Waiver. No waiver of any rights, obligations, or defaults with respect to these Terms or any Quote or P.O. shall be effective unless in writing and signed by the

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party against whom the same is sought to be enforced. One or more waivers of any right, obligation, or default shall not be construed as a waiver of any subsequent right, obligation, or default. No delay or failure of either party in exercising any right and no partial or single exercise thereof shall be deemed to constitute a waiver of that right or any other rights.

8. RELATIONSHIP OF THE PARTIES; ASSIGNMENT; SUBCONTRACTORS.

Company is an independent contractor for the provision of services, not an agent of the Customer. Customer has no authority to act on behalf of Company or to bind Company with respect to any promise or representation unless specifically authorized in writing to do so by Company. Customer may not, without Company's prior written consent, assign or transfer any Quote, P.O., or any of its rights or obligations under these Terms or any Quote or P.O., to any other person. Company may delegate its obligations to its affiliates, agents, suppliers, and contractors, but such delegation shall not relieve Company of its obligations under these Terms or the applicable Quote and P.O. Company retains the right to employ sub-contractors of Company's choice to support the Equipment and Services, including but not limited to, any general labor required at the Customer worksite for installation or service.

9. NOTICES.

Any notice, request or demand required or desired to be given from one party to the other must be in writing and shall be effective upon receipt if delivered personally, seven days after mailing if sent by pre-paid registered or certified mail, and on the next business day if sent by reputable overnight courier. Notices shall be sent to the party's then-current principal mailing address, or as a party may otherwise specify in a notice to the other party.

10. GOVERNING LAW AND CONSENT TO JURISDICTION.

10.1 Governing Law. These Terms and any Quote and all rights and duties of Company and Customer arising thereunder shall be governed by and construed in accordance with the laws of the State of New Hampshire without reference to its conflict-of-law rules.

10.2 Jurisdiction. Customer hereby irrevocably submits to the nonexclusive jurisdiction of any New Hampshire state court, or any U.S. Federal court located in the State of New Hampshire for any action or proceeding arising out of or relating to the provision by Company of services to Customer. Customer hereby irrevocably agrees that all claims with respect to such action or proceeding may be heard and determined in such court or courts, subject to paragraph 12 below. The foregoing shall not affect the right of Company to bring any action or proceeding against Customer or its property or assets in the courts of any other jurisdiction.

11. DISPUTE RESOLUTION.

11.1 Informal Discussion. In the event of any dispute or disagreement between Customer and Company arising out of any Quote or these Terms, the performance of Company or Customer under any Quote, or any other matter related to any Quote, upon





the written request of either party, authorized representatives of Customer and Company will meet for the purpose of resolving such dispute or disagreement. Those representatives will discuss the problem and negotiate in good faith without the necessity of any formal proceedings related thereto.

11.2 Arbitration. If a dispute or disagreement described in paragraph 11.1 above is not resolved as described in that paragraph, that dispute or disagreement shall be finally settled by binding arbitration held before a single arbitrator and according to the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), by which Company and Customer agree to be bound. The arbitration shall take place in the State of New Hampshire, unless the parties otherwise agree in writing. The Customer and Company shall jointly select the arbitrator and failing agreement the arbitrator shall be selected in accordance with the AAA Rules. The arbitrator shall have no authority to add to, change, or disregard any lawful terms of any Quote or these Terms, nor to award punitive damages. The decision of the arbitrator shall be final and binding, and judgment on the arbitration award may be entered in any court having jurisdiction over the subject matter of the controversy. Arbitration shall be the exclusive final remedy for any dispute between the parties; provided, however, that this provision shall not prevent either party from seeking injunctive relief including but not limited to in order to prevent the misuse or misappropriation of its confidential or proprietary information.

## 12. MISCELLANEOUS.

12.1 Changes. Company may substitute and modify the Equipment and Services without notice to Customer, if such substitutions and modifications do not materially affect the form, fit or function of the applicable Equipment or Services.

12.2 Electronic Signatures. The parties agree that the execution of these Terms is agreed upon by exchanging pdf signatures, and/or by industry standard electronic signature software, and shall have the same legal force and effect as the exchange of original signatures. In any proceeding arising under or relating to these Terms, each party hereby waives any right to raise any defense or waiver based upon execution of these Terms by means of such electronic signatures or maintenance of the executed agreement electronically. These Terms and the Quote may be executed in one or more counterparts, all of which when fully executed and delivered by all parties to these Terms and taken together shall constitute a single agreement, binding against each of the parties. The parties may also show their agreement to these Terms by causing one or more printed copies of this document to be executed and delivered by their authorized representatives, in which case these Terms shall be effective as of the date when both parties have so signed and delivered one or more counterparts, whether the parties sign the same counterparts or different counterparts.

12.3 Severability. The illegality, invalidity, or unenforceability of any provision of these Terms shall not in any manner affect or render illegal, invalid, or unenforceable any other provision of these Terms, and that provision, and these Terms generally, shall be reformed, construed, and enforced so as to most nearly give lawful effect to the intent of the parties as expressed in these Terms.

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12.4 Agreement. Except as expressly set forth herein, these Terms and Quotes entered into by the parties in accordance herewith constitutes the final, complete and exclusive statement of the Terms between the parties in respect of the subject matter hereof and supersede all prior and contemporaneous written and oral negotiations, understandings and agreements between the parties in respect to the subject matter hereof, including specifically any sales materials or any Customer purchase order or other ordering document.

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