

**TERMS AND CONDITIONS**

Pricing as detailed herein is firm for 30 days after proposal date. All prices are in U.S. Dollars. The equipment (including any parts, components and accessories) specified in this Quotation are purchased subject to the terms and conditions set forth in this Quotation, including any addendum to it. In case of conflict among provisions of this Agreement, the precedence shall be first those set forth in the main body of the Quotation; second, those in any addendum; and third, in the following Terms and Conditions of this Section 8:

**ACCEPTANCE:**

This Quotation shall become a binding contract when a copy signed by purchaser or an acceptable purchase order returned to Simpson Technologies Corporation ("Seller") is accepted in writing by Seller. Quotations not accepted within thirty (30) days must be confirmed as to price, delivery, terms and specifications.

**ENTIRE AGREEMENT:**

This Quotation sets forth the entire agreement and understanding between Purchaser and Seller relating to the equipment, and merges all prior discussions, understandings, agreements, and documents between them. Any modification or waiver of any provision contained herein must be in writing and be executed by a duly authorized officer of the party to be bound thereby. Any term or condition proposed by Purchaser, in its purchase order or otherwise, inconsistent with or in addition to the terms and conditions contained herein shall be deemed objected to by Seller and shall not be binding on Seller unless expressly accepted in writing. Seller reserves the right to correct stenographic or clerical errors.

**ASSIGNMENT:**

Neither this Quotation nor any rights or duties arising under any contract resulting herefrom shall be assignable, in whole or in part, by Purchaser without the prior written consent of Seller.

**CANCELLATION:**

Neither the manufacture nor the shipment of equipment pursuant to this Quotation is subject to deferment or cancellation unless Seller is indemnified against any and all loss, liability, cost, damage (including lost overhead and profit) or expense whatsoever resulting therefrom.

**TERMS:**

- (a) All sales and shipments shall be FCA Works Where Made (Incoterms 2000), except such items not made by Seller, such as motors, starters, etc. which may be shipped from the nearest source of supply, and title to, and risk of loss of, equipment shall pass from Seller to Purchaser upon delivery of the equipment to the carrier.
- (b) Unless otherwise expressly agreed to, shipments shall be by a carrier selected by Seller, such carrier shall act as the agent of Purchaser, and delivery to such carrier shall constitute delivery to the Purchaser.
- (c) Unless otherwise stated on the face of this Quotation, and subject to the approval of Seller's financial department, payment of the net amount shall be due thirty (30) days from the date of each invoice.

**SHIPPING DATES:**

All estimated shipping dates are computed from written acceptance by Seller of a copy of this Quotation, or of an acceptable purchase order, previously signed by Purchaser and receipt of all engineering drawings, down payments, and other specifications essential to the proper execution hereof. All shipping dates are approximate only, are subject to prior bookings and Seller shall not be

subject to liability for any delay or failure to ship caused by acts of God, war or civil disturbance, fires or other casualties, strikes or other labor disturbances, disruptions in Seller's sources of supply, transportation delays, governmental action, or other causes, whether similar or dissimilar to those listed, which are beyond the reasonable control of Seller.

**TAXES:**

All Federal and local taxes and similar governmental charges (other than general property and net income taxes), including any interest or penalties thereon, now or hereafter imposed directly or indirectly on Seller or required to be collected directly or indirectly by Seller for the manufacture, production, sale, delivery, consumption or use of the equipment (including, but not by way of limitation, sales, use, purchase, value added, gross income, excise, privilege and license taxes, surcharges and import and export duties) shall be charged to and remitted by Purchaser to Seller.

**CLAIMS:**

All claims for shortages or damage (other than losses or damage in transit) must be presented to Seller in writing within fifteen (15) days after Purchaser's receipt of the equipment, and must be accompanied by a copy of the inspection report of the carrier or carriers. Purchaser shall be responsible for asserting claims for losses or damage in transit directly against the carrier or carriers.

**COMPLIANCE WITH LAW:**

Purchaser agrees that it is solely responsible for compliance with all applicable Federal or local law ordinances, regulations, rules and standards relating to the installation, maintenance, use and operation of the equipment.

**INDEMNIFICATION:**

Purchaser agrees to indemnify and hold Seller harmless against and from any and all loss, liability, cost, damage or expense whatsoever (including reasonable attorneys' fees) incident to any claim, action or proceeding against Seller, its officers, agents or employees arising out of the negligent or defective design (to the extent designed by Purchaser), installation, maintenance, use or operation of the equipment purchased hereunder or of any part, component or accessory thereof, by or on behalf of Purchaser.

**WARRANTY:**

(a) Seller warrants the equipment (including parts, components and accessories) to be free from defective material and workmanship for a period of one year from date of shipment by Seller, provided such equipment is given normal and proper installation, maintenance, adjustment and usage, has not been altered or modified in any way and is owned by Purchaser. Seller's warranty of any parts, components or accessories purchased by it from others and used as part of the equipment or in conjunction therewith is further limited in scope and time to any warranty given by such suppliers. Purchaser shall promptly notify Seller in writing of any claim it may have against Seller with respect to the equipment. Upon receipt of Purchaser's notification, Seller shall have the option to make inspection at Purchaser's premises or issue a Returned Materials Authorization (RMA) that such defective equipment or part thereof may be returned, transportation prepaid, to Seller at Purchaser's expense for inspection. No equipment or part thereof shall be returned to Seller without the prior written authorization of Seller.

(b) Purchaser's exclusive remedy for breach of warranty of the equipment purchased hereunder, and Seller's only liability in the event of any such breach, shall be the replacement or repair, at Seller's option, of any part or parts that are found defective by Seller's inspection. No allowance or reimbursement will be made for any expense incurred by Purchaser in repairing or replacing any equipment or part thereof without the prior written authorization of Seller. **BECAUSE SELLER IS NOT IN CONTROL OF PURCHASER'S PLANT OPERATION AND CONDITIONS AND HAS RELIED ON DATA OR TESTS OF MATERIALS PROVIDED BY PURCHASER IN PREPARING**

THIS QUOTATION, EXCEPT AS EXPRESSLY SET FORTH HEREIN, SELLER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS OF THE EQUIPMENT FOR A PARTICULAR PURPOSE.

LIMITATION OF LIABILITY:

NOTWITHSTANDING ANY OTHER PROVISION OF THIS QUOTATION TO THE CONTRARY, IN NO EVENT SHALL SELLER BE LIABLE FOR LOST PROFITS OR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES OF ANY NATURE WHATSOEVER.

LAW-TO-GOVERN:

The validity, construction and enforceability of this Agreement are governed by the laws of the State of Illinois, excluding the conflict of laws provisions thereof. In connection with any controversy arising out of or related to this Quotation, Seller and Purchaser hereby irrevocably consent to the jurisdiction of the United States District Court for the Northern District of Illinois, if a basis for federal court jurisdiction is present, and, otherwise, in the state courts of the State of Illinois located in Cook County. Seller and Purchaser each irrevocably consent to service of process out of the aforementioned courts and waive any objection which it may now or hereafter have to the laying of venue of any action or proceeding arising out of or in connection with this Quotation brought in the aforementioned courts.

LIMITATION OF ACTIONS:

Purchaser agrees, as an inducement to Seller, to accept this Quotation, that any claim of any kind by Purchaser based on or arising out of this Quotation or otherwise shall be barred unless asserted by Purchaser within one year from the date of shipment.