

DYMAX CORPORATION PURCHASING TERMS AND CONDITIONS

These Dymax Purchasing Terms and Conditions ("Terms") govern all purchases made by Dymax Corporation, its affiliates, subsidiaries and successors ("Dymax") from a Seller. In the event of any dispute, Seller's recourse shall be limited to the specific Dymax company that made the purchase. These Terms, including each Purchase Order entered into by the parties pursuant to these Terms, constitute the entire agreement between the parties in relation to the given project or order, and supersede all prior agreements between them in relation to that order. Dymax rejects any additional, different or inconsistent terms delivered with or contained in Seller's order acknowledgment forms, correspondence, or other standard business forms, and no terms in subsequent documents shall alter these Terms unless specifically agreed to by Dymax.

1. **Relationship.** The relationship between Dymax and Seller is that of independent contractors, and nothing in this Agreement shall create an agency, partnership, joint venture or any other form of enterprise, employment or fiduciary relationship.
2. **Acceptance.** Seller's confirmation, order acknowledgement, performance of services or shipping of goods shall constitute acceptance of a Dymax order and these terms and conditions. No acknowledgment or other document written or executed by Seller shall be binding on Dymax with respect to a Dymax order, unless any such instrument is signed by a Dymax Purchasing representative. All deliveries of goods and/or the rendering of services by Seller are based solely upon the price, quantities, delivery dates, terms and conditions and specifications as set forth on an ancillary Dymax supply contract or purchase order. Seller's acceptance of the purchase order is expressly limited to these Terms. Title to goods passes to Dymax upon the earliest of delivery or acceptance. Risk of loss to Products shipped passes to Dymax upon change in title.
3. **Quality, Quantity, Deliveries, and Packing.** All goods delivered and/or services rendered must be of the best quality. Seller shall ship and deliver all goods and render services on the dates and in the quantities specified in the purchase order, during Dymax' normal business hours, unless approval of any change is given by Dymax in writing. If the Seller cannot meet ship date(s) specified on an order, Seller must advise Dymax immediately. No charge will be paid by Dymax for packing, boxing, or cartage, unless specified in the purchase order. Loss of or damage to any goods not packed in such a manner as to insure proper protection to same shall be borne by Seller. Each package of goods shipped must contain documentation showing shipper's name, contents of package, and the purchase order number. All shipping documents and carton labels shall show the Dymax PO number. All shipments to Dymax shall be FOB destination unless otherwise specified in the order.
4. **Inspection.** Notwithstanding prior payment and/or inspection by Dymax, all shipments of goods and/or services shall be subject to inspection by and approval of Dymax after arrival of such goods at the delivery point specified in the order and/or after such services have been provided. Dymax may, at its sole discretion, reject all or any portion of the goods or services if it determines the goods or services are non-conforming or defective.
5. **Contamination Prevention.** Supplier must take steps to assure that all raw materials, components and empty containers are free from particulate, scale or cross contamination of any kind. Supplier acknowledges that this requirement is a material requirement of its agreement with Dymax.
6. **Rejected Shipments and Dymax Remedies.** If the goods shipped or to be shipped and/or services provided are rejected in whole or in part by Dymax by reason of Seller's failure to comply with any of the Terms, Dymax may either return the rejected portion of such goods at Seller's expense or hold the same for such disposal as Seller shall indicate without invalidating the remainder of this purchase order; or Dymax may reject the entire shipment of such goods and/or reject the entire services and cancel the purchase order for any undelivered balances of goods and/or un-rendered services. If goods shipped are rejected Dymax may, at its sole discretion, (i) require Seller to promptly replace the rejected goods and/or services and pay for all related expenses, including but not limited to transportation charges for return of the defective goods, or (ii) purchase like goods and/or obtain like services elsewhere and charge Seller with any loss or damage (either direct or indirect) sustained by Dymax including, but not limited to any difference between the price paid by Dymax for such like goods and/or services and the price specified on the face hereof) plus all costs of collecting the same (including, but not by way of limitation, attorneys' fees and court costs). Dymax shall not be obligated to pay for any goods shipped and/or services rendered which are rejected by it.
7. **Tools, Dies, Films, Discs and Electronic Media** of any kind held by Seller or its permitted assignees for making Dymax parts must be repaired or replaced by Seller at Seller's expense. Those tools, dies, films, discs, media or all replacements made specifically for the manufacture of Dymax parts are and shall be considered Dymax property unless other written agreements are made between Dymax and the Seller.
8. **Patents.** Seller represents and warrants that the goods do not infringe any patent; that it will defend any infringement claim or suit that may arise; and that it will indemnify and hold Dymax harmless from any loss which Dymax may incur by reason of the assertion of any patent rights with respect to the goods, including but not limited to attorneys' fees and court costs.
9. **Health and Safety.** All items to be supplied by Seller shall conform in all respects to the requirements of applicable insurance and governmental health and safety regulations, including regulations, including regulations administered by OSHA.
10. **Indemnification.** Seller shall indemnify, defend and hold Dymax, its officers, directors, employees and affiliates harmless against any and all losses, damages, liabilities, claims, actions, judgments, settlements, fines or expenses of whatever kind, including attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance providers, ("Losses") incurred, arising out, relating to, or resulting from any claim alleging: (i) a breach or non-fulfillment of any of Seller's representations, warranties, or covenants in this Agreement; (ii) any negligent act or omission of Seller or any of its officers, directors, employees, agents, affiliates, or assigns ("Seller"); (iii) any bodily injury, death of any person or damage to real or tangible personal property caused by the acts or omissions of Seller (iv) any failure by

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Seller or (v) any of Seller's intellectual property used in the design or production of the Products, or that is embodied in the Products, infringes any intellectual property right of any third party.

11. **Notification of Non-conforming product.** Seller shall withhold shipment and shall notify Dymax immediately in the event that non-conforming product is produced. Arrangements to re-manufacture product within specification and promised ship date shall be communicated to Dymax at that time. Seller shall repair or replace, at Seller's cost and expense, any defective or nonconforming item which is returned to Seller, within 30 days of discovery.
12. **Continuing Guaranty under Federal Food, Drug, and Cosmetic Act.** If the material furnished is a food, drug, cosmetic, or device (as such terms are defined in the Federal Food, Drug, and Cosmetic Act), such material is guaranteed as of the date of such shipment of delivery to be, on such date, not adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, and not an article which may not be introduced into interstate commerce.
13. **Compliance with Law and Dymax Policies.** Seller shall comply with all applicable federal, state and local laws, regulations, and orders, and Seller will furnish Dymax with a warranty in a form satisfactory to Dymax, and containing such specific language as may be reasonably requested by Dymax. Prior to commencing any services, the Seller shall obtain and at all times maintain all necessary licenses and consents with respect to the provision of such services. The Sellers hereunder shall also be subject to the rules, regulations and policies imposed by Dymax, including security procedures, ethics policies and general health and safety practices and procedures.
14. **Warranty.** Seller warrants the goods and any material furnished to Dymax (a) to be free from defects in title, labor, material or fabrication, (b) to conform to applicable specifications, drawings, samples or other descriptions given, (c) to be suitable for the purpose intended, (d) to be of merchantable quality, and further warrants that material of Seller's design will be free from defects in design, (e) conform to Buyer's quality standards (subject to industry standard tolerances and variations), and (c) not infringe upon, violate or misappropriate the intellectual property rights. These warranties shall not be a limitation on any implied warranties associated with the goods and any other material.
15. **Insurance.** Seller shall, at its own cost and expense, maintain and carry in full force and effect with financially sound and reputable insurers, commercial general liability insurance including products liability insurance and such other coverages as are reasonably necessary or appropriate, in all cases with coverage amounts reasonably acceptable to Buyer. Upon Buyer's request, Seller shall provide Dymax with a certificate of insurance evidencing all insurance coverages.
16. **Events Not Within Control of Purchaser.** If by reasons of fire, earthquake, flood, explosion, accident, civil disturbance, difference with or inability to secure workmen, shortages of energy or raw materials, equipment, labor or transportation, production shutdown, or curtailment, lack of facilities, act of God, or of any public enemy, voluntary or involuntary compliance with any valid or invalid, law, order, regulation, request, or recommendation of any government agency or authority, or other caused beyond the intermediate and direct control of Dymax, whether or not of the kind or nature herein before specified, Dymax shall be delayed in whole or in part in taking any delivery or deliveries of goods and/or accepting the rendering of services as herein specified, Dymax may, by giving written notice to Seller: Cancel this order in whole or in part as to any undelivered portion of such goods and/or unrendered portion of such services, or suspend in whole or in part, deliveries of goods and/or the rendering of services during the continuance of and to the extent of such cause.
17. **Calibration.** Where applicable, Seller shall provide calibration & data showing the results of calibration performed. Dymax QC will be informed of items, if any, which exceed allowable tolerances. Tamper resistant seals will be affixed to accessible controls. Labels shall be affixed to instruments calibrated and will state: Date calibrated, next due date, and initials of calibrator, certification shall include the statement "Calibration was performed per IAW MIL-STD-45662A and/or NIST" and shall be signed by an official of the organization. **All weighing instruments purchased or sent out for repair by Dymax must arrive with certification of calibration as specified above.**
18. **Time of Essence.** Time is of the essence with respect to the Seller's performance, and Dymax shall have the right to cancel all or part of this order without penalty if not delivered by the date specified in the order. Overall metrics for on-time deliveries under this Agreement shall be:
 - a. Delivery > 95% OTD (SIFOT)
 - b. Quality < 500 PPM
19. **Proprietary Disclosures.** "Confidential Information" means any information disclosed by either party to the other party, including, without limitation, documents, prototypes, samples, photographs, video and other visual and graphic representations, which is designated at the time of disclosure as "Confidential" or "Proprietary", or would be reasonably considered by ordinary business or technical persons to be confidential or proprietary in nature. Confidential Information does not include any information which:
 - a. was publicly known or available in the public domain prior to the time of disclosure;
 - b. becomes publicly known or generally available after the disclosure through no action or inaction of the receiving party in violation of this Agreement; or
 - c. was or is obtained by the receiving party from a source other than the disclosing party not in violation of any contractual or legal obligation of confidentiality to the disclosing party.

Neither party shall use any Confidential Information for any purpose other than the performance of its obligations under this Agreement. The receiving party may disclose the Confidential Information only to those of its directors, officers, employees, and representatives who need to know such information, and who have signed confidentiality agreements. The receiving party shall not reverse engineer, disassemble or decompile any prototypes, or samples, and may not analyze any samples for

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chemical composition. The receiving party shall protect the secrecy of the Confidential Information and take at least those measures that it takes to protect its own most highly confidential information. All documents and other objects containing Confidential Information shall remain the property of the disclosing party and shall be promptly returned upon termination of this Agreement, or upon written request. Nothing in this Agreement shall grant any rights in any IP of the disclosing party, nor shall this Agreement grant any rights in or to the Confidential Information.

20. **Assignment.** Seller shall not assign or subcontract this order or any part, without the prior written consent of Dymax, and not unless the assignee or subcontractor agrees to be bound by all the Terms. Any purported assignment or delegation in violation of this section shall be null and void. **Price.** The price of the goods and/or services is the price specified on the purchase order, and unless specified in the purchase order, price includes all packaging, transportation costs, insurance, customs duties, fees and applicable taxes. Prices may decrease but may not increase during the life of Dymax purchase orders.
21. **Governing Law.** This purchase order shall be governed by the laws of the state of Connecticut without regard to the conflicts of law provisions. Any legal action brought with respect to this order shall be brought and adjudicated in the state or federal courts of the state of Connecticut. By accepting this order, the Seller consents to personal jurisdiction of the state of Connecticut.
22. **Entire Agreement.** This order may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all of which together constitute one and the same instrument. No waiver by Dymax of any of these terms and conditions is effective unless explicitly set forth in writing and signed by Dymax. If any term or provision of these terms and conditions is to be held invalid, illegal, or unenforceable, such invalidity, illegality or unenforceability shall not affect any other term or provision herein. Provisions of these terms and conditions, which by their nature should apply beyond the termination or expiration of these terms and conditions, will remain in force after any such termination or expiration.
23. **Change Notification by Seller. Seller shall provide Dymax with 6 months written notice prior to ceasing production of, or making any modifications to items listed on this order.** Modifications requiring this notification include, but are not limited to, raw materials, components, manufacturing equipment, processes and locations, subcontractors, test methods, specifications, tolerances and performance criteria. Dymax may, at its sole discretion, accept or reject any such change notification. Any rejection by Dymax may include a termination of all or any part of a purchase order, without any cost, penalty or other expense to Dymax.
24. **Change Notification by Dymax.** Dymax may, at any time by written instructions and/or drawings issued to Seller, order changes to any order for goods or services. Seller shall within 10 days of receipt of any change order, submit a firm cost proposal for the change order. If Dymax accepts such cost proposal, Seller shall proceed with the changed order subject to the cost proposal and the Terms.
25. **Termination.** In addition to any remedies that may be provided under these terms and conditions, Dymax may terminate any purchase order with immediate effect upon written notice to the Seller, either before or after acceptance of the goods or the Seller's delivery of services, if Seller has not conformed or complied with the purchase order or any of these terms and conditions, in whole or in part. If Dymax terminates any purchase order for any reason, Seller's sole and exclusive remedy is payment for the goods received and accepted and services accepted by Dymax prior to the termination.