

Terms

GENERAL SALES AND DELIVERY TERMS of DYNTEX GmbH, Bregenz, Austria

§ 1 Scope of application:

(1) The following terms shall apply for all deliveries and services of DYNTEX. These terms also apply to future transactions.

(2) Any conflicting business terms, in particular purchase terms of the customer, shall not apply. No conflict is required by DYNTEX.

(3) These terms must be revised in writing. Order or acceptance of delivery shall in any case be deemed as acceptance of these terms.

§ 2 Offer, acceptance, order confirmation:

(1) The offers of DYNTEX are subject to change.

(2) DYNTEX takes orders by written order confirmation. Should the order confirmation by DYNTEX deviate from the terms and conditions of a purchase order, the legal transaction is concluded for DYNTEX terms, unless the customer objects in writing immediately upon receipt of the order confirmation.

§ 3 Price:

(1) Unless otherwise agreed, all prices are net prices ex works. Unless otherwise agreed, the prices valid on the day of delivery shall apply.

(2) If prices were agreed upon and the costs, on which these prices were based, change, DYNTEX is entitled to adjust the prices according to cost change.

(3) If delivery is completed at a later date due to a circumstance in the area of customer, DYNTEX is entitled to compensate any thereby resulting higher costs with higher prices. The right of DYNTEX to compensation of DYNTEX for the damage incurred remains thereby unaffected.

(4) All taxes, duties and other charges for which the customer has paid upon acceptance of the delivery shall be borne by him, unless DYNTEX has expressly agreed in writing to cover them.

§ 4 Place of performance, delivery:

(1) Unless otherwise agreed, the place of performance is Bregenz, Austria.

(2) Unless otherwise agreed, delivery shall be EXW from place of performance Incoterms in the version applicable at the conclusion of the contract. Shipment and transport is therefore at the expense and risk of the customer. Once the delivery is offered to the customer at the place of performance, all the risk is transferred to him. If the customer does not accept the delivery, he falls into default of acceptance. In addition, delivery by DYNTEX shall be deemed in this case as completed and DYNTEX is entitled to store the goods at the customer's expense. Any thereby resulting storage costs must be immediately refunded to DYNTEX .

(3) The allowable overdelivery and underdelivery is $\pm 10\%$ for deliveries of less than 1,000 m. This tolerance is reduced to ± 5 for deliveries of 1,000 m and more.

(4) DYNTEX is entitled to make partial deliveries; these terms shall fully apply thereon.

(5) Should DYNTEX fail to deliver on the agreed date due to unforeseen circumstances beyond its control(force majeure, delivery delays from suppliers, etc.), DYNTEX has the right to deliver at the earliest possible date, as long as acceptance of delivery is still reasonable at that point for the customer. Otherwise DYNTEX is entitled to withdraw from the contract. For any other delivery delay, DYNTEX shall be held liable only for its own gross negligence and wilful misconduct.

(6) An import license not granted to the customer, does not release him of any obligation.

§ 5 Warranty and Liability:

(1) DYNTEX warrants that the goods conform to the agreed specifications.

(2) DYNTEX provides no guarantee for defects resulting from improper storage, safe-keeping, use or transport. If such defects are asserted, the customer must prove the proper storage, safe-keeping, use or transportation.

(3) DYNTEX provides no guarantee for information on products in catalogues, sales letters, brochures, advertisements, price lists etc.

(4) The customer shall inspect the goods upon acquisition carefully and shall notify of any defects within five working days in writing by sending a sample of the defective goods or other evidence (e.g. photo), otherwise all claims, including those arising from consequential damages, shall be excluded. Minor deviations in quality, colour, width, weight, equipment and designs are technically unavoidable and do not constitute a defect.

Any complaints by the customer, relating to an alleged defect in the goods, must be made to DYNTEX before cutting or other processing of the goods, otherwise all claims, including those arising from consequential damages, shall be excluded even for that reason.

At the request of DYNTEX the customer has to allow and tolerate inspection of the goods by DYNTEX and an appraiser designated by DYNTEX or a third party.

If a defect is notified in a timely manner, and if it is inspected -should DYNTEX require so- by an appraiser and confirmed as defect, DYNTEX will remedy the defect at its option by repair or replacement, it shall take back the defective goods against credit of the purchase price or grant price reduction. The customer shall not be entitled to any other claims.

(5) The warranty period is six months and begins when the product is offered to the customer at the place of performance.

(6) The customer shall not be entitled to withhold payments for warranty or other claims of any kind whatsoever.

(7) A damage liability by DYNTEX is excluded for slight and ordinary negligence. DYNTEX shall not be liable for consequential damages, including lost profits.

(8) The return of rejected goods requires the express prior consent of DYNTEX and is at the expense and risk of the customer. The customer has to bear additional costs (e.g. storage) resulting from the return. If goods are returned without prior approval, DYNTEX is entitled to refuse to accept the returned goods and to return them back to the customer at his expense.

§ 6 Retention of title

(1) DYNTEX shall retain title to the items delivered (goods under retention of title) pending satisfaction by the customer of all his obligations, particularly until complete payment of the purchase price.

(2) The customer is entitled to resell the goods under retention of title. This right shall lapse if the customer defaults in payment or he must be concerned that he cannot pay the demand of DYNTEX in full upon maturity.

(3) If the goods under retention of title are resold by the customer, he hereby assigns to DYNTEX all claims arising from the resale or another utilisation up to the amount of the purchase price of DYNTEX . He agrees to record this assignment in his books. The customer is authorised until notice to the contrary to collect the assigned receivables on behalf of DYNTEX in its own name. The customer is obliged to retain himself the title of the goods under retention of title when he resells the goods under retention of title on credit.

(4) The customer shall assign to DYNTEX the insurance and claim demands arising from the destruction of or damage to the goods.

(5) It is not allowed to pledge the goods under retention of title or to transfer ownership by way of security.

§ 7 Payment and Default:

(1) The place of performance for payment is the seat of DYNTEX .

(2) Bills of exchange and checks shall only be accepted for payment only on account of payment and if agreed in writing.

(3) Unless otherwise agreed, the purchase price must be paid to DYNTEX within 14 days of the invoice date upon receipt without any deduction in the currency stated in the invoice.

(4) If the fee is not paid when due, DYNTEX is entitled:

- to suspend the performance of its obligations until the payment of these arrears,
- to claim a reasonable extension of the delivery or service deadline,
- to declare the entire outstanding payment due,
- to charge all reminder and collection costs, as well as the statutory default interest or
- to withdraw from the contract after a reasonable grace period, during which DYNTEX shall also be entitled to withdraw from the entire contract even in the event of partial performance. If DYNTEX withdraws, the customer has to pay thereto an immediately payable penalty of 50 % of the price and compensate any damage in excess thereof along with lost profit.

(5) If foreclosure proceedings are conducted with respect to the customer's assets or if his ability to pay DYNTEX is doubtful, DYNTEX may:

- declare immediately all outstanding amounts due regardless of their maturity

– to hold back all deliveries arising from contracts that have not yet been fulfilled and to perform any services exclusively against payment in advance. If the customer refuses to pay in advance, DYNTEX may withdraw from the contract and claim damages for the loss of profit.

(6) If the customer defaults in the acceptance, all claims are immediately declared due for payment.

(7) Payments will also be credited towards the oldest debt and resulting interest, even if earmarked otherwise.

§ 8 Jurisdiction and Applicable Law:

(1) All legal relations between DYNTEX and the customer are subject to Austrian substantive law. The CISG is excluded.

(2) The exclusive place of jurisdiction for disputes within the scope of the Lugano Convention or the EuGVVO (European Convention on Jurisdiction and the Enforcement of Judgements) is Bregenz, Austria.

For all cases outside this scope, the jurisdiction of the International Arbitration Court of the Chamber of Commerce Austria in Vienna is agreed. The seat of arbitration shall be Vienna, Austria. The language of arbitration is German. If the contract is drafted in a language other than German, English shall be the language of arbitration.

DYNTEX is however entitled in all cases to bring claims against the customer before any other court having jurisdiction for the customer.

§ 9 Final Provisions:

(1) The customer may not set off claims he may have against DYNTEX against the purchase price payable to DYNTEX. The customer has no right of retention.

(2) Dyntex is entitled to set off claims with its own, even not yet due, against the claims of the customer.

(3) The customer is not entitled to assign its claim by delivering the goods to others.

(4)The customer may not challenge a contract on the grounds of error.

(5) Any documents or information about DYNTEX , its products, distributors or other customers that are made available to or otherwise obtained by the customer may not be disclosed or otherwise made available to third parties, including, without limitation, to competitors of DYNTEX without prior written permission of DYNTEX . The same applies to documents such as patterns, cost estimates, advertising materials, price lists or contracts that are passed on to the customer or otherwise obtained by him. Dyntex is entitled unreservedly to all rights on such documentation.

(6) If provisions of the contract are, or become invalid or unenforceable, this shall not affect the remainder of the contract. These invalid or unenforceable provisions shall be replaced by valid and enforceable provisions that most closely match the intended economic purpose (severability clause).

(7) If a contract is concluded in German and in another language, the German text shall prevail for the interpretation of the contract and these terms and conditions.

Bregenz, December 2015