

Terms and Conditions of Purchase of Dynamic Materials Corporation

1. **ACCEPTANCE OF ORDER:** Seller (whose name and address are stated on the reverse side of this document) agrees that the following terms and conditions will control the performance of Seller and Dynamic Materials Corporation or its subsidiaries, including its NobelClad and DynaEnergetics subsidiaries ("DMC") under this order. DMC preemptively OBJECTS TO THE INCLUSION OF ANY DIFFERENT OR ADDITIONAL TERMS proposed by Seller, including in its acknowledgement of the order or invoice. Seller's acceptance of or performance under this order shall constitute acceptance of these terms. If different or additional terms are included in Seller's acceptance, a contract of sale will result on DMC's terms stated herein. DMC's acceptance of any quotation is expressly conditioned on Seller's assent to these terms and conditions.
2. **CHANGES:** DMC reserves the right in its reasonable discretion, to make changes at any time in (a) work to be performed or materials to be furnished; (b) drawings, designs or specifications applicable to the work or materials; (c) methods of shipment and packing; and (d) time and place of delivery/performance, including temporary suspension. If any such change causes an increase or decrease in the cost of, or time required for, performance of this order, an equitable adjustment shall be made in the contract price or delivery/performance schedule, or both. Any claim by Seller for adjustment shall be deemed waived unless asserted in writing within five (5) days after the Seller's receipt of the written order from DMC affecting the change. Price increases or extensions of time for delivery/performance shall not be binding on DMC unless evidenced by a change notice issued by DMC.
3. **STOP WORK ORDER -** At any time, DMC may stop all, or any portion of, the work specified in this purchase order through the issuance of a Written Stop Work Order to the Seller. Resumption of any work so stopped will be solely at the discretion of the DMC. DMC will use its best efforts to advise the Seller in a prompt fashion of the disposition of the remainder of the purchase order and will assist Seller in the disposition of any work in process or finished goods that cannot be used or sold by Seller.
4. **PACKAGING, SHIPPING, AND SHIPPING DOCUMENTS:** Unless otherwise agreed, all goods specified on the face of DMC's order shall be delivered F.O.B. DMC's dock at the address set forth on the reverse side of this Purchase Order, shall be delivered without charge for boxing, crating or storage unless otherwise specified, and shall be suitably packaged to assure against damage from weather and/or transportation. The goods shall be described on bills of lading in accordance with current applicable regulations. A packing list, which separately itemizes each item of goods and shows DMC's order number, symbol, item number and description of goods, shall accompany each box or package shipment, in addition to any legally required labeling. DMC's order numbers and symbols must be plainly marked on all invoices, packages, bills of lading, and shipping orders. Delays in receiving invoices, errors or omissions on invoices, or lack of supporting documentation required shall be cause for withholding payment without losing discount privileges. Shipments must equal exact amounts ordered unless otherwise agreed.
5. **DELIVERIES:** DMC's production schedules are based upon the agreement that the Seller will deliver the goods or provide the services purchased by the date specified on the face of the Purchase Order. Time is of the essence for this Purchase Order. Seller will promptly notify DMC in writing of any and all events which could affect the ability of Seller to make deliveries or provide services at the specified times or in the specified quantities. If deliveries or services are not made or provided at the time agreed upon, DMC reserves the right to cancel this Purchase Order. In such event, DMC may purchase elsewhere and hold Seller liable for damages. Delivery of any goods prior to the delivery schedule or delivery of any goods in excess of the specified quantity, without DMC's prior written approval, shall be solely at Seller's risk.
6. **TRAFFIC ROUTING:** The Seller shall be liable for any losses resulting from deviation from DMC's routing instructions and such losses will be charged to Seller's account.
7. **FORCE MAJEURE:** DMC shall not be held responsible for any failure to perform under this Purchase Order if such failure is due to matters outside DMC's control, including, but not limited to federal, state, or local action, statute, ordinance or regulation, strike or other labor trouble or other incidents outside DMC's control which makes acceptance impossible or impractical.

8. **INSPECTION AND REJECTION:** Payment for the goods or services provided hereunder shall not constitute acceptance. DMC shall have the right to inspect and to reject any or all of the goods or services which are defective, in DMC's judgment. Goods rejected may be returned to Seller at its expense, in addition to DMC's other rights. DMC may charge Seller all expenses of unpacking, examining, repacking and reshipping such goods. In the event DMC receives goods whose defect or nonconformity is not apparent on examination, DMC reserves the right to require replacement as well as payment of damages. Any goods rejected by DMC shall be held, reshipped or otherwise disposed of solely at Seller's risk and expense. Seller shall maintain a quality control system acceptable to DMC and consistent with the requirements of the Order. DMC shall have the right to inspect Seller's manufacturing facility
9. **PAYMENT:** If no payment date is specified in this order, payment shall be net, cash no less than thirty (30) days after completion of delivery of the goods to DMC and the performance of the services requested.
10. **ASSIGNMENT/RIGHT OF SETOFF:** Seller shall not delegate any duties or assign any rights or claims under this Purchase Order, nor use any subcontractor without prior written consent of DMC, and any such attempted delegation or assignment shall be void. All claims for moneys due or to become due from DMC shall be subject to deduction by DMC for any setoff or counterclaim arising out of this or any other contract between the parties.
11. **PRICES:** Unless otherwise specified or required by law, the prices set forth in this order include all applicable federal, state and local taxes and all shipping costs, duties and other charges. If a price is specified in this order, no increase in price may be charged by Seller to DMC without the written consent of DMC. If no price is specified in this order, the goods or services shall be billed at the price last quoted to DMC or the prevailing market price, whichever is lower. In the event that the prices in effect at the date of acceptance of this order on items specified in this order are reduced prior to the date of the final delivery or completion of performance, or in the event that Seller shall quote lower prices to other purchasers for the same or comparable goods/services and in similar or lesser quantities before the final delivery or completion of this order, Seller agrees to afford to DMC the benefit of the reduction or lower prices on the whole of this contract.
12. **REPLACEMENT PARTS:** If applicable, Seller guarantees to supply replacement parts for any standard goods supplied at then current prices for at least five (5) years from date of delivery.
13. **WARRANTIES:** Seller warrants that all goods delivered and services provided hereunder (i) shall be free from defects in workmanship, material and manufacture for a period of one (1) year from the date of delivery; (ii) shall comply with the requirements of the Purchase Order, including any drawings or specifications incorporated herein or samples furnished by Seller; and, (iii) if of Seller's design, shall be free from defects in design. Seller further warrants that it has good and marketable title to all items purchased hereunder and that such items shall be of merchantable quality and shall be fit for the purposes intended, whether express or implied. These warranties shall survive any delivery, inspection, acceptance or payment by DMC, and shall run to DMC, its successors, assigns, customers and any third parties injured in person or property by reason of any breach. In the event that any goods delivered or services provided hereunder shall be defective or hazardous in any respect whatsoever, Seller will indemnify and hold DMC harmless from and against any and all losses, claims, costs (including counsel fees and increased Workers' Compensation premiums) and damages (including incidental and consequential damages) which DMC may sustain or be liable for in whole or in part by reason of said defect, property damage or personal injury arising out of or in connection with Seller's performance or acts or omissions of Seller, its employees, agents, assigns or subcontractors, whether losses, costs, claims and damages result from injuries to persons or property, and whether said liability is premised on contract, tort (including, without limitation, strict liability), or otherwise.
14. **WORK AT DMC'S PREMISES:** In the event this Purchase Order covers construction work, the installation of machinery or equipment or the performance of services at the premises of DMC, Seller shall defend and save DMC harmless against all claims of employees and agents of Seller for compensation payable under the Workers' Compensation Act of each state in which the work or services covered by this Purchase Order is to be performed. Seller shall also defend, indemnify, and save DMC harmless from, for and against any and all liability, loss, outlay and expense resulting from any accident or act of omission or commission of any employee or agent of Seller while engaged in the performance of the work covered by this Purchase Order.

15. **PATENTS:** Seller agrees to defend, indemnify and save DMC harmless from and against any and all claims for infringement of any patent, trademark, copyright or industrial design covering any articles purchased hereunder or their use, except if the design is supplied by DMC. DMC may actively participate through its own counsel in any suit or proceeding relevant to such claim if it so desires. Seller agrees to indemnify DMC for all losses of whatever nature incurred as a consequence of injunctions against the sale, use or resale of any articles purchased under this Purchase Order. Any such claim of infringement, whether asserted against DMC or Seller and regardless of its validity, shall constitute cause for termination of this order if DMC so elects, and damages to DMC after such termination, in addition to the indemnities granted herein, shall be calculated in the same manner as damages for non-delivery.
16. **DESIGNS, DEVELOPMENTS and TOOLING OF DMC:** In the event this Purchase Order covers machinery, equipment, and/or manufacturing apparatus, the development or design of which is the concept of or is paid for by DMC, all patent rights incident to such machinery, equipment and/or manufacturing apparatus shall automatically be the exclusive property of DMC, and Seller shall cooperate with DMC in obtaining all patents for DMC, and do all things necessary to perfect title to such patents in DMC. DMC owns and has title to all tooling and fixtures funded by DMC for the purpose of satisfying this purchase order. All such tooling and fixtures will be marked with the designation "Property of Dynamic Materials Corporation", and such other designations as will allow traceability of the tooling or fixture to the specific item number on this purchase order. All such tooling and fixtures will be returned to DMC upon demand or at the latest within a reasonable time after completion of the contract for which such tooling and fixtures were used.
17. **SUPPLEMENTARY INFORMATION:** Any specifications, drawings, notes, instructions, engineering notices, or technical data referred to in this Purchase Order shall be deemed to be incorporated herein by reference as if fully set forth. In case of any discrepancies or questions, the Seller shall refer to DMC for decision or instructions or for interpretation.
18. **NONDISCLOSURE AND DMC'S PROPERTY:** All drawings, specifications, patterns, information or data furnished by DMC or developed by Seller in connection with this Purchase Order shall be DMC's exclusive property, shall be used by Seller only for DMC's work, shall be kept confidential, and shall be returned promptly at DMC's request. Seller shall not disclose any such drawings, specifications, patterns, information or data to third persons except to the extent that such disclosure is necessary for the proper performance of Seller's obligations hereunder, and then only after such third party has expressly agreed in writing to keep such property confidential. All dies, molds, jigs, fixtures, tools, and other equipment furnished to Seller by DMC or made by Seller for performance of this Purchase Order, and any replacements thereof, shall be the property of DMC and Seller shall be the Bailee of such property. Such property shall be adequately identified as DMC's property and shall be safely stored separate and apart from Seller's property. Seller shall not use such property except in filling DMC's orders. All risk of loss or damage to property furnished by DMC, other than ordinary wear and tear, shall be upon Seller until the same has been redelivered to DMC, and Seller shall maintain insurance at least equal to the replacement value of same. The obligations of this clause shall survive the cancellation, termination, or completion of this order.
19. **DEFAULT:** DMC may terminate the purchase order without liability in whole or part, in writing, by providing Seller a Notice of Default in any one of the following circumstances: (a) if Seller fails to make delivery of the materials or to perform the services specified in the purchase order within the time, quantities or cost specified; or (b) if Seller fails to perform any other provision of the purchase order, or so fails to make progress as to endanger the timely performance of this order in accordance with its terms, and further fails to remedy such failures within 7 calendar days of written notice furnished by the DMC; or (c) in the event of Seller's insolvency or the institution of any proceedings against Seller in bankruptcy or insolvency.
20. **COMPLIANCE WITH STATUTES AND REGULATIONS:** Seller warrants and certifies that, in the performance of this order, it will comply with all applicable national, state, provincial and local laws, statutes, rules, regulations, orders, and ordinances applicable to the manufacture, shipment and supply of goods for the use intended by DMC, including but not limited to:
 - (a) All import and export laws, anti-bribery statutes, including the U.S. Foreign Corrupt Practices Act. In addition, Seller shall not offer gifts of any nature, including holiday gifts or entertainment, above a nominal value to any employee of Buyer or to any party in performance of this order.

(b) All Equal Employment Opportunity statutes and orders, now in effect or later enacted, of the U.S. and of any state or political subdivision of any state, including but not limited to statutes, rules, regulations, and orders pertaining to labor, wages, hours and other conditions of employment, wage and price ceilings, if applicable, and the U.S. Fair Labor Standards Act, as amended. Seller agrees to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, gender, color, national origin, age, disability, genetic information or covered veteran status. Further, Seller agrees to take positive action to employ, advance in employment, and otherwise treat known qualified individuals with disabilities without regard to their physical or mental disability, covered veterans, minorities and females where underutilization exists in comparison to their representation in the local workforce population. These positive actions include all human resources selection and decision practices, such as demotion, transfer; recruitment or advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. These requirements are in 4 main sources: Executive Order 11246, the Vietnam Era Veteran's Readjustment Act, Section 503 of the Rehabilitation Act of 1973, and the American Recovery and Reinvestment Act of 2009 and all other regulations by inference.

(c) To the extent that Company is responsible for the payment of customs duties, taxes or other fees per agreed Incoterm, it shall be limited to the payment of usual customs duties, taxes and other fees.

(d) In the event that any antidumping, countervailing, safeguard or other similar duties are imposed or threatened to be imposed on, the Product after the date of the Contract, Company may, at its option, terminate this order immediately upon notification to the Supplier. Company shall be relieved from any obligations under this Contract with respect to any quantities of such affected Product where delivery to the Company has not occurred, including without limitation any obligation to purchase any additional quantity of Product that is subject to [or at risk of being subject to] such antidumping, countervailing, safeguard duty or similar duties.

(e) Seller agrees to indemnify DMC against any loss, cost, damage or liability by reason of Seller's violation of this clause, other than any antidumping or similar duties assessed on DMC.

21. GENERAL: This purchase order shall be construed and interpreted in accordance with the laws of the State and/or country of the location of the DMC entity purchasing, excluding the United Nations law on sale of goods. If a provision of these terms should be deemed wholly or partially unenforceable, null or void, the remaining terms and conditions will be valid.