

**STANDARD TERMS AND CONDITIONS APPLYING TO QUOTATIONS AND SALES  
OF MACHINERY OF IMMCO, LLC  
7516 Whitepine Road  
Richmond, VA 23237**

All machinery, equipment, products, materials, parts, goods and services, etc. (referred to herein collectively as "Machinery"), manufactured or supplied by IMMCO, LLC ("IMMCO"), and all IMMCO quotations and sales are conditioned on assent to the following standard terms and conditions of sale, which may not be varied or waived except by express written agreement signed by a duly authorized officer of IMMCO.

**1. Price.** Quotations are firm as to price for shipments occurring within thirty (30) days from the date of quotation unless specifically stated otherwise. After thirty days, the price is subject to modification by IMMCO at any time prior to IMMCO's acceptance of the customer's order. Quotations are subject to change upon any revision in the specifications for the Machinery quoted. All quotations and orders are subject to the terms, conditions, or requirements of such existing and future Federal, state and local laws, regulations, and orders as may be applicable, and right is reserved to cancel, make adjustment in price, delivery, or otherwise in conformance therewith. IMMCO reserves the right to correct typographical, clerical and other errors.

**2. Taxes.** In addition to the purchase price, the customer shall pay the gross amount of any present or future sales, use, excise, valued-added, or other similar taxes applicable to the purchase, sale or delivery of the Machinery.

**3. Delivery.** Delivery dates are approximate and are based upon prompt receipt of all necessary information from the customer. Delivery shall be F.O.B. IMMCO's plant in Richmond, Virginia, unless otherwise specified in IMMCO's written quotation. Standard terms, conditions, and freight allowances by carriers shall prevail on all deliveries. No claims (for errors, shortage, or otherwise) will be allowed if not made within five (5) days after receipt of the Machinery. If the customer requests a delay in time of delivery, then IMMCO shall ascertain, and the customer agrees to pay, all charges for packing, storing, and insuring the Machinery for the period of such delay.

**4. Payment.** Terms of payment are net cash thirty (30) days from the date of invoice unless otherwise stated on IMMCO's written quotation or in a written agreement between IMMCO and the customer, payable in currency of the United States of America. IMMCO may decline to make delivery on a customer's order, unless cash payment is received prior to shipment, whenever it, for any reason, shall have doubts as to the customer's financial condition or ability to pay. IMMCO reserves the right to require the customer to execute a security agreement and Uniform Commercial Code financing statement in favor of IMMCO if any portion of the purchase price is not paid prior to shipment. If a customer fails to fulfill the terms of payment under any of its outstanding orders and/or with respect to any prior purchases, IMMCO may require advance cash payment to be made on any orders, and it may cancel any orders from the customer which are outstanding, all at IMMCO's option. IMMCO will be entitled to recover all costs involved in collection (including reasonable attorney's fees). On late payments, the unpaid contract price shall accrue interest, without prejudice to IMMCO's right to immediate payment, at 1-1/2% per month on any unpaid balance (18% annual rate, but not to exceed the maximum permitted by law), until paid in full.

**5. Title and Risk of Loss.** Title to the Machinery and risk of loss or damage shall pass to the customer upon placing the Machinery with a carrier F.O.B. point of shipment; provided, however, that IMMCO shall retain a security interest in the Machinery and its proceeds (including insurance proceeds) to secure full payment of the purchase price and other proper charges.

**6. Warranty.** IMMCO warrants that the Machinery shall be in conformity with the specification set forth in the written quotation. IMMCO warrants products of its manufacture to be free from defects in materials or workmanship in normal use for one year from the date of shipment or 2000 machine hours (whichever occurs first), unless a shorter period is provided elsewhere in this document. IMMCO's obligation and the customer's exclusive remedy shall be limited to the repair or replacement, at IMMCO's option, of defective parts within the warranty period, provided the customer gives IMMCO immediate written notice of such alleged defects, and, if requested by IMMCO, returns the defective parts to IMMCO's factory, with freight and return freight prepaid by the customer, for IMMCO's inspection. Factory service required for replacement or repair of defective parts will be charged at a rate as established by IMMCO from time to time plus expenses with charges to begin as stated below.

Engineering assistance, personnel training and subsequent service requiring a qualified service engineer shall be charged at a daily rate established by the authorized service representative, plus expenses. These service charges will begin at point of boarding and end with return home of authorized service representative.

IMMCO shall in no event be liable for loss of time, material, or any other incidental or consequential damages. Warranties hereunder shall **not** apply to any equipment that has been damaged by misuse, neglect, failure to perform maintenance, or accident after the shipment thereof by IMMCO. In addition thereto, this warranty shall be null and void: (1) if the machine is used in a manner contrary to instructions or after malfunction is noticed, (2) if the customer does not honor terms of this agreement, or (3) if the machine or accompanying computer software (if any) is modified or altered without the written agreement of IMMCO.

IMMCO's responsibility does not extend to any item or part of the Machinery that has not been manufactured by IMMCO. Any such item or part shall be covered only by the express warranty, if any, of the manufacturer thereof. IMMCO and its suppliers shall also have no responsibility if the Machinery has not been operated or maintained according to its rating or according to instructions in IMMCO or supplier furnished manuals, or if unauthorized repairs or modifications have been made to the Machinery.

**THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES (EXCEPT TITLE), INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE, AND CONSTITUTES THE ONLY WARRANTY OF IMMCO WITH RESPECT TO THE MACHINERY. THIS WARRANTY IS VOID IF MACHINERY IS NOT INSTALLED BY A FACTORY AUTHORIZED SERVICE REPRESENTATIVE (REFER TO INSTALLATION CHECKLIST AND LIST OF AUTHORIZED SERVICE REPRESENTATIVES).**

The foregoing states the customer's exclusive remedy against IMMCO and its suppliers for any defect in the Machinery or for failure of the Machinery to be as warranted, whether the customer's remedy is based on contract, warranty, failure to achieve its essential purposes, tort (including negligence), indemnity or otherwise, and whether arising out of warranties, representations, instructions, installations or defects from any cause.

**7. Patents.** IMMCO shall pay costs and damages finally awarded in any suit against the customer to the extent based upon a finding that the design or construction of the Machinery as furnished infringes a United States patent (except infringement occurring as a result of incorporating a design or modification at the customer's request), provided that the customer promptly notifies IMMCO of any charge of infringement, and IMMCO is given the right at its expense to settle such charge and to defend or control the defense of any suit based upon such charge. This paragraph sets forth IMMCO's entire liability with respect to patents.

**8. Noncancellation.** Upon acceptance of the attached quotation, the customer may not cancel or terminate for convenience, or directly suspend manufacture, except with IMMCO's written consent and then only upon terms that will compensate IMMCO for its engineering, fabrication, storage and purchasing charges and any other costs (including, without limitation, burden, imputed and indirect expenses) relating to such cancellation, termination or suspension, plus twenty percent (20%) of such costs.

**9. Force Majeure.** IMMCO shall not be liable for failure to perform or any delay in performance due to fires, floods, wars, national emergencies, riots, strikes or labor trouble, embargo, fuel or energy shortage, acts of God, late or non-delivery by IMMCO's suppliers, lack of shipping space, assertion by third parties of infringement claims, domestic and foreign governmental actions and regulations, or any other causes beyond IMMCO's control. In the event of delay in performance due to any such cause, the date of delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay.

**10. Limitation of Liability.** In no event shall IMMCO or its suppliers be liable, whether in contract, warranty, failure of a remedy to achieve its essential purpose, tort (including negligence), indemnity or otherwise, for damages or loss of other property or equipment, loss of use, revenue or profit, cost of capital or of substitute use of performance, or for any special indirect, incidental or consequential damages, or for other loss or cost of a similar type, or for claims by the customer for damages of its customer.

**11. Compliance with Laws.** IMMCO will comply with all laws applicable to IMMCO during manufacture and sale of the Machinery. The customer will comply with all laws applicable to the customer during operation and use of the Machinery.

**12. Severability.** The invalidity or unenforceability of any provision herein shall not affect the validity or enforceability of any other provision.

**13. Governing Law.** The validity, performance and all matters relating to the interpretation and enforcement of an agreement between IMMCO and the customer shall be governed by the laws of the Commonwealth of Virginia, exclusive of its conflict of laws provisions.

**14. No Other Terms.** IMMCO objects to, and shall not be bound by, any terms or conditions on the customer's memorandum, acknowledgement, invoice and/or purchase order which attempt to impose on IMMCO any terms and conditions at variance with or materially different from IMMCO's terms and conditions as set forth herein. Further, the terms and conditions set forth herein are intended to be complete and exclusive of any additional terms and conditions, and cannot be subsequently amended, modified or changed, except in writing signed by a duly authorized officer of IMMCO.

**15. Exclusive Jurisdiction and Venue.** By acceptance of this price quotation, the customer consents to jurisdiction and venue in the Federal District Court for the Eastern District of Virginia (Richmond Division) and the Circuit Court of the County of Chesterfield, Virginia, and agrees that such courts shall have exclusive jurisdiction and venue for any action or proceeding, whether legal or equitable, brought by the customer in connection with the Machinery. The customer waives trial by jury and all rights to institute legal or equitable actions or proceedings in any courts other than those identified in the preceding sentence.