

## WARRANTY

Electronic Theatre Controls, Inc. ("ETC") warrants to the original owner or retail customer ("Customer") that during the warranty period defined below ETC will repair or replace its products that are defective in materials or workmanship under normal use and service, subject to the terms of this limited warranty. The warranty period shall begin on the date of shipment of a portable system or on the date of energization of a permanently installed system. Please contact ETC for applicable product warranty periods. The controlling warranty, terms and conditions, and product warranty periods is available at the time of order acknowledgment, either by hard copy or by internet link. Warranty is limited to sixty (60) days from date of shipment for purchased or demo or loaner products.

This Warranty does not cover any product or part of a product damaged by or subject to accident, negligence, alteration, abuse or misuse, or any accessories or parts not supplied by ETC. This Warranty shall not apply to any damage to any product or part of a product caused by or due to an act of God, any catastrophe resulting from earthquake, fire, flood, explosion or any other cause beyond the control of ETC. This warranty also does not cover "consumable" parts such as fuses, lamps, color media or components which may be warranted directly to the Customer by the original manufacturer. ETC's warranty does not extend to items not manufactured by ETC. Freight terms on warranty repairs are FOB ETC factory or designated repair facility. Collect shipments or freight allowances will not be accepted.

ETC's sole responsibility under this warranty shall be to repair or replace at ETC's option such parts as shall be determined to be defective on ETC's inspection. Such repairs may be performed with re-worked or refurbished parts. ETC will not assume any responsibility for any labor expended or materials used to repair any equipment without ETC's prior written authorization. ETC SHALL NOT BE RESPONSIBLE FOR ANY INCIDENTAL, GENERAL OR CONSEQUENTIAL DAMAGES, DAMAGES TO PROPERTY, DAMAGES FOR LOSS OF USE, TIME, PROFITS OR INCOME, OR ANY OTHER DAMAGES.

The Customer's obligations during the warranty period under this warranty are to notify ETC within one week of any suspected defect and to return the goods prepaid to ETC at ETC's factory or authorized service center. The one week notice period does not apply to claims for shortage or damaged goods.

THIS WARRANTY IS CONTINGENT ON THE CUSTOMER'S FULL AND TIMELY COMPLIANCE WITH THE TERMS OF PAYMENT SET FORTH IN THE "TERMS AND CONDITIONS." THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY AND ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND OF OTHER OBLIGATIONS AND LIABILITIES ON ETC'S PART. THE CUSTOMER ACKNOWLEDGES THAT NO OTHER REPRESENTATIONS WERE MADE TO CUSTOMER OR RELIED UPON BY CUSTOMER WITH RESPECT TO THE QUALITY AND FUNCTION OF THE GOODS SOLD.

This written warranty is intended as a complete and exclusive statement of the terms thereof. Prior dealings or trade usage shall not be relevant to modify, explain or vary this warranty. Acceptance of, or acquiescing in, a course of performance under this warranty shall not modify the meaning of this warranty even though either party has knowledge of the performance and a chance to object.

**United States, Latin American, and Canadian Dealers:** ETC Manufactured products forwarded outside of the United States, Latin America and/or Canada will only be covered under this warranty if the international warranty provision is included with this statement. Please contact ETC to inquire about the international warranty provision.

## TERMS AND CONDITIONS

The following terms and conditions, and those on the face hereof, shall control as to any order accepted by ETC, notwithstanding any terms and conditions that may be contained in any purchase order or other document of Customer, and ETC's acceptance of any order is expressly made conditional on Customer's assent to the following terms and conditions and those on the face hereof. Such terms and conditions will constitute the entire agreement between the parties as to any order and will supersede any prior understandings, agreements, representations, or warranties. Such terms and conditions will not be modified, added to, superseded or otherwise altered except by written document signed by the President of ETC, notwithstanding any terms and conditions contained in the purchase order or other document of Customer. ETC's commencement of performance and/or delivery shall not constitute a waiver of these terms and conditions or any acceptance of any terms and conditions contained in the Customer's order or other documents. Acceptance of any product or service by the Customer will be construed as acceptance of ETC's terms and conditions. Any dispute or questions of construction with respect to any order placed with ETC shall be governed by the laws of the State of Wisconsin.

All prices are in the applicable currency list on the invoice. Freight terms are FOB ETC's factory or warehouse. Prices, models and specifications are subject to change without notice. Orders must be in writing. Phone orders will be accepted from established accounts when followed by written confirmation. The acceptance of any order does not imply conformance with plans and specifications unless the plans and specifications accompany the order and are accepted as binding by ETC.

Equipment ordered which differs in any way from ETC's standard catalog items will require drawings approved in writing by the Customer. When drawings are approved, they shall take precedence over all other written or verbal instructions. Orders are effective only when accepted and acknowledged by the factory. Minimum order is \$25.00 net, exclusive of freight.

Price protection will be given on orders entered for immediate shipment and for project orders entered before the effective date of a price increase. All other orders will be billed at the current price at time of shipment. Quotations for custom products are valid for thirty (30) days.

ETC will attempt to ship goods for delivery on or about the times requested by the customer, although time shall not be of the essence in this contract in this regard. ETC will attempt to follow Customer's written instructions as to mode and routing of shipments. In absence of such instructions, ETC shall have absolute discretion as to mode and routing of shipments, including express or parcel post for small shipments. ETC will prepay and bill freight on shipments unless specifically quoted otherwise or upon written instruction from the Customer. Where the Customer has requested expedited freight, the Customer will be responsible for the incurred additional charges.

ETC shall not be liable for late delivery and/or inability to perform due to unforeseen circumstances or conditions, including ETC's inability to obtain supplies and raw materials, government regulations, labor stoppages, casualties, fire, floods, and other causes beyond ETC's control. When such circumstances or conditions have been remedied, ETC will make and Customer will accept delivery/performance. Equipment is shipped at the Customer's risk and our obligation to deliver equipment is discharged upon the equipment's delivery in good condition to the carrier. Shipments are FOB ETC's factory or warehouse. Unless specifically prohibited, partial shipments will be made. Federal, state and/or local taxes, duties and other charges are the responsibility of the Customer. Any changes in engineering drawings, specifications, or in other terms of manufacture, assembly or shipment, requested by Customer, must be in writing and approved by ETC. If any such change by Customer causes an increase in the cost of, or in the time required for performance of, any part of the contract, then ETC shall make a reasonable adjustment to the price of the goods.

If Customer cancels any portion of a Purchase Order prior to shipment, Customer shall be liable to ETC for a cancellation charge equal to ETC's actual costs incurred in connection with that portion of the Purchase Order that is cancelled, including, without limitation, labor and materials. Customer represents that it is not bankrupt or insolvent. ETC retains a security interest in the goods to secure payment of the purchase price and all other indebtedness now or hereafter owed by the Customer to ETC. At ETC's request, Customer will execute a financing statement or statements evidencing such security interest and will take any other action necessary to perfect the same.

Payment terms are net 30 days after date of invoice unless otherwise stated on the sales acknowledgment or invoice. If ETC in good faith doubts Customer's ability or willingness to pay, ETC may in its discretion complete its performance of this contract upon a cash in advance basis or make deliveries only upon a C.O.D. basis or file a UCC filing or suspend all or part of its performance here under. All payments are applied to the oldest outstanding invoice. Accounts over thirty (30) days are subject to a 1 1/2% (one and one-half percent) per month (or the highest rate permitted by law, whichever is less) late payment charge. ETC will have the option of withholding performance under any and all orders from the Customer if an invoice remains unpaid when due. All disputes otherwise unresolved between ETC and Customer shall be resolved in a court of competent jurisdiction in the location of ETC's offices, Dane County, Wisconsin. If suit or action is instituted by ETC to enforce payment or performance by the Customer, the Customer agrees to pay all reasonable costs and attorney's fees incurred by ETC.

Claims for shortage or damaged goods must be made within ten (10) days of receipt by the Customer. Equipment will be carefully packed and delivered in good condition to the carrier. All claims for loss or damage in transit must be made by the consignee directly to the carrier. ETC will render every aid and assistance in the presentation and enforcement of such claims without waiver of our rights to have compliance with the terms of payment of our invoices.

Equipment returned without ETC's written permission will not be accepted. Equipment returned for credit must be in accordance with ETC's established product return procedures. Equipment must be unused, in original cartons and in saleable condition, subject to ETC's quality control and test inspection. Restocking charges of \$25.00 or 25% of invoice (whichever is greater) plus any repacking or reconditioning costs will be deducted from the credit. Returns for warranty work will be in accordance with ETC's established warranty procedures. In no case will permission be granted to return specially-modified or custom equipment, or merchandise invoiced more than six (6) months prior to date of Customer's return request.

No failure of ETC to insist upon or compel compliance by the Customer with any of these terms and conditions shall be construed as a waiver by ETC of its right to insist upon compliance. No waiver by ETC of any breach by Customer shall be effective unless in writing signed by the President of ETC, and no waiver by ETC of any breach by Customer shall be deemed a waiver of any other breach.

If ETC shall fail to repair or replace defective goods within a reasonable time after they are returned to ETC, or if ETC shall wrongfully fail to make delivery or shall wrongfully repudiate this contract, then Customer shall be entitled to recover from ETC such part of the purchase price as has been paid by Customer to ETC. The remedy stated in the preceding sentence shall be Customer's exclusive remedy for any breach, non delivery, or repudiation by ETC or for any other liability of ETC to Customer. This exclusive remedy shall not be deemed to have failed its essential purpose so long as ETC is willing and able to repair or replace defective parts in the prescribed manner.

ETC warrants its products for 2 years, with the warranty period as defined above, with the following exceptions in duration:

<u>Product Family</u>	<u>Warranty Duration</u>	<u>Product Family</u>	<u>Warranty Duration</u>
Smart Products	1 year	Purchased Demo Equipment	60 days
Unison Dimming	8 year for the DR rack (warranty excluding Unison control electronics)	Purchased Loaner Equipment	60 days
ETC Product Repairs	120 days	Software	90 days

This is ETC's current warranty statement at the time of publication. This warranty statement is subject to change at any time without notice. The controlling warranty, as well as applicable terms and conditions are available at the time of order acknowledgement..

