



These Terms and Conditions set forth the responsibilities and obligations of any vendor or supplier (hereinafter referred to as "the Seller") for, but not limited to, quality control, materials characterization, and the document control processes required for doing business with Exothermics Inc., (hereinafter referred to as "the Buyer"). By accepting this Purchase Order, the Seller agrees to all the "Required Terms and Conditions" set forth below, as well as any Additional Terms & Conditions provided by the Buyer.

**REQUIRED TERMS & CONDITIONS:**

**AGREEMENT OF SALE:** Acceptance of the terms and conditions shall be deemed made, in the absence of such notification, with acknowledgment by Seller of the order or commencement of work on the order of the goods covered by these Terms and Conditions.

**PRICES:** The price to be paid by Buyer shall be the price in effect at the date of the order acceptance unless otherwise specified by the Seller.

**TAXES:** The price of the goods does not include sales, use, excise, ad valorem, property or other taxes now or hereafter imposed, directly or indirectly by any government authority or agency with respect to the manufacture, production, sale delivery, consumption or use of the goods covered by this contract. Buyer is exempt from sales tax as per NH Department of Revenue Administration ([revenue.nh.gov/assistance/resale-exempt-certs.htm](http://revenue.nh.gov/assistance/resale-exempt-certs.htm)).

**PAYMENT:** The specific terms of payment are specified in writing by the Buyer and noted on the Purchase Order. Any questions regarding payment shall be directed to the Buyer or Accounts Payable directly.

**SHIPMENT:** Unless otherwise specified, the shipment of goods purchased, shall be completed as per the Purchase Order with the default shipping as UPS Ground, FOB Destination.

**DELIVERIES:** The Date Required is firm. Seller shall deliver in accordance with the delivery schedule set forth in the Purchase Order. Seller shall notify Buyer in the event that the delivery date cannot be met.

**DELAYS IN DELIVERIES:** Seller shall not be held responsible for delays in deliveries due to acts of God or of the public enemy; fires; floods; riots; freight embargoes; transportation delays; shortages of power or any existing or future laws or acts of the Federal or of any State Government affecting the conduct of Seller's business.

**LIMITATION OF FUNDS:** The Buyer shall not be obligated to pay Seller any amount in excess of the amount of funds authorized herein for each item unless formally approved by the Buyer.

**PACKING SLIP:** A packing slip shall be included with each shipment and shall contain Purchase Order Number, quantity, part number and description of products enclosed.

**CORRECTIVE ACTION:** Seller shall apply suitable corrective action when presented with a complaint or report of non-conformance.

**TERMINATION:** Buyer may terminate this order at any time and the Seller shall stop work immediately upon notification. The Seller shall provide all incurred expenses not previously invoiced and/or paid, along with any other amounts necessary to terminate the Purchase Order, to the Buyer within 14 days of termination notice. Seller shall provide details to support the expenses. Seller shall provide Buyer with all finished goods and Buyer shall have the option to receive work in progress. Seller shall deliver such goods and Buyer will make payment within 30 days of delivery.

**ETHICAL BEHAVIOR:** Seller shall exhibit and require ethical behavior for proper business conduct. Buyer expects Seller to observe the highest standards of ethics and integrity in their conduct.

**WARRANTY:** Seller warrants that the goods manufactured by the Seller, when shipped, are free from defects in materials and workmanship. Buyer will notify Seller of any defect and Seller will repair or replace within 90 days of receipt of goods at Seller's expense. This Warranty does not include any warranty of merchantability or of fitness for a particular purpose unless so stated on the Purchase Order.

**COUNTERFEIT PARTS:** Seller shall have a methodology in place to identify and prevent the use or shipment of counterfeit parts.

**PATENTS:** Seller warrants that the use or sale of the goods delivered will not infringe the claims of any United States patent covering the goods, but does not warrant infringement by reason of the use thereof in combination with other material or equipment in the operation of any process. Seller shall, at its own expense, assume the defense of any claim, suit or other proceeding brought against Buyer upon a claim that the goods furnished under this contract constitutes an infringement of any patent of the United States. Buyer agrees to cooperate in the defense of any such proceedings and to provide information, assistance and authority necessary therefore. Should the goods in such suit be held to constitute infringement and the use of the goods enjoined, the Seller shall, at its own expense and at its option, procure for the Buyer, the right to continue using such goods or replace them with substantially equivalent goods or modify them so they become non-infringing. Buyer shall defend, hold harmless and indemnify Seller against all judgments, decrees, costs and expenses arising out of any action against Seller or its suppliers based on a claim that the manufacture or sale of goods hereunder constitutes infringement of any United States letters patent, if such goods were manufactured pursuant to Buyer's proprietary designs, specifications and/or formulae and were not normally offered for sale by Seller, provided, however, Seller shall give prompt written notice of the claim or action and Seller shall give Buyer authority, information and assistance.

**LAW GOVERNING:** The interpretation and performance of this contract shall be in accordance with and shall be controlled by the laws of the State of New Hampshire.

**MODIFICATIONS:** All modifications by any member of either party will be deemed not agreed to unless a modification to this agreement is in writing and agreed to by both parties.

**TOOLING:** Costs of tooling will be assessed as a one-time service charge which does not constitute the purchase of tooling or engineering date. All such items shall remain the property of and in the custody of the Seller, but will be reserved for the Buyer's exclusive use. Seller shall not be obligated to retain such tooling beyond five years after its last use and shall contact Buyer for disposition instructions of said tooling.



FOREIGN OBJECT DAMAGED (FOD) CONTROL: The Seller shall ensure that sufficient measures are undertaken to prevent Foreign Object Damage (FOD) of materials and articles made for the Buyer as a part of this purchase order.

CALIBRATION REQUIREMENTS: The Seller shall maintain a system for the calibration of all measuring and test equipment used in fulfillment of the purchase order that is in accordance with ISO 9001 or similar.

#### ADDITIONAL TERMS & CONDITIONS:

\_\_\_\_ DEFENSE PRIORITIES AND ALLOCATION SYSTEM (DPAS) RATING: This is a rated contract, certified for national defense. The Seller is required to follow all provisions of the Defense Priorities and Allocation System Regulations (Ref 15 CFR 700). The DPAS Rating of this order is       . <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-A/part-700>

\_\_\_\_ FLOW DOWNS: Seller shall comply with all flow down clauses associated with the prime contract under which this purchase is made. Prime Contract Number: \_\_\_\_\_.

\_\_\_\_ QUALITY MANAGEMENT SYSTEM (QMS) REQUIREMENTS: The Seller shall maintain a generally recognized Quality Management System (QMS) such as ISO 9001 or AS 9100, and upon request, supply evidence demonstrating that their certifications or approvals are current.

\_\_\_\_ RECORDS RETENTION: Records related to the manufacture of products ordered by the Buyer shall be maintained for at least 5 years from date of manufacture, and protected from damage or deterioration. Such records shall be provided to the Buyer upon request.

\_\_\_\_ RIGHT OF ENTRY PROVISION: The Seller shall provide right-of-entry provisions in any purchase action by the Buyer. These provisions shall allow the Buyer, its customers, and regulatory agencies to determine and verify the quality of work, records, and material at any place, including the plant of the subcontractor.

\_\_\_\_ CERTIFICATION: As applicable, the Seller shall supply a Certificate of Compliance, Process Certification, and/or Physical/Chemical Test Report.

- Certificate of Compliance will (as appropriate) include at a minimum:
  - Manufacture of product(s)/part(s)
  - Date of manufacture and/or shipping date
  - Lot number
  - The Buyer purchase order number
  - Serial number of product(s) (if applicable)
  - Signature and date of responsible individual, preferably from Quality Assurance attesting that the material(s) or parts(s) supplied, fulfill all requirements of the purchase order.
- Process Certification
  - Documentary evidence (computer files, chart records, etc.) that processing parameters are carried out in accord with prior instructions in the event that the Buyer provides the Seller with detailed processing instructions.
- Physical and/or Chemical Test Reports
  - A test report containing physical properties and/or chemical composition of raw materials. The report must specifically identify the materials by reference to the number of the production run or other similar designation and, as appropriate, must indicate the applicable specification and revision. The test reports shall be in an envelope marked "Attention Receiving Inspection".

#### NOTE:

If, for any reason, the Seller cannot meet any of the terms noted above, the Buyer must be notified at the Seller's earliest convenience. Seller must also notify the Buyer of unexpected anomalies, non-conformances, or changes to preapproved processes within 24 hours of discovery. Failure to do so may result in delay or refusal of payment to Seller.

The Buyer is committed to a long-term program of customer satisfaction and continual improvement. This is built around providing high performance, advanced materials and products for use in demanding aerospace and DoD applications. We are dedicated to satisfy customer expectations, demonstrate proficiency, understand and drive product improvements through the dedicated teamwork of management and the employees.