

## TERMS AND CONDITIONS OF SALE

Terms are cash unless otherwise agreed upon.

Interest charges may be added to delinquent accounts at the rate of 1 ½% per month. We reserve the right to employ whatever means as appears appropriate to collect accounts over 30 days past due and to add the cost of collection including attorney fees to the amount due.

Prices are subject to change without notice. Orders placed as a result of this quotation or as a result of a verbal quotation or a published price list are subject to acceptance by the Company and/or the manufacturer of the respective equipment.

Quotations and recommendations including, but not limited to, materials of construction and compatibility of the Goods with the Buyer's system and process are based on information supplied by the Buyer. The Buyer is responsible for final confirmation of the metallurgical suitability of the construction materials and compatibility of the Goods with the Buyer's system or process. By placing an order further to a quotation, the Buyer acknowledges and agrees that it has confirmed the metallurgical suitability of the construction materials and the compatibility of the Buyer's system and process with the Goods.

Folsom Associates expressly disclaims any warranty that the Goods will be compatible with the Buyer's operating system or process, and that the construction materials are metallurgically suitable for the Buyer's purposes. In the event that the Goods are not compatible with the Buyer's operating system or process, and/or that the construction materials are not metallurgically suitable, the Buyer shall be responsible for the cost of all changes in the Goods, and if the Buyer's order is cancelled, Folsom Associates shall be reimbursed for all costs and expenses incurred and reasonable profit for performance executed prior to the date of such termination.

Unless otherwise stated in this quotation, prices are subject to change to reflect "escalation" or "material surcharges" we receive from the manufacturer. Upon request, we will provide current applicable escalation clauses for specific manufacturers.

Prices quoted herein do not include applicable taxes of any nature imposed by any governmental authority. Sales or other taxes, fees or permit costs, whether shown on our invoice or not, shall be paid by the purchaser.

Unless otherwise stated, shipments are F.O.B. point of manufacture, with risk of loss passing to purchaser upon tender of delivery. Purchaser to notify carrier immediately and institute claim proceedings. Purchaser's agent at point of delivery shall make notations on freight bills of any shortage or damage. While we will attempt to schedule deliveries in accordance with the purchaser's requirements, we assume no responsibility for additional costs to the purchaser because of failure of the supplier to make shipment on date scheduled or requested.

Products are warranted against defects in material and workmanship for a period of thirty (30) days from the date of delivery. THIS WARRANTY APPLIES ONLY TO PRODUCTS MANUFACTURED BY US OR INCORPORATED BY US AS AN OEM INTO A PRODUCT SYSTEM. OTHER PRODUCTS ARE WARRANTED, IF AT ALL, ONLY BY THEIR MANUFACTURERS. WE EXTEND TO THE PURCHASER THE STANDARD OR PROPOSED WARRANTY, IF ANY, OFFERED BY THE EQUIPMENT MANUFACTURER. Under this warranty, we will repair or replace, at our option, at no charge to the Purchaser, the defective products at our

manufacturing facility, with all shipping charges to be borne by Purchaser.

THERE ARE NO WARRANTIES ON PRODUCTS DAMAGED DUE TO IMPROPER INSTALLATION, OR MAINTENANCE. OTHER THAN AS STATED ABOVE, ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED BY US.

OUR TOTAL LIABILITY TO PURCHASER FOR DAMAGE ARISING OUT OF THE SALE, USE OR WARRANTY OF THE PRODUCTS SHALL NOT EXCEED THE PURCHASE PRICE OF THOSE PRODUCTS. IN NO EVENT SHALL WE BE LIABLE TO PURCHASER FOR CONSEQUENTIAL OR INDIRECT DAMAGES WHICH INCLUDE, BUT ARE NOT LIMITED TO, LOST PROFITS, EXPENSES OF REPLACEMENT OR RE-PROCUREMENT, INTERRUPTION OF BUSINESS EXPENSES, LOSS OF GOODWILL, OR PROPERTY DAMAGE. ANY ACTIONS ARISING OUT OF THE SALE, USE, OR WARRANTY OF THE PRODUCTS SHALL BE COMMENCED WITHIN ONE YEAR FROM THE DATE THE CAUSE OF ACTION ACCRUES. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER SELLER NOR ITS SUPPLIER SHALL BE LIABLE TO BUYER FOR CONSEQUENTIAL LOSS OR DAMAGE, INCLUDING WITHOUT LIMITATION ANY LOSS OF USE, TIME, PROFIT, AND BUSINESS OPPORTUNITY, AND BUYER HEREBY RELEASES SELLER AND ITS SUPPLIERS FROM ANY SUCH LIABILITY. THE FOREGOING EXCLUSION SHALL APPLY IRRESPECTIVE OF WHETHER BUYER ASSERTS A THEORY OF LIABILITY ON CONTRACT, TORT OR OTHERWISE.

"SUPPLIERS" MEANS ANY OF THE SELLER'S SUPPLIERS OF MATERIAL, EQUIPMENT OR SERVICES, REGARDLESS OF TIER.

Purchaser shall adequately insure the products against loss or damage from any cause with us named as insured or co-insured. As security for its payment obligations, Purchaser grants to us a security interest in all products (whether equipment or inventory, and including all proceeds, accounts, and accessions) now or hereafter purchased from us.

The Purchaser agrees that the sale of products to them by or through Folsom Associates, occurred in the County of Salt Lake, Utah, and that any and all transaction prior to and after product delivery, including payment, will be made in Salt Lake County.

We agree to accept cancellation on orders only with the understanding that Purchaser will accept and pay cancellation charges reflecting actual costs charged to us by our suppliers for materials in process and for drawings for submittal and construction plus 10% to cover our overhead costs. When advised of estimated cancellation charges, Purchaser shall promptly notify us of his desire to accept delivery of completed materials or to cancel and accept cancellation charges.

These Terms and Conditions of Sale constitute the complete and exclusive written expression of the parties' understanding and supersede all prior or contemporaneous proposals, oral or written, relating to the sale and use of the products. They may not be modified or amended except in a written agreement signed by both parties. Purchaser's acceptance is expressly limited to these Terms and Conditions of Sale, and any additional terms or conditions, whether expressed in purchase orders or otherwise, are rejected by us.

**H.A. FOLSOM & ASSOCIATES, INC.**

**(Folsom Associates)**

