

Standard Terms and Conditions of Sale

Dartmouth Ocean Technologies Inc.

Terms and Conditions of Sale

APPLICATION

These terms and conditions govern the sale of goods and services by Dartmouth Ocean Technologies Inc. (the "Seller," herein after referred to as "DOT") and the Purchaser. For certain products, DOT is acting as a distributor of goods manufactured by a third-party Manufacturer.

PRICE OF GOODS

Prices quoted for the goods or as posted on the DOT web site or otherwise presented are subject to change without notice. Acceptance of any order sent to DOT by the Purchaser is entirely at the discretion of DOT.

DELIVERY

Delivery dates are given to the best of the knowledge of DOT based on its knowledge of the conditions existing at the time of sale. DOT will do its best to ship within its quoted delivery estimate, but failure to make shipment as scheduled does not constitute a cause for cancellation, does not constitute a breach of contract and/or does not entitle the Purchaser to damages of any kind. The delivery of this order is contingent on the ability of DOT to obtain supplies and raw materials or finished products from a third-party manufacturer. DOT is not responsible for delays for reasons beyond its control (i.e., fires, strikes, delays of carriers, etc.). Based upon the Purchaser's preference and subject to availability of supplies and raw materials, DOT shall deliver all of the goods at one time or in installments from time to time within the time of delivery herein stated, provided that total time of delivery shall not exceed 12 months. When delivery in installments is chosen, DOT shall prepare an invoice showing the current list price of goods shipped at the time of each shipment, and the Purchaser shall pay the amount of the invoice at the time of delivery. If the Purchaser chooses delivery in installments, the delivery of nonconforming goods, or a default of any nature, in relation to one or more installments of this contract will not substantially impair the value of this contract as a whole, and will not constitute a total breach of the contract as a whole. Terms outlining the Purchaser's acceptance or rejection of goods in each installment are set out in the Acceptance of Goods section below.

PAYMENT TERMS

Shipments and deliveries shall be subject to approval of DOT's Credit Department. DOT reserves the right, previous to making any shipment, to require from the Purchaser satisfactory security for the performance of the Purchaser's obligations. If the Purchaser fails to furnish satisfactory security or information on which to base credit, and/or his account is in arrears, DOT may defer shipment, or may, at its option cancel the shipment of products. Terms of payment, if any, are effective from the date of invoice.

CANCELLATION POLICY

Purchaser shall pay for any and all unrecoverable costs resulting from the cancellation of any order. If the Purchaser cancels a portion of an order, DOT reserves the right to back bill the Purchaser to account for any differences in quantity discounts.

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SHIPPING

All shipments are EXWORKS. Goods damaged in transit are the responsibility of the Purchaser and should be noted on the freight bill by the delivering carrier. All claims for goods damaged in transit shall be made against the delivering carrier by the Purchaser.

ACCEPTANCE OF GOODS

The Purchaser shall inspect the goods within thirty (30) days upon delivery. Failure to inspect within thirty (30) days after delivery shall constitute a waiver of the Purchaser's rights of acceptance and shall be equivalent to acceptance of the goods. Purchaser agrees to pay all costs of inspection. If upon inspection goods are rejected as nonconforming or for any other reason, Purchaser shall notify DOT of rejection within thirty (30) days of delivery.

RETURN OF GOODS

DOT will accept return of unused and unmodified standard goods within 60 days of delivery and refund the price paid less (i) any NIST testing charges, if applicable, and (ii) a fifteen percent (15%) restocking charge. Acceptance of returns after 60 days shall be at DOT's sole discretion. If accepted, such returns will be for merchandise credit only and shall be subject to any NIST testing charges and a twenty percent (20%) restocking fee. DOT shall not be obligated to accept return of used or unused goods which are covered under the warranty or is obsolete inventory. Product returns require a DOT-issued RMA number which is to be clearly marked on the exterior of the return package. Products must be returned in the original unopened packaging, clean and free of toxins, and in their original testable format. Purchaser is responsible for all return shipping charges.

DEFECTIVE GOODS

Return of a product under warranty requires a DOT-issued RMA number and proof that the Purchaser is the original purchaser of the product directly from DOT. Any warranty is void if products have been damaged by the purchaser as a result of improper maintenance, abuse, misuse, mishandling, misapplication, error or negligence of Purchaser, or if there has been an unauthorized alteration, attachment or modification.

WARRANTIES

THERE ARE NO WARRANTIES BEYOND THE EXPRESSED WARRANTY OFFERED WITH THE SALE OF EACH PARTICULAR PRODUCT. FOR PRODUCTS WHERE DOT IS ACTING AS A DISTRIBUTOR, DOT WILL TRANSFER TO PURCHASER ANY TRANSFERRABLE WARRANTIES OR INDEMNITIES THAT THE MANUFACTURER OF THE PRODUCT PROVIDES TO DOT. IN SUCH CASES WHERE DOT IS ACTING AS A DISTRIBUTOR, NO ADDITIONAL WARRANTIES ARE GIVEN OR IMPLIED BEYOND THE MANUFACTURER'S WARRANTY, IF ANY. IN NO EVENT SHALL DOT BE LIABLE FOR LOSS OF PROFITS OR INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR OTHER SIMILAR DAMAGES ARISING OUT OF ANY BREACH OF THIS CONTRACT OR OBLIGATIONS UNDER THIS CONTRACT, INCLUDING BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY.

WHEN REFERRING TO PRODUCTS THAT ARE DEPLOYED IN THE OCEAN (LIKE D WINGS) THIS WARRANTY DOES NOT APPLY TO THE FOLLOWING:

- IF ALTERATIONS ARE MADE TO THE PRODUCT
- IF NORMAL MAINTENANCE REQUIREMENTS ARE NOT FOLLOWED
- MISSUSE OR ABUSE
- ACCIDENTS
- CORROSION

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LIMITATION OF LIABILITY

The Purchaser's sole remedy and the limit of DOT liability for any loss whatsoever shall not exceed the Purchaser's price of the product(s) and/or service(s). The determination of suitability of products or support to the specific needs of the Purchaser is solely the Purchaser's responsibility. THERE ARE NO WARRANTIES BEYOND THE EXPRESSED WARRANTY OFFERED WITH THE SALE OF EACH PARTICULAR PRODUCT. EXCEPT AS SPECIFICALLY PROVIDED IN THIS DOCUMENT, THERE ARE NO OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO INFORMATION OR ADVICE GIVEN BY DOT, ITS AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THE EXPRESSED WARRANTY OFFERED WITH THE SALE OF EACH PARTICULAR PRODUCT.

CUSTOMIZED PRODUCTS

DOT reserves the right to require prepayment on custom orders. Claims by Purchaser of nonconformance to specification must be made to DOT within ten (10) days of delivery. Failure to inspect and make a claim within ten (10) days of delivery constitutes acceptance of the goods. Orders to Purchaser's specifications are executed only on the agreement that the Purchaser shall indemnify DOT and hold it harmless for any loss, cost or damages of any nature resulting or arising from any infringement of patents or any alleged infringement of patents or infringement of any other intellectual property rights.

INDEMNIFICATION

Products supplied by DOT are not designed, intended, or authorized for use as components intended for surgical implant or ingestion into the body or other applications involving life-support, or for any application in which the failure of the DOT-supplied product could create or contribute to a situation where personal injury or death may occur. Products supplied by DOT are not designed, intended, or authorized for use in or with any nuclear installation or activity. Products supplied by DOT are not designed, intended, or authorized for use in any aeronautical or related application. Should any DOT-supplied product or equipment be used in any application involving surgical implant or ingestion, life-support, or where failure of the product could lead to personal injury or death, or should any DOT-supplied product or equipment be used in or with any nuclear installation or activity, or in or with any aeronautical or related application or activity, Purchaser will indemnify DOT and hold DOT harmless from any liability or damage whatsoever arising out of the use of the product and/or equipment in such manner.

INTERPRETATION

This writing is intended by the parties as final expression of their agreement and is intended as a complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties and no usage of the trade shall be relevant to supplement or explain any term used in these terms and conditions. Acceptance or acquiescence in a course of performance rendered under these terms and conditions shall not be relevant to determine the meaning of these terms and conditions even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code, as adopted in Nova Scotia, is used in these terms and conditions, the definition contained in the Code is to control.

MODIFICATION

These terms and conditions can be modified or rescinded only by a writing signed by both parties or their duly authorized representatives.

APPLICABLE LAW

These terms and conditions shall be governed by and construed in accordance with the laws of the Province of Nova Scotia, and the courts of Nova Scotia, Canada shall be the exclusive forum.