

Head Office & Plant  
**COVENT Fans Inc.**  
1381 Hocquart St.  
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CANADA J3V 6B5

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**COVENT Fans Inc.**  
**TERMS AND CONDITIONS OF SALE September 1, 2009 Rev. No. 10**

I. DEFINITIONS

Buyer means the issuer of the purchase order. Seller means the person, firm or corporation to whom or to which the purchase order is addressed. Goods mean those articles, materials, designs, drawings or data to be fabricated, assembled, tested or furnished by Seller for or to Buyer in accordance with the purchase order of Buyer. Proposal means the proposal of Seller annexed hereto.

II. ACCEPTANCE

Any orders based on the Proposal and the contract of purchase and sale resulting from acceptance of the Proposal, either by delivery of a purchase order to Seller or by any order act or conduct by Buyer, shall be governed by and be subject to the Terms and Conditions of Sale set forth herein, and no modification of the Terms and Conditions of Sale shall be effected by Seller's receipt or acknowledgement of a purchase order containing additional or different conditions. No additions, deletions or modifications of such terms proposed by Buyer in its purchase order or printed forms attached thereto or otherwise shall bind Seller, unless accepted in writing by a duly authorized officer of Seller, regardless of whether such other terms would materially alter the terms herein. Receipt by Seller of Buyer's purchase order for the Goods under the Proposal shall be a binding acceptance of the Proposal by Buyer, provided however that no purchase order shall be binding on Seller unless accepted in writing by a duly authorized officer of Seller. Seller shall not be obligated by any promises, conditions or terms made by the representatives or salesmen of Seller except as approved in writing by a duly authorized officer of Seller.

III. DELAYS - FORCE MAJEURE

Seller shall not be responsible or liable for any loss, damage, detention or delay caused by Seller's inability to secure materials, or by reason of Act of God, fire flood, explosion, war, riot, lock-out, strike, labour dispute, action taken or omitted in voluntary or involuntary compliance with any laws or by any cause beyond the reasonable control of Seller or its suppliers. In the event of any such delay, the date of delivery shall be extended by a period equal to the time actually lost by reason of such delay.

IV. TERMINATION

An order cancelled in respect of all part of the Goods not then shipped is subject to an equitable adjustment between the parties for work or materials in progress, including recovery of reasonable overhead and profit. Termination must be requested by Buyer by means of a written notice and shall not relieve Buyer of his obligations to accept and pay for the Goods previously delivered or ready to ship.

V. PRICING AND MINIMUM BILLING

Prices quoted are valid for a period of thirty (30) days, and are firm for shipments made within twelve (12) months, from date or Proposal, shipments made beyond twelve (12) months from date of Proposal shall be subject to escalation in accordance with Statistics Canada Indices.

Prices quoted are F.C.A. Seller's and/or sub-vendors plant, with freight charges extra, unless otherwise stated. In case where freight allowed is stated in Seller's proposal, the mode of transport shall be at Seller's discretion.

Orders of value less than \$100.00 will be billed at \$100.00.

VI. TAXES

Unless otherwise expressly provided in the Proposal, all taxes and other governmental charges now or hereafter imposed with respect to the production, shipment or sale of the Goods, including without limitation federal and provincial sales taxes, will be charged to and paid by Buyer. If the proposal specifically provides that the price quoted includes any such tax, such tax has been calculated at current rates, and any increase(s) or decrease(s) in the said tax will be for the account of Buyer.

VII. TERMS OF PAYMENT

Orders LESS than or equal to \$100,000. Payments are due net 30 days from Invoice and shipment or notification of readiness to ship.

Orders GREATER than \$100,000. Payments are due net 30 days from Invoice date. Progress payments will be as follows:

10% of total contract value upon issue of outline drawings for review

15% of total contract value upon completion of final engineering and shop drawings

35% of total contract value upon receipt of major materials at COVENT plant.

40% of total contract value net 30 days from shipment or readiness to ship

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Invoices will be pro-rated by COVENT on part shipments when itemized prices are not listed on the customers purchase order. Seller may, at any time, or from time to time, require immediate payment for partial shipments, on a pro rated basis, or for shipments delayed by Buyer.

Interest on overdue payments shall accrue all the rate of 2% per month until payment in full of the outstanding account, including payment of all interest accrued thereon, has been made.

Buyers outside of United States and Canada

All payments are to be payable through an irrevocable letter of credit confirmed by a Canadian Bank acceptable to the Seller. Part shipments and Tran-shipments to be allowed.

VIII. CREDIT

Shipments and deliveries at all times are subject to the approval of Seller's Credit Department.

IX. ASSIGNMENT

Neither party may assign its rights or liabilities under the contract arising from the Proposal without the express written consent of the other, provided that Seller may assign its rights and liabilities to its associated, subsidiary or affiliated companies without the consent of Buyer.

X. PATENTS

Seller agrees to hold Buyer harmless and indemnify him from all costs arising from claims by third parties for patent infringement, except where Buyer furnishes the specifications, in which case Buyer shall hold Seller harmless against any such claims which arise out of compliance with the specifications.

XI. WARRANTY AND LIMITATION OF LIABILITY

Seller Warrants that the Goods when shipped are free from defects in materials, workmanship and design for a period not in excess of eighteen (18) months from the date of shipment, or twelve (12) months from the date of installation, whichever occurs first.

Field Erected Fans or Blowers must be inspected by SELLERS authorised Representative at BUYERS expense prior to start-up, to ensure that the equipment has been assembled correctly. The operation Warranty will take effect upon completion of said inspection.

Buyer shall notify Seller in writing immediately upon discovery of any defect and Seller shall, as his sole obligation under this Warranty, replace or repair, at Seller's option, without charge, F.C.A. Seller's plant, the Goods or parts thereof proven to be defective under normal and proper use within the said Warranty period.

**SELLER DOES NOT GUARANTEE AGAINST ABRASION, CORROSION, EROSION OR BUILD-UP.**

Seller shall not be liable for any removal or replacement costs, nor be held responsible for product loss or special or consequential damages resulting from any defect in the Goods, either in materials, design, construction or arising from the use of such Goods. These damages in all cases are indirect and cannot be claimed. Seller's liability for any of all other losses to Buyer resulting from any cause whatsoever, including Seller's negligence, alleged defective Goods, irrespective of whether such defects are discoverable of latent, and non-delivery of Goods not falling within the terms of Force Majeure, shall in no event exceed the unit purchase price of the defective product, part or service of the product with respect to which losses or damages are claimed.

It is recognized that all Fans and Blowers may at times be operated in a "Stall" or unstable region of their performance. Such operation of Fans or Blowers render the above Warranty void.

**The above Warranty comprises Seller's sole and entire Warranty, obligation and Liability in connection with the goods sold hereunder, all other Warranties or conditions, express or implied, statutory or otherwise, including but not limited to Warranties of merchantability and fitness for purpose, are specifically excluded. Buyer acknowledges that the conditions of this Warranty are essential conditions without which the Seller would not have entered into the present sale. the Buyer expressly agrees not to institute legal proceedings or seek the help of the judicial process to enforce any claim not expressly covered under the present Warranty.**

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XII. PERFORMANCE GUARANTEE

The Seller guarantees the performance of new equipment on complete Fans and Blowers as follows:

Guarantees are given for operating points, as shown on Sellers Performance Curves, which either do not have an inlet modulating device or if that device is in the fully open position.

Noise data shown on Seller's Sound Levels documents are estimated and for information only.

Performance tests of the fan must be done in accordance with AMCA Standard 203. Seller reserves the right to witness the testing and approve the procedures.

The guarantee assumes good inlet and outlet conditions. Effects caused by poor inlet and outlet conditions must be established by an analysis per AMCA 203 or 803-87. Instrument errors must be calculated and taken into account as per AMCA 203, appendix T. Maximum errors are assumed.

Where the performance of equipment is dependent on or affected by other equipment not within the Seller's Scope of Supply, the Guaranteed performances can be attained only when the other equipment actually performs as represented by the Buyer to the Seller for purpose of equipment selection and sizing.

Any tests will be performed at the expense of the Buyer, within 60 days after initial operation of the equipment, but in no event later than 6 months after shipment of the equipment, whichever first occurs. After this date, the performance Warranty shall be deemed satisfied and all further obligation thereunder shall terminate.

The above guarantee does not apply on impeller retrofit applications. In retrofit applications, any suggested casing modifications will be undertaken at the expense of the Buyer.

XIII. INSPECTION

Seller agrees to provide Buyer with reasonable access to the Goods, during normal business hours and upon adequate notice, for inspection during the manufacturing period.

XIV. CHANGES IN WORK

Should Buyer request changes in the work for any reason, Seller shall have the right to adjust the contract price or delivery date or both and so advise Buyer accordingly. Upon issuance of adjustment notification to Buyer, Seller shall not proceed with the work until such time as a written authorization is received and accepted by Seller.

XV. PASSING OF RISK

Notwithstanding anything contained in these Term and Conditions of Sale, all Goods delivered by Seller to Buyer shall be at the sole risk of Buyer from and after the time of the Goods are consigned to a carrier by Seller or transferred to Buyer at Seller's plant by Seller. Seller shall not be responsible for any loss or damages howsoever caused.

XVI. APPLICABLE LAW

It is agreed that any contract arising from the Proposal shall be construed and enforced in accordance with the laws of the Province of Quebec.

XVII. FIELD SERVICE

Field Service will be billed at a per diem rate in effect at time of actual service visit. Refer to Service Rate Policy for current rates