

PRESRITE CORPORATION
TERMS AND CONDITIONS OF QUOTATIONS

1. ACCEPTANCE. This quotation is not intended as an offer to sell and no contract of purchase and sale shall arise until Seller acknowledges and accepts in writing, at its home office, a written purchase order on the terms and provisions herein quoted from Buyer for the goods contemplated by this quotation. This quotation is expressly limited to and made conditional on the terms and subject to the conditions hereof and constitutes the entire agreement between Buyer and Seller. Any terms or conditions presented or offered by Buyer in addition to or different from those contained herein, whether contained on an acknowledgement or other document, are hereby objected to and shall be of no effect. This quotation is subject to change without notice and shall expire thirty (30) days after the date of this quotation.
2. PRICES. Prices quoted herein are based on current costs of material and labor, and if any changes occur in such costs at any time before shipment, prices may be adjusted by Seller proportionately to such changes in costs. If such adjustments are not mutually satisfactory, then the parties may cancel on the terms set forth in paragraph 9.
3. TAXES. All quoted prices are subject to the addition of any applicable sales, excise, manufacturer's use, or other similar taxes levied by either municipal, state or federal authorities.
4. INVOICE DISPUTES. ALL DISPUTES AS TO THE AMOUNT(S) INVOICED HEREUNDER SHALL BE MADE IN WRITING TO THE FOLLOWING ADDRESS: PRESRITE CORPORATION, ATTENTION: CREDIT MANAGER, 3665 EAST 78TH STREET, CLEVELAND, OHIO 44105. PAYMENTS WHICH ARE INTENDED BY BUYER TO REPRESENT "PAYMENT IN FULL" FOR THE GOODS SOLD, AND WHICH ARE LESS THAN THE AMOUNT SHOWN ON THE INVOICE AS BEING DUE, SHALL BE SENT TO THE ABOVE ADDRESS. IF SAID "PAYMENT IN FULL" CHECK IS NOT MADE TO THE ABOVE ADDRESS THEN, PURSUANT TO OHIO REVISED CODE SECTION 1303.40 THE ACCEPTANCE OF SAID CHECK WILL NOT ACT AS A DISCHARGE OF THE REMAINING BALANCE DUE UNDER THIS ORDER.
5. PAYMENT. Payments are to be made in United States funds, unless otherwise stipulated.
6. PREPARATION CHARGES. Preparation charges are those required for the initial production of the goods, including production of dies. The payment of such charges does not convey any title or the right of possession to Buyer. Such payment does convey the right to the exclusive use of any special tools required and to their preservation by Seller for two years only after the date of shipment of the last order requiring their use. Preparation charges are made only for the initial quantity and for the rate of delivery specified of a particular design. Seller assuming all the expense of upkeep. The charge for any change in design, for additional quantities, or for different rate of delivery will be quoted by Seller upon request.
7. QUANTITY TOLERANCES. Quantities shipped within the limits of over-run and under-run are commonly considered to meet quantity requirements, according to Appendix A of "Guideline Tolerances" latest edition, as issued by the Forging Industry Association.
8. DELAYS. Delivery dates are approximate and are predicated on conditions existing at the time of this quotation. Seller's obligation with respect to deliveries is subject to delays caused by any act of God, flood, war, riot, accident, explosion, labor trouble, act of Government, delay or default by subcontractor or supplier of materials or services, transportation difficulty or any cause beyond Seller's reasonable control.
9. CANCELLATION. Orders will not be subject to cancellation or modification either in whole or in part, without Seller's written consent, and then only under terms that will indemnify Seller against all loss, including but not limited to reimbursing Seller for all applicable costs incurred by Seller, including, without limitation, labor costs incurred by Seller, costs of purchased materials, tools and dies, and a reasonable allowance for profit.
10. PATENT INFRINGEMENT. No liability will be assumed by Seller for the infringement of any patent rights asserted because of the nature, structure or use of any products ordered by Buyer, and Buyer shall indemnify and hold Seller harmless from all claims for loss or damage, and from all court costs, attorney's fees and other expenses paid or incurred by or imposed upon Seller in connection with the defense of any action brought against Seller by reason of Seller's performance of any order. Upon request by Seller, Buyer will undertake at Buyer's own cost and expense to defend any such action which may be brought against Seller.
11. LIMITATION OF LIABILITY. SELLER'S LIABILITY (WHETHER UNDER THE THEORIES OF BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE, OR STRICT LIABILITY) FOR ITS GOODS SHALL BE LIMITED TO REPAIRING OR REPLACING PARTS FOUND BY SELLER TO BE DEFECTIVE OR AT SELLER'S OPTION, TO REFUNDING THE PURCHASE PRICE OF SUCH GOODS OR PARTS THEREOF AT SELLER'S REQUEST. AT SELLER'S DIRECTION, BUYER WILL SEND, AT BUYER'S SOLE EXPENSE, ANY ALLEGEDLY DEFECTIVE PARTS TO THE PLANT OF SELLER WHICH MANUFACTURED THEM OR SUCH OTHER LOCATION AT SELLER'S SOLE DISCRETION.
12. DISCLAIMER OF CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL SELLER BE LIABLE FOR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION BREACH OF ANY OBLIGATION IMPOSED ON SELLER HEREUNDER OR IN CONNECTION HEREWITH. CONSEQUENTIAL DAMAGES FOR PURPOSES HEREOF SHALL INCLUDE WITHOUT LIMITATION LOSS OF USE, INCOME OR PROFIT, OR LOSSES SUSTAINED AS THE RESULT OF INJURY (INCLUDING DEATH) TO ANY PERSON, OR LOSS OF OR DAMAGE TO PROPERTY (INCLUDING WITHOUT LIMITATION PROPERTY HANDLED OR PROCESSED BY THE USE OF THE GOODS). BUYER SHALL INDEMNIFY SELLER AGAINST ALL LIABILITY, COST OR DAMAGES RESULTING FROM THE USE OF THE GOODS.
13. WARRANTY, LIMITS OF WARRANTY, CLAIMS. Seller warrants the goods will be made in conformity with drawings either (a) furnished by Buyer to the Seller or (b) prepared by Seller and approved by Buyer, subject to applicable dimensional tolerances as specified in the publication, "Guideline Tolerances" latest edition, as issued by the Forging Industry Association and that Seller will convey good title to the goods free from any valid security interest, lien, or other encumbrance unknown to Buyer. Buyer will notify Seller in writing of any goods which do not conform to this warranty within thirty (30) days after their delivery, and if Buyer should fail to give such notification, then claims for breach of warranty, if any, shall be waived. SELLER MAKES NO WARRANTIES EXPRESSED OR IMPLIED, INCLUDING WARRANTIES AS TO MERCHANTABILITY OR AS TO THE FITNESS OF THE GOODS FOR ANY PARTICULAR USE OR PURPOSE, AND SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE, DIRECTLY OR INDIRECTLY, OR ARISING FROM THE USE OF SUCH GOODS OR FOR CONSEQUENTIAL DAMAGES.
14. APPLICABLE LAWS. Seller will comply with all federal, state and local laws and governmental regulations necessarily applicable to any purchase order given pursuant to this quotation. This quotation is based also upon compliance with the Fair Labor Standards Act of 1938, as amended. Seller recognizes the necessity for giving access to its books of account to authorized governmental agents in connection with the sale of goods and also recognized the requirement of the Renegotiation Act of 1945 as amended, as well as the requirements of the Termination Acts when applicable or required, but considers the giving of cost breakdowns other than weight under DMS Regulation #1 with or in connection with quotations on supply contracts not to be required.
15. STORAGE, PACKING, SPECIAL SERVICES. This quotation does not contemplate that Seller will perform storage, packing or cartage services. Pelletizing, oiling, heat treating, or painting, and similar processes including storage, will bear an additional charge.
16. DEFERRED DELIVERIES. Deferred deliveries are subject to Seller's approval. Should Buyer for good and sufficient cause request that deliveries be delayed, the same shall be acceptable on the following conditions only: (a) If no release has been given by Buyer at the end of thirty (30) days from receipt of such request, Seller reserves the right to render raw material purchased and delivered to Seller in anticipation of production and (b) if no release has been given by Buyer at the expiration of ninety (90) days from receipt of such request, Buyer agrees to accept and pay for all deliveries subject to this quotation unless Seller agrees to cancel the order on the terms set forth in paragraph 9.
17. WAIVERS, ALTERATIONS, AND MODIFICATIONS. No waiver, alteration or modification of the terms and conditions of this quotation shall be binding on Seller unless in writing and signed by Seller's authorized representative.
18. RETURN OF GOODS. In no case are goods to be returned without first obtaining Seller's written permission. Only unused material as currently manufactured, which has been invoiced to customer within ninety (90) days, will be considered for return. Material accepted for credit is subject to a minimum service charge at ten (10) percent plus all transportation charges. Material built to order is not subject to return for credit under any circumstances. Goods must be securely packed by Buyer to reach Seller without damage.
19. RISK OF LOSS. Unless otherwise agreed, the risk of loss of the goods shall be as follows: on Seller prior to delivery to the carrier, on Buyer while in possession of the carrier and on Buyer after removal from the carrier.
20. GOVERNING LAW AND SEVERABILITY. Any dispute which may arise from this sales order and for any goods purchased hereunder shall be governed by the laws of the State of Ohio. Any provision hereof prohibited by law shall be ineffective to the extent of such prohibition and without invalidating the remaining provision hereof.
21. ARBITRATION. Any dispute arising between Buyer and Seller based upon this quotation will be resolved by arbitration in Cleveland, Ohio and in accordance with the rules of the American Arbitration Association, and the award of the arbitrators shall be final and binding upon the parties. In the event the demand for arbitration is filed pursuant hereto, the party shall have the same rights to discovery under the Ohio Rules of Civil Procedures as if the dispute had been filed in an original action in an Ohio court of original jurisdiction, and any court located in Cleveland, Ohio shall have jurisdiction and shall be authorized to enforce said rights as if the entire dispute were pending before said court.