

Terms and Conditions of Sale

1. QUOTATIONS Seller may make quotations verbally or in writing. Verbal quotations shall expire automatically unless Seller receives Buyer's purchase order number on the day the quotation is made. Written quotations shall expire automatically unless Seller receives Buyer's written purchase order within 30 days after the date appearing on the quotation. No quotation is to operate as an offer to sell but only as a description of products. Accordingly, even prior to its expiration date, any quotation is subject to change by Seller at any time upon verbal or written notice to Buyer. All quotations are deemed to incorporate Seller's Standard Terms and Conditions of Sale.

2. ACCEPTANCE OF PURCHASE ORDERS Notwithstanding any contrary language contained in Buyer's purchase order, each purchase order shall be subject to acceptance by an authorized employee of Seller's plant, and each purchase and sale transaction shall be governed exclusively by these Standard Terms and Conditions of Sale. Seller reserves the right at anytime before delivery and payment to correct clerical, stenographic or other errors in quotations, purchase orders or acknowledgments.

3. PRICE POLICY Regardless of prices set forth in quotations or elsewhere, Buyer shall pay a purchase price equal to the price shown on the Seller's acknowledgment. If the Seller agrees to delay the shipment beyond the shipment date shown on the Seller's acknowledgment at the request of the Buyer; the price will be increased by 1% above the acknowledgment price for each month or fraction thereof that elapses between the original acknowledgment shipping date and the actual shipping date.

4. MINIMUM BILLING The minimum billing for each purchase order shall be \$100.00 net.

5. TAXES Any and all sales, use, personal property or other excise taxes which the Seller may be required to pay or collect including first destination taxes, will be added to each invoice and shall be payable by Buyer on the same terms as the purchase price unless the Buyer has furnished the Seller a tax exemption certificate acceptable to the taxing authority.

6. PAYMENT TERMS Payment terms shall be net 30 days for customers with approved credit. However, on large orders or custom orders, the payment terms shall be as specified by Seller at time of quotation.

7. SHIPPING TERMS Except as otherwise agreed, Seller shall be entitled to select carrier and make delivery in more than one shipment, in which event, Buyer shall pay separately for each partial shipment. All shipments shall be made F.O.B. point of shipment. Seller may prepay freight, which shall be billed to Buyer as a separate item on the product invoice at Seller's standard rates applicable to the destination, or at Seller's option, shipment shall be made freight collect.

8. PACKAGING At no additional charge, all products shall be packaged for domestic shipment in accordance with Seller's standard specifications. Additional charge shall be made if Buyer specifies special domestic packaging, packaging in accordance with military or government standards, overseas packaging or other special packaging. Refer to Seller's plant, nearest sales office or representative for further information.

9. TITLE AND RISK OF LOSS Risk of loss in transit shall be borne entirely by Buyer at all times after the products are delivered to the carrier for shipment. However, title to the products and right to stop delivery in transit shall remain with Seller until Seller receives payment in full.

10. DELAYS OR DEFAULT IN DELIVERY Seller shall have no liability to Buyer, and Buyer shall not be entitled to cancel any purchase order for Seller's delay or default in delivery due to strikes, secondary boycotts, riots, wars, accidents, fires, floods, explosions, vandalism, government embargos, priorities, or regulations, shortages of labor, fuel, materials, supplies, power or transportation facilities, or other similar or dissimilar causes beyond Seller's reasonable control. Under no circumstances shall Seller have any liability for penalties or consequential damages of any kind resulting in whole or in part from Seller's delay in delivering, or failure to deliver any products ordered by Buyer.

11. CHANGES TO ORDERS IN PROCESS There shall be a charge for any and all changes in specification after an order is in process, based on the status of the order at the time the change is made. The additional charge shall be a minimum of \$100 net per item when engineering has not been started or is not required and a minimum of \$500 net per item when re-engineering is required. The additional charge shall be in addition to any change in the price of the product resulting from the change in specification. The order "Issue Date" will be moved forward to the date of the change and shipment will be rescheduled in accordance with the then current lead times. Buyer shall pay escalation charges based on the new "Issue Date" and scheduled shipping date as defined in Seller's acknowledgment.

12. CANCELLATION After Seller accepts Buyer's purchase order by mailing Seller's written acknowledgment, Buyer's cancellation of any order or portion thereof may be accomplished only upon (I) Seller's receipt of written cancellation notice at Seller's plant (cancellation notice by fax or telephone will be deemed only as authorization for Seller temporarily to suspend performance on Buyer's order pending written confirmation of cancellation) and (II) Buyer's payment of the following cancellation charges.

- (a) As to products that are within 30 calendar days of completion on the date when Seller receives written cancellation notice, cancellation charges shall be an amount equal to the full contract price paid according to the payment terms described above less such freight and other expenses that Seller is saved by virtue of cancellation. Seller's failure to complete the manufacture of any products within 30 calendar days (except as otherwise agreed) shall constitute prime facie evidence that such products were not within 30 calendar days of completion when cancellation notice was received.
- (b) As to products that are in production, but not within 30 calendar days of completion on the date when Seller receives written cancellation notice, cancellation charges shall be an amount equal to the total of (i) Seller's actual cost of labor, materials, and supplies purchased for the production of the canceled products, (ii) applicable overhead costs (determined in accordance with generally accepted accounting principles) and (iii) 15% of the total of

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- (i) and (ii) but in no case shall such cancellation charges exceed 90% of the agreed purchase price of such products.
- (c) As to products that are not yet in production, but for which Seller has purchased materials or supplies (or made commitments to do so) on the date when Seller receives written cancellation notice, cancellation charges shall be an amount equal to (i) Seller's actual cost of such materials and supplies plus (ii) 15% of such amount.
- (d) As to products for which Seller has not yet purchased materials or supplies (or made commitments to do so) on the date when Seller receives written cancellation notice, cancellation charges shall be an amount equal to (i) a reasonable charge for order entry, (ii) any expenses or commitment incurred by Seller prior to date of cancellation and restocking charges) that Seller incurs or will incur on or after the date of cancellation in respect of Buyer's order.
- (e) Notwithstanding anything to the contrary contained herein, the minimum cancellation charges for products shall be the amount equal to \$100.00 per line item or \$500.00 complete order. With respect to all costs and expenses described in (a), (b), (c) and (d) above. Seller shall provide such substantiating documentation as Buyer may reasonably request, and Seller's computations, thus documented, shall be conclusive and binding between the parties. With respect to all to all canceled products, materials, and supplies described in (a), (b), (c) and (d) above. Seller shall upon payment of the applicable cancellation charges, make such disposition as Buyer may specify in writing within 30 calendar days after Seller notifies Buyer of the applicable cancellation charges. Buyer's failure to so specify within said 30-day period shall constitute Buyer's authorization for Seller to make such disposition as Seller chooses with no further obligation to Buyer.

13. PATENT INFRINGEMENT With respect to all products manufactured to Buyer's design, Buyer shall indemnify and hold Seller harmless from and against any and all loss, costs, expense, claims, demands, suits, and judgments resulting from actual or alleged patent infringements. With respect to all other product sold by Seller, Seller shall defend any suit or proceeding brought against Buyer on a claim that such a product, or any part thereof when employed in the manner intended by Seller, infringes any U.S. patent provided that Buyer promptly notifies Seller in writing of any such claim, gives Seller the right to settle or defend any such claim, makes no admission of liability and gives Seller all reasonable assistance and information in connection with the defense of any such claim. Buyer will further cease the use of and use reasonable efforts to insure that its end users shall cease the use of the products pending the final determination of any such claim if so requested by Seller. Seller shall pay all damages and cost awarded against Buyer as a result thereof. If the court finds such an infringement and the use of any product in the manner intended by Seller is enjoined, Seller shall at its sole expense, at Seller's option (a) procure for Buyer the right to continue using said product, (b) replace said product with a non-infringing product, (c) modify said product so that it becomes non-infringing or, (d) remove said product and refund its purchase price and transportation and installation costs. Seller shall have no further liability for actual or alleged patent infringement except as provided herein. The Seller's liability under this

Section 14 shall be limited to the selling price of the products subject to such claim.

14. PRODUCT WARRANTY AND DISCLAIMER DYNOMAX warrants the Products, Materials, and Services, to be free of defects in material and workmanship for the period equal to the original manufacturer, but not to exceed one (1) year. Any control component, which under normal use becomes defective, within the stated warranty time period, shall be returned to DYNOMAX for examination. **Customer must contact DYNOMAX for a Return Authorization number prior to shipping to us for warranty repair. Warranty claim will not be honored without Return Authorization number. Any duties, tariffs, and transportation insurance or freight charges shall be the Buyer's responsibility.** DYNOMAX reserves the right to make the final determination as to the validity of a warranty claim, and sole obligations to repair or replace only components which have been rendered defective due to faulty material or workmanship. No warranty claim will be accepted for components which have been damaged due to mishandling, improper installation, unauthorized repair, and/or alteration of the product, operation in excess of design specification, or other misuse, or improper maintenance.

All spindles repaired under warranty will remain under the initial warranty for the balance of the applicable warranty period.

DYNOMAX makes no warranty that its products are compatible with any other equipment, or to any specific application, to which they may be applied and shall not be held liable for any other consequential damage or injury arising from the use of its products.

This warranty does not apply to repairs or replacements necessitated by catastrophe, misuse, abuse, mishandling, improper electrical power, accident, improper installation, or assembly, or fault of the users.

EXCEPT AS PROVIDED IN THIS SECTION, DYNOMAX MAKES NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO ITS PRODUCTS, THEIR MERCHANTABILITY OR THEIR FITNESS FOR A PARTICULAR PURPOSE.

15. LIMITATION OF LIABILITY In no event shall DYNOMAX be liable for indirect, or consequential damages, including without limitation loss of income or use even if DYNOMAX has been advised of the possibility of such damages. In no event shall the liability of DYNOMAX exceed the amount paid for the product giving rise to the claim.

Any suit or legal action by the Buyer or any person claiming by or through the Buyer relating in any way to this agreement or the product must be officially filed, officially commenced no later than the end of the stated warranty time period for the product set forth in section 15.

16. RETURNS No products shall be returned to Seller, whether for inspection, repair, replacement, or any other reason, without prior consent from Seller's plant, sales office, or representative.

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