



Apex Engineered Products  
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## TERMS AND CONDITIONS

### GENERAL:

- For ASME Code Stamped units, the material thicknesses will be the minimum required by the code. Otherwise, good engineering design practices will be used to determine material thicknesses.
- All specifications, reference drawings, data sheets, hold points, inspections, etc. must be provided prior to, or with Purchase Order followed by immediate release / procurement of long lead time / major materials.
- Sufficient notice must be provided prior to all customer required inspections / hold points.

### DELIVERY:

- Customer delay of drawing approval could affect delivery.
- Critical design factors (dimensions, design pressure / temperature, materials of construction, nozzle schedule, etc.) may not be revised from the referenced quotation without changes to price and delivery schedule.
- Apex is not responsible for customer's deviations from General Terms and Conditions affecting Delivery.
- Customer failure to follow payment schedule could affect delivery.

**FREIGHT:** The risk of loss or destruction of or damages to the product shall be on the customer from and after delivery of the product to the customer or carrier, whichever occurs first. See Quotation for details.

### QUOTE EXPIRATION:

Due to the volatility in material prices, surcharges and material availability, it will be necessary to confirm price and delivery at time of order. Our quotation is based on material prices at time of quotation issuance and is subject to increases passed on from mills at time of order placement and subject to prior sale. See Quotation for details.

### PROGRESS LEVEL PAYMENTS:

See Quotation for details.

**Adders:** A change order will be required if the customer makes revisions that require additional engineering, material and / or labor. Any adder above \$5,000 will be due upon receipt.

**Taxes:** Customer shall pay the amount of any sales, use, compensating, intangibles, gross income or the like tax, import duties, export duties and similar charges levied by any governmental authority in connection with this order.

**Force Majeure:** Apex shall not be liable to a customer for any loss or damage suffered by the customer, directly or indirectly, any obligation under this order where such failure or delay is caused by labor troubles (including, without limitation, strikes, slow downs and lock outs), civil disturbance, Government regulations, inability to obtain or revocation of export or import license, interruptions of or delay in transportation, material charges, fire, flood, acts of God, power failures, accidents and other causes of like or different character beyond APEX's control.

**Repairs:** MSDS sheets and the APEX RGA form must be submitted prior to shipment of existing unit back to APEX. All applicable reference drawings, MDR, specifications and data sheets must be submitted with P.O. APEX will salvage existing components on a best effort basis. Any unforeseeable damage or damage that occurs during normal disassembly will be charged as an adder. APEX will contact the customer immediately with a detailed description of damages or issues if such an event occurs. Customer approval will be required before proceeding with the repairs.

Warehousing fees of a minimum of \$1,000 per month will be applicable for delays over (3) three week, depending upon weight and size.

Standard Warranty Period is 12 months after completion. Orders must be paid in full to process any warranty claims.

APEX does not accept Penalty Clauses, Loss of Production or Performance Penalties.

APEX hereby gives notice of objection to the inclusion of any terms and conditions in this transaction that are in addition to or different from the terms and conditions contained herein.

Notice of Objection to Additional or Different Terms.

### Claims

Any claims for shortages, damages products or non-conformance of products with the order must be made in writing, within ten (10) days after receipt of a shipment and APEX must be afforded an opportunity to investigate.

APEX warrants that the products of APEX's own manufacture supply hereunder will be of the kind and quality specified on the face hereof and that the products are free from defects and material and workmanship under normal and proper operating conditions and service for a period one year from the date of shipment, unless otherwise specified on acknowledgments, quotations, packing slips or invoices, defective products will be replaced or repaired at APEX's option that APEX shall not be liable for any other loss, damage or expense, including consequential damages to persons, property, or business directly or indirectly arising from the conditions or use of the products or from any other cause, including any repairs or alterations made by an unauthorized contractor, the exclusive remedy against APEX being to require in the replacement or repair of defective products. Products made by other manufacturers are warranted only to the extent of the original manufacturer's warranty to APEX.

THIS EXPRESS WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES WHETHER EXPRESS, IMPLIED, ORAL, OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

### Limitation of Customer's Remedies

For a period of one year from the date of shipment, defective products will be replaced, repaired, or the purchase price refunded at APEX's option, but APEX shall not be liable for any other loss, damage, or expense, including incidental and consequential damages, to persons, property or business, directly or indirectly, arising from the condition or use of the products or from any other cause, the exclusive remedy against APEX being to require, at APEX's option, the replacement, repair or refund of the purchase price of a defective product.

### Acceptance

Notwithstanding any different or additional terms and conditions that may be embodied in customer's order, such order is accepted only on the condition that customer assents to the terms and conditions contained herein. The failure of the buyer to object hereto in writing shall constitute assent hereto. All sales, contracts and orders become effective only when approved and accepted by APEX at its home office in Clark, Pennsylvania, USA.

### Suspension

- a. In the case of customer suspension, time will be added to the quoted delivery time. Factors that will be considered in re-calculating a new delivery date will include the length and severity of the customer delay as well as the shop Production schedule of APEX
- b. All Raw Material and Subcontracting costs to date are due immediately on a cost plus 20% basis.
- c. All Labor will be due immediately @ \$125.00/hr.
- d. Any and all associated fees or interests costs will be due immediately (i.e. delay in payment for material or labor)
- e. All ongoing and future associated fees or interests costs and warehousing fees will be charged and due for on a monthly basis

### Termination

In the case of customer termination:

- a. All Raw Material and Subcontracting costs to date are due immediately on a cost plus 20% basis.
- b. All Labor will be due immediately @ \$125/hr.
- c. Any and all associated fees or interests costs will be due immediately (i.e. delay in payment for material or labor)

### Governing Law

This transaction shall be governed by, interpreted and enforced in accordance with the laws of the State of Pennsylvania. Any action in regard to this transaction or arising out of its terms and conditions shall be instituted and litigated in the Court of Common Pleas of Mercer County in the State of Pennsylvania and in no other. In accordance, the parties to this transaction submit to the jurisdiction of the Common Pleas Court of Mercer County and in the State of Pennsylvania.

### End Use Statements and Export Compliance

APEX has a continuing commitment and obligation to comply with US Export Regulations. In the event that your order has an ultimate destination outside of the US, APEX requires that a completed and signed copy of a zirconium end user statement and any end use statements required for compliance with the regulations for US export compliance be faxed and the hard copy forwarded to APEX via the mail/courier. APEX requires completed forms in order to fulfill our obligations under US export laws. Early attention to this administrative matter will insure that there are not shipment delays resulting from unavailable export documentation.

Signed copy of this quotation is required with the Customer PO.

Authorized Signature Accepting Terms and Conditions