



DYNAMIC ENGINEERING

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Est. 1988

Terms and Conditions

The following Terms and Conditions govern all orders accepted and furnished by Dynamic Engineering. For the purposes of this document the ordering party will now be referenced as Client(s). THESE TERMS SET FORTH THE ONLY TERMS AND CONDITIONS OF THE AGREEMENT BETWEEN THE PARTIES. ANY AND ALL ADDITIONAL OR DIFFERENT TERMS, WHETHER IN A PURCHASE ORDER OR OTHER DOCUMENT GIVEN BEFORE OR AFTER THESE TERMS, ARE SPECIFICALLY REJECTED AND SHALL NOT BECOME PART OF THESE TERMS UNLESS AGREED TO IN WRITING BY DYNAMIC ENGINEERING.

Terms

Net Terms may be established after an application is successfully processed. Payment terms may be revoked or altered at the sole discretion of Dynamic Engineering. Client will be notified of any changes to Net Terms should changes or revocation occur. Net Terms begin on date of shipment or electronic delivery. Open balances after established Net Terms are subject to a 1.5% per month interest fee (\$25.00 per month minimum). Client is responsible for all associated fees (including collection, attorney's fees and costs of defense) in the event payment is not received within established credit terms.

Client shall pay all excise, privilege, sales and value-added taxes and all custom duties, levies, franchise fees and other governmental charges, however designated, imposed by any governmental authority arising from the sale or the exportation or importation of the products, and Client shall indemnify and hold Dynamic Engineering, its sub-suppliers and carriers harmless from and against any and all expenses, costs, liabilities and claims arising out of or relating to Client's failure to fulfil such obligation

After initial delivery/billing of individual milestones, changes may be requested by Client. Payment due dates will not be effected by any requests for change or action items. Change requests will be addressed, but will have no bearing on the Net Terms or the original milestone due date.

Requested changes and/or action items presented before delivery must be confirmed in writing by Dynamic Engineering and may require an updated PO from Client to reflect changes in delivery date, pricing and payment schedule. Changes requested after delivery will be bid on a Time and Materials basis.

If Client is past due on payment, current and/or future orders will not be shipped until the account is made current.

Ownership

Dynamic Engineering retains exclusive ownership rights to designs. Client may not reverse engineer, reproduce or claim design ownership for any products, documentation or software delivered.

Indemnification

In addition to any other indemnity provisions set forth in this Agreement, Client agrees to indemnify, defend and hold Dynamic Engineering officers, beneficiaries, directors and employees from any and all claims, demands, actions or causes of action, including any damages, losses, injuries and costs (including attorney's fees and costs of defense) arising out of, or related to performance of the products, or breach of any provision of this Agreement, except to the extent that the claim, demand, action or cause of action is proximately caused by the sole negligence or willful misconduct of Dynamic Engineering.

Dynamic Engineering's liability to Client for any breach of this Agreement, or of any other duty owed to Client shall not in any event exceed the total amount of compensation paid to Dynamic Engineering; Client hereby waives any right to recover consequential damages from Dynamic Engineering, including but not limited to any damages to Client equipment or personal property, loss of income or profits, or other consequential damages.

Warranty

Deliverable product(s) will carry a one (1) year limited warranty from the date of shipment. Out of warranty product will be supported on a time and materials basis. A minimum RMA fee applies for non-warranty diagnosis, repair and return of hardware or software. The warranty includes engineering design and test time to correct design and/or manufacturing errors created by Dynamic Engineering. In the event Client establishes a breach of the above warranty, Client's exclusive remedy against Dynamic Engineering, and Dynamic Engineering's sole liability, is, at its option, the replacement of the defective Product or the refund of the purchase price therefor. Errors not caused by Dynamic Engineering, including those resulting from incorrect information given to Dynamic Engineering by Client, are not warranted. Test time to determine if the potential error was caused by Dynamic Engineering is included under the warranty if the error was caused by Dynamic Engineering. If the potential error was not caused by Dynamic Engineering, Client will be billed at our current engineering rate for all Time and Materials required for testing, diagnosing and attempting repair of the item.

EXCEPT AS EXPRESSLY PROVIDED ABOVE, ALL WARRANTIES, CONDITIONS, REPRESENTATIONS, INDEMNITIES AND GUARANTEES, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY DYNAMIC ENGINEERING OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY FOR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) ARE OVERRIDDEN, EXCLUDED AND DISCLAIMED.

DYNAMIC ENGINEERING SHALL NOT BE RESPONSIBLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOSS OF GOODWILL, PROFITS, USE OF MONEY OR USE OF PRODUCTS, STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER ASSETS, ARISING OUT OF BREACH OF EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, EXCEPT ONLY IN THE CASE OF PERSONAL INJURY WHERE AND TO THE EXTENT THAT APPLICABLE LAW REQUIRES SUCH LIABILITY.

Shipping

All products are priced as FOB: ORIGIN. Risk of loss shall transfer to Client at the time the products are delivered at the Place of Origin. Shipping and insurance values are not included in purchase prices unless clearly stated as such on the corresponding quote or invoice. Clients may provide a FedEx or UPS account for shipping domestically. Internationally FedEx, UPS or DHL account numbers may be provided. Dynamic Engineering will not apply a third party account number without express written consent of the account holder. If no shipping account is provided or available Client may choose to prepay and add shipping costs. While insurance coverage in transit is optional, all shipments will be insured unless otherwise specified. If insurance is declined client assumes all responsibility for any damage or loss that may occur in transit. Prepaid shipping charges are non-negotiable. Shipment delivery dates cannot be guaranteed when shipped via Ground.

Deliverables will be shipped once prepared, unless a scheduled shipment PO has been accepted, including an up-front deposit. Dynamic Engineering may hold finished goods for up to two weeks beyond the quoted lead time to accommodate Client requested ship date. Clients requiring delivery beyond this date may be required to place a scheduled order with deposit, or wait to deliver PO.

Upon receipt of Products, Client shall count and inspect the same for damage, shortages and conformity to Specifications, if any, before execution of the shipping receipt accompanying such Products. If there is any damage, shortage or failure of conformity, Client must file a claim immediately with the carrier or Dynamic Engineering, as applicable. Any and all claims for damage or discrepancy between a shipping invoice and products delivered, shortages or others errors must be delivered to Dynamic Engineering within ten (10) days following delivery of the Products. Failure to so make a claim shall be deemed full acceptance of the Products delivered and a waiver of any and all such claims

Return/Cancellation Policy

Dynamic Engineering was designed to be a fast track, immediate response company. Once an order is confirmed cancellation will incur a minimum 15% restock fee. This fee may increase to the point of the order becoming non-cancellable as the date of completion approaches. Hardware shipped is non-returnable, with the exception of try-to-buy items.

Governing Law

These Terms is entered into and shall be governed by, construed and enforced in accordance with the laws of the State of California, excluding its conflict of law rules