

General Terms and Conditions of Dynamix Italia Srl - As of June 2017 -

1. Applicability

1.1

Unless expressly otherwise agreed in writing, the General Terms and Conditions set out below apply to all deliveries, services, and quotations provided or made by Dynamix Italia Srl (called "Dynamix Italia" below) in business transactions with companies, corporate bodies under public law, or assets under public law as defined in the Italian Civil Code.

1.2

These Terms and Conditions shall also constitute part of the contract concluded within the framework of an ongoing commercial business connection even if Dynamix Italia has not expressly stated that they do so.

1.3

Deviating or additional general terms and conditions, including but not only the Customer's conditions of purchase, shall not constitute part of the contract, even if the Customer makes reference to them in connection with the order placement.

2. Quotations and Conclusion of Contract

The offers made in our catalogs and brochures and on our Internet site are subject to confirmation, that is, they may be interpreted only as invitations to make an offer, unless it is expressly stated that they are binding. By sending an order to Dynamix Italia, it is regarded that the Customer thereby makes a binding offer. Dynamix Italia reserves the right to decide whether to accept said offer.

3. Retention of Ownership

3.1

Dynamix Italia retains the ownership of the hardware products and software media supplied

and the right of use for the software products supplied (called "reserved goods" below) until complete payment of the agreed price and of any other claims arising from the current business connection

3.2

The Customer has a duty to notify Dynamix Italia immediately of any change in the Customer's business location as long as there are still claims outstanding from the current business connection.

3.3

The Customer may install or integrate reserved goods within the proper framework of its business transactions. The connection, processing, or installation of the reserved goods is however performed exclusively for Dynamix Italia, which acquires ownership of a proportion of the finished goods or of the new item that is equivalent to the proportion of the value of the reserved goods to the value of the finished goods or of the new item.

3.4

Unless otherwise expressly agreed in writing, the Customer is entitled to resell, in proper business transactions and under retention of ownership, the reserved goods or items of which Dynamix Italia has part ownership. The Customer hereby assigns to Dynamix Italia as security the Customer's future claims arising from resale of the reserved goods to the amount invoiced for the reserved goods until the claims detailed under 3.1 have been paid in full, and Dynamix Italia hereby accepts said assignment. Should Dynamix Italia have only part ownership of the sold items, the claims are assigned to the amount of the sale value of the portion owned by Dynamix Italia, but with priority over the

remaining claims. At Dynamix Italia's request, the Customer shall inform Dynamix Italia of the name and address of the purchaser concerned and of the nature and extent of the claims against said purchaser. Dynamix Italia may disclose this assignment at any time to secure Dynamix Italia's claims to payment. The Customer is not permitted to pledge the reserved goods or to assign them as security.

3.5

Dynamix Italia authorizes the Customer to collect the claims assigned under the previous section, reserving the right to revoke the authorization. Dynamix Italia shall not exercise its own right to collect as long as the Customer fulfills its payment obligations, including such obligations towards third parties.

3.6

In the event that third parties access the reserved goods, the Customer shall declare them to be the property of Dynamix Italia and notify Dynamix Italia immediately in writing. The Customer shall bear the entire cost of any intervention proceedings and other defensive measures connected with such access by third parties.

3.7

In the event that the Customer violates the terms of the contract – including but not restricted to default of payment or that a situation arises that makes cessation of payment probable, Dynamix Italia can revoke the Customer's entitlement to resell goods, collect claims and process or connect the reserved goods, and can take back the reserved goods at the Customer's expense or demand the assignment of the Customer's claims for surrender against third parties. Dynamix Italia is entitled to utilize the reserved goods and to use the revenues from such utilization to satisfy its outstanding claims against the Customer. The exercise of rights under the retention of ownership does not constitute withdrawal from the contract.

3.8

Dynamix Italia shall release securities at the Customer's request, but solely to the extent that their value exceeds the secured claims by a total of more than 10%. On satisfaction of all Dynamix Italia's claims arising from the business connection, ownership of the reserved goods

and the assigned claims are transferred to the Customer.

4.Payment

4.1 Unless otherwise agreed, payment falls due without deduction within 30 days of the date of invoice.

4.2

In the event that the Customer is in default of payment for previous deliveries, further deliveries to the Customer shall be made solely against payment in advance.

4.3

In the event of default of payment, the Customer shall pay Dynamix Italia interest on arrears of 8% above the base rate valid at the time. The Customer shall however be permitted to prove that no damage has been caused or that the damage caused is considerably lower than this flat rate. Dynamix Italia expressly reserves the right to assert further claims for damages.

4.4

The Customer may offset only such counter-claims as have been established by the court or expressly acknowledged in writing by Dynamix Italia.

5.Delivery

5.1

Delivery and service periods and deadlines for deliveries by Dynamix Italia are not binding, unless they have been expressly agreed as binding.

5.2

Delivery and service periods and deadlines for deliveries by Dynamix Italia, even in the event of delay, shall be extended in the event of force majeure and of all unpredicted obstacles occurring after conclusion of contract for which Dynamix Italia is not responsible (including but not restricted to operational disruptions, strike, lockout, or disruption on the transportation routes), to the extent that said obstacles provably have a considerable effect on the delivery or service.

5.3

Deliveries are performed subject to correct and punctual delivery being made by our suppliers.

5.4

Partial deliveries to the extent that may reasonably be considered acceptable shall be considered as partial but valid fulfillment and can be invoiced separately, unless they are clearly of no economic use to the Customer in an objective manner.

5.5

Unless otherwise expressly agreed in writing, the risk of damage to or loss of the Dynamix Italia products supplied is transferred to the Customer when the products leave Dynamix Italia's shipment depot.

5.6

In the event that a cause for which Dynamix Italia is not responsible, including strike and lockout, affects the delivery dates ("disruption"), the delivery dates shall be postponed by the duration of the disruption. Dynamix Italia shall immediately notify the Customer of the cause of any disruption that may occur in Dynamix Italia's sphere and of the period of postponement. In the event that costs are increased for a cause for which the Customer is responsible, Dynamix Italia is entitled to require the Customer to cover the extra costs incurred by Dynamix Italia.

6. Warranty

6.1 General Terms

Dynamix Italia warrants that its software and hardware products (with the exception of Customer-specific developments) are free of defect for a period of 12 months. The warranty period for engineering services and for Customer-specific hardware and software is 12 months. In the event that the services differ only insignificantly from the contractual properties or contractual usability, the Customer shall have no claim to damages on the grounds of defects. Section 7 shall apply to any claims for damages and for the refunding of expenses.

6.2

The warranty period begins with the shipment of the goods to the Customer, or in the case of engineering services, on acceptance of the service provided.

6.3

The Customer shall immediately check the

quantity and state of the goods received. Dynamix Italia shall have received notice in writing of obvious defects within 14 days; the assertion of warranty claims is otherwise excluded. The deadline is deemed to have been met if the complaint is dispatched in time, for which the burden of proof lies with the Customer.

6.4 Hardware Products

Dynamix Italia warrants that the hardware supplied is free of material defects as of the time of transfer of risk and that it therefore possesses the properties and features stated for the designated purpose in the product specification that was valid on conclusion of contract.

Other or further characters and/or features or a purpose beyond this shall be deemed to have been agreed only if expressly confirmed in writing by Dynamix Italia.

Hardware products that have proven to be defective within the warranty period stated in section 6.1 shall be either repaired or replaced as Dynamix Italia decides, taking into consideration the nature of the defect and the legitimate interests of the Customer. In the event that repair or replacement conclusively fails to eliminate the defect, the Customer shall be entitled to demand a reduction in payment or cancellation of the contract, at the Customer's discretion.

The Customer's warranty claim shall expire if the products are treated incorrectly or used for a purpose for which they are not intended, or if attempt to modify or repair any of the products or components is made by person not explicitly authorized by Dynamix Italia to do so, unless the Customer supplies proof that the action is not causally connected with the defect.

The products that are the subject of the complaint shall be returned to Dynamix Italia following prior consultation with Dynamix Italia. The most economical cost for shipment and return of the goods, which method shall be decided by Dynamix Italia, shall be advanced by the Customer. Dynamix Italia shall subsequently refund the advanced costs to the Customer, provided that the complaint proves justified. On expiry of the warranty period, Dynamix Italia reserves the right to charge the Customer both for the repair and for the shipment of all products returned by the Customer. The same shall apply in the event that products are returned in contravention of the above warranty conditions.

7. Liability

Dynamix Italia hardware and software products are designed exclusively for use in research and development. They must be put into operation exclusively by suitably trained and expert operating personnel, under strict compliance with the safety measures described in the user documentation.

No claims for damages may be asserted against Dynamix Italia (including its legal representatives and agents) on any legal grounds whatsoever except in compliance with the following terms:

7.1

Dynamix Italia is liable for intentional acts and in cases where liability is mandatory by law, including, but not restricted to, under the product liability law, on culpably caused injury or damage to health or loss of life, and for damage caused by the lack of features guaranteed by Dynamix Italia.

7.2

In cases of gross negligence, liability for damage to property and assets shall be limited to the amount of damage that is typically predictable unless the damage is caused by members of an executive body or managers, or an essential contractual duty (cardinal duty) is violated.

7.3

In cases of slight negligence, Dynamix Italia shall be liable only if an essential contractual duty is violated. In such cases liability for damage to property and financial damage shall be limited to the damage that is typically predictable.

7.4

In the event of data loss, Dynamix Italia is liable under the conditions stated in the above paragraphs, and only for and up to the cost to recover the data, on the assumption that a proper data backup has been performed by the Customer.

7.5

No liability is otherwise accepted. This particularly applies to consequential harm caused indirectly by a defect, including loss of profit and non-achievement of savings.

8. Rights to Custom-Developed Hardware and Software

The Customer receives the custom hardware and software products developed by Dynamix Italia exclusively for research and development purposes. Dynamix Italia retains all copyright and marketing rights to all program parts and hardware components developed by Dynamix Italia.

9. Final terms

9.1

Any amendments or additions to these Terms and Conditions must be made in writing and must be expressly mentioned to that effect.

9.2

In the event that any of the above terms is or becomes invalid, the remaining terms shall remain unaffected.

9.3

Unless otherwise stated in the above terms, legal regulations shall also apply. The legislation of the Italian Republic shall apply, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

9.4

The Customer shall bear sole responsibility for observing and complying with the import and export regulations that are applicable to the deliveries or services, including but not limited to US export control law.

9.5

Torino, Italy, is agreed as the exclusive place of jurisdiction for all disputes arising out of or in connection with this contract, unless a different place of jurisdiction is mandatory by law.