

TERMS OF SALE

This Quotation is subject to the following terms and conditions. R.W. Martin & Sons, Inc. is referred to herein as "Martin."

PRICE ADJUSTMENT: Price(s) are subject to adjustment to reflect increases in Martin's costs in effect at the time of shipment if shipment is beyond six (6) months from date of order acceptance, sales price(s) are subject to renegotiation. Additionally, the right is reserved to correct any stenographic or clerical errors.

TERMS OF PAYMENT: AS INDICATED ON THE FACE OF THIS QUOTATION. The terms apply to partial, as well as, complete shipments. All payments must be in U.S. dollars. Time is of the essence for payment. A service charge at the rate of 2% per month (24% per annum) or the maximum rate allowed by law, whichever is less, will accrue from the payment due date. Acceptance of late or partial payments (even marked "Paid in Full") shall not waive any of Martin's rights to collect the full amount due or any other rights Martin has for Purchaser's failure to pay.

Martin shall have the right to set off and deduct any amounts due and owing from Martin to Purchaser against any amounts due and owing from Purchaser to Martin regardless of the reason or basis for either claim. Martin reserves the right to ship C.O.D. or refuse shipment or delivery of the Goods referred to herein, or any part thereof, in the event that it in its sole discretion decides that the outstanding indebtedness of the Purchaser exceeds reasonable credit allowances. In the case of refusal or inability of the Purchaser to accept delivery, the Purchaser shall be held liable for freight, express, storage, extra costs of handling and other expense and loss that may be incurred thereby. All payments shall be to R.W. Martin & Sons, Inc.

TAXES: Unless specifically exempted, all sales, use and any other Federal, State, Municipal or Governmental tax applicable to this Quotation are in addition to the price of the Goods and services and are to be paid by the Purchaser. Purchaser shall identify which items are tax exempt and provide proof satisfactory to Martin of any claimed exemption.

ACCEPTANCE OF QUOTATION: This Quotation shall be void if not accepted within sixty (60) days from the date hereof. Purchaser's acceptance of this Quotation must be in a writing signed by the Purchaser.

DELIVERY: Shipping dates given prior to shipment are approximate. Martin will endeavor to meet the shipping dates, but failure to do so as a result of strikes, accidents, fire, floods, breakdown of machinery, shortage of materials or other causes beyond Martin's control will not give Purchaser the right to cancel or hold Martin responsible for any damages resulting from the failure to deliver within the time stated. Unless otherwise specified herein, the acceptance of shipments by any common carrier shall constitute delivery to the Purchaser. Unless otherwise specified in this Quotation, all Goods are shipped F.O.B. Origin, and all risk loss or damage to the Goods shifts to and shall be borne by the Purchaser upon the delivery of the Goods to the common carrier.

ROUTING: Where prices include freight, Martin determines the routing. Any extra charges incurred for additional services, such as Purchaser's carrier or special routing or handling by the carrier, shall be paid by the Purchaser prior to Martin's delivery of the Goods to the carrier.

ACCEPTANCE AND INSTALLATION OF GOODS AND SERVICES: The Purchaser shall notify Martin of any non-conformities or defects in the Goods within 72 hours after the Goods arrive at their shipping destination. The notification shall identify with reasonable particularity each non-conformity and defect in the Goods. Failure to so notify Martin within said period of time shall constitute acceptance of the Goods by Purchaser. If the Purchaser notifies Martin of defects or non-conformities within such period of time, Martin shall have a reasonable time, taking into account the circumstances and the nature of the non-conformity or defects, in which to cure the defects. Unless this Quotation specifically includes a provision for installation services, Martin is not responsible for installation of the Goods or to place Goods in service. In the event that the Martin has agreed to provide installation services, installation work shall be limited to the work scope indicated herein; it shall be the Purchaser's responsibility to provide at Purchaser's expense, the renovations and modifications to the premises required to accommodate the installation including necessary foundation and foundation supports, adequate utility conditions, utility service connections, openings where necessary of sufficient size to admit the Goods to the premises and repair and replacement of the premises after installation. Purchaser shall also, at Purchaser's cost, obtain all necessary permits and licenses.

If, in the process of installation of the Goods, Martin encounters materials, which it reasonably believes to be hazardous, under any federal, state or local law (e.g. asbestos, lead, PCB's), Martin shall immediately stop work and report the condition to Purchaser. Purchaser shall be responsible, at Purchaser's expense, to cause the hazardous material to be removed and/or rendered harmless by a licensed third-party who shall provide written verification that the hazardous material has been removed and/or rendered harmless. Martin shall not be obligated to resume installation until such written verification is received.

Martin shall not be responsible for any damage to the premises in which the Goods are being installed, nor for any repair of the premises, nor for damages for injury to any person arising out of such installation, nor for interruption or interference with Purchaser's business arising out of such installation, all such claims against Martin being expressly waived by Purchaser and Purchaser shall indemnify and hold Martin absolutely harmless from and such claim, costs or expenses relating thereto, including reasonable attorney's fees.

CANCELLATION: Orders may be canceled only with written consent of Martin and payment to Martin of reasonable cancellation charges by the Purchaser. Cancellation charges shall take into account costs and expenses thereto incurred, purchase of contract commitments made by Martin and all other losses due to such cancellations including a reasonable profit. A minimum charge equal to five percent (5%) of the sale price will be applied to any order that is canceled irrespective of the date of the cancellation or amount of work performed.

RETURNED GOODS: No Goods may be returned and no credit will be issued for returned Goods unless Martin's prior written authorization is received. All returns are subject to a minimum re-stocking charge of 15 percent. Collect shipments of any kind will be rejected.

MANUFACTURERS' SALES LITERATURE AND SPECIFICATIONS: As a service, Martin furnishes manufacturers' sales brochures and other literature free of charge to customers. Martin assumes no responsibility for the content of such literature.

PATENTS: Martin makes no representation with respect to and assumes no responsibility for the Goods being free from the rightful claims of any third person by way of infringement of any patent and disclaims any warranty or other responsibility against infringement or similar claims with respect to the Goods. The Purchaser is solely responsible for determining whether the Goods or the use thereof will infringe upon any patent and waives any claim it may now or hereafter have against Martin with respect thereto.

TRADE-IN EQUIPMENT: In the event Martin accepts to receive in trade any machinery or equipment, Purchaser warrants that such machinery or equipment shall, at the time of delivery to Martin, be free of liens and unencumbered, and that Purchaser is the owner of such equipment having full right to sell and transfer the same to Martin, and that such equipment is in the same condition as when examined by Martin, ordinary wear and tear only excepted. In the event any of the warranties relating to any trade in equipment are untrue, Martin may reduce the credit given for such trade-in accordingly. Unless otherwise specified in this Quotation, such trade-in equipment shall be crated by Purchaser at Purchaser's expense and delivered to Martin F.O.B. at the agreed shipping point within thirty (30) days of the receipt of the Goods covered by this Quotation.

MARTIN'S EXCLUSION OF WARRANTIES AND LIMITATION OF DAMAGES: Any affirmation of fact or promise made by Martin which relates to the Goods subject to this Quotation shall not be regarded as part of the basis of the bargain and shall not be deemed to create an express warranty that the Goods shall conform to the affirmation or promise. Any description of the Goods subject to this Quotation shall not be regarded as part of the basis of the bargain and shall not be deemed to create an express warranty that such Goods shall conform to the description. The exhibition of a sample or model shall not be regarded as part of the basis of the bargain and shall not create an express warranty that the whole of the Goods shall conform to the sample model. NEW GOODS MAY BE SUBJECT TO A MANUFACTURER'S LIMITED WARRANTY. IN SUCH EVENT, THE LIMITED WARRANTY IS A CONTRACT ONLY BETWEEN THE MANUFACTURER AND PURCHASER; MARTIN IS NOT A PARTY TO SUCH WARRANTY CONTRACT AND IT IS NOT PART OF THE BASIS OF THE BARGAIN BETWEEN PURCHASER AND MARTIN. UNLESS OTHERWISE SPECIFIED IN THIS QUOTATION, PRE-OWNED "USED" GOODS ARE "AS-IS" WITHOUT WARRANTY OF ANY KIND. MARTIN MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE GOODS INCLUDING WARRANTIES OF MERCHANTABILITY OR THE FITNESS OF THE GOODS OR ANY PART THEREOF FOR ANY PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE EXPRESSLY DISCLAIMED BY MARTIN TO THE EXTENT PERMITTED BY LAW. FURTHERMORE, MARTIN SHALL NOT BE LIABLE TO PURCHASER OR ANY OTHER PERSON FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY KIND. In the event that Martin has agreed to provide a warranty for pre-owned "Goods", the same shall be limited to the terms and conditions of Martin's "Limited Warranty" which forms a part of this agreement by reference if not attached. The Purchaser's sole and exclusive remedy against Martin for Martin's breach of this agreement shall be recovery of any out of pocket costs incurred by Purchaser to repair or replace any defective or nonconforming Goods, together with the cost of removing, storing and disposing of any defective or nonconforming Goods in accordance with applicable law. To the fullest extent permitted by law, Purchaser assumes all risk with respect to the purchase, delivery, installation, use and operation of the Goods described in this Quotation and Purchaser shall indemnify Martin and hold Martin absolutely harmless from any and all claims, actions, damages, costs, expenses and liabilities, including reasonable attorney's fees, arising out of the purchase, delivery, installation, use, or operation of such Goods. No action, regardless of form, arising out of this transaction may be brought against Martin more than one year after the date of delivery.

LIMITED SERVICE AGREEMENT: AS INDICATED ON THE FACE OF THIS QUOTATION. Unless otherwise specified herein, Martin is not responsible for providing any on-site service(s). In the event that Martin has agreed to provide on-site service, the same shall be limited to the terms and conditions of Martin's "Limited Service Agreement" which forms a part of this agreement by reference if not attached.

PRODUCT SUITABILITY: Martin does not assure that the Goods described herein comply with applicable state and local laws. Purchaser is solely responsible for determining compliance of the Goods and their use with applicable laws. In this regard, Purchaser warrants to Martin that Purchaser has appraised itself of the laws applicable to the Goods and the use thereof and is satisfied that the Goods and Purchaser's intended use thereof comply with all such laws and Purchaser waives any claim it may now or hereafter have against Martin with respect thereto.

FORCE MAJEURE: Martin shall not be liable for any delay in or impairment of performance hereunder resulting in whole or in part from Acts of God, accidents, labor disruptions, shortages, severe weather conditions, government laws, ordinances, rules and regulations, and inability to procure product, supplies, raw materials, equipment or transportation, or any other circumstances or cause beyond the control of Martin.

TITLE TO AND INSURANCE OF GOODS: The Goods covered by this Quotation will remain the property of Martin and title thereto shall not vest in the Purchaser until the entire purchase price is paid. Furthermore, the Goods shall remain personal property and not become part of any real estate notwithstanding the attachment of such Goods to any real estate. From the time risk of loss of the Goods passes to the Purchaser until the purchase price is paid in full, the Purchaser shall, at its expense, keep the Goods insured in an amount equal to the purchase price thereof and shall name Martin as a loss payee thereunder as its interest may appear. Upon request, Purchaser shall provide Martin with a certificate indicating evidence of said insurance.

MODIFICATION OF TERMS: No addition or modification of terms and conditions shall be binding upon Martin unless agreed to by Martin in writing. If a purchase order or other correspondence contains terms or conditions contrary to the terms and conditions contained herein, Martin's acceptance of any order shall not be construed as assent to any additional terms and conditions, nor will that constitute a waiver by Martin of any of the terms and conditions contained herein. No person other than Martin's President is authorized to alter the terms and conditions on behalf of Martin.

COMPLETE AGREEMENT: Purchaser agrees that this Quotation constitutes the final expression of the agreement between Martin and the Purchaser and contains a complete and exclusive statement of the terms and conditions of the agreement between them. This Quotation supersedes all previous quotations. No oral statements or representations of any nature of any binding effect or form any part of this Quotation whatsoever. Until accepted by the Purchaser, the terms and conditions of this Quotation are subject without notice. This Quotation includes the schedules and attachments hereto and any other documents or specifications referenced therein, all of which are incorporated herein and made a part hereto as if fully written herein. No oral statements, warranties, representations, stipulations or terms have any binding effect or form any part of the contract whatsoever.

ASSIGNMENT: Purchaser shall not assign any order or any interest therein without the written consent of Martin. Any actual or attempted assignment without Martin's prior written consent shall entitle Martin to cancel such order upon notice to Purchaser.

THE OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA): OSHA imposes certain requirements on an "employer" including many relating to the use of the Goods. Since these requirements are directly related to the conditions under which and the manner in which the Goods are used, Martin makes no warranty, express of implied, of merchantability under, fitness under, compliance with, or liability under OSHA, its interpretations and/or regulations.

JURISDICTION AND VENUE: This Quotation shall be construed and enforced according to the laws of the State of Ohio. Any action of any nature whatsoever arising out of the terms and conditions hereof shall be determined by the Portage County, Ohio Court of Common Pleas. Purchaser consents to the jurisdiction of said court for the person of Purchaser and waives any claim it may now or hereafter have with respect to the jurisdiction or venue of said court. Insofar as permitted by law, Purchaser waives its right to trial by jury with respect to any dispute arising out of or related to the terms of this Quotation or any Goods or services provided in connection herewith.

NOTICE; SEVERABILITY: Any notice required by law or permitted hereunder shall be in writing and shall be delivered to Martin or Purchaser at its address appearing on the face of this Quotation. In the event that any provision of this Quotation is found by a court of competent jurisdiction to be unenforceable, the same shall not in any way invalidate any other provisions of this Quotation all which shall remain in full force and effect, and the provision found to be invalid shall not be entirely avoided but shall be modified to the extent permitted by law to provide the same legal and economic effect as originally intended by the parties.

COSTS AND ATTORNEYS FEES: The Purchaser shall reimburse Martin for all costs and expenses, including reasonable attorney fees, incurred by Martin in connection with the enforcement of this agreement or the collection of any amounts due from Purchaser to Martin. Such costs, including attorneys fees, shall be awarded by the court as part of any judgment rendered in the favor of Martin.

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