

## TERMS AND CONDITIONS OF SALE

1. Commercial Transaction. Customer acknowledges it is a merchant and that the terms and conditions contained herein are commercially reasonable and conscionable.
2. Acceptance of Terms. These terms and conditions and the quotation or order acknowledgment to which these terms and conditions relate form the contract (collectively, this "Agreement") between Customer and Seller. Seller's acceptance of any order is expressly subject to Customer's agreement to the terms and conditions set forth herein. The transaction of business following receipt of these terms and conditions constitutes Customer's express acceptance of the terms and conditions set forth herein.
3. Relationship of Parties. This Agreement creates no relationship of joint venture, partnership, limited partnership, agency, or employer-employee between Customer and Seller, and Customer acknowledges that no other facts or relations exist that would create any such relationship with Seller. Customer acknowledges no right of authority to assume or to create any obligation or responsibility on behalf of Seller except as from time to time be provided by written agreement acknowledged by Seller.
4. Quotations. Quotations are based upon continuous production of the quantities specified in Customer's order and are valid for 30 (thirty) days. Customer acknowledges that quotations are unenforceable if initial order is altered or modified or if not accepted by Customer within 30 (thirty) days. All alterations or modifications to quotations, including but not limited to quantity, material, design or feature, must be communicated in writing from Customer to Seller. Customer agrees to reimburse Seller for any and all work performed, whether or not accepted by Customer, at the time of Seller's receipt of written notice of alteration or modification. Customer also assumes liability for all finished goods, materials and components rendered obsolete by Customer's alteration or modification. Quotations are premised on Seller's ability to obtain suitable raw material, and Seller reserves the right to re-quote any parts in the event of a change in material costs or production costs.
5. Credit. All contracts and orders are subject to approval of Seller's credit department and executive office. Seller reserves the right to modify, change or revoke credit terms without notice and may refuse delivery absent cash payment, guarantee, security or pre-payment by Customer if, at Seller's discretion, such arrangement becomes necessary. In such event, Customer agrees to hold Seller harmless and acknowledges that Seller is not in breach of this Agreement.
6. Purchase Orders. Orders may not be cancelled, modified or suspended absent Seller's written consent and upon terms which indemnify and hold Seller harmless against loss.
7. Terminations and Cancellations. All terminations or cancellations shall be in writing. In the event of cancellation or termination by Customer, Customer shall be responsible for all work-in-process, raw material and components received, finished goods, tooling, shipping costs, a fifteen percent (15%) restocking fee and all other costs incurred by Seller prior to receiving written notice. Customer shall remit payment within ten (10) days of acceptance of cancellation or termination and prior to any delivery to Customer of all work-in-process, raw materials, components, finished goods and tooling. If terminated by Seller, termination shall be without prejudice to any other remedies Seller may have, including, but not limited to, remedies with respect to the unperformed balance of any outstanding contract with Customer.
8. Packaging. Unless specified by Customer, all molded items will be packed in bulk. Any specialized packing or boxing instructions are subject to additional charge. Absent Customer's instructions regarding type of packaging for shipment, Seller will use its discretion to select appropriate packaging method.
9. Shipping and Delivery. Seller will make every reasonable effort to arrange for delivery at a mutually agreeable date and time. All shipments are F.O.B. Seller's plant, and liability for loss or damage in transit shall pass to Customer upon Seller's delivery of the goods to a common carrier. With the exception of molds, all special equipment designed by Seller, such as gauges, fixtures and special machinery related to a product, even though paid for by the Customer, shall remain in the possession of and title shall remain in Seller's name. Customer may make shipping and delivery arrangements. Absent Customer's specific instructions, Seller will use its discretion in selection of shipping and delivery. Customer agrees to release and hold Seller harmless for all loss or damage occasioned by any delay whatsoever in shipping or delivery.
10. Inspection and Acceptance. Customer shall inspect all shipments of goods upon arrival and shall notify Seller in writing of any overshipments, shortages, defects or discrepancies. Such notice must be sent in writing to seller within ten (10) business days following delivery. All notifications must be accompanied by packing slips, inspection reports and other documents necessary to support Customer's claim. All overshipments, shortages and defects not timely reported to Seller will be deemed waived by Customer. DELIVERY OF TEN PERCENT (10%) MORE OR LESS THAN THE QUANTITY SPECIFIED HEREIN, OR AS MODIFIED IN WRITING BY THE PARTIES, SHALL CONSTITUTE FULFILLMENT OF CUSTOMER'S ORDER AND SHALL NOT BE CONSIDERED A BREACH OF THIS AGREEMENT OR OF ANY WARRANTY PROVIDED HEREUNDER. Customer shall accept and pay for any excesses not exceeding ten percent (10%) of the quantity specified. Customer shall not be liable for any shortfall of the quantity specified.
11. Force Majeure. Seller shall not be liable for any delay in or impairment of performance resulting in whole or in part from fire, floods, explosions, storms or other catastrophes; strikes, lock-outs or labor disruption; wars, riots or embargoes; orders or actions of any court, agency or other instrumentality of any government; delays, shortages or unavailability of transportation, equipment, fuel, or labor; reduction or unavailability of supplies, products or materials; failure of performance by raw material suppliers, tooling subcontractors, or any other subcontractor upon whom Seller may rely; failure of presupposed conditions, commercial impracticability, or any other circumstance or cause beyond the control of Seller in the reasonable conduct of its business. In the event of any of the conditions listed above, or in the event of any similar condition, Seller shall have the right to suspend delivery or allocate materials among customers in any manner which Seller deems reasonable.
12. Method and Terms of Payment
  - A. Purchase Orders for Tooling. Customer shall pay fifty percent (50%) of purchase price for tooling immediately upon placement of an order, forty percent (40%) upon progress billing and the remainder upon approval and acceptance of a sample. All payments for tooling orders must be received in full (100%) prior to the commencement of any production run. Tooling samples shall be deemed approved by Customer unless written notice of rejection is received by Seller within five (5) days of Customer's receipt. In absence of written approval, Seller's written acknowledgment of Customer's approval is sufficient. Finance charges are imposed on all past due invoices at a rate of 1.5 percent per month (eighteen percent (18%) per annum). Customer will reimburse Seller for all costs of collections, including, but not limited to, damages, costs, and attorneys' fees.
  - B. Purchase Orders for Production Parts. Unless stated otherwise in writing, all invoices for production parts are due thirty (30) days from invoice date. Finance charges are imposed on all past due invoices at a rate of 1.5 percent per month (eighteen percent (18%) per annum). Pro rata payments are due from Customer as partial shipments are made by Seller. If shipments are delayed for any reason by Customer, payments are due from the date on which Seller is prepared to make such shipments. All undisputed invoices shall be paid by Customer regardless of disputes relating to other invoices or other delivered or undelivered products. Customer will reimburse Seller for all costs of collections, including, but not limited to, damages, costs, and attorneys' fees.

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13. Material Selection. Selection of materials, design and usage shall be the sole responsibility of Customer. Any suggestions or recommendations made by Seller regarding materials, design or usage shall not in any way alter or diminish Customer's exclusive responsibility and liability for selection of materials, design or usage. Seller makes no warranty of any kind, whether express or implied, and in fact expressly disclaims any such warranty, regarding selection of materials, design or usage.

14. Samples. The initial sample run shall establish the acceptable standards for Customer's order. Samples shall be deemed approved by Customer unless written notice of rejection is received by Seller within two (2) days of Customer's receipt. In absence of written approval, Seller's written acknowledgement of Customer's approval is sufficient. Production part sampling may be required prior to an initial sample run and Seller may invoice Customer for production part sampling on a time and material basis.

15. Molds and Mold Maintenance. Alterations to molds, dies and tools necessitated by accepted modifications to product specifications shall be at Customer's expense and Customer assumes all risk of resultant damage. Seller shall provide routine maintenance during the normal productive life of molds, tools, dies and other equipment furnished by Customer to Seller or ordered from Seller by Customer for one (1) year after the completion of Customer's most recent production order. Customer expressly acknowledges that Seller shall be responsible for the continued existence or availability of these items for only one (1) year after completion of the production order. Customer assumes complete responsibility for all major revisions, repairs and non-routine maintenance, including without limitation, replacing worn out molds, molds which in Seller's opinion, require greater than routine maintenance and/or produce excessive scrap.

16. Removal of Goods. Molds, tools, components and dies shall not be removed from Seller's facility absent written request. Upon consent of Seller, Customer agrees to pay all costs of said molds, tools, components or dies in addition to delivery expenses, a removal fee, and all other amounts owed to Seller. Customer acknowledges that removal of goods is prohibited until all amounts due to Seller are paid in advance.

17. Insurance. Risk of Loss. Customer shall purchase and maintain product liability and comprehensive general liability insurance to cover claims arising from the use of products into which Customer incorporated Seller's products. Said insurance shall extend to Seller and Seller's employees, agents, representatives and subcontractors. Seller's failure to require proof of said insurance shall not constitute a waiver of this requirement. Customer is responsible for all risk of loss to molds, work-in-process, and finished goods while in the possession of Seller or its agents or subcontractors.

18. Liens and Repossession. In consideration of the engineering service necessary in putting molds into production, molds shall remain in Seller's possession for at least eighteen (18) months following the first production run. Seller is hereby granted a security interest and lien on molds, dies, tools, components, parts, materials, inventory and other goods in Seller's or Customer's possession. Said security interest and lien shall be security for payment of all goods or services, including but not limited to work-in-process and materials ordered for production, for which Seller has not been paid, whether invoiced or not. If Customer fails to pay the full purchase price of goods or services, Seller shall have the right to repossess the unpaid goods or, at Seller's discretion, exchange them with a quantity of goods whose value is equal to the outstanding sum. The value of the goods is determined by the Seller's choice of the raw material cost or the invoice price of the goods. Said security interest and lien are in addition to all statutory lien rights, causes of action and remedies to which Seller is entitled.

19. Inserts. Inserts supplied by Customer shall be subject to Seller's approval. Customer is responsible for all costs related to inserts, including but not limited to, shipping, handling, and returns. Customer shall provide a quantity of inserts which exceeds the amount of molded products by ten percent (10%). Seller is not liable for damages to molds, tools or molded parts caused by any Customer-supplied inserts.

20. Finish. Absent written agreement otherwise, the finish and polish of molded parts shall include only such finish or polish as is derived from the molding process, and any machining, assembly or other finishing operations are not included in this Agreement.

21. Gauges. Absent written agreement otherwise, gauges, if required, shall be furnished by Customer. Tolerances are within plus or minus .010 inch unless otherwise requested and agreed to in writing by Seller.

22. Components Supplied by Customer. All components supplied to Seller by Customer shall be delivered F.O.B. Seller's facility and Customer shall provide to Seller an additional ten percent (10%) of the amount of components required to produce the order for molded pieces. All design and configuration is subject to Seller's approval. Customer agrees to hold Seller harmless for any damage to molds caused by components or from any damages to the molded parts for which the components were furnished. Customer also agrees to indemnify Seller for all damage to Seller's equipment caused from said components.

23. Disposition of Obsolete Equipment. In the event that Customer does not request the return of any mold, tool, component or other equipment from Seller in writing after three (3) years from the date of last production run, Customer acknowledges and agrees that all rights and title to such equipment is transferred to Seller by operation of Minn. Stat. § 345.20 and that Seller may destroy or otherwise dispose of said equipment.

24. Unpaid Accounts. If Customer's account for molds, tools or parts remains open and unpaid for more than ninety (90) days, Seller shall have the right to make and sell parts from such Customer's molds or tools.

25. Patents or Trademarks. Customer warrants that it has all appropriate licenses or permissions for any products which it requests Seller to manufacture and that Seller is authorized to manufacture such products. Customer further warrants that it is solely responsible for any license fees or royalties which must be paid. Customer shall indemnify and hold Seller harmless against any claims or liability for patent or trademark infringement on account of products manufactured by Seller to Customer's specifications.

26. Warranties, Remedies and Limitation of Damages. Seller warrants that products manufactured pursuant to this Agreement will conform to applicable drawings and specifications, if any, and will be free from defects in material and workmanship. This warranty does not extend to any of Seller's products which have been subject to misuse, accident, alteration or additional operation. THERE ARE NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY IMPLIED WARRANTY OF FITNESS.

CUSTOMER'S REMEDIES WITH RESPECT TO ANY CLAIM ARISING OUT OF ANY ORDER OR SELLER'S PERFORMANCE, INCLUDING, WITHOUT LIMITATION, ANY CLAIM ARISING OUT OF ANY ALLEGED DEFECT IN ANY GOODS OR SERVICES FURNISHED BY SELLER, SHALL BE THE RIGHT OF REPLACEMENT OF SUCH GOODS OR SERVICES OR THE REPAYMENT OF THE PURCHASE PRICE, AT SELLER'S OPTION. SELLER IS NOT LIABLE FOR ANY LOSSES, COSTS OR DAMAGES (INCLUDING LOSS OF PROFITS, LOSS OF GOOD WILL, INTEREST, LOSSES OR INCREASED EXPENSES DUE TO WORK STOPPAGE, SHUTDOWN OR NON-OPERATION, IMPAIRMENT OF OTHER GOODS, COST OF REPLACEMENT PRODUCTS, LIABILITIES OF CUSTOMER OR THIRD PARTIES, AND ALL OTHER CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES), WHETHER DIRECT OR INDIRECT, WHETHER BASED ON CONTRACT, WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHERWISE, WHETHER OR NOT RESULTING FROM OR

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CONTRIBUTED TO BY THE DEFAULT OR NEGLIGENCE OF SELLER, ITS AGENTS OR EMPLOYEES, WHICH MIGHT BE CLAIMED AS A RESULT OF THE DEFECT IN, USE OF OR DELAY IN THE PRODUCTION OF PRODUCT.

27. Indemnification. Customer agrees to defend, indemnify and hold harmless the Seller, its employees, agents, representatives and subcontractors from and against any and all claims, lawsuits, actions, losses, liabilities, damages, judgments, costs, attorneys' fees or any other expenses of any kind whatsoever arising out of or related to any product manufactured, designed or produced by Customer and into which Customer (or another party at Customer's direction) incorporated or intended to incorporate the product manufactured by Seller. This provision applies to all claims and actions, whether based in strict liability, Customer's or Seller's negligence, breach of implied or express warranty, infringement of patents or trademarks, or any other legal theory. Customer agrees that said defense will be provided by counsel of Seller's choice.

28. Taxes. Seller's prices include no applicable federal, state, or local taxes. Customer is responsible for any tax, excise (manufacturer's or otherwise), inspection fee, duty (import or export), license fee (import, export, or otherwise), tonnage charge, assessment, or other tax, fee, assessment, or charge which is levied, assessed or imposed by federal, state, or local authorities that Seller may be required to collect under any law now or hereafter enacted relative to the goods, materials, tools or services purchased from Seller and Customer expressly acknowledges to pay such tax upon written demand.

29. Assignment. Customer may not assign this Agreement with Seller absent Seller's written consent.

30. Governing Law. This Agreement and any contracts based thereon shall be governed and construed under the laws of the State of Minnesota.

31. Complete Agreement. This Agreement constitutes the entire agreement between Customer and Seller with respect to any order. No oral promises, agreements, or warranties shall be deemed a part hereof, nor shall any addition to, amendment or variation from this Agreement, or waiver of any terms and conditions hereof, whether contained in Customer's purchase order, any shipping release or elsewhere, shall be binding upon Seller unless expressly agreed to in writing signed by Seller. Seller objects to and shall not be bound to any past or future terms or conditions not set forth herein, including, any additional terms shown on Customer's purchase order, any shipping release or elsewhere, which order, release, or other documents shall be accepted for billing purposes only, any inconsistencies therein with the provisions hereof being null and void. No agent, employee, or representative of the Seller has any authority to bind the Seller to any affirmation, representation, or warranty concerning the goods sold under this Agreement, and unless such is specifically included within this Agreement, it shall not be enforceable by Customer.

32. Severability. If any one or more of the provisions hereof shall for any reason be held invalid, illegal or unenforceable, the remaining provisions shall continue in full force and effect.

07.08.2016 Imperial Plastics, Inc.  
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