

## **DORMER PRAMET, LLC**

### **TERMS AND CONDITIONS OF SALE**

YOU AGREE THAT THE FOLLOWING TERMS AND CONDITIONS OF SALE CONSTITUTE THE COMPLETE AND FINAL AGREEMENT BETWEEN BUYER AND SELLER IN RESPECT OF THE APPLICABLE ORDER. NONE OF THE TERMS AND CONDITIONS CONTAINED IN THIS ACKNOWLEDGEMENT MAY BE ADDED TO, MODIFIED, SUPERSEDED OR OTHERWISE ALTERED EXCEPT BY A WRITTEN INSTRUMENT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SELLER, AND THE PRODUCTS RECEIVED BY BUYER FROM SELLER SHALL BE DEEMED TO BE DELIVERED ONLY UPON THE TERMS AND CONDITIONS CONTAINED HEREIN.

1. Acceptance.

The acceptance by Dormer Pramet, LLC ("Seller") of your ("Buyer") order for the products to be sold hereunder (the "Products") is EXPRESSLY MADE CONDITIONAL UPON BUYER'S ASSENT TO THE TERMS AND CONDITIONS OF THIS ORDER ACKNOWLEDGEMENT, and these constitute the only binding terms and conditions between the Parties, even if these terms and conditions differ from or are in addition to those on any purchase order or other document sent to Seller by Buyer. Any terms of sale requested by Buyer which are in any way inconsistent with or in addition to these terms and conditions are rejected and will not be binding upon Seller. In the event that a written sales agreement between the Parties applies to the Products, such agreement shall control and supersede any terms or conditions hereof in conflict therewith, but all other terms and conditions hereof shall apply.

2. Prices.

Except as expressly set forth herein, all prices are FOB Seller's distribution center in Hebron, KY, are exclusive of taxes and subject to correction for error. Seller may change pricing without notice, and the applicable price for an order will be the price in effect at the time of shipment. Price quotations are valid for thirty (30) days unless otherwise noted by Seller. Seller's payment terms are one percent (1%) twenty (20) days, net thirty (30) days. Payments not posted by the 45th day will result in a credit card hold status. Disputed balances in excess of 60 days outstanding will also result in credit hold status. All prices, terms and discounts are subject to change without notice. Buyer shall make all payments when due without offset, deduction or counterclaim regardless of any claim by Buyer. Amounts not paid when due will bear interest from the invoice date at the rate of 1.5% per month or the maximum rate allowed by law, whichever is less. Buyer shall pay to Seller all costs and expenses (including reasonable attorneys' fees) incurred in collecting any amounts due hereunder. If the financial responsibility of Buyer becomes impaired or unsatisfactory to Seller, advance cash payments or satisfactory security shall be given by Buyer upon demand by Seller, and shipments may be withheld until such payment or security is received.

3. Taxes.

The amount of any sales, use ad valorem, property or other tax or duty, however designated, levied or based on the Products, or the sale or delivery thereof, shall be added to the price quoted and billed to and paid by Buyer. If Seller is required to pay any such tax or duty, Buyer shall reimburse Seller therefore, or provide Seller with an appropriate exemption certificate or other documents acceptable to the taxing or customs authorities.

4. Shipping.

Freight Terms

- All orders are F.O.B. Seller's warehouse.
- Freight prepaid via economical route of Seller's choice on individual orders valued at \$500.00 net billing or more within the continental United States.
- Flat rate shipping program available for orders valued under \$500.00 net.
- Backorders will be shipped freight prepaid via economical route of our choice, unless requested by consignee for UPS or FedEx collect at the time of the order.

<u>Service</u>	<u>Weight (lbs)</u>	<u>Rate</u>
Air	1-5	\$14.00
Air	6-15	\$24.00
Air	16+	\$35.00

- There is a minimum order value of \$50 for orders placed via fax, email or over the phone. There is no order value minimum for orders placed through EDI or online through the eShop.
- Within the continental United States, the minimum order requirement will be waived for next day air and second day air orders shipped directly to end users.

**Certainty**  
**at every turn™**

All shipping dates are approximate and tentative, and are based on prompt receipt from the Buyer of all necessary information. Requests for proof of delivery must be made within sixty (60) days of the date of shipment. If Buyer fails to accept delivery, Buyer shall nonetheless make payment to Seller. Claims for shortage, damage or non-delivery shall be made directly to carrier. Seller's responsibility ceases upon delivery to the carrier at the stated shipping point, and risk of loss, damage, injury or destruction to any of the Products shall pass to Buyer upon such delivery to the carrier. In no event shall any loss, damage, injury or destruction operate in any manner to release Buyer from the obligation to make payments required herein. Seller reserves the right to make partial shipments and to submit invoices for partial shipments. Seller reserves the right to allocate available Products among its customers in its discretion.

5. Delays in Delivery.

Seller shall be excused for delay in delivery, may suspend performance and shall under no circumstances be responsible for failure to fill any order or orders, or any portion thereof, when due to: acts of God or the public enemy, fires, floods, riots, strikes, freight embargoes or transportation delays, inability to procure labor, fuel, material supplies, or power at current prices or on account of shortages thereof, any existing or future law or governmental act affecting the conduct of Seller's business, or any cause beyond the reasonable control of Seller.

6. Order Size and Variation.

Orders for Products (other than specially manufactured products) must be for a quantity that is a wholenumber multiple of Seller's standard lot-size for such products. Any order for a quantity that is not a wholenumber multiple of Seller's standard lot-size will be deemed to be for a quantity that is the nearest wholenumber multiple of such lotsize. In the case of orders for altered or modified products, the quantity actually shipped may be less than the quantity ordered based on products that are damaged in the alteration or modification process. In the case of orders for altered or modified products, the quantity actually shipped may be less than the quantity ordered based on products that are damaged in the alteration or modification process. In the case of orders for special products, or products ordered by weight or length, the quantity of products actually shipped and invoiced by Seller may be up to ten percent (10%) higher or lower than the quantity ordered. Without limiting the foregoing, all Products furnished by Seller shall be subject to Seller's standard manufacturing variations and practices with the limits and sizes that Seller produces, and all products purchased are subject to customary quality variations and tolerances recognized within the trade.

7. Limited Warranty.

Seller warrants that the Products will conform to Seller's published specifications therefore, or such other specifications as the Parties may expressly agree in writing, provided that the Products are subjected to only the usage for which they were manufactured. The warranty shall commence on the date of shipment and continue for a period of ninety (90) days. In the event that any Product fails to comply with the foregoing limited warranty, Buyer must promptly (but no later than expiration of the applicable warranty period) contact Seller to obtain a return materials authorization. Products must be returned to Seller, freight prepaid by Seller, for determination by Seller that such Products are defective. Such Products shall be accompanied by a written description of the circumstances under which the applicable Products purportedly failed. Seller shall replace or repair, at its sole option and expense, any defective Products for parts thereof that prove to be defective during the warranty period, and return such repaired/replacement Products to Buyer, freight prepaid by Seller, or refund the purchase price paid therefore. **THIS REMEDY IS THE SOLE AND EXCLUSIVE REMEDY AVAILABLE TO BUYER FOR DEFECTIVE PRODUCT.** If Seller determines in its sole discretion that the defect is attributable to any cause other than poor workmanship or defective materials supplied by Seller, then Seller shall have no obligation whatsoever with respect to repair or replacement of the defective Products. Seller shall return the Products to Buyer, freight to be paid by Buyer, and the warranty described herein shall be void. This limited warranty does not cover defects caused by normal deterioration and wear and tear, and does not apply if Products have been subject to modification, or to misuse, mishandling, misapplication, operation outside rated capacities, negligence (including, without limitation, improper maintenance), or accident or if any adjustments or repair has been performed by anyone other than Seller or an authorized service representative of Seller. **THIS WARRANTY IS IN LIEU OF ANY OTHER WARRANTIES, AND SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT.**

8. Indemnification.

Buyer agrees to indemnify and hold harmless Seller, its officers, agents, employees and authorized representatives from and against any and all costs or damages arising out of or related to any claim or lawsuit alleging personal injury or death to any person which may result from or arise in connection with its use of Products in any products of any kind.

9. Cancellation.

Any order for specially manufactured products, or altered or modified versions of Seller's standard products that is cancelled after such order is accepted by Seller shall be subject to a cancellation fee determined appropriate by Seller based on the work performed and expenses incurred as a result of such order.

10. Drawings and Technical Documents.

All drawings and technical documents delivered by either of the Parties to the other Party remain the property of the delivering Party, and the receiving Party may not improperly use, reproduce, or otherwise disclose such materials to third parties. Tooling, setup, drawing, design information and partial preparation charges, when invoiced to Buyer, cover only part of the cost thereof of Seller. Buyer does not acquire any right, title or interest in any tooling, setup, drawings, design information, or invention resulting therefrom. All drawings, techniques, inventions or improvements (whether or not patentable) made or conceived in the course of fulfilling any order, including any intellectual property rights pertaining thereto, shall be the sole property of Seller.

11. Quality.

Seller shall manufacture all Products in accordance with its published specifications or those specifications which may be expressly agreed upon in writing by the Parties.

12. Limitation of Liability

No claims of any kind whatsoever by Buyer hereunder, regardless of the theory on which a claim may be made including, without limitation, negligence, breach of contract, breach of warranty, absolute liability in tort, misrepresentation or otherwise, with respect to any Products delivered or for failure to deliver any Products, shall be greater in amount than the purchase price attributable to such Products in respect of which damages are claimed.

SELLER WILL NOT BE LIABLE TO BUYER FOR ANY INDIRECT, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR LOSSES, INCLUDING, BUT NOT LIMITED TO, BUSINESS INTERRUPTION, LOSS OF PROFIT, LOSS OF REVENUES, AND PRODUCTION LOSS, HOWSOEVER CAUSED, REGARDLESS OF WHETHER SUCH DAMAGES OR LOSSES ARISE OR RESULT, IN WHOLE OR IN PART, FROM NEGLIGENCE (WHETHER SUCH NEGLIGENCE BE SOLE, JOINT AND/OR CONCURRENT, ACTIVE OR PASSIVE), STRICT LIABILITY, CONTRACT BREACH, BREACH OF WARRANTY, OR ANY OTHER THEORY OF LEGAL LIABILITY ATTRIBUTABLE TO SELLER, UNLESS SUCH LOSSES ARE CAUSED BY THE GROSS NEGLIGENCE, FRAUDULENT CONDUCT OR WILLFUL MISCONDUCT OF SELLER.

13. Global Trade Compliance and End Use/User Assurance

For the purpose of these terms and conditions of sale (this "Agreement"):

"**Global Trade Laws and Regulations**" means customs, import, export, re-export, trade control and economic or financial sanctions laws, regulations and orders, always including such laws, regulations and orders of the UN, US, EU and UK, but also, as applicable, such laws, regulations and orders of any country in which the Products are manufactured, received, used, exported from, imported to, or as otherwise applicable;

"**Prohibited Countries**" means Afghanistan, Belarus, Iran, North Korea, Russia, Syria, Crimea and non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine. Seller reserves the right to amend the list of Prohibited Countries by written notice to Buyer; and

"**Listed Person**" means any person or entity, specially designated, blocked or otherwise individually listed or targeted under Global Trade Laws and Regulations.

(a) Buyer represents and warrants that:

i. none of Buyer, its affiliates, or any of their respective officers or directors, is a Listed Person, or is owned to 50 % or more, directly or indirectly, individually or in the aggregate, or is otherwise controlled by one or more, Listed Person(s); ii. Buyer has not engaged in, is not engaging in, and will not engage in any business involving a Listed Person, or any entity owned to 50% or more, directly or indirectly, individually or in the aggregate, or otherwise controlled by one or more, Listed Person(s); and iii. Buyer has not engaged in, is not engaging in, and will not engage in any transaction that circumvents, evades, or avoids, or has the purpose or effect of circumventing, evading, or avoiding, or attempts to violate, any Global Trade Laws and Regulations.

(b) Buyer hereby agrees to observe and comply fully with all Global Trade Laws and

Regulations. Buyer agrees that no Products provided by Seller shall be, directly or indirectly, sold, exported, re-exported, transferred, retransferred or otherwise released or disposed to any person or entity, legal or natural, in breach of Global Trade Laws and Regulations. Buyer shall not take any actions in furtherance of this Agreement that would cause Seller to violate any Global Trade Laws and Regulations to which Seller is subject.

- (c) Without limitation to the generality of the foregoing, Buyer shall not, directly or indirectly, sell, export, re-export, transfer, retransfer or otherwise release or dispose any Products:
- i. without securing all licenses and/or authorizations necessary under the Global Trade Laws and Regulations from the relevant governmental authority;
  - ii. to, or for the benefit of, a Listed Person;
  - iii. to, via, or otherwise for use in, Prohibited Countries;
  - iv. for any purpose connected with chemical, biological or nuclear weapons, or missiles capable of delivering such weapons, or for any nuclear explosive or unsafeguarded nuclear fuel cycle activity; or
  - v. for military end-use or to a military end-user, including military intelligence enduses and end-users, without obtaining Seller's prior written approval.
- (d) Buyer shall impose the obligations above in this Section in all subsequent transactions involving the Products.
- (e) Buyer agrees to, as promptly as possible and in any event within five (5) business days, notify Seller in writing of actual or suspected breaches of any of the obligations above in this Section and shall to the best of its abilities, cooperate with Seller to facilitate compliance with Global Trade Laws and Regulations and will upon request, provide Seller with copies of all documentation relating to any business dealings involving the Products, including but not limited to, end-user certifications. Further, Buyer shall provide all information relating to requests for any Products, that Buyer suspects could violate or circumvent Global Trade Laws and Regulations, or where the provision of Products would breach Buyer's commitments under the obligations above in this Section, including requests from or on behalf of a Listed Person or attempts to acquire any Products in violation of Global Trade Laws and Regulations.
- (f) If Buyer, in whole or in part, breaches any of the obligations above in this Section or (to the furthest extent permissible under applicable law) in Seller's reasonable opinion any such breach is likely to occur, the Parties agree that: (i) Seller shall be under no obligation to fulfill outstanding payments, deliveries, orders or alike; (ii) Seller shall not be liable toward Buyer or any third party for any subsequent non-performance by Seller under this Agreement; and (iii) that Buyer shall indemnify and hold Seller harmless from any claims or losses relating to such non-performance. Any failure by Buyer to comply, in whole or in part, with this Section, is to be considered a breach of this Agreement which will entitle Seller to terminate the Agreement with immediate effect. Further, Seller is entitled to terminate the Agreement with immediate effect upon written notice if either Party's ability to fulfill an obligation under this Agreement is materially affected by the imposition of restrictions in Global Trade Laws and Regulations.

#### 14. Anti-bribery and supplier's business partner code of conduct

The counterparty shall and shall through an adequate compliance program procure that its personnel and other third parties acting on its behalf shall, conduct business in compliance with applicable anti-bribery laws [1] (the "ABC-Laws"). If the counterparty is a Business Partner [2], shall accept and undertake to comply with the Business Partner Code of Conduct (as updated from time to time), available at [Business Partner Code of Conduct](#)

The Company shall be under no obligation to fulfill any outstanding payments or deliveries or accept any order under the counterparty Agreement, if the Company has reasonable grounds for suspecting that such payments, deliveries or transactions may be used in – or contribute to a – breach of any ABC-Laws, the Business Partner Code of Conduct (Business Partner Code of Conduct only applies in case of counterparty is a Business Partner) or otherwise would constitute a criminal offence.

The Company shall be entitled to withhold such payments, deliveries and transactions until it is evidenced that such payments, deliveries or transactions will not be used in – or contribute to a – breach of any ABC-Laws, the Business Partner Code of Conduct or otherwise would constitute a criminal offence. The counterparty shall indemnify the Company from and against all and any liabilities suffered or incurred in any jurisdiction in relation to any failure by the counterparty to comply with ABC-Laws or the Business Partner Code of Conduct.

Finally, any failure by the counterparty to comply, in whole or in part, with the ABC-Laws or, the Business Partner Code of Conduct (in case of Business partner), is to be considered a breach of this agreement which will entitle the Company to terminate the agreement with immediate effect if the breach is not possible to remedy.

[1] Including the OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions, US Foreign Corrupt Practices Act, the UK Bribery Act 2010, the Swedish Penal Code and the anti-bribery laws of the Territory

[1]A Business partner is an organization that buys products or services from the Company and resells them to retailers or directly to end-users and which represents the Company or can be otherwise associated with the Company.

#### 15. Termination.

In addition to any remedies that may be provided for in this Agreement, Seller may terminate this agreement with immediate effect upon written notice to Buyer and without liability to Buyer, if: (a) Buyer fails to pay any amount when due under this Agreement and such failure continues for thirty (30) days after Buyer's receipt of written notice of nonpayment; (b) Buyer has not otherwise performed or complied with any of the other terms of this Agreement in whole or in part, and Buyer fails to cure such breach or nonperformance within thirty (30)

days following written notice from Seller to Buyer; or (c) Buyer becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

16. Confidential Information.

The terms of this Agreement, as well as all non-public, confidential or proprietary information of Seller, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked or identified as "confidential," are confidential to Seller and may not be disclosed or otherwise used by Buyer unless authorized by Seller in writing. Seller shall be entitled to injunctive relief for any violation of this Section, and without the need to post any bond. This Section shall not apply to information that is established to be: (a) in the public domain; (b) rightfully obtained by the Buyer on a non-confidential basis from a third party; or (c) independently developed by Buyer without reference to or use of Seller's confidential or proprietary information.

17. Miscellaneous Terms.

(a) Assignment. Buyer shall not assign any of its rights or obligations under this Agreement without the prior written consent of Seller. Any purported assignment in violation of this Section shall be null and void. No assignment shall relieve Buyer of any of its obligations hereunder. Seller may assign its rights or obligations under this Agreement to an affiliate.

(b) No Third-Party Beneficiaries. This Agreement benefits solely the Parties to this Agreement and their respective successors and permitted assigns and nothing in this Agreement, express or implied, confers on any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under this Agreement.

(c) WAIVER OF JURY TRIAL. EACH OF BUYER AND SELLER ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT, INCLUDING EXHIBITS, SCHEDULES AND APPENDICES ATTACHED TO THIS AGREEMENT, IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) Authority. Each of Buyer and Seller hereby represents that the person executing this Agreement on its behalf has the legal capacity and the authority to execute this Agreement on behalf of such Party and it has all necessary authority to make the representations, warranties and agreements contained herein.

(e) Waiver. The failure of Seller to enforce any provision of this Agreement or any right hereunder shall not be construed as a waiver of such provision or right. Neither the failure nor any delay by Seller in exercising any right under this Agreement will operate as a waiver of such right, and no single or partial exercise of any such right will preclude any other or further exercise of such right or the exercise of any other right.

(f) No Agency or Joint Venture. Each of Buyer and Seller represents that no agency, partnership, fiduciary relationship, or joint venture is established by this Agreement. Neither of Buyer and Seller shall enter into or incur any contractual obligation, expense, or liability with a third party on behalf of the other Party.

(g) Severability. If any term or provision of this Agreement is determined to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal or unenforceable, Buyer and Seller shall negotiate in good faith, and any applicable court may modify this Agreement, in order to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

(h) Cumulative Remedies. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Buyer and Seller of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties, or otherwise.

(i) Headings. The headings in this Agreement are for convenience of reference only and are not intended to define or limit the contents of any article, section or paragraph.

(j) Counterparts; Electronic Signatures. This Agreement may be executed in separate counterparts, none of which need contain the signatures of Buyer and Seller, each of which shall be deemed to be an original, and all of which taken together constitute one and the same instrument. All executed signature pages transmitted by facsimile or email transmission shall be deemed an original and shall be binding.

(k) Dispute Resolution. All disputes arising out of or in connection with this Agreement shall be finally settled under the Rules of Arbitration of the American Arbitration Association by one or more arbitrators appointed in accordance with the said Rules. The Emergency Arbitrator Provisions shall not apply. The place of arbitration shall be Charlotte, NC, and the language of the arbitration shall be English.

(l) Governing Law. This Agreement shall be governed by the laws of New York, NY USA without reference to its principles of conflicts laws, and without reference to the UN Convention on Contracts for the International Sale of Goods.

(m) Amendment. No provision of this Agreement may be amended, supplemented or modified except by a written instrument making specific reference to this Agreement signed by each of Buyer and Seller.

(n) Force Majeure. The obligations of Buyer or Seller under this Agreement (other than Buyer's payment obligations) will be suspended to the extent that such Party is wholly or partially precluded from complying with its obligations under this Agreement by force majeure. Force majeure includes, but is not restricted to, fire, storm, flood, earthquake, explosion, accident, act of the public enemy, war, rebellion, insurrection, sabotage, epidemic, quarantine restriction, labor dispute, labor shortage, transportation embargo or failure or delay in transportation, act of God, act (including laws, regulations, disapprovals or failure to approve) of any government agency, whether national, municipal, or otherwise. If any force majeure limits Seller's ability to deliver Products to Buyer, Seller shall make partial delivery to Buyer in proportions that are reasonable under the circumstances.

(o) Notices. Notices under this Agreement shall be sent by overnight delivery by a reputable national courier service with copy by regular mail. Any such notice shall be addressed to Buyer at the address for Buyer set forth in this Agreement. Any such notice to Seller shall be addressed as follows: Dormer Pramet, LLC, 1483 Dogwood Way, Mebane, NC 27302: Director of Sales. Such notices shall be deemed received upon receipt by overnight delivery. Any Party may provide notice to the other Party of an additional or different address at which it will receive notices.

(p) Electronic Ordering Options (Please call 800-877-3745 for more information)  
Online ordering through the eShop via [www.dormerpramet.com](http://www.dormerpramet.com)

- This no-charge password-protected web site lets an authorized buyer check stock and price, place orders, track packages and view invoices for standard tools. Ground orders placed by 3:30 p.m. CST will ship same day. Air orders placed by 4:30 p.m. CST will ship same day.

Epicor

- This software package is provided by Epicor for electronic transactions that occur between Buyer's computer system, Epicor and Seller.
- Buyer must be subscribed to Trading Partner Connect (TPx or TPc) before using. EDI
- This computer to computer transaction system requires programming and set-up time at both the Buyer and Seller.
- Buyers must spend \$50,000.00 or more per year with Seller to qualify.
- Current transactions available are: 850 – Purchase Order, 810 – Invoice, 997 – Functional Acknowledgement, 855 – PO Acknowledgement, 856 – Advance Ship Notice.