1. Unless otherwise provided in this Quotation, an order shall be considered as a Contract when this Quotation is accepted and returned by Buyer within the specified time allowed and is subsequently acknowledged in writing by Seller, or by Seller’s commencement of performance hereunder. If the mode of acceptance of this Quotation is by use of Buyer’s Purchase Order form, or by other writing initiated by Buyer, it is expressly understood and agreed that the terms and conditions herein set forth shall prevail insofar as the same may in any way conflict with the instructions, terms or conditions set forth in such Purchase Order form, or in writing, and the issuance of such Purchase Order form, or written order shall be deemed to signify Buyer’s assent to the foregoing.

2. Any and all technical data, specifications, and drawings included with this Quotation, and the Quotation itself, are supplied by Seller with the understanding that they are for Buyer’s confidential use for evaluating this Quotation; and are Not to be used by, reproduced, or shown to third parties without written permission of the Seller. In the event that no contract or sale results from this Quotation, the Seller may, at its option, request return of any or all printed information supplied to the prospective Buyer. Failure to return said documents, when requested, will make the prospective Buyer liable for an amount equal to ten percent (10%) of this Quotation, as compensation for engineering services.

3. The issuance of this document does not guarantee the quantities and specifications as shown herein to be in exact accord with job plans. The Buyer is to confirm quantities and acceptance of our specifications for suitability for the project. This contract may be changed by a modification, in writing, signed by both Seller and Buyer.

4. Seller’s prices, as stated herein, do not include Sales, Use, Excise or Similar Taxes which Seller may be required to pay or collect as a result of this sale (Ohio only). Ohio Buyers shall pay such taxes, as billed by Seller, or Buyer shall promptly provided the Seller with a Tax Exemption Certificate acceptable to the approximate taxing authorities. Those Buyers located out of Ohio will direct pay all Use, Sales and Similar Taxes.

5. All prices and products are F.O.B. Shipping Point, with freight costs being collect, prepaid or allowed as specified on the Quotation.

6. All Orders accepted for delivery via Seller’s Trucks will be to the closest point at job site in Seller’s discretion that the truck can reach under its own power without endangering the equipment. In the event delivery by Seller’s truck is not feasible, in Seller’s judgement, material shall be shipped by the nearest available means at Seller’s discretion, to the nearest dock or siding to the project. No allowance will be made by Seller for hauling materials from dock or siding to job site.

7. Buyer will furnish, at Buyer’s expense, labor and equipment for promptly unloading trucks and/or freight cars.

8. Every shipment on which Buyer or his Receiving Agent has given clear delivery receipt will be deemed delivered, as recorded; and no claims for shortages or breakage will be allowed thereafter. If shortages or breakage occur in transit, it shall be the Buyer’s duty to have notation of said shortage or breakage made on the freight bill or delivery receipt before signing for receipt of material. Claims for errors or breakage of materials delivered on Seller’s truck must be filed with Seller in writing within five (5) days after delivery. If delivery is via Commercial Common Carrier it is the Buyer’s responsibility to file claim with the Carrier.

9. Seller shall not be responsible nor liable in any manner for delay(s) in performance of this contract that are due to an Act of God, war, riot, fire, explosion, unusual weather conditions, flooding, equipment breakdown, labor disturbance, or injunction; or to Seller’s inability to obtain fuel, power, raw materials, component parts or accessories, or transportation service; or to breakage of and damages incurred to goods in transit; or any other cause beyond the reasonable control of the Seller. When it is determined that such delay(s) may occur, Seller will notify Buyer, when feasible, of such delay(s).

10. If Seller’s performance is delayed more than twenty (20) days at Buyer’s request, and Seller must hold goods in storage, Seller may require Buyer to make an advance payment of 80% of the total contract amount.
Title to the goods shall remain with the Seller until Buyer actually receives the goods.

11. No materials shall be returned for credit without prior written authorization and approval of the Seller. Such returns will be in accordance with the Seller's published return policy then in effect.

12. Contract, after acceptance by Seller, is not subject to cancellation by Buyer except prior to shipment and then only by the payment to Seller by Buyer of an amount equal to the cost of labor, overhead, and materials used, plus 17% of sales price as liquidated damages, which the Buyer hereby agrees to pay. Orders for special sizes, shapes, or designed equipment are not cancelable by Buyer.

13. Supervision of installation, training and/or initial operation are not included, unless specified in the Quotation. If required, Seller will furnish a factory trained supervisor at a daily fee, for servicing and travel time, plus travel expenses. Such field support will be in accordance with the Seller's published field service rates and policies then in effect.

14. LIMITED WARRANTY: Seller warrants all goods manufactured by it to be free from defective workmanship for a period of one (1) year from the date of shipment or within the time period as specified on applicable Seller's product warranty. Seller's liability for breach of its warranty, or for negligence, and Buyer's sole and exclusive remedy for any such breach is expressly limited to one of the following, to be selected by Seller: (A) Replacement at the agreed point of delivery of any goods found to be defective, or (B) Repair of such goods; or (C) Refund, or Credit to Buyer, the price of such goods. Seller has the option to require Buyer to return any defective goods and failure to return said goods when so requested shall make the Buyer liable for payment thereof. Notwithstanding the provisions of any applicable statute, the remedies available to the Buyer as set forth in this contract are exclusive remedies. All other remedies, statutory or otherwise, are hereby waived by the Buyer and Buyer further acknowledges that the exclusion of remedies is neither unreasonable nor unconscionable. Seller shall not be liable for consequential damages directly or indirectly arising or resulting from the breach of any terms of this agreement, or from the sale, installation, handling, or use of the goods sold. This warranty is expressly in lieu of any other warranties, express or implied, including any implied warranty of merchantability or fitness for any particular purpose, and of any other obligation of liability on the part of the Seller.

15. Both Buyer and Seller represent that they are Merchants with respect to the subject goods. No agent, employee or representative of the Seller made, or had any authority to bind the Seller by, any warranty, representation, or affirmation concerning the goods. Buyer acknowledges that no such affirmation, warranty, or representation has been made, none has been relied upon, and none forms the basis of this bargain.

16. All invoices are payable in full when due, with no retainage allowed. Payment to Seller is not contingent upon Buyer's receipt of payment from others. Acceptance and performance of this contract is subject to the continuing approval of Seller's Credit Department. Failure to pay invoices when due makes all subsequent invoices due and payable, irrespective of terms, and the Seller may withhold all subsequent performances or deliveries until the full account is settled. Seller's pricing and goods and services provided under this contract are based upon receipt of payment in accordance with the payment terms as specified. Any invoices, or parts thereof, remaining unpaid after the due date shown on the face thereof, shall be subject to liquidating damages of 2% per month until paid to offset Seller's additional Collection and Accounting costs, unless prohibited by applicable state law. Buyer further expressly agrees to pay all Court Costs and Expenses, including reasonable Attorney's Fees, that may be incurred in legal proceedings to collect past due amounts.

17. This contract and the performance thereof shall be in compliance to the best of both Buyer's and Seller's knowledge and abilities, with all known and applicable existing Federal, State and Local Governmental Laws, Regulations and Rules. The terms of this Agreement are intended for general use in the United States. If any of the terms and provisions hereof are in violation of or prohibited by any law, statute or ordinance of the State or City where it is used, such terms and provisions shall be of no force and effect to the extent of such violation or prohibition without invalidating any other of the terms and provisions of this Agreement.

18. All payments by Buyer to Seller shall be due and payable at Seller's principal office at:

Industrial Fiberglass Specialties, Inc.
521 Kiser Street
Dayton, Ohio 45404-1641
(937) 222-9000 - FAX (937) 222-9020