

TERMS AND CONDITIONS OF SALE

QUOTATIONS

- 1. Formation of Contract; Terms and Conditions; Entire Agreement.** This Quotation is Nott's offer to contract on the terms and conditions of this Quotation, which are contained on the face of the Quotation and set forth below. In the case of conflict, terms and conditions typed on the face of this Quotation will supersede and control any contrary printed ones. Any purchase order, written confirmation, or other reasonable expression of acceptance by Purchaser will form an acceptance, which is expressly limited to the terms and conditions of this Quotation. Any different, additional or inconsistent terms or conditions of Purchaser's purchase order or other documents will constitute a material alteration of Nott's offer, and unless specifically accepted in writing by an authorized representative of Nott, are objected to and will not be binding on or effective against Nott. If it should be deemed that this Quotation is an acceptance by Nott of an offer to purchase by Purchaser, that acceptance is expressly conditioned on Purchaser's assent to all the terms and conditions in this Quotation, including any terms in addition to or inconsistent with those in Purchaser's offer. The agreement (the "Agreement") arising out of this Quotation, having the terms and conditions defined in this Quotation, will embody the entire agreement of the parties in relation to the subject matter of the Quotation. The Agreement will take the place of all prior understandings, communications and representations between the parties, oral or written. No amendment to the Agreement will be effective unless in writing and signed by authorized representatives of both parties.
- 2. Duration of Offer; Purchaser's Credit; Revocation.** This Quotation will remain open for acceptance by Purchaser for 30 days after the date of the Quotation and will then expire unless extended in writing by Nott. If Nott elects to be bound by a later acceptance, the terms and conditions of this Quotation will apply. Nott may withdraw this Quotation at any time before it has been accepted by Purchaser. If before it furnishes any order acknowledgement, Purchaser's credit for the payment terms in this Quotation is unsatisfactory to Nott for any reason, or if Nott receives a price increase on materials, components, or products to be sold under this Quotation, Nott may revoke without obligation any contract arising out of Purchaser's acceptance of this Quotation. If Nott and Purchaser then negotiate other payment and/or price terms, those terms will be considered to be part of Nott's original Quotation and the resulting Agreement. If at any time Purchaser's financial condition or credit standing changes or in the opinion of Nott gives reason for insecurity, Nott may without obligation suspend performance of the Agreement or require payment in cash, security, or other adequate assurances satisfactory to Nott.

ACKNOWLEDGMENTS, SHIPPING ORDERS, INVOICES

- 1. Acknowledgment of Contract. Objection to Purchaser's Terms and Conditions; Entire Agreement.** This acknowledges a contract between Nott Company ("Nott") and the purchaser ("Purchaser") identified on the reverse side. Unless Purchaser's order is based on a Nott Quotation, this Acknowledgment constitutes acceptance of Purchaser's order on the terms and conditions contained on the face of this document and set forth below. (In the case of conflict, terms and conditions typed on the face of this document will supersede and control any contrary printed ones.) Any different, additional or inconsistent terms or conditions of Purchaser's purchase or other documents are hereby objected to and rejected, and unless specifically accepted in writing by an authorized representative of Nott, will not be binding on or effective against Nott. Purchaser's order, if based on a Nott Quotation, is deemed to constitute an acceptance of the offer represented by such Quotation and the terms and conditions specified therein. Any different, additional or inconsistent terms or conditions of Purchaser's purchase order or other documents constitute a material alteration of Nott's offer, and unless specifically accepted in writing by an authorized representative of Nott, are objected to and rejected, and are not binding on or effective against Nott. If Nott has previously acknowledged the subject contract using a form containing this Acknowledgment of Contract and Terms and Conditions of Sale, this acknowledgment represents a reaffirmation of the contract so acknowledged, subject to the amendments (if any) set forth on the face of this document.

The contract acknowledged above (the "Agreement"), having the terms and conditions defined above, embodies the entire agreement of the parties in relation to the subject matter hereof. It takes the place of all prior understandings, communications and representations between the parties, oral or written. No amendment to this Agreement will be effective unless in writing and signed by an authorized representative of both parties.

- 2. Purchaser's Credit.** If at any time Purchaser's financial condition or credit standing changes or in the opinion of Nott gives reason for insecurity, Nott may without obligation suspend performance of the Agreement or require payment in cash, security, or other adequate assurances satisfactory to Nott.

INVOICES, ACKNOWLEDGMENTS, SHIPPING ORDERS, QUOTATIONS

- 3. Limited Warranties and Disclaimers.**

a. Products Assembled or Manufactured by Nott. Nott warrants to Purchaser that, to the extent a product sold under this Agreement has been assembled or manufactured by Nott, such product will be free from defects in such assembly or manufacturing at the time of sale by Nott to Purchaser. As Purchaser's sole remedy for breach of this warranty, Nott will, for a period of 30 days from the date of sale, at its option, either (1) repair or replace any part of the product proven to have been defectively assembled or manufactured by Nott or (2) accept the return of part or all of the product and grant the Purchaser a refund credit for same after deducting an amount for depreciation.

b. Products Not Assembled or Manufactured by Nott. Except for the foregoing limited warranty, NOTT MAKES NO WARRANTY AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE, WITH RESPECT TO equipment, accessories, materials, or components assembled or manufactured by other than Nott. Such products are sold only with such warranties as may be extended by their assemblers, manufacturers and/or suppliers. To the extent allowed by law, Nott will pass such warranties on to Purchaser and will provide Purchaser with reasonable assistance in making any claim under such warranties.

c. Services Provided by Nott. Nott warrants to Purchaser that all contract services specified to be provided by Nott under this Agreement will be provided in a workmanlike manner. As Purchaser's sole remedy for breach of this warranty, Nott will, for a period of 30 days from the date of performance, at its option, either: (1) provide services to correct such deficiency or (2) grant the Purchaser a refund credit for the deficient portion of the services after deducting an amount for depreciation.

d. Conformance to Specifications. Nott warrants to Purchaser that all equipment sold under this Agreement will, when properly installed and operated, conform to any written specifications stated either in this Quotation or in Nott's published literature. As Purchaser's sole remedy for breach of this warranty Nott will, for a period of 30 days from the date of sale, at its option, either (1) repair or replace the non-conforming portion of the equipment so as to allow conformance, or (2) accept the return of that portion of the equipment and grant the Purchaser a refund credit after deducting an amount for depreciation. NOTT MAKES NO WARRANTY AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE, WITH RESPECT TO THE CONFORMANCE OF PRODUCTS OR SERVICES SOLD HEREUNDER TO ANY REQUIREMENTS OF THE PURCHASER OR PERFORMANCE SPECIFICATIONS, UNLESS SUCH REQUIREMENTS OR SPECIFICATIONS ARE EXPRESSLY STATED IN THIS QUOTATION.

e. Exclusions. The above warranties do not cover and Nott shall not be liable for any conditions caused by misuse, faulty installation, misapplication, normal wear and tear, ordinary abrasion or corrosion, use of products beyond stated shelf life, extreme environmental conditions, chemical attack, lack of compliance with applicable instructions, inadequate or improper maintenance, negligence, accident, tampering or substitution of inferior quality component parts. Nor shall Nott be liable for conditions attributable to the incompatibility, improper design, manufacture, installation, operation or maintenance of products, structures, accessories, equipment or materials not supplied by Nott.

f. Warranty Claims. All warranty claims shall be subject to verification by Nott. Any products returned to Nott for warranty verification shall be shipped prepaid and insured. If the claimed defect or non-conformity is verified, Nott will, at its expense, provide a remedy as stated above. If inspection by Nott of the product(s) does not disclose any defect or non-conformance, any repairs made by Nott will be subject to reasonable charge for parts, labor and transportation.

g. Exclusive Warranties. THE FOREGOING WARRANTIES ARE THE ONLY WARRANTIES MADE BY NOTT TO PURCHASER (OR ANY OTHER PARTY). NOTT EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE, ANY OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR ARISING BY OPERATION OF LAW, TRADE USAGE, OR COURSE OF DEALING. NO PERSON, AGENT, OR REPRESENTATIVE, OTHER THAN AN OFFICER OF NOTT IS AUTHORIZED TO GIVE ANY ADDITIONAL WARRANTY ON BEHALF OF NOTT.

- 4. Disclaimer and Limitation of Remedies, Liabilities and Actions.** THE REMEDIES DESCRIBED IN SECTION 3 ABOVE ARE THE ONLY REMEDIES AVAILABLE TO PURCHASER (OR ANY OTHER PARTY) FOR BREACH OF EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, OR ANY OTHER NOTT LIABILITIES ASSOCIATED WITH THE PRODUCTS AND/OR SERVICES COVERED BY THE AGREEMENT, INCLUDING PRODUCT LIABILITIES BASED ON NEGLIGENCE, FAILURE TO WARN, OR STRICT LIABILITY. UNDER NO CIRCUMSTANCES WILL NOTT HAVE ANY LIABILITY FOR DIRECT, INDIRECT, SPECIAL INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOSS. UNLESS OTHERWISE SPECIFICALLY STATED IN AN APPLICABLE NOTT QUOTATION, IN NO CASE WILL NOTT HAVE ANY LIABILITY FOR PENALTY CLAUSES, LIQUIDATED DAMAGES, CERTIFICATIONS, OR INDEMNITIES. IN NO CASE SHALL NOTT'S LIABILITY EXCEED THE AMOUNT OF THE PURCHASE PRICE OF ANY DEFECTIVE PRODUCTS AND DEFECTIVE SERVICES. IN NO CASE SHALL NOTT HAVE ANY LIABILITY FOR PRODUCTS OR SERVICES FOR WHICH NOTT HAS NOT BEEN PAID IN FULL. ANY ACTION FOR BREACH OF WARRANTY OR BREACH OF CONTRACT MUST BE BROUGHT WITHIN TWO (2) YEARS OF THE DATE OF SALE. The exclusive remedies described above shall not be deemed to fail of their essential purpose so long as Nott is willing and able to refund the purchase price for the defective or non-conforming portion of the provided products and/or services. No person, agent, or representative, other than an officer of Nott is authorized to give any other remedies on behalf of Nott or to assume for Nott any other liabilities in connection with this Agreement or any products sold by Nott. All of the liability limitations in this paragraph and Agreement apply not only to Nott, but also to any of its affiliates, including any subsidiary companies.

- 5. Designs and Specifications.** Nott assumes no responsibility for the adequacy of any designs, specifications, requirements and/or instructions provided by Purchaser. Acceptance by the Purchaser of any custom or non-standard products provided by Nott shall constitute an acknowledgment that the Purchaser has reviewed the designs for such products and is satisfied that the designs meet all specifications, requirements, and standards applicable to such products. Purchaser understand and agrees that NOTT IS NOT MAKING AND SPECIFICALLY DISCLAIMS ANY WARRANTY (INCLUDING ANY IMPLIED WARRANTY OF FITNESS FOR PARTICULAR PURPOSE) RELATIVE TO THE DESIGN OF SUCH CUSTOM OR NON-STANDARD PRODUCTS. Purchaser agrees to indemnify and hold Nott harmless against any claims or suits alleging defective design of such products. Purchaser further agrees that, upon request by Nott, it will execute a design approval form confirming the matters contained in this paragraph, and that Nott may withhold shipment of such goods pending execution of such form.

- 6. Technical Assistance; Samples; Demonstrations.** Any technical advice, recommendations, samples, lab tests, and/or demonstrations provided by Nott (or its representatives) concerning the use, application, or compatibility of any products or materials are provided by Nott solely for the purpose of assisting the Purchaser to evaluate, at its own risk, the suitability of Nott products for the Purchaser's intended use. Nott recommends that the Purchaser make its own tests to determine such suitability. No such advice, recommendations, samples, lab tests and/or demonstrations PROVIDED BY NOTT shall be construed as an express or implied warranty.

- 7. Delivery; Risk of Loss; Delays.** Unless otherwise designated on the face hereof, deliveries of products will be F.O.B. point of shipment (except for products installed by Nott, which shall be F.O.B. point of installation). Risk of loss will pass to Purchaser at the F.O.B. point. Nott may indicate scheduled shipment or service dates for certain items of Purchaser's order. Such dates are estimates only and may be subject to change by Nott without liability. NOTT SHALL HAVE NO LIABILITY FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES DUE TO FAILURE FOR ANY REASON TO MEET SCHEDULED SHIPMENT OR SERVICE DATES. Nott shall not be liable for any damage to or loss of product following delivery to the FOB point, including any damage or loss in transit. In the event that manufacture or delivery of products and/or service is delayed by Purchaser, Nott shall be entitled to charge Purchaser for reasonable handling, storage, and/or expenses associated with such delay.

- 8. Prices, Taxes and Duties.** All payments shall be in the legal currency of the United States unless otherwise designated by Nott. Prices in effect at the time of shipment or performance of services shall prevail. All prices quoted are subject to exception or change without notice. Pricing errors may be corrected at any time. Prices do not include any present or future sales, use, excise, value-added or similar taxes and where applicable, such taxes shall be billed as a separate item and paid by the Purchaser. Any personal property taxes assessable on products after delivery to the FOB point shall be borne by the Purchaser.

- 9. Inspection, Acceptance, Returns.** Purchaser will thoroughly inspect each shipment of products shipped promptly upon receipt. All products and services will be deemed to have been accepted ten (10) days after receipt, except for products and/or services for which Purchaser makes a written claim of non-conformance within such time. All products and services made the subject of such a claim will be deemed to have been accepted ten (10) days after receipt by Purchaser of conforming goods and/or services. No products may be returned to Nott except by prior written authorization by Nott. All such returns will be subject to Nott's then-current returned goods policies and procedures.

- 10. Payment Terms; Remedies for Non-Payment.** Unless otherwise specified by Nott Quotation, payment terms will be net 30 days following date of invoice. Overdue accounts shall incur interest charges at the rate of 1-1/2% per month (or the highest legal rate if less). Products sold hereunder shall remain Nott's personal property until fully paid for and will not become fixtures by attachment to the premises where installed. If the Purchaser fails to make payments required hereunder, Nott may, at its option, without demand or notice, repossess the products, wherever located, such repossession to be without prejudice to Nott's right to payment of the purchase price or to other remedies available at law or equity.

- 11. Security Interests, Liens.** In order to provide security for the payment of the full price of products furnished by Nott, Purchaser grants Nott a security interest in all such products. Purchaser agrees to execute any documents or furnish information necessary for Nott to perfect this security interest. Purchaser authorizes Nott to file financing statements covering products furnished by Nott, signed only by Nott. This form will serve as a notice of Nott's right to file mechanics and material suppliers liens (to the extent allowed by law) to secure payment for goods and services provided under the Agreement. Nott will provide Purchaser with appropriate lien waivers upon receipt of payment in full.

- 12. Changes, Rescheduling, Cancellations.** Purchaser may request to modify the designs or specifications for the items sold under the Agreement as well as the quantities and dates for delivery or performance, or may request to cancel all or part of the Agreement, but no such modification or cancellation will become part of the Agreement unless accepted by Nott in a written amendment to the Agreement. Acceptance of any such modification will be at Nott's discretion, and will be upon such terms as Nott may require. Upon a default by Purchaser, Nott may, by giving notice to Purchaser, cancel all or part of any sale covered by the Agreement. A "default" will occur if: (1) Purchaser becomes bankrupt or insolvent or makes an assignment for the benefit of creditors, (2) a receiver is appointed with authority to take possession of all or any part of the Purchaser's assets, (3) Purchaser causes a delay which continues for more than 30 days, (4) Purchaser refuses to accept part or all of the products or services sold hereunder, or (5) Purchaser remains in breach of any material provision of the Agreement more than 10 days after notice of the breach by Nott. Upon cancellation for Purchaser's default, Nott will stop all work on the cancelled portion of the Agreement as promptly as reasonably possible. If the Agreement has been substantially performed by Nott, Purchaser will pay the full contract price; otherwise, Purchaser will pay Nott's full costs incurred in the performance of the Agreement plus a liquidated cancellation charge (not a penalty) equal to 20% of these full costs. Absent a default by Purchaser, Nott may nonetheless, at any time and upon notice to Purchaser cancel all or part of any sale covered by the Agreement. In such event, Nott's only obligation will be to refund amounts already paid by Purchaser for goods and services not to be provided as a result of the cancellation.

- 13. Compliance and Safety.** Unless specifically provided by Nott, Nott does not undertake to provide any devices that may be required by federal, state or local ordinances, regulations, or laws for pollution control, nor does Nott warrant compliance with such ordinances, regulations, or laws with respect to products or services sold under this Agreement. Purchaser agrees to install and operate the products in accordance with all applicable safety laws, codes and regulations.

14. **Purchaser's Customers.** To the extent that Purchaser resells the products or services covered by this Agreement, Purchaser will notify its customers of the warranty and remedy limitations, disclaimers, and indemnity provisions of this Agreement, and shall incorporate provisions at least as protective of Nott in all of its contracts with such customers.
15. **Indemnities.** IN NO EVENT WILL NOTT BE LIABLE TO INDEMNIFY OR TO HOLD PURCHASER HARMLESS AGAINST ANY FORM OF LIABILITY. To the extent permitted by law, Purchaser agrees to defend, indemnify and hold harmless Nott, its agents and employees, against any and all losses, expenses (including attorney fees), claims and suits arising out of the breach of this Agreement by Purchaser or by the acts and/or omissions of the Purchaser or its employees, agents, representatives, or customers.
16. **Governing Law: Resolution of Disputes.** This Agreement will be construed and governed by the laws of the State of Minnesota. Purchaser consents to the jurisdiction and venue of the state and federal courts for Minnesota for the resolution of any disputes arising out of such contract.
17. **Assignment.** Purchaser may not assign part or all of this Agreement without the written consent of Nott.

IMPORTANT NOTICE

This document and other information from the Nott Company and its suppliers provide product and or system options for further investigation by users having technical expertise. It is important that you analyze all aspects of your application and review all information concerning the product or system. Due to the variety of operating conditions and applications for these products or systems, the user, through its own analysis and testing, is solely responsible for making the final selection of the products and systems and assuring that all performance, safety and warning requirements of the application are met.