

## **THIS QUOTATION IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

### **1. Definitions.**

"**Quotation**" means this **Quotation** and any specifications and/or drawings attached hereto or referred to herein.

"Exacto" means Exacto Spring Corp., a Wisconsin corporation.

"Product" means the product or products specified in the Product Specifications.

"Product Specifications" means the specifications set forth in your Request for Quotation, including without limitation, all specifications, plans and drawings and amendments thereto you delivered to us at or before our manufacture of the Product.

"Exceptions to Product Specifications" means manufacturing design specifications and drawings produced by Exacto that are based upon the Product Specifications and are necessary for the manufacture of the Product.

"Terms and Conditions" means the terms and conditions set forth on the reverse of this Quotation.

- 2. Exceptions to Product Specifications.** If we deliver Exceptions to Product Specifications to you, then before we manufacture the Product, you must deliver to us your signed and dated Amended Product Specifications to us. Your Amended Product Specifications shall become the Product Specifications only upon our delivery to you of either: 1) a **Quotation** incorporating your Amended Product Specifications, or 2) your Amended Product Specifications bearing our acceptance stamp and authorized signature.

- 3. Right to Duplicate.** Exacto Spring reserves the right to duplicate, as necessary, all pertinent documents to fulfill contract or purchase order requirements.

- 4. Quotation.** This **Quotation** shall replace any provisions set forth on the face or reverse side of the Buyer's Request for Quotation, or incorporated therein, other than those specifically set forth herein, and provisions so replaced shall not be applicable to Buyer's purchases from Exacto. This **Quotation** constitutes the offer of Exacto to Buyer to sell the goods, services or both specified on the face and/or addenda of this **Quotation**.

None of the terms and conditions in this **Quotation** may be added to, modified, superseded or otherwise altered except by a written instrument signed by an authorized representative of Exacto and delivered by Exacto to Buyer, and each shipment delivered by Exacto to Buyer shall be deemed to be only upon the terms and conditions contained in this **Quotation** except as they may be added to, modified, superseded or otherwise altered, notwithstanding any terms and conditions that may be contained in any purchase order, acknowledgment or other instrument of Buyer and notwithstanding Exacto's act of accepting or delivering or similar act of Exacto

- 5. Warranty.** Exacto warrants to Buyer and to no other person that Exacto will manufacture the Product in conformity with the Product Specifications, and that the Product will be free from defects in material and workmanship. Exacto's obligation shall be limited to repairing or replacing, at the option of Exacto, and testing, without charge, all or any part of any unit of Product that is non-conforming to the Product Specifications and which is shipped, freight prepaid, to Exacto's plant in Grafton, Wisconsin, within sixty (60) days from the date of delivery of the Product to Buyer. All return shipments shall be made F.O.B. Exacto's plant.

THE PRODUCT SHALL BE MANUFACTURED IN ACCORDANCE WITH THE PRODUCT SPECIFICATIONS. IT SHALL BE THE SOLE RESPONSIBILITY OF BUYER TO DETERMINE WHETHER THE PRODUCT SPECIFICATIONS ARE SUFFICIENT FOR BUYER'S PURPOSES AND WHETHER THE PRODUCT WILL PERFORM IN CONJUNCTION WITH OTHER COMPONENTS THAT ARE ASSEMBLED TO THE PRODUCT BY BUYER OR THIRD PARTIES. EXACTO MAKES NO WARRANTY THAT THE PRODUCT IS MERCHANTABILITY OR FIT FOR ANY PARTICULAR PURPOSE. EXACTO MAKES NO WARRANTY WHATSOEVER TO ANY PERSON OTHER THAN BUYER. THE SOLE RESPONSIBILITY OF EXACTO SHALL BE THAT IT WILL MANUFACTURE THE PRODUCT IN ACCORDANCE WITH THE PRODUCT SPECIFICATIONS, AND THAT THE PRODUCT WILL BE FREE FROM DEFECTS IN MATERIAL AND WORKMANSHIP. THIS WARRANTY IS EXPRESSLY MADE IN LIEU OF ANY AND ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND THE SOLE OBLIGATION OF EXACTO SHALL BE AS SET FORTH IN THIS § 5. EXACTO SHALL HAVE NO LIABILITY FOR THE COSTS OF REMOVAL, INSTALLATION OR ANY OTHER INCIDENTAL EXPENSES INCURRED IN SHIPPING THE PRODUCT TO OR FROM EXACTO AND SHALL HAVE NO LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, COSTS ARISING FROM INVESTIGATION AND CORRECTION OF ANY DEFECT WITHIN AN END PRODUCT INTO WHICH THE PRODUCT IS ASSEMBLED OR FROM THE RECALL THEREOF, LABOR COSTS, LOST PROFITS, PROPERTY DAMAGE OR PERSONAL INJURY. THERE SHALL BE NO WARRANTY WHATSOEVER FOR PRODUCT THAT HAS BEEN MODIFIED, ADJUSTED, NEGLECTED, ABUSED, OR IMPROPERLY INSTALLED, OPERATED OR MAINTAINED.

- 6. Termination by Exacto.** Exacto may suspend performance under this **Quotation** upon written notice to Buyer of failure by Buyer to pay any amount when due, and, if buyer fails to cure such default, may terminate this **Quotation** thirty (30) days after the date of such notice without further notice.

- 7. Termination upon Judgment of Infringement.** This **Quotation** shall be null and void as to any feature of the Product or the Product Specifications that is adjudged by a court of competent jurisdiction to infringe upon any intellectual property right held by other than Exacto, Buyer or their assignors including, without limitation, any United States patent pursuant to 35 USC § 271. Termination under this § 7 shall not discharge Buyer from its duty to tender payment due Exacto otherwise under this **Quotation**.

- 8. Indemnification.** Buyer and its successors and assigns shall indemnify, hold harmless and defend Exacto and its successors and assigns and all of their controlled or related organizations, affiliates, subsidiaries, parents, predecessors or sponsoring organizations under any name, and their insurers, members, directors, officers, employees and agents, and their heirs, successors and assigns, from any and all claims of third persons, whether known or unknown, that pertain or arise from any claim of infringement, by virtue of the manufacture of the Product or use of the Product Specifications, upon any intellectual property right held by other than Exacto or its assignors including, without limitation, any United States patent pursuant to 35 USC § 271.

- 9. Dispute Resolution.** All claims, disputes and other matters in question arising out of or relating to, this **Quotation** or the breach thereof shall be decided by arbitration in accordance with the rules of the American Arbitration Association then obtaining. This agreement to so arbitrate shall be specifically enforceable under the Wisconsin Arbitration Act, Chapter 788 of the Wisconsin Statutes, as amended. The award rendered by the arbitrators shall be final, subject only to vacation, modification and appeal provisions of the Wisconsin Arbitration Act.

Notice of the demand for arbitration shall be delivered in writing to the other party and to the American Arbitration Association. The demand shall be made within one hundred twenty (120) calendar days after first observance by the claimant of the act, omission or condition giving rise to the dispute, claim or other matter in question.

Any notice, statement or demand required or permitted under this **Quotation** shall be given in writing and delivered personally or by registered or certified mail, return receipt requested, postage prepaid and addressed to the party for whom intended. Any writing so mailed shall, for all purposes, be deemed to have been given to and received by the party for whom intended forty-eight (48) hours after time of mailing in any post office or branch post office regularly maintained by the United States government. This procedure shall also apply to notices of change of address. Mailed notices shall be addressed to Exacto and Buyer at the addresses set forth on the obverse hereof.

- 10. Applicable Law and Venue.** Legal rights and obligations hereunder shall be determined in accordance with the laws of the State of Wisconsin, and the undersigned hereby agree that the venue for all actions initiated hereunder shall be the court of competent jurisdiction within the State of Wisconsin.