

**NWL**  
**GENERAL TERMS AND CONDITIONS OF SALE**

*Acceptance of your order is expressly made conditional on your assent to our conditions of sale below, and we agree to furnish the material described in your order only upon these conditions.*

**1. DELIVERY**

Shipping dates are approximate and are based upon prompt receipt of all information necessary to permit NWL to proceed with work immediately and without interruption. NWL reserves the right to make partial deliveries and to ship products as they become available.

NWL shall not be liable for delay in delivery, or failure to manufacture, due to causes beyond its reasonable control, unforeseeable circumstances, or due to acts of God, acts of the Purchaser, acts of civil or military authority, priorities, fires, strikes, labor disputes, floods, epidemics, quarantine restrictions, war (declared or undeclared), riots, delays in transportation, car shortages, inability to obtain timely instructions and information from Purchaser, and inability due to causes beyond NWL's reasonable control to obtain necessary labor, materials, or manufacturing facilities. In the event of any such delay, the date of delivery may be deferred for a period equal to the time lost by reason of the delay.

**2. TRANSPORTATION**

Unless otherwise specified on the reverse side hereof, delivery of the products hereunder shall be made F.O.B. NWL's factory. NWL reserves the right to supply the products ordered by Purchaser from any of NWL's manufacturing facilities. Unless otherwise specified on the reverse side hereof, transportation expenses shall be paid by the Purchaser, and NWL shall ship as it sees fit unless otherwise instructed in writing by Purchaser. Risk of loss or damage to products in transit shall fall upon the Purchaser, whose responsibility it shall be to file claims with the carrier.

**3. PAYMENTS**

Unless otherwise specified on the reverse side hereof, payment will be made in U.S. Dollars, as follows:

Invoices shall be due and payable within thirty (30) days of the invoice date. Payments not made within thirty (30) days are subject to a finance charge of one and one-half percent (1½%) or the maximum legal rate, whichever is less, on the outstanding balance each month or part thereof until paid.

If, in the judgment of NWL, the financial condition of the Purchaser at any time does not justify continuance of production or shipment on the terms of payment originally specified, NWL may require full or partial payment in advance, and, in the event of the bankruptcy or insolvency of the Purchaser or in the event any proceeding is brought by or against the Purchaser under the bankruptcy or insolvency laws NWL shall be entitled to cancel any order then outstanding and shall receive reimbursement for its cancellation charges upon submission of its invoice. If Purchaser fails to fulfill any condition hereunder, NWL may suspend performance and any costs incurred by NWL as a result thereof will be paid by Purchaser. NWL will be entitled to an extension of time for performance of its obligations equal to the period of Purchaser's non-fulfillment whether or not NWL elects to suspend performance. If such non-fulfillment is not rectified by Purchaser promptly upon notice thereof, NWL may cancel any order then outstanding and Purchaser will pay NWL its cancellation charges upon submission of NWL's invoice.

Each shipment shall be considered a separate and independent transaction, and payment therefor shall be made accordingly. If shipments are delayed by the Purchaser, payments shall become due on the

date when NWL is prepared to make shipment. If the work covered by the purchase order is delayed by the Purchaser, payments shall be made based on the purchase price and the percentage of completion. Products held for the Purchaser shall be at the risk and expense of the Purchaser. NWL reserves the right to ship to its order and make collection by sight draft with bill of lading attached.

**4. SECURITY TITLE**

Security title and right of possession of the products sold hereunder shall remain with NWL until all payments hereunder (including deferred payments whether evidenced by notes or otherwise) shall have been made in full in cash, and the Purchaser agrees to do all acts necessary to perfect and maintain such security right and title in NWL.

**5. TAXES**

Unless otherwise stated on the reverse side hereof, NWL's prices do not include any applicable sales, use, excise, or similar taxes. Consequently, in addition to the prices specified herein, the amount of any present or future sales, use, excise, or other similar tax applicable to the sale of the products hereunder shall be paid by the Purchaser to NWL upon submission of NWL's invoice, or in lieu thereof the Purchaser shall provide NWL with a sales tax exemption certificate acceptable to the taxing authorities.

**6. PATENTS**

The Purchaser shall indemnify and hold NWL harmless against any liability, damage, loss, expense, claims or judgment resulting from infringement of patents or trademarks arising from compliance with Purchaser's designs or specifications or instructions.

Except as otherwise provided in the preceding sentence, NWL shall defend any suit or proceeding brought against the Purchaser so far as based on a claim that any product or any part thereof, furnished under this contract constitutes an infringement of any patent of the United States. If notified promptly in writing and given authority, information, and assistance (at NWL's expense) for the defense of same, NWL shall pay all damages and costs awarded therein against the Purchaser. In case said product, or any part thereof, is in such suit held to constitute infringement and the use of said product or part is enjoined, NWL shall at its own expense, either procure for the Purchaser the right to continue using said product or part, or replace same with non-infringing products, or modify it so it becomes non-infringing, or remove said product and refund the purchase price and the transportation cost thereof. The foregoing states the entire liability of the NWL for patent infringement by the said products or any part thereof. NWL shall not be liable for any costs or damages incurred by the Purchaser as a result of any suit or proceeding brought against the Purchaser so far as based on claims (a) that use of any product, or any part thereof, furnished hereunder, in combination with products not supplied by NWL, or (b) that a manufacturing or other process utilizing any product, or any part thereof, furnished hereunder, constitute either direct or contributory infringement of any patent of the United States.

The sale of products by NWL does not convey any license, by implication, estoppel, or otherwise, under patent claims covering

- (a) combinations of said products with other devices or elements, or
- (b) a process or machine in connection with which they may be used.

**7. DEFAULT-CANCELLATION**

NWL reserves the right, by written notice of default, to cancel this order, without liability to NWL, in the event of any default on the part of the Purchaser, the discontinuance of business by Purchaser, or the sale by Purchaser of the bulk of its assets other than in the usual course of business.

## 8. GENERAL

- (i) Any order resulting herefrom will in all respects be construed and be given legal affect in conformity with the laws of the State of New Jersey, U.S.A.
- (ii) Any provisions or conditions of the Purchaser's purchase order, statement of terms or otherwise, which are in any way inconsistent with or in addition to these General Conditions of Sale (except additional provisions in shipping instructions specifying quantity and character of the items ordered) shall not be binding on NWL and shall not be considered applicable to this sale. These General Terms and Conditions of Sale supersede all prior discussions and writings and constitute the entire agreement between Buyer and Seller with respect to the terms and conditions governing all orders.
- (iii) No change, modification, rescission, discharge, abandonment, or waiver of these General Conditions of Sale shall be binding upon NWL unless made in writing and signed on its behalf by an Authorized Representative of NWL.
- (iv) The Purchaser shall not assign this order or any interest therein or any rights hereunder without the written consent of NWL, and any such assignment shall be void.
- (v) When partial tooling and related engineering service charges are billed separately on the invoice, such billing or payment therefor shall not imply ownership of the tools to the Purchaser. Tools shall always remain the property of NWL.
- (vi) NWL's obligation hereunder will be dependent upon NWL's ability to obtain the necessary raw materials.
- (vii) All items ordered will be packaged according NWL's standards. Special packaging at request of Purchaser may be subject to additional charges.

## 9. WARRANTY

NWL warrants to the original purchaser that each product to be delivered hereunder will be free from defects in material or workmanship when used within the service, range and purpose for which they are manufactured. **THIS WARRANTY IS EXCLUSIVE AND NO OTHER WARRANTY, EXPRESS, IMPLIED OR STATUTORY (EXCEPT OF TITLE), SHALL BE IMPLIED. NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR PURPOSE OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY.** Unless otherwise specified on the reverse side hereof, if any item manufactured by NWL shall prove defective in material and/or workmanship the following warranties shall apply. **1. Conventional equipment with 12 months from commercial operation, or 18 months of delivery. 2. Spare Parts 12 months from date of shipment with proper installation. 3. Transformer rectifier refurbishment 24 months from date of shipment. 4. Repaired transformer rectifier equipment 12 months from date of shipment on replaced part only. 5. Power Plus equipment 24 months from commercial operation, or 30 months from delivery.** (Hereinafter referred to as the "Liability Period"), the Purchaser shall notify NWL thereof within sixty (60) days of discovery of such defect. NWL shall, at its option, repair or replace parts found by NWL to be defective in material or workmanship on receipt of same F.O.B. place of manufacture, freight prepaid. Instruments, equipment or components purchased from other manufacturers included in or with the product will be covered only as provided for by such other manufacturer's warranty.

Without limitation of the foregoing, this warranty shall not apply (i) to the performance of any system of which NWL's products are a component part, (ii) to deterioration by corrosion or any cause of failure other than defects of material or workmanship, or (iii) to any of NWL's products or parts thereof which have been tampered with, altered, or repaired by anyone except NWL or someone authorized by NWL in writing, or subjected to misuse, neglect, abuse, or improper use or misapplication such as breakage by negligence, accident, vandalism, the elements, shock, vibration, or exposure to any other service, range or environment of greater severity than that for which the products were designed.

**Note:** NWL's Warranty is conditioned upon the following:

(a) That Purchaser provides the Normal Operating conditions for said equipment.

(b) This warranty is predicated on the basis that any storage will be sheltered from the elements in a cool and dry location, handling being such that equipment is in first-class condition prior to start up and will be used within its specified design limits. Failure to meet these requirements will void NWL's warranty in its entirety.

It is understood that any defective product will not be returned until authorized in advance by NWL. Returned products should be intact in form and will become the property of NWL.

The liability of NWL arising out of the supplying of said product, or its use, whether in contract (or warranty) or tort (including claims of negligence), or otherwise, shall not in any case exceed the cost of correcting defects in the product or part thereof which gives rise to the claim as herein provided. Upon the expiration of the Liability Period herein specified, all such liability shall terminate. The foregoing shall be NWL's sole and exclusive liability and Purchaser's sole and exclusive remedy for any action, whether based in breach of contract or in tort, including negligence or strict liability. **IN NO EVENT SHALL NWL BE LIABLE FOR LOST PROFITS, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, LOSS OR EXPENSE.**