



NES COMPANY INC. TERMS AND CONDITIONS

NES COMPANY INC. ("NES") STANDARD TERMS AND CONDITIONS

THE FOLLOWING TERMS AND CONDITIONS SHALL APPLY TO ALL TRANSACTIONS FOR THE DELIVERY OF NES PRODUCTS AND SERVICES

1.0 OFFER AND ACCEPTANCE

1.1 All orders shall be subject to acceptance by NES' authorized representative by way of Order Confirmation or other written or electronically communicated acceptance. Any order for Products or Services shall be deemed to be complete (hereinafter a "Completed Order") only after CUSTOMER has accepted the "Contract Documents" which may include a Purchase Order, Order Quotation or Order Confirmation and shall always include these Terms and Conditions. ONCE AN ORDER CONFIRMATION IS PROVIDED TO CUSTOMER, THE ORDER MAY NOT BE TERMINATED WITHOUT PRIOR WRITTEN APPROVAL FROM NES AS PRODUCTS ARE TYPICALLY CUSTOMIZED TO SUIT CUSTOMER'S ORDER OR SPECIFICATIONS. "Products" shall mean any services, equipment or other goods that NES sells or leases to CUSTOMER pursuant to the Contract Documents. "Services" shall mean any product design, integration or consulting as well as any other consulting or training provided on the use, application or implementation of any Products or Services provided by NES to CUSTOMER pursuant to the Contract Documents.

1.2 Only representation(s) specifically set forth in the Contract Documents shall be enforceable. The Contract Documents shall conclusively supersede prior offers and negotiations, and NES will furnish only the quantities and items specified in the Contract Documents. Published or quoted prices, discounts, and terms and conditions are subject to change without notice unless confirmed in writing prior to such change.

2.0 DELIVERY AND TITLE TO PRODUCTS

2.1 Products and Services shall be delivered and performed in accordance with the delivery schedule(s) set forth in the Contract Documents. All Products shall be shipped f.o.b. NES factory or warehouse, and title shall pass to CUSTOMER when shipped. It shall be CUSTOMER's responsibility to safeguard and to insure the Products from the time that title passes to it.

2.2 NES shall not be liable for any delay in the production, delivery or supervision of installation of any of the NES Products or the performance of Services if such delay shall be due to any cause beyond the reasonable control of NES including, without limitation, fire, strike, lockout, dispute with workmen, flood, hurricane, accident, delay in transportation, shortage of fuel, inability to obtain material, embargo, or demand of any governmental or war activity. In the



event of any delay for cause beyond the reasonable control of NES, the date or dates of performance of this contract by NES shall be extended for a period equal to the time lost by reason of the delay.

2.3 Except as otherwise specifically set forth in the Contract Documents, NES shall only provide telephone training and support services such as generally made available for the type of Products and Services ordered. Onsite support, and services are not included in any sale of goods unless otherwise set forth in the Contract Documents.

2.4. NES encourages customers to book installs on purchase to cover the warranty. NES' install rate is 1,500\$ per day, excluding lodging, travel, and food expenses for eight hours of work at the site. This rate is not applicable for the weekend and public holiday work.

2.5 Same-day dispatch: NES charges customers an extra 3% on the total invoice for same-day dispatches if in stock. All requests for same-day dispatches must come to NES before Noon eastern time.

2.6 Weekend Delivery: NES charges an extra 450\$ for weekend dispatch requests and expediting fees for a single pump.

3.0 TAXES. CUSTOMER shall be responsible for all sales, use and any other personal property taxes assessed by any state on the transactions governed by the Contract Documents. CUSTOMER shall hold harmless and indemnify NES from and against any liability arising from CUSTOMER's action or inaction in the recording, paying, depositing or reporting of these taxes.

4.0 INSTALLATION AND OPERATING EXPENSES

4.1 If specified in the Contract Documents, NES shall provide onsite services and support during normal working hours. All other charges for installation, including charges for any necessary materials and labor, shall be at CUSTOMER's expense. If services or support by NES's personnel is precluded by local law, union agreement or otherwise, NES may elect to supervise the installation, and the CUSTOMER shall bear any additional costs caused thereby.

4.2 All supplies necessary for the installation and delivery shall be provided at CUSTOMER's expense and shall meet all necessary specifications. NES agrees to sell to CUSTOMER at its then published prices for commercial customers available supplies and spare parts suitable for use in connection with the Products.

4.3 CUSTOMER shall reimburse NES for travel costs of its personnel or agents as well as the reasonable costs of meals and lodging during periods of installation, training or other on-site visits requested by CUSTOMER.



5.0 TERMS OF PAYMENT

5.1 The purchase price for goods and services shall be due and payable as follows:

(a) 50% upon receipt of NES's Order Confirmation for custom built products and systems exceeding \$10,000.00;

(b) Remainder strictly net 30 days after delivery to CUSTOMER.

(c) Other terms agree to in writing or as part of Contract Documents.

(d) NES does not extend any line of credit outside US territory; outside the US, orders are 100% paid in advance to process orders. By outside US territory means where the end user is outside US.

5.2 NES shall issue invoices for such additional charges as may be applicable under the Contract Documents, and each such invoice shall be due and payable upon issuance. In the event that payment has not been made within 30 days of being due, NES reserves the right to charge the lesser of 1.5% per month (18% per annum) or the maximum rate permitted by law.

5.3 In the event that the purchase price is to be paid over time on a schedule that must be authorized by NES in advance in writing, NES shall retain a purchase money security interest in all Products until it has received payment in full. NES may file a copy of this Agreement and/or separate UCC-1 financing statement(s) that CUSTOMER agrees to promptly execute, upon NES's request, to perfect its purchase money security interest. If any amount due is not paid when due, NES reserves the right to repossess all Products covered by the purchase money security interest without notice or prejudice to any other rights and remedies available to NES under this Agreement or the UCC. CUSTOMER will reimburse NES's costs to collect monies due under the Contract Documents including but not limited to reasonable attorneys fees.

6.0 WARRANTIES; LIMITATION OF WARRANTY

6.1 LIMITED WARRANTY. NES warrants that CUSTOMER shall acquire good and clear title to Products being purchased by CUSTOMER hereunder, free and clear of all liens and encumbrances. NES SHALL NOT BE LIABLE FOR ANY FAILURE OR DELAY IN PERFORMANCE IF SUCH FAILURE OR DELAY IS DUE, IN WHOLE OR IN PART, TO ANY CAUSE BEYOND ITS CONTROL. NES warrants that Products manufactured by or distributed by NES shall be free of manufacturer's defects, faulty workmanship, and defective materials for such products for a period of 24 months from the date of dispatch from the factory or distribution center or 18 months from the date of commissioning whichever comes first. When an order is comprised of a system(s) of multiple components, some of which NES may from time to time acquire from third party suppliers, those components shall be covered solely by the OEM's warranty.



Unauthorized disassembly/repairs/modification of the pump(s) or system(s), or removal /modification of the NES Vacuum Pump Name Plate will result in immediate loss of warranty.

6.2 WARRANTY DISCLAIMER. NES makes no other warranties express or implied and specifically EXCLUDES without limitation any and all WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE AND MAKES NO WARRANTIES BEYOND THOSE CONTAINED HEREIN. If any of the Products in any shipment do not conform to the warranty contained herein all rejected Products must be promptly returned after rejection at CUSTOMER's expense. Purchaser's sole remedy will be to notify NES of such nonconformity within fourteen (14) days of the receipt of such product, and NES will at its option either promptly repair or replace the non-conforming product with a product which conforms to the warranty or refund the purchase price of the non-conforming product. NES shall not be liable for specific, indirect or consequential damages nor shall NES be liable for damages of any kind arising from the presence or use of the products delivered whether used singly or in combination with other products. No claim of any kind arising hereunder shall be greater than, nor shall NES in any event be liable for an amount in excess of the amount of the purchase price of the products in respect of which such claim is made.

6.3 LIMITATION OF DAMAGES. IN NO EVENT WILL NES BE LIABLE FOR LOSS OF PROFITS OR FOR ANY OTHER INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, PERFORMANCE OR USE OF THE PRODUCTS AND SERVICES. NES'S TOTAL LIABILITY, IF ANY, INCLUDING BUT NOT LIMITED TO LIABILITY ARISING OUT OF CONTRACT, TORT, BREACH OF WARRANTY OR CONDITIONS, INFRINGEMENT OR OTHERWISE, SHALL NOT EXCEED THE AMOUNTS PAID BY CUSTOMER TO NES UNDER THE CONTRACT DOCUMENTS.

7.0 RISK OF LOSS. Should any loss, damage or injury result to the Products from any cause whatsoever after title passes to CUSTOMER or its agents, such loss, damage or injury shall be for CUSTOMER's account and shall not relieve the CUSTOMER from the obligation to pay NES for the Products.