

1. **PRICES.** All prices quoted and deliveries are EXW Dynamic Materials Corporation (“Seller”)’s plant in Mt. Braddock, Pennsylvania, unless otherwise specified in Seller’s order confirmation (an “Order Confirmation”) following the buyer (“Buyer”)’s issuance of a purchase order (an “Order”) pursuant to the terms hereof (these “Terms”).
2. **FREIGHT CHARGES.** If carrier requires freight to be prepaid, an additional charge will be made for freight and handling.
3. **TERMS OF PAYMENT.** Unless otherwise specified, net cash 30 days. Interest at the lower of 1 1/2% per month or the maximum rate of interest permitted by law will be charged on overdue invoices, together with costs of collection, if any.
4. **TITLE TRANSFER.** Title transfers at the point of risk transfer as per the specified Inco terms on the Order accepted by Seller through an Order Confirmation.
5. **TAXES.** Any excise, sales, use, or other similar taxes, and any import or export duties, governmental charges imposed by any taxing authority in respect to the items specified here are for the account of Buyer. If paid by Seller, such taxes and charges shall be added to the price upon invoicing or at any later date.
6. **FORCE MAJEURE.** Seller shall not be responsible or liable for any failure to deliver or delay in delivery which is directly or indirectly caused by or due to strikes, differences with workers, interferences, shortages of labor, fuel, power, materials or supplies, or any other cause beyond Seller’s control, unless otherwise agreed by Seller and Buyer.
7. **VARIATIONS.** Shipments for any Order shall be the specific quantities stated in the Order Confirmation, with +/- variations applicable only when specified therein. Split shipments shall be permissible for any Order at Seller’s option.
8. **INDEMNITY AGAINST PATENT INFRINGEMENT.** Buyer agrees to assume, and shall indemnify and hold Seller harmless against, all patent liability for goods manufactured by Seller to Buyer’s design specifications or specially designed by Seller to meet Buyer’s specifications.
9. **WARRANTY.** Seller warrants the goods delivered to Buyer under an Agreement (as defined in Section 14) against defects in material and workmanship, under normal use and service, for a period of ninety (90) days from the date of shipment. Seller’s obligation under this warranty and Buyer’s exclusive remedy for breach of this warranty shall be limited, as Seller elects in its sole discretion, to either: (a) repairing or furnishing, without charge, EXW Seller’s point of manufacture, a similar part to replace any part which within ninety (90) days after date of shipment is proved to be defective at the time it was shipped; or (b) reimbursement to Buyer of a sum not exceeding the price charged by Seller for such part.  
Seller shall have the option of requiring the return of the defective part, transportation prepaid, to establish the claim. Seller shall have no obligation for breach of warranty unless, during the warranty period, Buyer gives Seller immediate written notice of alleged defects. No allowance will be made for repairs or alterations made without Seller’s prior written consent or approval.  
EXCEPT AS PROVIDED IN THIS SECTION 9, SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WHETHER OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE.
10. **LIMITATIONS ON DAMAGES.** Seller’s liability and obligation, and Buyer’s exclusive remedy for any cause, whether based on contract, negligence, warranty or otherwise, shall in all events be limited to that set forth in Section 9. Upon the expiration of the warranty period set forth in Section 9, such liability and obligation shall terminate.  
IN NO EVENT SHALL SELLER BE HELD LIABLE TO BUYER OR ANY OTHER PERSON FOR ANY DAMAGES (INCIDENTAL, CONSEQUENTIAL, OR OTHERWISE) FOR BREACH OF WARRANTY, FAILURE OR DELAY IN MAKING DELIVERY, OR FOR ANY OTHER CAUSE EXCEPT AS SPECIFICALLY SET FORTH ABOVE.  
As to any claim for loss, damage, or destruction of Buyer’s property while in Seller’s possession or otherwise, Seller’s maximum liability shall be limited to the raw material value thereof or Seller’s price for services rendered on the specific goods, whichever is less. Regarding loss, damage, or destruction of Buyer’s property while in Seller’s possession, any suit for damages not instituted within one (1) year of Seller’s declination of liability shall be forever barred.
11. **INTELLECTUAL PROPERTY RIGHTS.** Rights to inventions or patentable ideas in any form which are developed or discovered in connection with work performed under any Agreement shall remain the sole property of Seller.
12. **CHANGES.** After acceptance by Seller of an Order, any change of specifications or terms of that Order may be made only with Seller’s written consent at a charge which Seller shall determine in its sole discretion to be sufficient to cover its additional costs and adequate profits.
13. **CANCELLATIONS.** Orders accepted by Seller are not subject to cancellation by Buyer except with Seller’s consent and after Buyer agreeing in writing to indemnify Seller for any losses or damages occasioned by such cancellation, including Seller’s lost profit and costs of collection, including, without limitation, reasonable attorney’s fees.
14. **CONTROLLING TERMS.** Each agreement between Seller and Buyer of purchase and sale of goods manufactured by Seller (an “Agreement”) shall consist of (a) these Terms and (b) an Order (including any attachments, exhibits, supplements, or other terms) as accepted by Seller through an Order Confirmation, and shall be governed by and construed in accordance with the laws of the State of Colorado, excluding, however, its choice-of-law rules for purposes of conflict of laws. These Terms may not be modified without Seller’s written consent and cannot be countermanded by Buyer. These Terms may not be varied by Buyer through the issuance or modification of an Order with varying terms. In the event of any inconsistency between these Terms and any Order, these Terms shall control, and Buyer shall be deemed to have assented to the same in full.
15. **TOOLING.** All tooling to be manufactured by Seller to manufacture goods for Buyer will remain the property of Seller unless otherwise agreed in writing by Seller and Buyer. Buyer shall not be entitled to the exclusive use of such tooling for the manufacture of goods for Buyer unless so agreed in writing by Seller by Buyer.
16. **CREDIT.** Each Agreement is subject to Buyer’s establishing credit satisfactory to Seller’s credit department, showing Buyer’s ability to make payments in accordance with these Terms.
17. **EXPORT COMPLIANCE.** In connection with the sale, purchase, or receipt of any goods, materials, or technology (including products derived from or based on such technology) (collectively, “Products”) from Seller or its affiliates, Buyer hereby agrees to comply fully with all applicable domestic and foreign laws and regulations related to export controls and economic sanctions, including, without limitation, (a) those regulations maintained by the U.S. Treasury Department’s Office of Foreign Assets Control (OFAC), (b) the U.S. Export Administration Regulations (EAR) maintained by the U.S. Department of Commerce, Bureau of Industry and Security (BIS), and (c) the U.S. State Department’s International Traffic in Arms Regulations (ITAR). Without limiting the foregoing, Buyer agrees that it shall not -- directly or indirectly -- sell, export, re-export, transfer, divert or otherwise dispose of the Products to or via any person, firm, entity, or country or countries that are subject to trade embargoes under the laws of the United States or other applicable law, including entities or persons in or acting on behalf of such countries, or for any activity or use prohibited by the laws or regulations of the United States or other applicable jurisdiction, without obtaining prior authorization from the competent governmental authorities as required by those laws and regulations. Buyer agrees to indemnify and hold harmless Seller for Buyer’s noncompliance with these controls in connection with the Products. This provision shall survive termination or cancellation of any agreements related to the Products. Notwithstanding any other provision of these Terms, neither Buyer nor Seller shall take or be required to take any action prohibited or penalized under the laws of the United States or any applicable foreign jurisdiction. Buyer understands that the Products as well as certain products derived there from may be subject to U.S. law, in which case, re-export or diversion contrary to U.S. law is prohibited.
18. **ASSIGNMENT.** Neither Seller nor Buyer may assign any Agreement or delegate any of its obligations thereunder without the other party’s prior written consent, which may not be unreasonably withheld, delayed, or conditioned.
19. **TERMINATION; SUSPENSION.** Either Seller or Buyer may terminate or suspend any one or more outstanding Agreements by notice in writing to the other party if a material breach of any outstanding Agreement by the other party has not been cured or is incapable of cure within thirty (30) days after notice to the other party. Notwithstanding the foregoing, Buyer’s breach of Section 17 shall constitute cause for immediate termination of all outstanding Agreements without notice.