



# *Imperial Metal Products Company*

## Purchase Order Terms and Conditions

- 1. ACCEPTANCE.** This Purchase Order constitutes an offer of purchase that may be accepted only on the terms and conditions stated on the face and reverse sides hereof. Any additional, different or inconsistent terms or conditions contained in any form of acknowledgment, acceptance or confirmation used by Seller are unacceptable to Buyer, are expressly rejected by Buyer, and shall not become a part of this Purchase Order. Any form of expression of acceptance from Seller will constitute acceptance exclusively on the terms and conditions stated herein, and Seller should reject this Purchase Order in its entirety unless all of such terms and conditions are acceptable. Any modification to this Purchase Order shall be made in accordance with Section 11 below.
- 2. QUANTITY AND PRICES.** This Purchase Order must not be filled in greater quantities or at prices higher than shown without written approval of an authorized representative of Buyer (except for customary quantity variations recognized by industry trade practices), and Seller shall bear the costs incurred in connection with the return of any over shipment. Prices shown on the face hereof shall be the total price payable for the specified goods and/or services. No charge shall be made by Seller for packing, freight, taxes, storage or other additional charges, unless and to the extent specified on the face hereof.
- 3. INSPECTION.** All goods or parts thereof shall be subject to inspection by Buyer for a reasonable period (which in no event will be less than thirty (30) days) after receipt, except that Buyer may reject the goods and hold Seller in default if, any time after inspection by Buyer, Buyer discovers a defect not normally discoverable until the goods are used in or integrated into production. Payment shall not constitute final acceptance of the goods, nor shall it constitute a waiver of Buyer's right to inspect and reject the goods.
- 4. DELIVERIES.** If a delivery date, delivery schedule or other time schedule for Seller's performance has been stated on the face hereof, deliveries shall be made at the time(s) and in the quantities specified, time being of the essence in all such cases. Buyer reserves the right to change or temporarily suspend any scheduled performance by seller by giving Seller reasonable advance notice.
- 5. AEROSPACE AND RELATED PURCHASES.** Whenever Buyer specifies, or Seller knows or should know, that a Purchase Order is for an aerospace application, component or project (or contains some similar aerospace/AS9100 reference), Seller shall maintain quality and production systems that comply with AS9100 standards and requirements. These include, but are not limited to: (i) no modification or change to a product and/or process shall be made without written approval from an authorized representative of Buyer; (ii) Buyer, its customers, and regulatory authorities retain the right of access to all Seller facilities involved in this Purchase Order and the right to examine any directly pertinent documents, drawings and other records of Seller involving transactions related to this Purchase Order; and (iii) Seller shall flow down to sub-tier suppliers the applicable requirements of this Purchase Order, including those specifically referenced in this Section.
- 6. PATENTS.** Seller represents and warrants that the goods described herein do not infringe on any patent, trademark or other intellectual property right of a third party. Seller shall indemnify, defend and hold harmless Buyer and its customers from and against all demands, claims, suits liabilities, damages, judgments, costs and expenses, including attorneys fees, resulting from an alleged infringement of any patent, trademark or other intellectual property right of a third party with respect to the goods supplied pursuant to this Purchase Order.
- 7. WARRANTIES.** All goods supplied and work performed pursuant to this Purchase Order shall conform to all applicable drawings, specifications, descriptions, and samples furnished to or supplied by Seller; shall be free from defects in design, material, workmanship and title; and shall be of merchantable

quality and fit for the intended purpose within the meaning of the Uniform Commercial Code. There shall be no exclusion of liability for incidental, consequential or special damages, or other limitation of remedies available to Buyer in the case of Seller's breach of warranty or any other provision of this Purchase Order.

- 8. REJECTION.** If Buyer rejects or revokes its acceptance of any goods or work supplied pursuant to this Purchase Order, the rejected goods will be held for Seller's instructions and at Seller's risk. Rejected material shall not be replaced without a prior authorization from Buyer. Buyer reserves the right to make use of rejected material in such manner as it deems advisable or necessary to meet Buyer's contractual obligations to its customers, without waiving any right or remedy it may have against Seller with respect to such rejected goods.
- 9. CANCELLATION.** Buyer reserves the right to cancel this Purchase Order, in whole or in part, without cause, at any time prior to delivery, by written notice to Seller. Upon such cancellation, and if such goods are manufactured specifically for Buyer and not saleable to others in the ordinary course of business, then Buyer shall reimburse Seller for costs reasonably and necessarily incurred by Seller in performance of this Purchase Order of the following types: costs of direct labor and materials for all completed goods and work in process less salvage value, and costs of materials procured specifically for this Purchase Order that are not subject to cancellation by Seller and that are not standard items usable in other applications, less salvage value. Any claim on account of cancellation by Buyer must be submitted to Buyer within thirty (30) days of the date of notice of cancellation and must be supported by cost data in such form and detail as may be reasonably requested by Buyer.
- 10. GOVERNING LAW.** The transactions reflected by this Purchase Order shall be governed by and interpreted in accordance with the laws of the state of Michigan. Any legal action or dispute with respect to the transactions contemplated by this Purchase Order or the subject matter hereof shall be subject to the exclusive personal jurisdiction of the state courts located in Kent County, Michigan, and if federal jurisdiction is appropriate, to the federal courts located in the Western District of Michigan, and Seller and Buyer consent to such jurisdiction.
- 11. MODIFICATION.** The terms and conditions of this Purchase Order may be modified only by the issuance of a supplementary Purchase Order by Buyer's purchasing department, or other written instrument signed by an authorized representative of Seller's executive management department.
- 12. FORCE MAJEURE.** Neither party shall be deemed in default or otherwise responsible for delays or failures in performance resulting from acts of God, acts of war or civil disturbance, epidemics, governmental action, fires, earthquakes or similar natural disasters, unavailability of power or communication, or other similar unexpected events or causes beyond a party's reasonable control.
- 13. INDEMNIFICATION.** Seller shall indemnify, defend and hold harmless Buyer and its members, officers, directors, employees, agents, successors and assigns from and against all losses, costs, expenses, damages, claims, suits or liabilities of any kind including, but not limited to, attorneys fees through all appellate levels and any incidental, consequential or special damages that arise out of the performance or failure to perform under this Purchase Order, fulfillment of Seller's obligations hereunder and/or breach of any term or condition hereof.
- 14. ASSIGNMENT.** No assignment of this Purchase Order or of any right or obligation under this Purchase Order shall be made by either party without the prior written consent of the other party. In the event of a permitted assignment, this Purchase Order shall be binding upon and inure to the benefit of that party's successors and assigns.
- 15. RISK OF LOSS.** Title and risk of loss with respect to the goods specified herein shall remain with Seller until such goods are delivered, inspected and accepted by Buyer at the location specified on the face

hereof. Seller shall ship goods F.O.B. destination unless otherwise specified on the face of this Purchase Order.

- 16. ENTIRE AGREEMENT.** This Purchase Order represents the entire agreement of the parties with respect to the subject matter contained herein. All of the terms and conditions set forth on the face and reverse side of this Purchase Order are an integral part of any purchase and sale, supersede any contrary provisions in quotation form or proposal, and may not be varied or modified in any manner, except by a subsequent writing signed by authorized representatives of both Buyer and Seller.
- 17. NO IMPLIED WAIVER.** The failure of either party at any time to require performance by the other party of any provision of this Purchase Order shall not affect the right to require such performance at any time thereafter, nor shall a waiver by either party of a breach of any provision of this Purchase Order constitute a waiver of any succeeding breach of the same or any other provision.
- 18. SEVERABILITY.** If any term of this Purchase Order is invalid or unenforceable under any statute, regulation, ordinance or other governmental or judicial order, such term shall be deemed reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance or other governmental or judicial order, and the remaining provisions of this Purchase Order shall remain in full force and effect.