

HEAT TRANSFER SALES, LLC
TERMS AND CONDITIONS OF SALE

EXCLUSIVE TERMS: This Proposal ("Proposal") is subject to withdrawal at any time with or without notice. Unless withdrawn, this Proposal terminates automatically if not accepted within thirty (30) days from the date hereof. Heat Transfer Sales, LLC ("HTS") will sell the goods and/or services described in this Proposal ("Goods") upon the Terms and Conditions set forth herein, which are made a part of this Sale. This document is intended as an offer to sell the Goods that is expressly conditioned on the acceptance without change or additions by the Customer of HTS's Terms and Conditions of Sale set forth herein. The Proposal and HTS's Terms and Conditions of Sale shall constitute the entire agreement of the parties. Any different, conflicting or additional terms or conditions contained in the Customer's documents or referenced therein are deemed material and are expressly objected to and rejected hereby. If Customer uses its own purchase order, acceptance, acknowledgement, confirmation or other form, such form shall be used for convenience only, and shall evidence Customer's unconditional agreement to HTS's Terms and Conditions of Sale as set forth herein. These Terms and Conditions of Sale cannot be modified, canceled, excepted, rescinded or waived except by written agreement reviewed and signed by HTS's President or Corporate Counsel. Upon receipt, if Customer does not reject or object in writing to these Terms and Conditions of Sale within ten (10) days by written notice to Legal@hoffman-hoffman.com, HTS's Proposal and these Terms and Conditions of Sale will be deemed accepted by Customer. In any event, Customer's acceptance of all or any part of any Goods ordered will constitute Customer's acceptance of HTS's Proposal subject to these Terms and Conditions of Sale.

CREDIT APPROVAL: HTS's shipment of the Goods shall at all times be subject to the approval of HTS's Credit Department. Should the Customer fail to pay according to terms, or if in the opinion of HTS, Customer otherwise shows an adverse change in its financial condition, HTS may at any time, without prejudice to any claims for damage HTS may be entitled to make, decline to ship the Goods or suspend shipment until additional terms and conditions satisfactory to HTS have been established.

PRICES: Except as otherwise expressly provided in HTS's Proposal, HTS allows sixty (60) days from Proposal acceptance for release of immediate shipment without price increases. In no event will prices be decreased.

PERFORMANCE: HTS shall be obligated to furnish only the Goods described in HTS submittal data (if such data is issued) and as described on the HTS Proposal.

PAYMENT:

- (a) Terms are net 30 days from date of invoice. No retainage shall be withheld by Customer. Any invoices not paid when due shall be charged a finance charge of 1 ½% of the outstanding balance per month, or if less, the highest interest rate permitted by applicable law, on the outstanding principal balance.
- (b) Prices do not include any applicable sales tax or other charges. Customer shall pay any such taxes or other charges, plus penalties and expenses, if any, upon receipt of an invoice from HTS. In lieu of payment of such taxes, Customer shall provide HTS with a tax exemption certificate acceptable to the taxing authority.
- (c) Unless otherwise stated in this Proposal, all prices are F.O.B. shipping point.
- (d) Customer shall reimburse HTS for all costs and expenses, including HTS's reasonable attorneys' fees and court costs, incurred in collecting any amounts due HTS.
- (e) Title to, ownership, and right of possession of the Goods covered by this Proposal will be and/or remain with HTS until the price quoted herein is paid in full. Customer grants HTS a security interest in all Goods sold hereunder to secure payments due from Customer to HTS. Upon written demand of HTS, Customer agrees to sign a financing statement to evidence such security interest. HTS shall have all of the rights and duties of a Secured Party, and Customer shall have all of the rights and duties of a Debtor under the Uniform Commercial Code-Secured Transactions of North Carolina.
- (f) If Customer cancels its order, HTS shall have the right to discontinue work on the Goods finished and receive full reimbursement for all costs incurred plus such profit as would have been realized by HTS from the transaction had the agreement not been breached by the Customer. Goods shall not be returned without HTS's written permission. A 30% minimum restocking charge will be levied against Customer on any reusable standard Goods returned with HTS's permission.
- (g) Nothing shall limit HTS's right to place liens on buildings, properties or funds in order to secure and protect HTS's right to payment for Goods supplied under this Proposal, including filing claim against payment bonds per applicable law.
- (h) Credit cards will be accepted at the time of order. Credit cards are not eligible for any payment discounts or special terms. A customer who chooses to pay for an order more than 3 (three) days after invoicing, is subject to the credit card fee of 3.0% of the total purchase price.

DELIVERY:

- (a) Any delivery dates and/or proposed performance schedules stated herein are merely HTS's best estimates and are not binding on HTS.
- (b) Estimated delivery dates are based upon the Customer's furnishing plans, specifications and other pertinent information necessary to prepare shop drawings and place orders, to our office within fourteen (14) days of acceptance of this Proposal.
- (c) HTS shall have no liability to Customer or any third party for any loss, damage, or expense from any delay or failure of performance due to any cause beyond the reasonable control of HTS, including, but not limited to: fire or other casualty; strike or labor difficulty; accident; war conditions; government regulation or restriction; shortages in transportation, power, labor or materials; freight embargo; riot or civil commotion; default of HTS's suppliers; or prohibitions or any other event which renders performance impossible or impracticable. IN NO EVENT SHALL HTS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY OR LIQUIDATED DAMAGES OR LOSSES, INCLUDING BUT NOT LIMITED TO, LOSS OF USE, INCOME, PROFIT OR PRODUCTION, LOST DATA, SPOILAGE, DELAY, OR INCREASED COST OF OPERATION.

WARRANTY AND LIMITED LIABILITY: Upon condition that HTS receives payment in full for all amounts owed, HTS extends to Customer the manufacturer's warranty (a copy of which is available upon request), and the manufacturer's warranty is in lieu of any warranties contained in any applicable project conditions, plans, or specifications unless specifically stated otherwise. HTS ITSELF MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE EQUIPMENT, ITS DESIGN, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. HTS SHALL NOT BE LIABLE FOR ANY DAMAGES BY REASON OF FAILURE OF THE EQUIPMENT TO OPERATE OR A FAULTY OPERATION OF THE EQUIPMENT. HTS SHALL NOT BE HELD RESPONSIBLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OR LOSSES, INCLUDING BUT NOT LIMITED TO, LOSS OF USE, INCOME, PROFIT OR PRODUCTION, LOST DATA, SPOILAGE, DELAY, OR INCREASED COST OF OPERATION RESULTING FROM THE DELIVERY, INSTALLATION, OPERATION OR USE OF THE EQUIPMENT. This warranty does not apply to any damage caused by Customer or third-party negligence, accident, misuse, improper storage, improper installation or damages caused by improper delivery, service, maintenance or operation.

At HTS's option and in its sole discretion, HTS's liability (whether under theories of warranty, negligence, strict liability or contract) is limited solely to (a) repair or replacement of purchased equipment or its parts or (b) refund of the purchase price. The foregoing shall be the sole and exclusive remedy against HTS. HTS shall not be responsible for any maintenance, service repair, replacement or adjustment made by others not authorized by HTS in writing, and such shall void this warranty. Any claim of the Customer with reference to the equipment sold hereunder shall be deemed waived by the Customer unless submitted to HTS in writing within ten (10) days of the date the Customer discovered, or by reasonable inspection should have discovered, the basis for such claim. In no event shall HTS's liability exceed the purchase price paid by Customer under this Agreement, and Customer waives all other remedies at law or in equity.

DESIGN AND WORKMANSHIP:

- (a) Goods shall be fabricated in accordance with the contract drawings and specifications furnished by the Customer and shop drawings approved by Customer or its representative. Details and workmanship of fabrication shall be in accordance with trade standards unless otherwise noted in the contract drawings or specifications.

(b) HTS shall not be responsible for the suitability, adequacy or legality of use of any designs, plans and specifications, and the Customer shall indemnify HTS for any loss, damages and expenses incurred by or charged against HTS by reason of any alleged patent or copyright infringement, personal injury or property damage allegedly arising out of the use of designs, plans, and specifications furnished by Customer for the Goods.

(c) Once shop drawings are approved by Customer, Customer shall reimburse HTS for all expenses resulting from changes thereto. Charges for extra work outside the limits of this Proposal shall be mutually agreed upon by HTS and Customer at such time such expenses arise.

INDEMNITY: Customer shall indemnify, hold harmless and defend HTS and its officers, employees and agents from and against all claims, demands, liabilities, suits, judgments, awards, or expenses of any kind (including reasonable attorneys' fees and costs incurred defending such claims or demands, regardless of whether they result in legal action or are prosecuted to final judgment or award), which result from any alleged damage, loss of and/or injury to property or person to the extent such damage, loss, or injury was caused by the fault of Customer. Notwithstanding the foregoing, Customer shall have no obligation to indemnify HTS for any portion of such loss, damage, or injury that is finally adjudicated in Arbitration (see below) to have been proximately caused by the fault of HTS. Customer shall also indemnify and hold harmless HTS from all liability for taxes owing in connection with Customer's purchase of Goods. The obligations and rights to indemnify herein shall not negate, abridge or reduce other such rights or obligations under law.

INSURANCE: The Customer shall maintain at his expense builders risk coverage on HTS's Goods in an amount at least sufficient to compensate HTS for any losses HTS may sustain as a result of any of the causes covered by such insurance.

GENERAL:

(a) This Proposal and any contract formed between HTS and Customer shall be governed and construed in accordance with the laws of the State of North Carolina.

(b) This Proposal shall inure to the benefit of, and be binding upon the successors and assigns of HTS and Customer. Customer shall not assign this Proposal without the written consent of HTS.

(c) All claims and disputes between Customer and HTS arising out of or relating to this Proposal shall be decided by binding arbitration in accordance with the Construction Industry Arbitration rules of the American Arbitration Association (AAA). The procedural and substantive law of the State of North Carolina shall apply in and to all arbitration proceedings, and Greensboro, North Carolina, is designated as the venue for such proceedings.

(d) Any action against HTS arising in any way from this Proposal or any Goods sold by HTS to Customer must be commenced within one (1) year after the cause of action has occurred.

(e) The invalidity of any part of the Terms and Conditions of Sale shall not invalidate any other part and, except for such invalid part, the rest of these Terms and Conditions of Sale shall remain effective.

(f) This document, together with any other documents furnished by HTS shall set forth the entire agreement between the parties and may not be changed in any way except by written instrument signed by the President or Corporate Counsel of HTS. All previous verbal and written communications of HTS and Customer for the sale of the Goods described in this Proposal are canceled. HTS and Customer agree that there are no other agreements or warranties except as contained in this Proposal which is the final complete and exclusive expression of the agreement of HTS and Customer.

(g) No waiver of performance required by HTS shall be valid unless in writing signed by HTS's President or Corporate Counsel. No waiver of a specific action shall be construed as a waiver of future performance.

Equal Employment Opportunity / Affirmative Action Clause: HTS and Customer shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

Government Contracts / Disadvantaged Business Entities: If Customer's purchase of Goods is in any way connected to any federal, state, or local government project, which implicates or utilizes any Small, Minority or Disadvantaged Business incentives or qualifications (or other similar laws or regulations), Customer represents and certifies to HTS that Customer is performing a commercially useful function on such project.