



Terms and Conditions

These Delivered Terms and Conditions (the "Delivered Terms") apply to the purchase of Dynamix Agitators Inc. ("Dynamix", "We" or "Our") products ("Products") by a customer (the "Customer"). Unless otherwise indicated, these terms and conditions will apply to all purchases of Products from Dynamix.

PURCHASE TERMS

The Customer's purchase of Products is governed by: (1) the quotation sent to the Customer for the Products, which sets out the Customer's name and address, the Products covered, price and payment terms (the "**Quotation**"); (2) the terms and conditions attached to the Quotation; (3) these Delivered Terms; and (4) any additional terms referenced in the Quotation (collectively, the "**Agreement**").

CONFIDENTIAL INFORMATION

The Product pricing, terms and conditions of sale, the Quotation, and other information contained in or disclosed by Dynamix pursuant to the Agreement is confidential. Customer may not disclose such pricing, terms and conditions, Quotation and other information to any other party without Dynamix's prior written approval, except for any legally required disclosures. Dynamix reserves the right to enforce these confidentiality restrictions against any party who wrongfully discloses, receives or further disseminates Dynamix's confidential information.

WARRANTY

Dynamix warrants to the Customer that the Product will perform substantially in accordance with the features and Solution Assurance as set out in the Quotation and be free from defects in materials and workmanship under normal use.

We warrant that we will modify, repair or replace the Product provided to the Customer, at Our sole discretion and at no charge, Ex Works (Incoterms 2000) Dynamix plant, if the Product is defective in materials or workmanship under normal use. **WE DO NOT GUARANTEE THE PRODUCTS AGAINST CHEMICAL OR ABRASIVE ATTACK OR OTHER DETERIORATION DUE TO EXPOSURE.**

THE FOREGOING WARRANTIES EXTEND ONLY FOR 12 MONTHS AFTER FIRST INSTALLATION OF THE PRODUCT AT CUSTOMER'S FACILITY OR FOR 18 MONTHS AFTER ITS SHIPMENT FROM DYNAMIX'S PLANT, WHICHEVER PERIOD IS SHORTER, OR AS OTHERWISE STATED IN WRITING BY DYNAMIX.

EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT, WE EXPRESSLY DISCLAIM AND MAKE NO EXPRESS OR IMPLIED REPRESENTATIONS, CONDITIONS, GUARANTEES OR WARRANTIES OF ANY KIND, ORAL OR WRITTEN, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A



PARTICULAR PURPOSE, NON-INFRINGEMENT, INTER-OPERABILITY OF PRODUCTS, USAGE, CUSTOM OR TRADE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF DYNAMIX. THE ABOVE WARRANTIES SHALL NOT APPLY TO FAILURES RESULTING FROM (A) NORMAL WEAR AND TEAR, (B) ACCIDENT, NEGLIGENCE, ALTERATION, ABUSE, MISUSE OR USE INCONSISTENT WITH ANY INSTRUCTIONS PROVIDED AS TO STORAGE, HANDLING, MAINTENANCE, LUBRICATION, INSTALLATION, STARTUP, OPERATION AND SAFETY, (C) IMPROPER INSTALLATION AND/OR (D) INACCURATE AND/OR INCOMPLETE SPECIFICATIONS, DESIGN CONDITIONS OR OTHER DATA FURNISHED BY OR ON BEHALF OF CUSTOMER. WE MAKE NO WARRANTY WHATSOEVER WITH RESPECT TO ACCESSORIES OR PARTS NOT SUPPLIED BY DYNAMIX.

LIMITATION OF REMEDIES

Customer's remedy for breach of any of the foregoing warranties shall be limited to those set forth in Section 0 above; provided, however, that We will not be responsible for removal, loading, installation, freight or similar related expenses in connection with any modification, replacement or repair. The determination of which such remedy shall be applicable shall be determined by Dynamix, in its sole discretion.

DYNAMIX AND ITS AFFILIATES AND REPRESENTATIVES HAVE NO LIABILITY TO CUSTOMER FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR DELAY WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOST OR INTERRUPTED BUSINESS, LOSS OF USE, LOST PROFITS OR LOST REVENUES, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY (INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT, WARRANTY OR NEGLIGENCE), EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL LIABILITY OF DYNAMIX AND ITS AFFILIATES AND REPRESENTATIVES TO CUSTOMER AND CUSTOMER'S EXCLUSIVE REMEDY FOR ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THIS CONTRACT, INCLUDING, BUT NOT LIMITED TO, THE PRODUCTS PROVIDED HEREUNDER, IS LIMITED TO THE PURCHASE PRICE OF THE PRODUCT THAT IS THE BASIS FOR THE CLAIM.

Customer will be barred from any remedy unless Customer gives Dynamix prompt written notice of the problem. Further, any returns of Products for modification, repair or replacement must be authorized by Dynamix in writing prior to return of the Products by the Customer.

Dynamix will not be responsible for any repairs performed by third parties unless the extent, terms and costs of such repairs are authorized by Dynamix in writing in advance.

PATENTS

Dynamix represents and warrants that, to its knowledge, the Products do not infringe upon any patents granted to others. We do not assume any responsibility or liability for any claim of infringement brought against the Customer, its successors, assigns, customers or users of the Products.



UNAUTHORIZED MODIFICATIONS

Modifications to the Products ordered by Customer, or any of their components, could significantly affect their performance or conformance to Dynamix's features. Any modification of the Products, or any of their components, other than as performed or authorized in writing by Dynamix, is prohibited and will invalidate and terminate Dynamix's warranty for the Products, effective on the date of any such modification.

LEGAL FEES

If a suit or action is brought by any party under this Contract to enforce or interpret any of its terms, or in any appeal therefrom, it is agreed that the prevailing party shall be entitled to reasonable legal fees to be fixed by the trial court and/or appellate court. Customer shall be responsible for any and all costs of collection incurred by Dynamix in connection herewith, including legal fees and costs.

JURISDICTION/VENUE

These Delivered Terms will be governed by and construed in accordance with the laws in force in the Province of British Columbia and the federal laws of Canada, as applicable therein, without regard to its conflict of laws principles. The Parties agree to attorn to the exclusive jurisdiction of the courts of British Columbia.

GENERAL MATTERS

Any assignment of these Delivered Terms will be void without the other party's prior written consent, which will not be unreasonably withheld. Dynamix may hire subcontractors or use its affiliates to perform the obligations under this Agreement. If any part of these Delivered Terms are found invalid, the remaining part will be effective. No waiver, alteration or modification of any of the provisions of these Delivered Terms will be binding on Dynamix, unless made in writing and signed by a duly authorized officer of Dynamix. These Delivered Terms, the Quotation and its attached terms and conditions, and any other terms referenced in the Quotation contain the entire agreement of the parties.