

APEX FAÇADE SYSTEMS SALES TERMS & CONDITIONS

These sales terms and conditions (the "Terms and Conditions") shall constitute the sole terms and conditions governing the sale of goods by Apex Façade Systems, a division of Apex Aluminum Extrusions Ltd., or any of its subsidiaries and affiliates (collectively or individually, "Apex"), whereby Apex, as vendor, is selling products ("Products") to the purchaser (the "Buyer") pursuant to the Buyer's purchase order (the "Purchase Order").

ALL PURCHASE ORDERS SUBJECT TO THE TERMS & CONDITIONS

All Purchase Orders shall be subject to approval and written acceptance ("Order Confirmation") by an authorized representative of Apex.

Upon the earlier of:

a) Order Confirmation; or

b) the Buyer's acceptance of delivery of the Products pursuant to the Purchase Order,

the Purchase Order (save and except for the Form Language and the Void Language, as defined in the foregoing), Order Confirmation (if any), together with the Terms and Conditions, the Payment Terms (as defined in the foregoing) and the terms of any express warranty granted by Apex in respect of the Products, shall constitute the entire agreement between Apex and the Buyer with respect to the sale and purchase of the Products (collectively, the "Agreement"). Any pre-printed or form language (the "Form Language") in the Purchase Order shall not form part of the Agreement.

Apex's acceptance of the Purchase Order is expressly conditioned upon the Buyer's acceptance of the Terms and Conditions. The Buyer's acceptance of the Terms and Conditions may be evidenced by either the Purchase Order being duly executed by the Buyer or the Buyer's acceptance of delivery of the Products pursuant to the Purchase Order.

Apex shall not be deemed to have waived the Terms and Conditions or any part thereof should Apex fail to expressly object to any provisions contained in the Purchase Order or otherwise proposed by the Buyer. Any terms or conditions proposed by the Buyer in the Purchaser Order that are inconsistent with or in addition to any of the terms contained in the Terms and Conditions ("Void Language") are void and of no effect.

PAYMENT TERMS

The terms of payment and purchase price (the "Purchase Price") shall be as stated on the approved Apex credit application (the "Payment Terms").

TERMS OF DELIVERY

Unless otherwise stated, all shipments of Products shall be FOB Apex's manufacturing facility.

CLAIMS

Any claims, including those relating to the delivery or condition of the Products, must be made to Apex within seven (7) days after delivery of the Product to the Buyer. The failure to give notice of claim to Apex within seven (7) days from the date of delivery shall constitute a waiver by the Buyer of all claims in respect to such Products. In no event shall Apex be liable for any claim for damages resulting from delays or use of defective materials. No claim of any kind shall be greater than the Purchase Price of the Products.

ORDER CANCELLATIONS

In the event that the Buyer cancels or terminates a Purchase Order or any part thereof (the "Cancelled Products"), the Buyer shall pay Apex the Purchase Price of such Cancelled Products (the "Cancellation Fee") as liquidated damages and not as a penalty. It is agreed that the Cancellation Fee represents the reasonable cost of Apex's work and expenses relating to the procurement of materials, manufacture and delivery of the Cancelled Products by Apex and that the Cancellation Fee is not a penalty.

PACKAGING

Apex's standard packaging (the "Standard Packaging") shall be used on all Products. The cost of the Standard Packaging is included in the Purchase Price. It is the duty of the Buyer to notify Apex of any packaging requests which in any way differ from the Standard Packaging (the "Special Packaging Request"). A separate agreement must be made for all Special Packaging Requests or the Special Packaging Request shall be void and of no effect.

DRAWINGS

All drawings, models and other documents related to the Products, any products manufactured by Apex or concerning Apex's business activities, are the sole property of Apex and may not be copied, reproduced, handed over or in any way disclosed to a third party without Apex's written approval.

ILLUSTRATIONS

The illustrations within Apex's catalog are offered for the sole purpose of part identification. These illustrations are not intended to provide a representation of any other feature or detail, including but not limited to, size or proportions for the means of comparison.

FORCE MAJEURE

Apex shall not be liable for delays or inability to perform due to strikes, labor disputes, lockouts, fire, flood, war, insurrections, riots, acts of God, earthquakes, embargoes by foreign nations, inability to obtain or unusual delay in obtaining materials, shortages of power

needed to operate Apex's facilities, governmental regulations or priorities, or any other cause beyond the control of Apex. In case of any delays in receipt or shortages of materials or shortages of power needed to operate Apex's facilities, Apex reserves the right in its sole discretion, acting reasonably, to determine the assignment of materials, and the order of priority in filling orders. Apex also reserves the right in its sole discretion, acting reasonably, to cancel any Purchase Order by written notice to the Buyer in the event Apex believes that by reason of the foregoing it will not be able to meet the scheduled completion date.

PROPER USE OF PRODUCTS

The Buyer has the duty to and is solely responsible for the proper selection and installation of the Products as well as the proper incorporation of the Products into other products. The Buyer agrees that it will use the Products only for their intended uses and in strict compliance with the specifications and limitations established by Apex from time to time.

LOCAL LAWS AND BUILDING CODES

The Buyer acknowledges that federal, provincial, municipal laws and regulations (collectively, "Laws and Regulations") and building and safety codes, specifications, bylaws and ordinances (collectively, "Codes") governing the design and use of glazed entrance, window, curtain wall products and other similar products offered by Apex, vary widely among jurisdictions. The Buyer acknowledges that Apex does not control or dictate the Buyer's selection of the Products or the specifications of the Products, including but not limited to product configurations, operating hardware or glazing materials, and Apex assumes no duty therefor. It is the sole duty of the Buyer to determine the suitability of the Products and whether Apex's material and products meet any applicable Laws and Regulations or Codes.

INDEMNIFICATION

The Buyer shall indemnify, defend and hold harmless Apex and its officers, directors, members, managers and employees (collectively, "Apex Group") from and against any and all claims, losses, damages, liabilities, obligations, suits, actions, proceedings, costs and expenses, including legal fees on a full indemnity basis (collectively, "Losses"), arising out of or resulting from (i) a breach by the Buyer of any provision of this Agreement, or (ii) any third party claims arising from the use of the Products after delivery to the Buyer. This indemnity shall survive the receipt of the Product and payment of the Purchase Price by the Buyer and the termination of this Agreement.

LEGAL FEES

If any action or proceeding is commenced to enforce or interpret any of the provisions of this Agreement, and Apex is the prevailing party in any such action or proceeding, then Apex shall be entitled to recover its legal fees and related expenses from the Buyer on a full indemnity basis, in addition to any other relief to which Apex may be entitled. As used herein, Apex is a "prevailing party" when, including but without limitation, the Buyer dismisses an action against Apex for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action brought by the Buyer.

GOVERNING LAW AND VENUE

This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein which will be deemed to be the proper law hereof. The courts of British Columbia will have the exclusive jurisdiction and venue to entertain and determine all claims and disputes arising out of or in any way connected with this Agreement and the validity, existence and enforceability hereof.

NON-WAIVER

Apex's waiver of any breach or failure to enforce any of provisions of this Agreement, at any time, shall not in any way affect, limit or waive Apex's right thereafter to enforce and compel strict compliance with every term and condition hereof.

HEADINGS

The insertion of headings is for convenience only and do not form a part of this Agreement and will not be used to interpret, define or limit the scope, extend or intent of this Agreement.

SEVERABILITY

If any provision of this Agreement or any part thereof shall be found or determined to be invalid, illegal or unenforceable, such provision or such part thereof shall be severable from this agreement and the remainder of this agreement shall be construed as if such invalid, illegal or unenforceable provision or part had been deleted herefrom.

ENUREMENT

This Agreement shall be binding upon and enure to the benefit of the respective successor and assigns of each of the parties hereto.