



Industrial Fiberglass Specialties, Inc.

521 Kiser Street
Dayton, Ohio 45404-1641
(937) 222-9000
FAX: (937) 222-9020

Standard Terms and Conditions

1. Unless otherwise provided in this **Quotation**, an order shall be considered as a **Contract** when this **Quotation** is accepted and returned by **Buyer** within the specified time allowed and is subsequently acknowledged in writing by **Seller**, or by **Seller's** commencement of performance hereunder. If the mode of acceptance of this **Quotation** is by use of **Buyer's** Purchase Order form, or by other writing initiated by **Buyer**, it is expressly understood and agreed that the terms and conditions herein set forth shall prevail insofar as the same may in any way conflict with the instructions, terms or conditions set forth in such Purchase Order form, or in writing, and the issuance of such Purchase Order form, or written order shall be deemed to signify **Buyer's** assent to the foregoing.
2. Any and all technical data, specifications, and drawings included with this **Quotation**, and the **Quotation** itself, are supplied by **Seller** with the understanding that they are for **Buyer's confidential use** for evaluating this Quotation; and are **Not** to be used by, reproduced, or shown to third parties without written permission of the **Seller**. In the event that no contract or sale results from this Quotation, the **Seller** may, at its option, request return of any or all printed information supplied to the prospective **Buyer**. Failure to return said documents, when requested, will make the prospective **Buyer** liable for an amount equal to ten percent (10%) of this Quotation, as compensation for engineering services.
3. The issuance of this document does not guarantee the quantities and specifications as shown herein to be in exact accord with job plans. The **Buyer** is to confirm quantities and acceptance of our specifications for suitability for the project. This contract may be changed by a modification, in writing, signed by both **Seller** and **Buyer**.
4. **Seller's** prices, as stated herein, **do not** include Sales, Use, Excise or Similar Taxes which **Seller** may be required to pay or collect as a result of this sale (Ohio only). Ohio **Buyers** shall pay such taxes, as billed by **Seller**, or **Buyer** shall promptly provided the **Seller** with a **Tax Exemption Certificate** acceptable to the approximate taxing authorities. Those **Buyers** located out of Ohio will direct pay all Use, Sales and Similar Taxes.
5. All prices and products are F.O.B. **Shipping Point**, with freight costs being collect, prepaid or allowed as specified on the **Quotation**.
6. All Orders accepted for delivery via **Seller's** Trucks will be to the closest point at job site in **Seller's** discretion that the truck can reach under its own power without endangering the equipment. In the event delivery by **Seller's** truck is not feasible, in **Seller's** judgement, material shall be shipped by best available means at **Seller's** discretion, to the nearest dock or siding to the project. No allowance will be made by **Seller** for hauling materials from dock or siding to job site.
7. **Buyer** will furnish, at **Buyer's** expense, labor and equipment for promptly unloading trucks and/or freight cars.
8. Every shipment on which **Buyer** or his Receiving Agent has given clear delivery receipt will be deemed delivered, **as recorded**; and **no claims** for shortages or breakage will be allowed thereafter. If shortages or breakage occur in transit, it shall be the **Buyer's** duty to have notation of said shortage or breakage made on the freight bill or delivery receipt before signing for receipt of material. Claims for errors or breakage of materials delivered on **Seller's** truck must be filed with **Seller** in writing within five (5) days after delivery. If delivery is via Commercial Common Carrier it is the **Buyer's** responsibility to file claim with the Carrier.
9. **Seller** shall not be responsible nor liable in any manner for delay(s) in performance of this contract that are due to an Act of God, war, riot, fire, explosion, unusual weather conditions, flooding, equipment breakdown, labor disturbance, or injunction; or to **Seller's** inability to obtain fuel, power, raw materials, component parts or accessories, or transportation service; or to breakage of and damages incurred to goods in transit; or any other cause beyond the **reasonable control of the Seller**. When it is determined that such delay(s) may occur, **Seller** will notify **Buyer**, when feasible, of such delay(s).
10. If **Seller's** performance is delayed more than twenty (20) days at **Buyer's** request, and **Seller** must hold goods in storage, **Seller** may require **Buyer** to make an advance payment of 80% of the total contract amount.

Title to the goods shall remain with the **Seller** until **Buyer** actually receives the goods.

11. No materials shall be returned for credit without prior written authorization and approval of the **Seller**. Such returns will be in accordance with the **Seller's** published return policy then in effect.
12. Contract, after acceptance by **Seller**, is not subject to cancellation by **Buyer** except prior to shipment and then only by the payment to **Seller** by **Buyer** of an amount equal to the cost of labor, overhead, and materials used, plus 17% of sales price as liquidated damages, which the **Buyer** hereby agrees to pay. Orders for special sizes, shapes, or designed equipment are **not** cancelable by **Buyer**.
13. Supervision of installation, training and/or initial operation are not included, unless specified in the **Quotation**. If required, **Seller** will furnish a factory trained supervisor at a daily fee, for servicing and travel time, plus travel expenses. Such field support will be in accordance with the **Seller's** published field service rates and policies then in effect.
14. **LIMITED WARRANTY**: **Seller** warrants all goods manufactured by it to be free from defective workmanship for a period of one (1) year from the date of shipment or within the time period as specified on applicable **Seller's** product warranty. **Seller's** liability for breach of its warranty, or for negligence, and **Buyer's** sole and exclusive remedy for any such breach is expressly limited to one of the following, to be selected by **Seller**. (A) Replacement at the agreed point of delivery of any goods found to be defective, or (B) Repair of such goods; or (C) Refund, or Credit to **Buyer**, the price of such goods. **Seller** has the option to require **Buyer** to return any defective goods and failure to return said goods when so requested shall make the **Buyer** liable for payment thereof. Notwithstanding the provisions of any applicable statute, the remedies available to the **Buyer** as set forth in this contract are exclusive remedies. All other remedies, statutory or otherwise, are hereby waived by the **Buyer** and **Buyer** further acknowledges that the exclusion of remedies is neither unreasonable nor unconscionable. **Seller** shall not be liable for consequential damages directly or indirectly arising or resulting from the breach of any terms of this agreement, or from the sale, installation, handling, or use of the goods sold. **This warranty is expressly in lieu of any other warranties, express or implied, including any implied warranty of merchantability or fitness for any particular purpose, and of any other obligation of liability on the part of the Seller.**
15. Both **Buyer** and **Seller** represent that they are **Merchants** with respect to the subject goods. No

agent, employee or representative of the **Seller** made, or had any authority to bind the **Seller** by, any warranty, representation, or affirmation concerning the goods. **Buyer** acknowledges that no such affirmation, warranty, or representation has been made, none has been relied upon, and none forms the basis of this bargain.

16. All invoices are **payable in full when due**, with **no retainage** allowed. Payment to **Seller** is **not contingent** upon **Buyer's** receipt of payment from others. Acceptance and performance of this contract is subject to the continuing approval of **Seller's** Credit Department. Failure to pay invoices when due makes all subsequent invoices due and payable, irrespective of terms, and the **Seller** may withhold all subsequent performances or deliveries until the full account is settled. **Seller's** pricing and goods and services provided under this contract are based upon receipt of payment in accordance with the payment terms as specified. Any invoices, or parts thereof, remaining unpaid **after the due date** shown on the face thereof, shall be subject to **liquidating damages of 2% per month until paid** to offset **Seller's** additional Collection and Accounting costs, unless prohibited by applicable state law. **Buyer** further expressly agrees to pay all Court Costs and Expenses, including reasonable Attorney's Fees, that may be incurred in legal proceedings to collect past due amounts.
17. This contract and the performance thereof shall be in compliance to the best of both **Buyer's** and **Seller's** knowledge and abilities, with all known and applicable existing Federal, State and Local Governmental Laws, Regulations and Rules. The terms of this **Agreement** are intended for general use in the United States. If any of the terms and provisions hereof are in violation of or prohibited by any law, statute or ordinance of the State or City where it is used, such terms and provisions shall be of no force and effect to the extent of such violation or prohibition without invalidating any other of the terms and provisions of this **Agreement**.
18. All payments by **Buyer** to **Seller** shall be due and payable at **Seller's** principal office at:

Industrial Fiberglass Specialties, Inc.
521 Kiser Street
Dayton, Ohio 45404-1641
(937) 222-9000 - FAX (937) 222-9020