



# Product Terms of Sale

These Product Terms of Sale govern Customer's ("you", "your") acquisition of machines, programs and third party services ("Products") from Dynamix Group, Inc. ("we", "us", "our").

## 1. Orders

We propose Products for sale by issuing a Sales Quote to you. You accept the Sales Quote by either (a) signing the Sales Quote and returning it to us or (b) issuing a purchase order to us which references the Sales Quote. The foregoing is an "Order". Products become subject to these Terms of Sale when we accept your order by a) signing the Sales Quote or b) providing the Products to you. Confirmation of our receipt of your Order does not constitute our acceptance of your Order.

## 2. Prices and Payment

We invoice Products when they are shipped or otherwise made available to you. All amounts are due within 30 days of the invoice date. Amounts past due may be assessed a late payment charge of 1.5% per month from the payment due date to the date of receipt of payment.

In addition to the price of Products, you agree to pay any applicable sales taxes, late payment charges, and shipping charges. Installation is not included in the price of a product.

## 3. Title, Risk of Loss, License and Service Agreements

We transfer title to machines to you upon shipment. You hereby grant us a purchase money security interest in machines to secure the payment of all amounts due. You hereby authorize us to file the appropriate documents, including UCC financing statements to perfect such purchase money security interest.

We bear the risk of loss for machines until they are delivered to you. Thereafter, you assume the risk. However, you agree a) upon delivery, to note any missing items or obvious shipping damage on the bill of lading and report this to us immediately; b) subsequently, within 10 business days of delivery, to inspect machines and report any discovered damage in writing to us; and c) to follow our related instructions. Otherwise, you are liable for any loss we cannot recover as a result of your failure to comply with the requirements of this paragraph.

Programs are licensed by their licensor subject to their license agreements. Third party services are performed by their provider subject to their service agreements

## 4. Warranty

We warrant that we are authorized to sell Products. **THIS WARRANTY IS YOUR EXCLUSIVE WARRANTY AND WE MAKE NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY OR CONDITION OF NON-INFRINGEMENT.** Any Product warranties are provided directly by the manufacturer to you. We do not warrant uninterrupted or error-free operation of any product or that any product you acquire from us will meet your business needs.

## 5. Cancellations, Returns and Discontinuances

All Orders are fulfilled as firm orders with our suppliers. You may cancel an Order prior to shipment of a Product only if permitted by our suppliers' order policies. You agree to pay any adjustment or cancellation charges we incur as a result of such cancellation.

Machines which are damaged or defective will be repaired or replaced. All other machine and program sales are final unless you request and we agree (at our sole discretion) to accept a convenience return within 30 days of delivery. If approved, we will refund the price you paid for the Product returned less any adjustment or return charges. However, convenience returns are limited by our suppliers' return policies and opened or installed products are not returnable. Shipping charges are not refundable. You may terminate third party services only in accordance with the terms of their agreements. We will refund the price you paid for any unused third party service less any adjustment or termination charges.

## 6. Limitation of Liability

Circumstances may arise where, because of a default on our part or other liability, you are entitled to recover damages from us. Regardless of the basis on which you are entitled to claim damages from us (including without limitation fundamental breach, negligence, misrepresentation, or other contract or tort claim), our entire liability for all claims in the aggregate arising from or related to each product will not exceed the amount of any actual direct damages up to the charges for the product that is the subject of the claim. However, damages for bodily injury (including death) and damage to real property and tangible personal property for which we are legally liable are not subject to a cap on the amount of damages.

### Items for Which We Are Not Liable

Except as expressly required by law without the possibility of contractual waiver, under no circumstances are we liable for any of the following even if informed of their possibility: a) loss of, or damage to, your records or data; b) special, incidental, exemplary, punitive, or indirect damages or for any economic consequential damages; or c) lost profits, business, revenue, goodwill, or anticipated savings.

## 7. General

These Product Terms of Sale shall be governed by the laws of the State of Georgia, without regard to conflict of law principles. In the event that any provision of these Terms of Sale is held to be invalid or unenforceable, the remaining provisions of these Terms of Sale remain in full force and effect. Any controversy or claim arising out of or relating to these Terms of Sale, or the breach thereof, shall be settled by arbitration administered by a single arbitrator of the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

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These Product Terms of Sale and any additional terms on the face of the sales quote are the complete agreement between you and us regarding your acquisition of Products from us, and replace any prior oral or written communications between you and us. Additional or different terms in any written communication from you (such as a purchase order) are void and deemed objected to by us without further notice of objection.