

## Terms and Conditions of Sale

All orders for goods and services and other products (herein referred to as "Products") sold by Dynamesh Inc., (herein referred to as "Seller") to the purchaser thereof (herein referred to as "Purchaser") are sold exclusively upon the following conditions of sale:

### 1. purchase orders.

All purchase orders of Purchaser shall, unless otherwise agreed to in writing by Seller, be in writing and set forth the quantity and specifications of the Products desired, the desired delivery date, the price of each Product, and all other relevant information necessary to effectuate shipment of the Products by Seller. Seller's acceptance of such purchase orders shall be limited and subject to Purchaser's acceptance of these terms and conditions. No additional, inconsistent, or contrary terms shall become part of or supercede this agreement or any sale of Products to Purchaser unless specifically accepted in writing by Seller. Seller objects to and rejects any additional or inconsistent terms and conditions offered by Purchaser at any time and irrespective of (i) Seller's acceptance of or payment for Products, (ii) any purchase order confirmation, invoice, acknowledgment, release or acceptance issued by Purchaser, or (iii) any other conduct by Seller.

### 2. prices.

Prices shall be those in effect at the time of order entry unless otherwise agreed to in writing by Seller.

### 3. additional charges.

Except as otherwise specifically provided herein, Seller shall not be responsible for freight, transportation, insurance, shipping, storage, handling, demurrage or similar charges. If such charges are by the terms of sale included in a price, Purchaser shall be accountable for any increase in rates for such charges becoming effective after the date hereof that are outside the control of Seller. A 3% credit card transaction fee will be assessed to payments made by credit card when payment is not made in full at the time of shipment. In the event Purchaser pays past due amount with a credit card, Purchaser shall be responsible for a 3% credit card fee in addition to any other late payment penalty fees.

### 4. taxes.

All prices are exclusive of federal, state, local and other excise, sales, use, property, transportation, occupational and other taxes relating to the sale now or hereafter imposed together with penalties and expenses, all of which shall be paid by Purchaser. Purchaser shall be responsible for collecting and/or paying any and all such taxes whether or not they are stated in any invoice for Products shipped and shall indemnify Seller with respect thereto. Seller, at its option, may at any time separately bill Purchaser for any taxes not included in Seller's invoice and Purchaser shall pay said taxes, or, in lieu thereof, shall provide Seller with a tax exemption certificate acceptable to the taxing authorities.

### 5. payment/delinquency and charge/default.

Purchaser shall pay Seller for Products upon receipt of delivery thereof, unless Seller has previously agreed to accept payment from Purchaser within net thirty days after the date of delivery, or unless otherwise stated by Seller in writing. Seller reserves the right to charge interest at the rate of 1.5% per month (but not more than the maximum percentage permitted by law) on all balances not paid by Purchaser when due. If Purchaser fails to make payment when due, Seller, may, without prior notice, refuse to ship Products against and/or cancel any pending orders. Payments received from Purchaser shall be applied to the oldest invoice first, regardless of any other indication by Purchaser. Purchaser agrees to reimburse Seller for all costs and expenses incurred in the collection of overdue invoices, including Seller's reasonable attorneys' fees.

### 6. shipment.

Delivery of Products is F.O.B. Destination, ppd & add. Shipping dates are approximate and are subject to prompt receipt of all necessary information. Every effort will be made by Seller to ship in accordance with our standard lead-time(s): (i) twenty-four hours after acceptance of Purchaser's order for Products in stock; (ii) 10 business days after acceptance of Purchaser's order for screen Products; and (iii) as agreed in writing for Products not in Seller's inventory as of the date of order and for custom orders. Seller may upgrade the shipping without additional charge to Purchaser if a shipping delay is caused by Seller. Notwithstanding the foregoing, Seller shall have no liability for loss or damage (including incidental or consequential damages) resulting from Seller's delayed performance or shipment, for any reason whatsoever. For an advance or "blanket" order, Purchaser must take delivery of Products within twelve months of the order date unless otherwise agreed to in writing by Seller. Purchaser may take delivery of advance orders in one or more installments, as designated by Purchaser. Seller will maintain an inventory of advance-ordered Products based on Purchaser's anticipated delivery needs.

### 7. limited warranty.

For thirty days after the date of delivery, Seller warrants that the Products shall be free of defects in materials and workmanship. In the event that a Product is defective, Purchaser may return the Product if unused to Seller within thirty days after delivery. Seller will, at its option, refund the purchase price of the Product, or repair or replace the Product. Any repair or replacement shall be subject to this Limited Warranty for the remainder of the thirty-day warranty period for the original Product or for ten days, whichever is longer. This Limited Warranty terminates once a product is used. Seller and Purchaser acknowledge that the Purchaser's sole and exclusive remedy against Seller, and Seller's sole liability, shall be for the refund, repair, or replacement of Products as provided herein.

### 8. DISCLAIMER of warranty.

Except as otherwise provided herein, SELLER DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO ANY PRODUCT PURCHASED BY PURCHASER FROM SELLER, and Seller makes no representations or warranties, express or implied, with respect to the specifications, quality, workmanship or material in connection with the Products sold hereunder. While Seller may try to assist the Purchaser in selecting a Product, Seller makes no warranty that the selected Product will be fit for Purchaser's application. No agent, employee, representative, and/or distributor of Seller has the authority to bind Seller to any affirmation, representation or warranty concerning the goods sold hereunder, and unless such affirmation, representation or warranty made by an agent, employee, representative, and/or distributor is specifically included within this written agreement, it will not form a part of the basis of this contract and shall not in any way be binding upon the Seller or enforceable by the Purchaser.

### 9. limitation of liability.

IN NO EVENT, BE IT DUE TO A BREACH OF ANY WARRANTY OR CONTRACT MADE IN CONNECTION WITH THIS AGREEMENT, OR ANY OTHER CAUSE ARISING FROM THE USE, PERFORMANCE OR NONPERFORMANCE OF THE PRODUCTS SOLD HEREUNDER, INCLUDING A CLAIM FOR IMPLIED INDEMNITY, SHALL SELLER BE OBLIGATED OR LIABLE TO PURCHASER IN ANY MANNER FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST TIME, DAMAGE TO SUBSTRATES OR OTHER PROPERTY, OR SUITS BY THIRD PARTIES. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CLAIM FOR PURCHASER'S EXPENSES SPENT IN ANTICIPATION OF EXECUTION OF PERFORMANCE OF THIS CONTRACT.

### 10. patents and trademarks.

Purchaser shall defend, at its expense, any suit against Seller for the infringement of any patent, trademark or the like, for or on account of the manufacture or sale of any Products furnished hereunder, and shall pay all damages and costs awarded therein against Seller, in any case where compliance by Seller with specifications prescribed by and prepared for the Purchaser constitutes sole basis for the infringement or alleged infringement. If Seller furnished Products with Purchaser's brand name or trademark affixed thereon, Purchaser shall accept the Products and responsibility for all claims for damages, if any. If Purchaser shall reject Products to which Purchaser's brand name or trademark has been affixed, then Seller may sell the Products at market, notwithstanding the fact that Purchaser's brand name or trademark shall be affixed thereto.

### 11. cancellation of orders.

Purchaser shall not countermand or cancel any order to cause the work or shipment to be delayed, except with the written consent of, and upon terms agreed to by Seller, with full compensation to Seller for any loss sustained by reason of cancellation.

### 12. miscellaneous provisions.

- (a) The foregoing comprises the Seller's and Purchaser's entire agreement, and constitutes the final expression of all terms of the agreement between the Seller and Purchaser, and is a complete and exclusive element of those terms. The provisions contained herein entirely supersede any prior or oral or written correspondence, quotation or agreement. There are no agreements between Seller and Purchaser in respect to the Product herein except as set forth in writing and expressly made part of this contract. Acceptance to this contract is limited to the terms, conditions, specifications and prices set forth herein or attached hereto and any additional terms, conditions, specifications and/or prices are rejected by Seller unless expressly agreed to in writing by Seller. Any term or condition that is so agreed to in writing by Seller and that is inconsistent with this agreement shall control over the terms and conditions of this agreement.
- (b) If any term or condition or a part contained herein is held invalid, the remaining terms and conditions of this contract shall not be affected thereby.
- (c) This contract may be modified or rescinded only in writing signed by both parties or their duly authorized agents.
- (d) No claim or right arising out of a breach of this contract may be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciations is in writing, signed by aggrieved party.
- (e) No delegation of any obligation owed, nor performance of any obligation, by Purchaser shall be made without the written permission of Seller. Any attempted assignment or delegation shall be wholly void.
- (f) All rights available to Seller under the Uniform Commercial Code in force in Illinois, even though not specifically enumerated herein, are expressly reserved to Seller as remedies available to it in case of Purchaser's breach.
- (g) This contract shall be construed in accordance with the laws of the state of Illinois, United States of America.
- (h) Jurisdiction and venue are exclusively placed in any state court within DuPage County, Illinois or the Federal Northern District of Illinois.