

Terms and Conditions of Sale

1. **GENERAL.** All orders for products supplied by NOLTA INC. ("NOLTA") shall be subject to these terms and conditions of sale. All transactions shall be governed by the laws of the Commonwealth of Massachusetts. No modifications hereto will be binding unless agreed to in writing by NOLTA and NOLTA hereby expressly rejects all additional, different or contrary terms and conditions.

These Terms and Conditions are of a continuing nature and shall apply equally to all future orders and shipments, whether explicitly, stated or not until such time as NOLTA agrees to new Terms and Conditions in writing and signed.

2. **CUSTOMER.** The term "Customer," as used herein, means the first distributor, resale dealer, original equipment manufacturer or first end-user customer that purchases the NOLTA products and not any subsequent purchaser or user.

3. **WARRANTY.** NOLTA products shall be free from defects in material and workmanship for a maximum of 12 months from the date of shipment to the Customer.

In the event that a product proves to be defective, NOLTA's sole obligation shall be, at its option, to repair or replace the product. The repaired or replacement product

will be shipped CPT Customer's destination facilities, freight prepaid by NOLTA.

NOLTA shall pay standard lowest cost freight charges from Customer and return to Customer. Any non-standard or additional freight charges shall be for Customer's account.

Return of any defective product for warranty service requires return of the entire appliance with the production batch number clearly visible, together with evidence of billing and shipping numbers.

No employee, agent or representative of NOLTA has the authority to waive, alter, vary or add to the terms hereof without the prior written approval of an officer of NOLTA. It is expressly agreed that (a) this section constitutes the final expression of the parties' understanding with respect to the warranty and (b) this section is a complete and exclusive statement of the terms of the warranty.

NOLTA shall have no obligation under the warranty set forth above in the event that:

(a) The Customer fails, within the warranty period to notify NOLTA in writing and provide NOLTA with evidence satisfactory to NOLTA of the alleged defect within five (5) days after it becomes known to the Customer;

(b) After inspection of a product, NOLTA determines, in its sole discretion, that it is not

defective in material or workmanship;

(c) Repair or replacement of a product is required through normal wear and tear;

(d) Any part in a product or any ingredient contained in a product requires replacement or repair through routine usage or normal wear and tear;

(e) A product is not maintained or used in accordance with NOLTA's applicable operating and/or maintenance manuals, whether by the Customer or any third party;

(f) A product has been subject to misuse, misapplication, negligence, neglect (including, but not limited to, improper maintenance or storage), accident, catastrophe, improper installation, modification, adjustment, repair or lubrication, whether by the Customer or any third party, without the prior written consent of NOLTA. Misuse shall include, but not be limited to, deterioration in a product due to chemical action, wear caused by the presence of abrasive materials, excess heat or cold, improper or unusual electrochemical, electromechanical or electronic influences.

(g) The system of connected parts into which the product becomes incorporated is not compatible with the product, or it is not free from critical variations within the specified operating range, no matter how induced;

(h) The transmitted electrical voltage is not within the published limits for the unit sold; or

(i) Items manufactured by other parties but installed in or affixed to NOLTA's products are not warranted by NOLTA and bear only those warranties, express or implied, which are given by the manufacturer of such items, it any.

THE WARRANTY SET FORTH ABOVE IS INTENDED SOLELY FOR THE BENEFIT OF THE CUSTOMER AND DOES NOT APPLY TO ANY THIRD PARTY. ALL CLAIMS MUST BE MADE BY THE CUSTOMER AND MAY NOT BE MADE BY ANY THIRD PARTY. THIS WARRANTY MAY NOT BE TRANSFERRED OR ASSIGNED, IN WHOLE OR IN PART, BY THE CUSTOMER FOR ANY REASON WHATSOEVER. ANY SUCH ATTEMPTED TRANSFER OR ASSIGNMENT SHALL BE NULL AND VOID.

THIS WARRANTY SUPERSEDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED BETWEEN NOLTA AND CUSTOMER WHICH ARE NOT PART OF THESE TERMS AND CONDITIONS, WHICH ARE HEREBY DISCLAIMED AND EXCLUDED BY NOLTA, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A

PARTICULAR PURPOSE OF USE AND ALL OBLIGATIONS OR LIABILITIES ON THE PART OF NOLTA FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE, REPAIR OR PERFORMANCE OF THE PRODUCTS.

NOLTA SHALL NOT BE RESPONSIBLE FOR NOR HAVE ANY FINANCIAL RESPONSIBILITY FOR UNINSTALLING, INSTALLING, REPLACING OR REPAIRING ANY OTHER PRODUCTS OR APPLICATIONS EXCEPT THE IMMEDIATE PRODUCT OR GOODS INTO WHICH THE NOLTA PRODUCTS WERE INSTALLED.

4. MODIFICATIONS. NOLTA reserves the right, without notice to the Customer, to (a) change the specifications of any product, (b) improve a product in any manner that NOLTA deems necessary or appropriate and (c) discontinue the manufacture of any product.

5. PURCHASE ORDERS. All quotations and catalogue prices from NOLTA are subject to change until a purchase order has been accepted by NOLTA. The Customer will submit purchase orders for the products to NOLTA in writing, whether by mail, telefax, email or on line, which shall set forth, at a minimum: (a) an identification of the products ordered, (b) prices for such products, (c) quantities, (d) requested delivery dates and (e) shipping

instructions and shipping addresses.

6. ACCEPTANCE OF ORDERS. (a) All purchase orders received from the Customer are subject to acceptance by NOLTA in writing (b) ACCEPTANCE IS CONDITIONED UPON CUSTOMER'S ACCEPTANCE OF THE TERMS AND CONDITIONS AND NOLTA'S WARRANTY TERMS SET FORTH IN SECTION 3 HEREIN.

7. MODIFICATION OF ORDERS. No accepted purchase order shall be modified or canceled except upon the written agreement of NOLTA and the Customer. Mutually agreed cancellations shall be subject to reasonable charges based upon expenses already incurred by NOLTA and commitments made by NOLTA. Mutually agreed change orders shall be subject to all provisions of these Terms and Conditions of Sale.

8. PRICE INCREASES. NOLTA may increase its prices for the products by providing the original Customer of the products with at least thirty (30) days' prior written notice. Increased prices for products shall not apply to purchase orders accepted prior to the effective date of the price increase unless such orders provide for delivery more than four (4) months after the date of acceptance of the order.

9. PRICING AND DELIVERY TERMS. All products are delivered Ex

Works NOLTA's warehouse facility in Massachusetts, or such other facility as NOLTA may designate. Orders are then shipped per NOLTA's choosing at lowest cost standard freight rates. NOLTA shall have no further responsibility for the products and all risk of damage, loss or delay shall pass to the Customer Ex Works. In the event Customer issues special shipping instructions, Customer shall be responsible for such and any additional expenses caused thereby and may be asked to prepay such or accept collect shipment.

Prices do not include any installation services and NOLTA does not provide installation services unless expressly stated in a separate written agreement. Installations shall be performed by qualified technicians only.

10. PAYMENT TERMS. Net 30 days. All orders will be shipped either prepaid by the Customer or C.O.D., at NOLTA's option, unless the Customer has established a previously approved credit line. If NOLTA approves a credit line for the Customer, all payments shall be due within thirty (30) days of the date of the invoice. If any invoice is not paid in full within such thirty (30) day period, then finance charges shall be assessed at the rate of one percent (1%) per month (twelve percent (12%) per year). If such rate is deemed to be usurious at anytime, it shall be reduced to the maximum rate permitted by applicable law. NOLTA may stop or withhold shipment of

products if the Customer does not fulfill its payment obligations. If NOLTA is insecure about payment for any reason, NOLTA may require full or partial payment in advance and as a condition to the continuation of its delivery of products.

Customer shall not deduct, offset or otherwise withhold full and prompt payment by reason of any credits or claims for credits or other claims without the express written consent of NOLTA.

Customer shall be responsible for any sales, use, value-added or other excise tax on the products.

11. SECURITY INTEREST. Unless and until the products are paid for in full, NOLTA reserves a purchase money security interest in them to secure the unpaid balance of the purchase price. The Customer hereby grants to NOLTA a power of attorney, coupled with an interest, to execute and file on behalf of the Customer all necessary financing statements and other documents required or appropriate to protect the security interest granted herein.

12. ACCEPTANCE OF PRODUCTS. The Customer will conduct any incoming inspection tests as soon as possible upon arrival of the products, but in no event later than ten (10) days after the date of receipt. Any products not rejected by written notice to NOLTA within such period shall be deemed accepted by the Customer and NOLTA shall not

be liable for any additional costs, expenses or damages incurred by the Customer, directly or indirectly, as a result of any shortage, damage or discrepancy in a shipment. The Customer may not reject any products for immaterial defects.

13. LIMITATION OF REMEDIES.

(a) NOLTA SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY DELAY IN FURNISHING THE CUSTOMER WITH PRODUCTS.

(b) IN NO EVENT SHALL NOLTA'S LIABILITY INCLUDE ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE LOSSES OR DAMAGES, EVEN IF NOLTA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

14. MADE-TO-ORDER PRODUCTS. NOLTA reserves the right to revoke and amend any price quotations offered to the Customer for made-to-order products, provided that such price quotations have not been accepted by the Customer prior to the date of revocation or amendment

15. SPECIFICATIONS. On behalf of itself and its manufactures, NOLTA reserves all rights of trademark, ownership, copyright and other industrial property rights to any trade or service names, software, firmware, specifications, technical data,

drawings, illustrations, catalogues, models, documents and sales literature. Customer may not make use of any such or in any manner reproduce such without the express written consent of NOLTA or Manufacturer.

Charges incurred by the Customer for software, specifications or other applications shall not confer ownership or the right to possession therein by the Customer. All such shall remain the property of NOLTA, and NOLTA shall have the exclusive right to possession thereof. NOLTA shall maintain such specifications for a reasonable time for future orders.

16. REGULATORY LAWS AND STANDARDS. NOLTA makes no representation that its products conform to state or local laws, ordinances, regulations, codes or standards except as may be otherwise agreed to in writing by NOLTA.

It is the policy of NOLTA to comply fully with the export laws and regulations of the United States government and / or applicable laws and regulations of other countries. Unless otherwise specifically agreed between the parties in writing, NOLTA's products are intended for use within the USA in conformity with all legal requirements therein.

Customer represents and warrants that it is purchasing products exclusively for civilian, non-military purposes to be used in the United States

in compliance with the laws of this country and that there will be no re-export or diversion contrary to such laws, including but not limited to the Export Administration Act Regulations and the International Traffic in Arms Regulations.

No warranty shall apply to any unintended use and NOLTA disclaims any liability with respect to such use.

NOLTA and Customer are Independent Contractors and not principal and agent. Nothing construed or contained in these Terms and Conditions shall be construed to create a partnership, dealership, reseller, agency, employment or joint venture relationship. Without limiting the generality of the foregoing, Customer is not authorized to make, and shall not make, any representations on behalf of, or which are binding upon, NOLTA and shall take no actions on behalf of, or which are binding upon, or creating any liability under export laws and regulations for NOLTA. The status of NOLTA and its personnel and any subcontractors is and will be that of independent contractors, and no such personnel or subcontractors will, at any time or for any purpose, be deemed employees or agents of Customer.

17. SIZES AND WEIGHTS. NOLTA's products are made only in the sizes and to the specifications set forth in its catalogs and other literature. If any alteration is requested, such altered product will be treated as a made-to-order item. NOLTA

assumes no responsibility for typographical errors which may appear in its catalogs or literature, and cannot accept alteration charges caused by such errors. Freight allowances will be determined at the time of shipment and shall be based on actual shipping weight.

18. SYSTEM DESIGN. Responsibility for system design to ensure proper use and application of NOLTA's products within their published specifications and ratings rests solely with the Customer.

19. PRODUCT RETURNS. Returns of property delivered and non-defective products is only permissible with the prior written consent of NOLTA at Customer's expense and NOLTA shall have the right to charge a restocking fee to cover administrative, inspection and repacking costs. No products shall be returned unless undamaged, unused, and in their original unopened packaging. Returns are only entitled to a credit note for other purchases and not for repayment and all freight charges shall be deducted. All costs for modification of specially made products shall also be deducted.

20. CHOICE OF LAW AND JURISDICTION.

(a) This agreement, including any purchase order, terms and conditions or other documents relating to or forming part of the purchase order shall be governed by the internal laws of the Commonwealth of Massachusetts, excluding its conflict of laws principles. The

UN Convention on the International Sale of Goods is specifically waived and excluded.

(b) All disputes between the parties shall be exclusively adjudicated by the Federal and State courts in Massachusetts and each party hereby consents to the in-personam jurisdiction of said courts and venue. Each party waives any claim of forum-non-convenience. In consideration for entering into this agreement each party irrevocably waives its right to trial by jury.

(c) Enforcement of any legal or equitable judgment or order may be had in any court of competent jurisdiction.

21. FORCE MAJEURE. Any delay or failure of NOLTA to perform its obligations hereunder shall be excused if, and to the extent that it is caused by an event or occurrence

beyond the reasonable control of NOLTA and without its fault or negligence, such as by way of example and not by way of limitation, acts of God, actions by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, unavailability of raw materials, energy or transport and strikes. During the period of such delay or failure to perform by NOLTA, NOLTA shall provide Customer with prompt written notice of such delay (including a description of the cause of the event or circumstance, an estimate of the duration of the delay and a statement regarding the remedial steps that are being undertaken to resume performance. If requested by Customer, NOLTA shall, within ten (10) days of the request, provide adequate assurances that any delay shall not exceed sixty (60) days. If the delay

lasts more than sixty (60) days or NOLTA does not provide adequate assurance that the delay will cease within sixty (60) days, Customer may immediately cancel the purchase order without liability to NOLTA.

22. FINAL AGREEMENT.

The purchase order, these terms and conditions and all documents specifically annexed thereto or referred to therein are a full and final statement of the terms of the agreement and all prior or contemporaneous discussions or writings shall not be deemed part of this agreement.

NOLTA U.S. INC.

Address

Phone:

FAX:

www.nolta.de

E-mail: info@nolta.de