



Efab / 歐文國際科技有限公司

No.13, Ln. 250, Sec. 2, Dongshan Rd., Beitun Dist.,

406台中市北屯區東山路2段250巷13號

Taichung, Taiwan 406

Efab
Terms & Conditions
for
Equipment Sales and Support Services

Control No. 1120101 R3



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Sale of Refurbished Equipment

1. GENERAL. Unless otherwise provided in Seller's written quotation or agreed to in writing by Seller, orders are accepted by Seller subject to these terms and conditions. In case of a conflict, inconsistency or addition not expressly accepted in writing by Seller, the terms and conditions of sale provided herein shall be considered as superseding the conflicting, inconsistent or additional terms stated in Buyer's purchase order, order form, contract or otherwise. The acceptance of an order will supersede all prior communications and constitute a complete and binding contract between Buyer and Seller, which contract cannot be modified or canceled without the written agreement of both parties.

2. SHIPMENT. Seller shall attempt to comply with, but will not guarantee, shipping date and loading and routing instructions. Seller reserves the right to allow or prorate shipments against all orders whenever, in its judgment, an oversold condition exists as to any particular product manufactured or sold by it. In the event of a default by Buyer, Seller may decline to make further shipments without waiving any of its rights under such order. If, despite such default, Seller elects to continue to make shipment, its action shall not constitute a waiver regarding or otherwise diminish Seller's legal remedies with respect to such default or any future default.

3. TITLE AND DELIVERY. Sales are made FCA factory, Incoterms 2010 and Buyer shall pay all freight, duties, cartage and handling. Title and risk of loss or damage shall pass from Seller to Buyer upon the placement of the material purchased hereunder in good condition into the possession of a common carrier, such carrier acting as Buyer's agent. During all phases of shipment to the Buyer site and regardless of the shipping terms selected by Seller and Buyer, insurance shall be arranged by Seller. All claims for damages must be filed with the carrier.

4. PRICES. Irrespective of any prices quoted by Seller or listed on Buyer's order, an order is accepted only at the prices shown on the written quotation. Installation of utilities required for equipment is not included in the specified price.

5. PAYMENT TERMS. Invoices are payable at the place set forth on the written quotation or the invoice. Any exchange charges, any charges for nonpar clearance of checks or collection charges (including reasonable attorneys fees) will be paid by Buyer. Any amounts not paid when due will bear interest at a rate of 18% per annum or, if lower, the maximum rate permissible by law. All payments shall be made by Buyer without set-off or other deduction. Buyer grants to Seller a security interest in the products purchased hereunder to secure payment for those products. If requested by Seller, Buyer agrees to execute financing statements to perfect such security interest. Buyer grants Seller an irrevocable power of attorney to sign Buyer's name to such financing statements if necessary or convenient for the perfection of Seller's security interest.

Terms of payment are subject to change by Seller. All orders are subject to credit approval by Seller. The amount of any credit extended by Seller to Buyer may be changed, and such credit may be withdrawn by Seller. With respect to an order on which credit is not extended by Seller or, if extended, is subsequently withdrawn, shipment or delivery shall be made, at Seller's election, Cash with Order (in whole or in part), C.O.D. or Sight Draft attached to Bill of Lading or other shipping documents, with all costs of collection (plus 18% interest on Sight Drafts not paid at maturity) for the account of Buyer. If, in the judgment of Seller, the financial condition of Buyer does not justify continuation of production or shipment on the terms of payment originally specified, Seller may require full or partial payment in advance. In the event any proceeding is brought by or against Buyer under any bankruptcy or insolvency laws, Seller shall be entitled, in addition to any other remedies at law or in equity, to (i) stop or divert any shipment in transit, (ii) cancel any order then outstanding and (iii) receive reimbursement for its cancellation charges.

Each shipment shall be considered a separate independent transaction, and payment therefore shall be made accordingly. If for any reason Buyer is not prepared to accept delivery of goods, Seller may store the goods at Buyer's expense and risk in the name of Buyer, and such storage shall constitute shipment and delivery to Buyer.

6. TAXES. Quoted prices do not include federal, state or local excise, sales, use or similar taxes. Accordingly, in addition to the prices specified on the written quotation, the amount of any applicable excise, sales, use and/or similar taxes will appear as separate items on the invoice and will be paid by Buyer unless prior to shipment Seller receives an appropriate tax exemption certificate from Buyer.

7. CUSTOMER SITE ACCEPTANCE (CSA). If Seller's quotation references CSA provisions, then Buyer agrees to accept the purchased equipment in accordance with such CSA provisions. The parties agree to give priority to achieving CSA and Buyer agrees that the purchased equipment shall not be used for material production, for



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development of new processes or for any purposes other than achieving CSA, prior to successful completion or waiver of the CSA provisions. Any such use of the equipment prior to completion of the CSA provisions shall be deemed to constitute the achievement of CSA. It is the responsibility of Buyer to ensure that all the required facilities are ready for successful commencement of CSA on delivery of the tool. The parties agree that, if CSA procedures have not been commenced within 30 days after delivery, or if CSA has not been completed within 60 days after delivery (through no fault of Seller), then the equipment shall be deemed finally accepted and to have achieved CSA. In the event of any such deemed acceptance, Buyer agrees to sign and return to Seller, promptly upon presentation by Seller, an acceptance certificate in a form to be determined by Seller.

8. FORCE MAJEURE. Neither party shall be liable failure to perform occasioned by strikes, lockouts, labor difficulties, riots, inability or difficulty in obtaining or procuring supplies, labor or transportation, fires, storms, floods, earthquakes, explosions, accidents, acts of God, interference by civil or military authorities, whether legal or de facto, acts of the public enemy, war, rebellion, insurrection, sabotage, embargoes, orders given priority by any public authority or any other cause beyond the reasonable control of such party (such occurrences "force majeure events"). The party claiming the force majeure event shall promptly notify the other party in writing of its occurrence and shall undertake appropriate remedial measures to mitigate its impact.

9. PATENTS. If a third party claims that the purchased equipment infringes that party's patent or copyright, Seller will defend Buyer against that claim and will pay all costs, damages and attorney's fees that a court finally awards, provided that Buyer: (a) promptly notifies Seller in writing of the claim and (b) allows Seller to control, and cooperates with Seller in, the defense and any related settlement negotiations. If such a claim is made or appears likely, Seller, at its option, may obtain a license to enable Buyer to continue to use the product, may modify the product or may replace it with one that is functionally equivalent. If Seller determines that none of these alternatives is reasonably available, Buyer agrees to return the product to Seller upon Seller's written request, in which case Seller will credit Buyer with an amount equal to the price paid for such product less a reasonable amount for depreciation. Seller's liability is limited to repair, replacement or adjustment as determined by Seller. Seller shall not be liable for any claim based on (i) anything Buyer provides which is incorporated into a product, (ii) Buyer's modification of a product or use thereof other than in its specified operating environment, or (iii) the combination, operation or use of a product with products provided by other manufacturers or other products not provided by Seller as a system. In no event will Seller's liability under this paragraph exceed the purchase price of the respective product. This is the exclusive warranty of Seller with respect to intellectual property matters and is in lieu of all other warranties, express or implied.

Sale of products or parts thereof does not confer on Buyer any license relating to (a) the structure of any devices to which the products or parts may be applied or (b) a process or machine in connection with which they may be used.

10. RESCHEDULING. If one rescheduling is requested, the charges shall be determined as follows and shall be due and payable within ten (10) days of the rescheduling.

Number of Weeks of Rescheduling Requested	Rescheduling Charge
Up to 4 Weeks	No Charge
5 to 12 Weeks	15% Purchase Price
13 to 26 Weeks	35% Purchase Price
27+ Weeks	Order considered canceled

More than one rescheduling of an order will be considered a cancellation of the order. Sixty-six percent (66%) of the rescheduling charge shall be applied against the purchase price if the order is subsequently shipped or against the cancellation charges if the order is subsequently canceled. On any order that is rescheduled and subsequently canceled, cancellation charges will be based upon the time between the originally scheduled delivery date and the date of notice of cancellation.



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11. CANCELLATION. In the event of cancellation by Buyer of any order, Buyer shall pay Seller a cancellation and restocking charge based upon the timing of the cancellation notice as follows:

Cancellation Notice Given X Days Before Confirmed Shipment Date of Order	Cancellation Fee Equals the Following Percentage of Purchase Price
More than 90 days	35%
61 – 90 days	50%
31 – 60 days	75%
0 – 30 days	100%

(or at any time after the original Confirmed
Shipment Date, if rescheduled)

Higher cancellation charges, up to the full value of the order, may apply in the case of special, custom or modified equipment or parts. At Seller's discretion, Seller may accept the return of parts, provided that (i) Buyer first receives Seller's written authorization to return the parts and thereafter follows Seller's shipping instructions, (ii) restocking charges in the amount of twenty percent (20%) of the original purchase price may be imposed by Seller, and (iii) returns are to be in the original packaging and in the original condition when delivered to Buyer.

12. ASSIGNMENT. Buyer shall not assign this order or any portion thereof without the prior written consent of Seller.

13. WARRANTY. Seller warrants to the original Buyer that new/refurbished equipment will be free of defects in material and workmanship for a period of six months commencing on the earlier of (x) final acceptance, (y) equipment demonstration sign-off, if applicable or (z) 90 days from shipping. This warranty covers the cost of parts and (including, where applicable, field service labor and travel required to restore the equipment to normal operation), and includes parts provided after initial shipment, if any, that may be required in order to achieve final acceptance.

Seller warrants to the original Buyer that replacement or repaired parts provided under the original warranty will be new or of equal functional quality and warranted for the remaining portion of the original warranty or 90 days from shipping, whichever is longer.

Seller does not warrant uninterrupted or error-free operation. Software provided with the equipment remains the property of Seller or Seller's licensors, as the case may be. Software shall not be copied in whole or in part by Buyer, and Buyer agrees not to provide, disclose or otherwise transfer any such software, or any portion of such software, to any third party.

Seller's obligation under these warranties is limited to repairing or replacing, at Seller's option, defective parts or software. These services will be performed, at Seller's option, at either Seller's facility or Buyer's business location. For repairs performed at Seller's facility, Buyer must contact Seller in advance for authorization to return equipment and must follow Seller's shipping instructions. Freight charges and shipments to Seller are Buyer's responsibility. Seller will return the equipment to Buyer at Seller's expense. All parts used in making warranty repairs will be new or of equal functional quality. Failed parts replaced by Seller under the terms of Seller's warranties must be returned by the Buyer to Seller within 30 days of the date of replacement. The Buyer must pay all shipping cost associated with the return of failed parts to Seller. Failure to return failed warranty parts within the specified time frame will result in cancellation of all remaining warranties.

The warranty obligation of Seller shall not extend to defects that do not impair service or to provide warranty service beyond normal business hours, Monday through Friday (excluding Seller holidays). No claim will be allowed for any defect unless Seller shall have received notice of the defect within thirty days following its discovery by Buyer. Also, no claim will be allowed for equipment damaged in shipment sold under standard terms of FCA factory, Incoterms 2010. Within thirty days of Buyer's receipt of equipment, Seller must receive notice of any defect which Buyer could have



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discovered by prompt inspection. Except where CSA is specified in Seller's quotation (Section 7 above), products shall be considered finally accepted 30 days following (a) installation, if Seller performs installation, or (b) shipment; unless written notice of rejection is provided to Seller within such 30-day period.

Expendable items, including, but not limited to, filters, lamps, wafer carriers, pilot lights, filaments, fuses, mechanical pump belts, V-belts, wafer transport belts, pump fluids, O-rings and seals ARE SPECIFICALLY EXCLUDED FROM THE FOREGOING WARRANTIES. Seller's sole warranty with respect to expendable items is that at the time of delivery, the form, fit and function of the expendable item shall be suitable for use with Seller's equipment. Replacement and repaired parts provided by Seller which are not covered by the original equipment warranty shall be free of defects in materials and workmanship for a period of ninety (90) days from shipping. All used equipment is sold 'AS IS, WHERE IS,' WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED, with the exception of EFAB Certified Equipment, which shall be warranted for the period, if any, stated in Seller's written quotation and shall otherwise be subject to the terms of this Section 13. With the exception of manufacturing defects, regular maintenance on pumps or other components is excluded from this warranty.

Specifically excluded from this warranty is all stand-alone computer and data storage equipment not manufactured by Seller (such as computers, monitors, printers and printer buffers). Such equipment will carry only the original manufacturer's warranty.

Seller assumes no liability under the above warranties for equipment or system failures resulting from (1) abuse, misuse, modification or mishandling; (2) damage due to forces external to the machine including, but not limited to, acts of God, flooding, power surges, power failures, defective electrical work, transportation, foreign equipment/attachments, or utilities or services such as gas; (3) the use of parts, expendable items, or labor not provided by Seller or authorized for use by Seller; (4) improper operation or maintenance or (5) failure to perform preventive maintenance in accordance with Seller's recommendations (including keeping an accurate log of preventive maintenance). In addition, this warranty does not apply if any equipment or part has been modified without the written permission of Seller or if any Seller serial number has been removed or defaced.

These warranties are for the benefit of the original Buyer only and are not transferable. No one is authorized to extend or alter these warranties on Seller's behalf without the written authorization of Seller.

THE ABOVE WARRANTIES ARE EXPRESSLY IN LIEU OF ANY OTHER EXPRESS OR IMPLIED WARRANTIES (INCLUDING THE WARRANTY OF MERCHANTABILITY), AND OF ANY OTHER OBLIGATION ON THE PART OF SELLER. SELLER DOES NOT WARRANT THAT ANY EQUIPMENT OR SYSTEM CAN BE USED FOR ANY PARTICULAR PURPOSE OR WITH ANY PARTICULAR PROCESS OTHER THAN THAT COVERED BY THE APPLICABLE PUBLISHED SPECIFICATIONS.

14. NO CONSEQUENTIAL DAMAGES. LIMITATION OF LIABILITY. Seller shall not be liable for consequential damages, for anticipated or lost profits, incidental, indirect, special or punitive damages, loss of time, loss of use, or other losses, even if advised of the possibility of such damages, incurred by Buyer or any third party in connection with the equipment or services provided by Seller. In no event will Seller's liability in connection with an item of equipment or a particular service provided by Seller exceed the amounts paid to Seller by Buyer for such item of equipment or particular service.

15. CREDITS. Training credits and spare parts credits, if any, shall expire one (1) year following the date of issuance. When applying credits to obtain parts, Buyer shall be responsible for all related delivery costs, including without limitation shipping, handling, clearance and any VAT expenses. If such expenses are initially incurred by Seller, Seller may, at Seller's discretion, apply remaining credit amounts to offset such expenses.

16. NONSOLICITATION. Buyer agrees not to solicit the employment of any employee of Seller who has come into contact with Buyer in connection with the products and/or services provided to Buyer hereunder.

17. COMPLIANCE WITH LAWS. All quotations by Seller and all purchase orders are subject to compliance with all applicable laws and regulations. Buyer acknowledges that Seller's products and related technical information are subject to export control regulations of Taiwan and other foreign governments ("Export Control Laws"). Buyer agrees to take all steps necessary to comply with applicable Export Control Laws, and the related policies and procedures of Seller as in effect from time to time. Buyer also agrees to assist Seller in obtaining export, import and other regulatory approvals that may be necessary or appropriate in connection with the performance of the transactions hereunder.



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18. APPLICABLE LAW. The contract created hereby shall be interpreted and construed under the laws of the Taiwan, The Republic of China without regard to the choice of law provisions thereof and not including the U.N. Convention on Contracts for the International Sale of Goods, if otherwise applicable. Some jurisdictions do not allow the exclusion or limitation of implied warranties or liability for incidental or consequential damages, so the above limitation or exclusion may not apply to Buyer. Seller's warranty gives Buyer specific legal rights, and Buyer may have other rights which vary from jurisdiction to jurisdiction.

Sale of Used Equipment

Efab is a provider of Equipment used in the semiconductor, compound semiconductor, solar and flat panel manufacturing industries. Efab sells equipment directly and as an Agent or a Consignee for our clients. Unless otherwise stated, all equipment sold by Efab is used manufacturing equipment. Equipment that is installed in a client's facility may be available for demonstration by appointment. Demonstration of equipment is to allow a buyer to inspect and evaluate the operational status of the equipment. No warranties are expressed or implied by seller, agent or Efab. No process specifications or performance guaranties are expressed or implied with seller, agent or Efab. All Equipment is sold "As Is Where IS" unless otherwise specified in writing. Where applicable, facility connections will be removed by seller, agent or Efab. De-commissioning and removal of equipment is the responsibility of buyer unless otherwise stated by written agreement. Access to seller's facility to de-commission and remove equipment will be during normal business hours Monday through Friday, National holidays excluded.

Warranty for Spare Parts and Refurbishment Service

Efab sells new OEM original parts, alternative spare parts, upgrades and offers refurbishment services for many types of semiconductor manufacturing parts and equipment. Some Efab parts do include a limited repair or replacement warranty. Warranty period and terms are provided herein and at time of quote. Warranty periods of 30 days, 60 days, 90 days, 6 months or, 1 year from date of shipment will be specified depending on the part sold. Surplus OEM spare parts may also be sold by Efab. No warranties are express, implied or provided for Surplus OEM spares. Efab Refurbishment Service for Thomas Swan heaters is available for all models. Efab Direct Replacement Heaters and Refurbished heater units carry an Efab 6 month limited repair or replacement warranty. Efab Refurbishment service of Thomas Swan shower head for all models is available under the condition that in no event Efab is liable for incidental, indirect, special or consequential damages misconduct, malfunction, disability what so ever resulting from Efab's performance during the handling, refurbishment, testing and return shipment of shower head whether due to negligence or otherwise.

Efab warrants to the original Buyer that replacement or repaired parts provided under the original warranty will be new or of equal functional quality and warranted for the remaining portion of the original warranty or 30 days from shipping, whichever is longer...limited repair or replacement warranty for Direct Replacement parts or Refurbished parts, of parts sold by Efab does not include shipping charges or duties. Failed parts must be returned to Efab at Buyer's expense. To return a failed part, contact Efab at Sales@efab.com.tw for an RMA number. Replacement parts will be shipped by surface freight at the expense of Efab. If Buyer wish to pay for express freight, such service can be coordinated by Efab with Buyer's forwarder.

Engineering Services

Efab engineering support services are available to assist customers with the de-installation, installation and re-commissioning of equipment. Efab engineering services are made available under the condition that in no event Efab is liable for incidental, indirect, special or consequential damages misconduct, malfunction, disability or what so ever resulting from Efab's performance during operation, de-installation, installation, re-commissioning or use of the equipment whether due to negligence or otherwise.

To ensure the highest level of safety for Efab personnel, customer is required to complete any and all work safety instructions specified by equipment OEM maintenance procedures. Customer will complete any and all safety procedures and provide written confirmation of compliance with all OEM requirements to Efab's personnel before any work begins.



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MOCVD Equipment de-installation

Customer is required to complete all required OEM work safety procedures before Efab engineering support can begin. Customer is responsible for cleaning all contaminated parts, removal of all MO sources and completion of SURGE work prior to arrival of Efab engineering personnel. An OEM or Efab SURGE checklist must be completed, signed and presented to Efab engineer upon arrival

Efab engineers will check actual operational status of system, perform electrical and mechanical checks, check system interlocks and perform a dummy run with hydrogen / nitrogen. A system condition report will be completed to document status at time of shutdown. The system condition report is provided as a reference. No warranty / guarantee is expressed or implied by condition report.

Efab engineers will disassemble system with the support of customer's personnel. Efab will prepare system and components for transportation. Contaminated components, quartz, susceptor, molybdenum, vacuum pumps and bellows not included, to be disassembled and clean by customer.

Chamber pump must be disconnected and blind capped by customer. A de-contaminated and refurbished pump may be purchased from Efab at additional cost.

Packaging, Move out & Crating

Efab can provide complete support for packaging of system and decontaminated components for transportation, system Move out and crating services. Heat Treatment of all wood packaging products and certification of treatment provided at additional cost for International shipments. Efab provides these services to customers under the condition that in no event Efab is liable for incidental, indirect, special or consequential damages misconduct, malfunction, disability or what so ever resulting from Efab's performance during these operations whether due to negligence or otherwise.

A fork lift should be provide by customer to support crating of system. If not available on site, Efab can provide a fork lift at additional cost.

Transportation and Forwarding

Efab can provide ground transportation domestically for local shipments via Air Ride truck. Door-to-Door forwarding is also available for International shipments via air and surface transportation. Rates for transportation and forwarding are valid at time of quote and subject to change prior to booking.

International forwarding does not include import duties and taxes at point of destination. Door-to-Door delivery does not include unloading of cargo and move in at destination.

In addition to actual cost, an Efab management fee will apply for supervision of International shipments.

Insurance of Shipment

Insurance is available through Efab's Insurance Broker at an additional cost and recommended for all system moves locally or Internationally. Insurance premiums are quote separately and payable through Efab as a service to our customers.

MOCVD Equipment installation & Start up

Efab engineering services are available for equipment installation under the condition that in no event Efab is liable for incidental, indirect, special or consequential damages misconduct, malfunction, disability or what so ever resulting from Efab's performance during installation, operation or use of the equipment whether due to negligence or otherwise.

Efab engineering will re-assemble system and components with assistance of customer's personnel. System will be made ready for facilitization and turned over to customer for completion of this process. Facilitization normally takes about one week. During which time, Efab engineering will not be on site.



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Upon notification of customer that all facilities are connect correctly and verified operational, Efab engineering will return to customer site for system start up. Efab engineering will perform standard OEM start up and a dummy run upon completion of all electrical and mechanical system checks, provide that system returns to full operational condition after move. Efab is not responsible for repair of system or troubleshooting of failed sub-systems.

Customer is responsible to provide all OEM calibration standards, Helium leak detector, helium bottle and spray gun with pressure reducer during start up.

MOCVD Systems Training and Process Support

Efab offers Maintenance and Operations training as well as Process Development assistance for all Aixtron and Thomas Swan system. For more informtion on these services, you may complete an inquiry form online: <http://www.efab.com.tw/contactus.php>