

# **GENERAL CONDITIONS OF SALE FOR REX POWER MAGNETICS PRODUCTS.**

Unless other terms have been expressly agreed to in writing by Rex Power Magnetics, the following Conditions Of Sales are subject to change. All sales transactions are subject to the latest published General Conditions Of Sales of Rex Power Magnetics and to any special Conditions of Sale which may be contained in applicable quotations and acknowledgements of Rex Power Magnetics.

## **1. ACCEPTANCE, GOVERNING PROVISION AND CANCELLATIONS.**

No orders for **Rex Power Magnetics** (hereinafter "Rex") equipment or services shall be binding upon Rex until accepted in writing by an authorized official of Rex. Any such order shall be subject to these General Conditions Of Sale (hereinafter "**Conditions**") and acceptance shall expressly conditioned upon assent to such Conditions, which assent shall be deemed given unless purchaser shall expressly notify Rex to the contrary within five (5) days after receipt of acknowledgment or confirmation of an order and in all events prior to any delivery or other performance of such order.

No order accepted by Rex may be altered or modified by purchaser unless agreed to in writing signed by an authorized official of Rex and no such order may be cancelled or terminated except upon payment of Rex's loss, damage and expense arising from such cancellation or termination.

No modified or other conditions will be recognized by Rex unless specifically agreed to in writing and failure of Rex to object to provisions contained in any purchase order or other communication from a purchaser (including, without limitation, penalty clauses of any kind) shall not be construed as a waiver of these Conditions nor an acceptance of any such provision.

Any contract for sale and these Conditions shall be governed by and construed according to the laws of the Province of Ontario.

## **2. QUOTATION AND PRICES**

Written quotations are conditioned upon acceptance by purchaser within thirty (30) days from date issued and shall be considered as offers by Rex to sell during such 30-day period unless sooner terminated by notice. All prices are subject to change without notice. In the event of a net price change, the price of the equipment on order but unshipped will be adjusted to the price in effect at the time of shipment. Downward adjustment of prices shall apply only to unshipped portions of outstanding orders. All clerical errors are subject to correction.

## **3. STATEMENT TERMS**

Terms, discounts and discount dates shall be as stated in quotations, discount schedules, catalogues, invoices or other Rex publications, and shall be final, provided that a service charge will be charged on accounts past due.

Rex reserves the right at any time to demand full or partial payment before proceeding with a contract of sale if, in its judgment, the financial condition of the purchases shall not justify the terms of payment specified. If delivery is delayed or deferred by purchaser beyond the scheduled date, payment shall be due in full when Rex is prepared to ship

and the equipment may be stored at the risk and expense of purchaser. If purchaser defaults when payment is due, then the whole contract price shall become due and payable upon demand, or Rex, as its option, without prejudice to other lawful remedies, may defer delivery or cancel the contract of sale.

#### **4. DELIVERY**

Delivery of equipment to a carrier at any major plant or other shipping point shall constitute delivery to purchaser, and, regardless of freight payment, all risk of loss or damage in transit shall pass to purchaser at that time. Great care is taken in packing Rex equipment. Rex cannot be held responsible for breakage after having received "in good order" receipts from the transportation company. All claims for loss and/or damage must be made by the purchaser to the carrier. Claims for shortage or other errors must be made in writing to Rex within thirty (30) days after receipt of shipment, and failure to give such notice shall constitute the qualified acceptance and a waiver of all such claims by purchaser.

No allowances will be made in lieu of transportation if purchaser accepts shipment at factory, warehouse, freight station, or otherwise supplies its own transportation. Method and route of shipment will be at the discretion of Rex, unless purchaser shall specify otherwise, and any additional expense of the method or route of shipment specified by the purchaser shall be borne by purchaser. Rex reserves the right to make delivery in instalments, unless otherwise expressly stipulated in the contract for sale; and all such instalments when separately invoiced shall be paid for when due per invoice, without regard to subsequent deliveries. Delay in delivery of any instalment shall not relieve purchaser of its obligations to accept remaining deliveries. Shipping dates are approximate and are based upon prompt receipt of all necessary information from the purchaser. Rex shall not be liable for any damage as a result of any delay due to any cause beyond Rex's reasonable control, including, without limitation, an act of God; act of purchaser, embargo or other governmental act, regulation or request; fire; accidents; strikes; slow-downs, wars, riots, delays in transportation; car shortages; and inability to obtain necessary labour, materials or manufacturing facilities. In the event of any such delay, the date of delivery shall be extended for a period equal to the time lost by reason of the delay. Extra costs incurred by routing to purchasers requirements will be assumed by the purchaser.

#### **5. SUBSTITUTES**

Rex may furnish suitable substitutes for materials unobtainable because of priorities or regulations established by governmental authority or non-availability of materials from suppliers, and assumes no liability for deviation from published dimensions and descriptive information not essential to proper performance of the product.

#### **6. WARRANTIES**

Rex warrants that equipment supplied by it to be free from defects in materials and workmanship for a period of one (1) year, unless otherwise stated on quotations, from date of shipment by Rex. If within such period any such equipment shall be proved to Rex's satisfaction to be so defective, such equipment shall be repaired or replaced at Rex's option. The obligation of Rex hereunder shall be limited solely to the repair and replacement at its factory, of products that fall within the foregoing limitations, and it

shall be conditioned upon receipt by Rex of written notice within the warranty period of any alleged defects or deficiencies. No products shall be returned to Rex without its prior consent. Rex shall not be responsible for shipping charges incurred, whether through return of defective items to its factory, or return of repaired or replacement items to the user. Rex cannot assume responsibility or accept invoice for unauthorized repairs to its products, even though defective. This warranty applies only to units proven defective under normal use, and does not apply to improper installation or alteration. Acceptance may be expressly provided in an authorized writing by Rex. Rex shall not be subject to any other obligations or liabilities whatsoever with respect to equipment supplied by Rex or services rendered by Rex. This warranty is void on all products supplied by Rex if full payment is not received on such products within sixty (60) days of shipment date. THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES EXCEPT WARRANTIES OF TITLE, INCLUDING, BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

#### **7. CONSEQUENTIAL DAMAGES**

Anything to the contrary herein contained notwithstanding, REX SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, CONTINGENT OR INCIDENTAL DAMAGES WHATSOEVER.

#### **8. RETURNED GOODS, MATERIAL or EQUIPMENT**

Authority for return must first be obtained from Rex, if credit is to be allowed on all unused goods returned to the factory by the purchaser for reasons of its own. In addition to a restocking charge, the purchaser must pay the return transportation expense plus refurbish charges. No return for credit is accepted by Rex on used goods and custom-designed or special products.

#### **9. TITLE**

Anything to the contrary herein contained notwithstanding, the title to equipment shall remain the property of Rex until full payment for such equipment is received by Rex.

#### **10. ATTORNEY'S FEES**

If Rex brings an action to enforce terms of sale or these Conditions, or to declare rights incident to the sale, the prevailing party in any such action, on trial or appeal, shall be entitled to his reasonable attorney's fees to be paid by the losing party as fixed by the court.

**11. FORCE MAJEURE** Rex shall be relieved of any changes, cost etc. for late delivery or non-performance of contract, if the delay or non-conformance is caused by Force Majeure, or delays by the customer or his/her consultant(s), agent(s) or any representative(s) thereof, including but not limiting to delays in the supply or approval of any drawings or plans. Force Majeure includes but is not limited to: war, revolution, insurrection or hostilities (whether declared or not), riot, civil commotion or civil uprising, earthquake, flood, tempest, hurricane, lightning or other natural disasters, fire or explosions of major proportions, strike, lockout or other industrial disturbance whether at Rex or one of its suppliers.