

IMPERIAL INDUSTRIES, INC. STANDARD TERMS OF SALE

Effective for any proposal, bid, quote or order on or after March 7, 2024

1. Acceptance: Any bid, proposal, quote, or order of Imperial Industries ("Seller") goods ("Product") is conditioned on the Buyer's acceptance of Imperial Industries, Inc. Standard Terms of Sale ("Imperial Standard Terms") incorporated into the sale contract between Seller and Buyer. Imperial Standard Terms, in its entirety set forth herein, is incorporated into every sale of Seller's Product, and any contradicting, conflicting, or different term is rejected. To change or amend Imperial Standard Terms, in whole or in part, the corresponding bid, proposal, or quote between the Seller and Buyer must be a signed written form designated "Quote _" explicitly identifying the new term(s). Imperial Standard Terms and corresponding Product order contain the entire agreement between Seller and Buyer. No oral or written statement by Seller's sales representatives or other agents made before or after the sale shall modify or vary Imperial Standard Terms unless reduced to a formal Quote. To the extent any advertising or promotional material of Seller contradicts or disagrees with the terms hereof, the Imperial Standard Terms controls.

2. No Agency: Buyer and Seller are independent of one another. No agency, joint venture, or partnership exists. Neither party has the authority to bind the other to any third party. Buyer's acts and representations are independent of Seller.

3. Disclaimer of Warranties and Limitation of Liability: *ONLY THE LIMITED WARRANTIES AND REMEDIES STATED IN THE IMPERIAL STANDARD TERMS APPLY. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, REPRESENTATIONS, OR WARRANTIES, EITHER EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND FITNESS FOR INTENDED USE OTHER THAN OR DIFFERENT FROM THE SELLER'S LIMITED WARRANTY AND REMEDIES CONTAINED HEREIN. IN NO EVENT SHALL SELLER BE RESPONSIBLE FOR ANY ATTORNEY FEES, INCIDENTAL, PUNITIVE, SPECIAL, LIQUIDATED, OR CONSEQUENTIAL DAMAGES REGARDLESS OF LEGAL OR EQUITABLE THEORY.*

Goods made by third-party manufacturers or suppliers ("others") carry such warranties as may be given by others, and no additional warranty or liability of Seller, express or implied, shall be attached to goods made by others. Seller's design, manufacture, and delivery of Product are primarily based on Buyer providing complete and accurate written information to Seller. The seller is a manufacturer and does not warrant or claim expertise regarding how the Product is used in operation. Buyer should retain its own experts to match Product with intended capabilities, use, flow, operation, or project. Seller relies on Buyer to provide complete and accurate written information to Seller for Seller to design, manufacture, and deliver Product. Seller's warranties are limited to the original Buyer for goods manufactured by Seller and are not transferrable.

Seller warrants to Buyer goods of Seller's manufacture are free from defect in material and workmanship under proper use and service for a period of eighteen months from the date the title Passes to the Buyer as defined in Section 14 below. This limited warranty is conditioned on two events:

1. Buyer giving Seller immediate written notice of any possible warranty claim no later than within four business days once Buyer discovers or should have discovered the alleged defect; and
2. Seller has a right but not a duty to cure the alleged defect in whole or in part within a reasonable manner as determined by Seller.

Seller, at its option, may (a) exercise its right to cure the alleged defect in whole or in part, or (b) require Buyer, at its own cost, to return the allegedly defective Product to investigate the cause of the alleged defect and establish the warranty claim with Seller retaining its right to cure. Seller's right to cure any defect, deficiency, or non-conformance is without any back-charge, offset, or damage claim asserted against Seller. In the event the Seller is unable to cure defect, deficiency, or non-conformance; in that case, Buyer's remedies for any claim or suit, regardless of legal or equitable theory, are limited to either, at Seller's option: (a) return of the defective, deficient, or non-conforming Product and Buyer credited with the prorated amount of Buyer payment for returned Product; or (b) commercially reasonable price adjustment to Product price agreed by Seller not to exceed original Product price.

Limited warranty and remedies in this section are void if any of the following occur:

- A. Product is not used correctly, operated, or maintained;
- B. Product is used under circumstances or conditions not incorporated into the sales order when those circumstances or conditions were known to Buyer and would have assisted Seller in fulfilling its contract requirements;
- C. Repairs or alterations to the Product occur without pre-approval from the Seller;
- D. Product is damaged, in part or whole, by the actions of third parties or
- E. Product is damaged, in part or whole, by disaster or causes outside of Seller's control.

No warranty exists for corrosion or erosion of the Product caused by or resulting from:

- A. Acids, chemicals, paint, caustic substances, surface substances selected by Buyer, or anything else beyond quote;
- B. Any material or part selected by Buyer and incorporated into the Product or its use.

4. Limitation Period: Any civil action brought by Buyer against Seller arising out of or in connection with Product or the Imperial Standard Terms shall be commenced within two years after Title Passes to Buyer as outlined in Section 14 below.

5. Intellectual Property Infringement: Buyer shall indemnify and hold harmless the Seller against any allegations, demands, or claims instituted against the Seller concerning infringement of United States Patents or Trademarks (IP) relative to the Products. Buyer shall give Seller immediate notice in writing of any such alleged IP infringement claim and permit Seller, through its own counsel, to defend such claim. Buyer's indemnification includes payment of Seller's costs and attorney fees during Seller's defense on a quarterly basis. Buyer shall cooperate with Seller's defense, including Buyer, at its own expense, furnishing Seller access, inspection, and delivery of the goods that are the subject matter of the alleged IP infringement.

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6. Price and Payment: Price and payment are in United States Dollars (USD). The price is based on delivery FOB Imperial Industries to Rothschild, Wisconsin, USA. Full payment is expected before delivery unless the Seller and Buyer have accepted credit terms incorporating Imperial Standard Terms in a separate Change Order. Shipping and taxes are pre-paid before delivery. A late charge of 1.5% per month or the highest applicable legal rate is charged to the Buyer for any outstanding balance owed. Credit is extended based on the Buyer accepting Imperial Standard Terms as well as the Seller's assessment of the Buyer's creditworthiness on a per-order basis.

Credit Card Payment Limits

Division

Industrial Storage Tanks and Silos
Industrial Parts

Credit Card Terms

No credit card payments are accepted.
No credit card payment greater than \$15,000.00.

Commercial Waste Tanks
Commercial Parts

Credit card may be used for initial deposit only.
No credit card payment greater than \$15,000.00.

7. Taxes: Buyer is solely liable for any sales, excise, or similar taxes levied by a government authority, either foreign or domestic, in addition to the Product prices specified in a bid, quote, or order. As part of the total purchase price beyond the Product price, Buyer shall pay applicable taxes or indemnify Seller for any present or future sales, use, excise, or other similar tax charged to Seller for the relevant sale. Buyer may claim tax-exempt status before Title Passes to Buyer by providing Seller with a tax exemption certificate acceptable to the delivery destination taxing authorities.

8. Inspection/Testing: The product shall be, at Seller's option, subject to a single visual inspection at Seller's facility during manufacture. Additional inspection or testing shall be negotiated separately and expressed in a Change Order.

9. Excluded Work, Goods & Service: Seller's responsibility is in the scope of the bid, quote, or order corresponding to Imperial Standard Terms. The seller does not install. Installation and assembly are the responsibilities of the customer or its consignee. Excluded work examples include but are not limited to unloading, unpacking, storage, field assembly of goods, construction of foundations, or service of Product, and the Seller is not responsible for the choice of or use of linings, sealants, and gasket materials or the installation, attachment, or connection of piping, conveying and ventilating equipment, or other attachment of accessories or components.

10. Payment Delay: Any delays in Buyer meeting payment schedules may result in delayed production start, completion date, and delivery date as determined by the Seller. Buyer shall indemnify Seller for any consequential damages alleged against Seller by a third party for the delivery delay caused by Buyer. No extra labor, materials, parts, or Change Order will be furnished or supplied to Buyer unless Buyer is current with all payment obligations to Seller.

11. Cancellation: Buyer's cancellation of any order must be in writing and delivered to Seller. Buyer's cancellation is subject to Buyer paying Seller for the canceled order as determined by the date Buyer provides notice of cancellation to Seller:

- A. If notice is delivered to Seller before manufacture begins, Buyer shall pay 15% of the total Product price;
- B. If notice delivered to Seller after manufacture begins:
 1. If notice is delivered after the project is released to fabrication, the buyer shall pay 70% of the total product price.
 2. Buyer shall pay 100% of the total Product price if notice is delivered after substantial completion.

12. Title to Product: Title to Product passes to Buyer the earlier date of either:

- A. Product is placed on transportation carrier FOB Imperial Industries in Rothschild, WI, for delivery as per Buyer's instruction or
- B. The product is ready for buyer delivery per order, but the buyer instructed the seller to delay shipment.

13. Risk of Loss: Seller's responsibility for delivery of Product ends when Seller delivers Product to Buyer or transportation carrier, whichever occurs first. Any claims by the Buyer against the Seller for a shortage in shipment must be presented in writing with documented proof of claim to the Seller within fifteen calendar days after the Buyer or its agent receives a shortage of the Product. Buyer is solely responsible for the risk of loss or damage to Product once Product is placed on transportation carrier or delivered to Buyer, whichever occurs first. At a minimum, any Product shipment shall be insured by the Buyer with the Seller as named additional insured for the total insurable value of any purchase price balance owed to the Seller.

14. Storage Fees: Storage fees apply if the customer delays shipment more than 30 days after delivery notice. The storage fee is a flat rate of \$450 for each full or partial calendar month of storage for the first six months, plus an additional \$1200 for each full or partial calendar month of storage thereafter. If storage fees apply, the Buyer must fully pay any outstanding balance plus all incurred storage fees owed to the Seller before Product delivery occurs.

15. Dispute Resolution: Any dispute between Buyer and Seller is controlled by the laws of the State of Wisconsin, USA. The venue for conflict resolution, suit, or claim shall be in the State of Wisconsin, USA. If a civil action is filed, the Buyer and Seller shall attempt mediation facilitated by a mutually agreed upon neutral mediator before conducting formal discovery. At mediation, both Buyer and Seller shall each have a designated representative attend with full authority to settle the civil action. Buyer and Seller are responsible for their own attorney fees and other expenses associated with mediation and equally paying the mediator's fee.