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|  | QUOTE TERMS AND CONDITIONS | | No. QF08-04 |
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QUOTATION TERMS AND CONDITIONS

All quotations are offered, and all purchase orders are accepted, by Apex Industries Inc. (Seller) subject only to these terms and conditions. Acceptance of this quotation by the Purchaser will constitute a binding agreement between Apex Industries Inc (Seller) and the Purchaser.

QUOTATIONS: Quotations shall expire and shall be void thirty (30) days from date of the Quotation, unless otherwise specified in the Quotation. The Quotation may be modified or withdrawn by Seller at any time before Seller's receipt of Buyer's conforming acceptance; provided, however, Seller reserves the right upon written notice to Buyer to correct any typographical or clerical errors made in any Quotation before or after receipt of Buyer's conforming acceptance (whereby, if exercised by Seller, Seller shall provide Buyer an opportunity to accept or reject Seller's corrected offer).

ACCEPTANCE OF PURCHASE ORDERS: No Buyer purchase order shall be binding on Seller until accepted in writing by Seller, and Seller shall have no liability to Buyer with respect to purchase orders that are not accepted. Shipment against a purchase order shall be deemed to constitute Seller's acceptance thereof, subject to these Terms and Conditions. All purchase orders shall be subject to these Terms and Conditions, whether or not the purchase order(s) so state. Purchase orders accepted by Seller may not be cancelled or modified by Buyer without the prior written consent of Seller. In the event Seller has accepted Buyer's purchase order in writing, Buyer may not change its purchase order unless Seller accepts in writing any change(s) requested by Buyer (whereby Seller reserves the right to revise the price and delivery schedule).

Terms of payment shall be net thirty (30) days unless otherwise specified, with a service charge of 2% per month for payments received after 30 days. The Seller may elect to suspend fabrication or decline shipment of materials unless paid for in advance should there arise in Seller's opinion a doubt as to the Purchaser's financial capability. Should the Purchaser make an assignment for the benefit of creditors, become involved in any bankruptcy or arrangement or reorganization proceedings, or should and liens be filed against its property, or should a receiver, trustee or other form of court officer be appointed for it, the Seller may elect to cancel any unfilled portion of this contract and all costs and damages together with any unpaid balances otherwise due, shall become immediately due and payable to the Seller by the Purchaser.

Prices and deliveries quoted are contingent on receiving complete information from the Purchaser at time of ordering.

This quotation is made subject to the Seller's ability to procure suitable material at the time of manufacture. Orders accepted are contingent upon strikes, fires, accidents, emergencies, acts of God or any other intervening cause not necessarily limited to the foregoing and which are beyond Seller's control. The Seller will at all times attempt to give fair and accurate information regarding delivery. Unless otherwise specifically agreed, promises of delivery represent Seller's estimate of the time required to complete the work after receipt of complete manufacturing information, and failure to complete within the time estimated by Seller will not warrant cancellation of the order - nor an action for damages by the Purchaser.

Unless otherwise provided in the sale contract, the Seller shall use its judgment in determining carrier and routing. In either case the Seller shall not be liable for any delays or excessive transportation charges resulting from its selection.



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CONTRACT FORMATION: No agreement or understanding, oral or written, purporting to modify these Terms and Conditions shall be binding on Seller unless it is made in writing, specifically stating that it is a modification of these Terms and Conditions and it is signed by Seller's authorized representative. No course of dealing, usage of trade, or course of performance shall be relevant to explain or supplement any of these Terms and Conditions. If these Terms and Conditions are deemed an offer, Buyer's acceptance of Seller's offer is expressly limited to acceptance of these Terms and Conditions. Fulfillment of Buyer's purchase order does not constitute acceptance of any of Buyer's terms and conditions and does not modify or amend these Terms and Conditions. Buyer's purchase order for the purchase of Products and/or for the performance of Services shall constitute Buyer's assent to these Terms and Conditions. Any terms and conditions contained in Buyer's purchase order or other form of communication from Buyer that are additional to or different from these Terms and Conditions, shall be deemed rejected by Seller, unless expressly accepted in writing by Seller's authorized representative.

CANCELLATION: No purchase order submitted to Seller may be cancelled by Buyer without the prior written consent of Seller, which consent will at all times be conditioned on Buyer's agreement to pay Seller's cancellation charge. For a finished Product that, in Seller's judgment, is readily resalable to others, the cancellation charge shall be fifteen percent (15%) of the invoice price of the Product. For all other cancellations, the cancellation charge shall amount to all cost and expenses incurred by Seller and arising out of or in connection with Buyer's purchase order plus reasonable profit. In no event shall the cancellation charge be less than ten percent (10%) of the invoice price of the Product or more than the invoice price.

WAIVER: No waiver by Seller of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercise, or delay in exercising, by Seller any right, remedy, power or privilege arising from these Terms and Conditions shall operate or be construed as a waiver thereof; nor shall any single or partial exercise by Seller of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

ENTIRE AGREEMENT: The Contract constitutes the entire agreement between Seller and Buyer relating to the subject matter hereof, and all prior agreements, correspondence, discussions and understandings of Seller and Buyer (whether oral or written) are merged herein and superseded hereby.

SALVATORY CLAUSE: The invalidity, in whole or in part, of any of the provisions of these Terms and Conditions, shall not affect the enforceability of any of the other provisions thereof.
