

General terms and conditions on after sales services and spare parts delivery of DMG MORI Denmark

1. General provisions

The following terms and conditions shall apply to all current and future after sales services of DMG / MORI Denmark ApS, Company registration number (CVR-no.) 34076154 ("Supplier") in relation to the performance of repair, maintenance and other services for machine tools ("Services") as well as the delivery of spare and replacement parts ("Parts" or "Part") to a contract party ("Customer") specified in a contract between the Supplier and the Customer ("Contract"). These terms and conditions shall apply exclusively and differing or contrary terms and conditions of the Customer shall not apply, unless expressly agreed between the Parties. The Contract shall only come into force with the Supplier's written order confirmation by letter, fax or email, unless the Contract is concluded orally through the Supplier's hotline.

2. Customer's responsibilities

2.1 | The Customer shall provide assistant staff to the extent necessary at his own risk and expense, and, if so agreed, tools, lifting devices with operating staff as well as all materials and equipment necessary for due performance of the Supplier's Services. Also, the Customer shall provide the Supplier's staff with a dry and lockable room for the storage of delivery parts, tools, clothes and the staff's personal belongings. The Customer is responsible for his assistant staff following the Supplier's instructions. The Supplier shall not be liable for any damage caused by the Customer's assistant staff, unless the respective damage is due to the Supplier's instruction, in which case section 18 shall apply with regard to the Supplier's liability.

2.2 | In the event that any of the Supplier's materials, tools or devices are damaged or destroyed at the Customer's work-site, the Customer shall be liable for damages to the Supplier to the extent to which the Customer is responsible for the loss or damage occurred.

2.3 | The Customer shall be obliged to take reasonable care for the safety in the workplace, the compliance with relevant safety regulations and appropriate working conditions. In particular, the Customer shall thoroughly clean machines to be repaired by Supplier. The Customer shall instruct the Supplier's working staff about specific safety regulations in his workplace.

2.4 | If necessary, the Customer shall procure internal work authorizations, ID cards and the like at his own expense.

3. Prices and terms of payment

3.1 | Unless expressly agreed otherwise in writing, the Customer shall make payments according to the Supplier's schedule of prices and services which the Customer may request from the Supplier at any time. The Supplier shall be entitled to installments up to the amount of 90 % of the Services carried out.

3.2 | Used parts, materials and special services, as well as costs for travelling and accommodation of the Supplier's staff shall be charged separately in the invoice. If Services are carried out on the basis of a binding cost estimate, reference to such cost estimate in the invoice shall suffice; however, deviations from the cost estimate shall be listed separately.

3.3 | Unless expressly agreed otherwise in writing, prices are ex-works (Incoterms 2010), excluding costs of packaging and statutory VAT.

3.4 | If the Customer fails to make payment on the due date, the Supplier shall be entitled to charge the Customer interest on the amount unpaid, at the rate of 8 % p.a. above the respective base interest.

3.5 | Unless expressly agreed otherwise, payment for Services and deliveries of Parts is due within 10 days upon receipt of invoice without any discount and shall be transferred to the Supplier's bank account.

3.6 | The Customer shall be entitled to offset or to claim retainer rights only to the extent to which his counterclaim is acknowledged and / or undisputed by the Supplier or has been established in a legally binding judgment or arbitration award.

4. Unfeasibility of Services

4.1 | In the event that Services are or become unfeasible for any reasons not attributable to the Supplier, any expenses, in particular expenses for fault diagnostics, shall be borne by the Customer. This provision particularly applies to the following circumstances:

- _ if the alleged fault does not occur during the fault diagnostics,
- _ if the Customer fails to meet the agreed service date,
- _ if the Customer terminates an order in process,
- _ if the Parts required cannot be obtained in due time.

4.2 | The Supplier shall only be obliged to restore the serviced item to its original state upon the Customer's express request and at the Customer's expense. The Customer shall not bear said expenses if and to the extent that the Supplier's Services prove unnecessary.

4.3 | If Services are or become unfeasible, the Supplier shall not – irrespective of the legal ground – be liable for damage to the serviced item, breach of any contractual obligations and / or damage not caused to the serviced item itself. In the event of intent or gross negligence of the Supplier or the Supplier's breach of material contractual obligations, the Supplier's liability shall be subject to section 18.

5. Travel and incidental expenses

5.1 | Travel and incidental expenses incurred by service personnel will be invoiced to the customer based on a flat call-out rate. The flat call-out rate will be charged per service technician for each service call. For service calls which are interrupted by weekends or public holidays, a flat call-out rate will be billed for the journey to the customer before and after the interruption.

5.2 | The flat call-out rate includes all incidental service costs (travelling expenses, mileage allowance, etc.), but not accommodation expenses. Expenses incurred for incoming or outgoing international air travel will be invoiced to the customer at cost.

6. Service costs

6.1 | The contractor calculates its service personnel's duration of attendance at site on the basis of the schedule of prices and services applicable at that time and available from the contractor at any time.

6.2 | Expenses incurred for any interruptions of Services or exceedance of agreed time limits for completion of Services not attributable to the Supplier shall be borne by the Customer.

6.3 | Upon completion of Services, but not later than upon completion of each workweek, the Customer shall approve the working hours of the Supplier's staff on the Supplier's time sheet.

7. Time of performance and delay of Services

7.1 | Time periods specified by the Supplier within which Services are to be carried out are based on estimates only and are, therefore, not binding.

7.2 | The Customer may only demand an agreement on a binding time period for Services ("Binding Time Period") if the extent of the works is precisely determined, the Supplier is able to provide necessary Parts in time, agreement on the extent of the Customer's duties of cooperation has been achieved and, if necessary, the Customer has obtained permits of competent authorities. The Binding Time Period for Services shall commence on the day the Supplier and the Customer agree that the aforementioned requirements are met, the Supplier has free access to the Customer's site and the Customer has given written clearance for the Services to commence. The clearance protocol shall state the commencement date and be signed by the Supplier and the Customer.

7.2 | If the Customer requires an extension of the Services or additional Services become necessary, the Binding Time Period shall be extended accordingly.

7.3 | If Services are ready for acceptance within the Binding Time Period and / or, if a test run is scheduled, the test run is ready to commence, the Binding Time Period shall be deemed met.

7.4 | In the event of Force Majeure, labor conflicts or other events beyond the Supplier's control, the Binding Time Period shall be extended accordingly.

7.5 | If the Supplier fails to provide the Services within the Binding Time Period, the Customer shall only be entitled to demand a lump sum compensation for the Customer's incurred losses. This compensation shall be calculated from the Service price for the part of the item to be serviced by the Supplier that cannot be used due to the delay and amount to 0.5 % for each completed calendar week, but in total no more than 5 %. For the sake of clarity, the Customer shall not be entitled to any other forms of compensation than the lump sum compensation in the event of delay.

7.6 | In the event that the Supplier is materially late performing the agreed Services within the Binding Time Period, the Customer shall be entitled to terminate the Contract. Any claims put forward by the Customer in this event shall be subject to section 18.

8. Acceptance

8.1 | If the Supplier notifies the Customer on the completion of the Services, or, if so agreed, a test run has been completed, the Customer shall be obliged to accept the completed Services, unless the Services prove defective. If the Services prove defective, the Supplier has the right and shall be obligated to cure the defect, unless the defect is minor or not attributable to the Supplier. Acceptance may not be refused by reason of minor defects. If the Services are materially defective and the Supplier does not remedy the defect within a reasonable time period or is deemed not to be able to cure the defect, the Customer may terminate the Contract. Any claims put forward by the Customer in this event shall be subject to section 18.

8.2 | Services shall be deemed accepted, if the Customer, for reasons not attributable to the Supplier, have not accepted the Services within 2 weeks upon notification of completion or if the Customer has put the serviced item into operation.

8.3 | Upon acceptance of the Services, the Supplier's liability for defects that the Customer have found or ought to have found shall be excluded, unless the Customer has expressly reserved his rights with regard to the respective defect.

9. Defective Services

9.1 | Upon acceptance of the Services, notwithstanding sections 9.4 and 18, the Supplier shall, to the exclusion of any other remedies or claims of the Customer, be obliged to remedy the defect. The Customer shall give written notice of the defect to the Supplier without undue delay. The Customer shall not be entitled to demand cure, if the defect is minor or attributable to himself, in particular if the defect arises from any material provided by the Customer. The Customer shall allow reasonable time for the Supplier to remedy the defect. Replaced parts shall become property of the Supplier.

9.2 | The Supplier shall not be liable for any defects that arise from alterations, repairs or maintenance works of the serviced item by the Customer or third parties without the Supplier's approval. The Customer, however, shall be entitled to remedy the defect himself or by third parties and demand reimbursement of

the necessary expenses from the Supplier, if there is a danger to operational safety or an imminent threat of extensive damage.

9.3 | Any expenses for installation and removal arising from defective Services shall be borne by the Customer, unless the Supplier is liable for such expenses pursuant to section 18.

9.4 | If the Supplier does not remedy the defect within a reasonable period of time and the defect is deemed to be material, the Customer may claim a reduction in the price corresponding to the reduced value of the Services or, if he has no interest in remedying the defect despite reducing the price, terminate the Contract. Any claims are subject to section 18.

9.5 | If the alleged defect does not result from the Supplier's Services, then, to the extent the defect has been remedied by the Supplier, the Customer shall reimburse all of the Supplier's expenses accordingly.

9.6 | The Supplier shall be under no liability in respect of any defects of the Services if the defect is (I) due to willful damage, incorrect connections or incorrect operation, (II) Force Majeure (e.g. lightning bolts), (III) tear and wear due to overuse of mechanical and / or electronic items or (IV) extraordinary mechanical, chemical or atmospheric influences.

9.7 | Subject to the provisions of section 13, any warranty claims relating to the Supplier's Services shall become time-barred within 6 months. This limitation period shall commence after acceptance of the Services or operation of the serviced item by the Customer.

10. Maintenance, repair and overhaul at the Supplier's work-site

10.1 | Any expenses arising from transporting the serviced item for maintenance, repair or overhaul to and off the Supplier's or his subcontractor's work-site shall be borne by the Customer.

10.2 | The risk of transportation shall be borne by the Customer. At the Customer's request and costs, the Supplier shall arrange for insurance against damages in transit by reason of theft, breakage, fire and the like.

10.3 | During Services at the Supplier's or his subcontractor's work-site, the Customer shall be responsible to maintain insurance coverage for the serviced item regarding fire, mains water, storms, machine breakage and the like.

10.4 | If acceptance of the serviced item is delayed, the Supplier shall be entitled to charge the Customer for the storage of the respective item at his or his subcontractor's work-site. The Supplier shall be entitled to store the serviced item other-wise. Any storage shall be at the risk and costs of the Customer.

11. Delivery of spare or replacement parts with or without installation

The following provisions shall apply to any such delivery of Parts not being subject to a repair or service order with regard to delivery time, delay in delivery, warranties and passing of risk:

11.1 | The Customer shall be responsible for the correct specification of the Part to be delivered by the Supplier. Any advice of the Supplier on the suitability of the ordered Part shall not be binding and the Supplier's liability to that effect shall be excluded as the Supplier accepts orders for delivery of Parts without prior inspection of the machine in which the Part is to be installed.

11.2 | The parties shall agree on the delivery time. The agreed delivery time shall only be binding for the Supplier ("Binding Delivery Time") if all commercial and technical matters have been settled between him and the Customer and the Customer has fulfilled all contractual obligations; otherwise, the delivery time shall be extended accordingly, provided such delay is not attributable to the Supplier.

11.3 | The Supplier shall only be obliged to adhere to the Binding Delivery Time, if the Supplier's sub-suppliers deliver the Part in due time. Binding Delivery Time shall be deemed met by the Supplier when, prior to the expiry of the deadline, the Part has been shipped from the Supplier or directly from the sup-supplier to the Customer, or the Customer has been notified that the Part is ready for dispatch. In the event of Force Majeure or other events beyond the Supplier's control, the Binding Delivery time shall be extended accordingly. The Supplier shall notify the Customer of the beginning and the end of such circumstances as soon as possible.

11.4 | If the Supplier fails to deliver the Parts within the Binding Delivery Time, the Customer shall be entitled to demand a lump sum compensation for the Customer's incurred losses subject to section 18. This compensation shall be calculated from the value of the Parts delivered in delay and amount to 0.5 % for each completed calendar week, but in total no more than 5 %. For the sake of clarity, the Customer shall not be entitled to any other forms of compensation than the lump sum compensation in the event of delay.

11.5 | In the event that the Supplier is materially late delivering the Parts, the Customer shall be entitled to terminate the Contract for the Parts. Any claims put forward by the Customer in this event shall be subject to section 18.

11.6 | The risk of loss or damage will pass to the Customer upon dispatch of the Part. That shall also apply in case of partial delivery or if the Supplier transports the Part to the Customer or bears the costs for the transport.

12. Warranty for new Parts

12.1 | If new Parts, upon passing of risk (as specified in section 11.5), are defective, the Supplier – at his discretion – shall be obliged to remedy the defect or deliver a new Part free of defect. The Customer shall give written notice of the defect to the Supplier without undue delay. Replaced parts shall become property of the Supplier.

12.2 | The Customer shall allow reasonable time for the Supplier to remedy the defect or to deliver a Part free of defects; otherwise, the Supplier's liability shall be excluded.

12.3 | Any expenses for installation and removal of the Part shall be borne by the Customer, unless the Supplier is liable for such expenses pursuant to section 18.

12.4 | If the Supplier does not remedy the defect or deliver a new Part free of defect within a reasonable set period of time, the Customer may claim a reduction of the price corresponding to the reduced value of the Part or, in case of a material defect, terminate the Contract for the Part. Apart from that, the right to reduce the price shall be disclaimed. Any further liability shall be subject to section 18.

12.5 | The Supplier shall not be liable for unsuitable or improper use, defective assembly, installation or operation of the Customer or third parties, fair wear and tear, negligent handling, improper maintenance, unsuitable operating material, defective structural work, improper foundation, chemical, electro-chemical or electronic influences, provided, these circumstances are not attributable to the Supplier.

12.6 | The Supplier shall not be liable if the Customer or a third party modifies or repairs the Part without the Supplier's approval.

12.7 | Any warranty claims relating to the delivery of new Parts shall become time-barred within 12 months. This limitation period shall commence after acceptance or operation of the Part by the Customer, but no later than 1 month after delivery.

13. Warranty for used Parts

Unless agreed otherwise, any warranty claims relating to the delivery of used Parts shall become time-barred within 6 months. This limitation period shall commence after acceptance or operation of the used Part by the Customer, but not later than 1 month after delivery. The foregoing provisions shall not apply in the event of fraudulent concealment of a defect or if an explicit guarantee has been given. Apart from that, the provisions on defective Parts shall remain unaffected.

14. Infringement of intellectual property rights of third parties

If the use of the Parts is in breach of domestic intellectual property rights of third parties, the Supplier, at his own expense, shall either provide the Customer with the right to use the respective Part or modify the Part to the effect that the infringement of intellectual property rights no longer persists. If that is not possible within reasonable expenses or within a reasonable time period, both the Customer and the Supplier shall be entitled to withdraw from the Contract. Also, the Supplier shall indemnify and hold the Customer harmless against intellectual property right claims of third parties being acknowledged or undisputed by the Supplier or has been established in a legally binding judgment or arbitration award. Subject to the provisions of section 18, the Supplier's foregoing obligations in the event of an infringement of intellectual property rights shall be conclusive and conditional on the following requirements: that the Customer shall notify the Supplier without undue delay on any intellectual property right claim made,

support the Supplier in defending such claims to the extent reasonable and / or enable the Supplier to modify the delivered part to the effect that an infringement of intellectual property rights no longer persists; that the Supplier shall reserve the right to all defense measures in and out of court; that the alleged infringement of third parties' intellectual property rights is not due to an instruction, unauthorized modification or use of the Part contrary to the Contract by the Customer.

15. Retention of title

15.1 | The Supplier retains title to all accessories and Parts until receipt of all payments being due to the respective Contract for Service or delivery of a Part.

15.2 | In case of breach of Contract by the Customer including, but not limited to, delay in payment, the Supplier shall be entitled to take possession of the item and the Customer shall be obliged to surrender the item. Neither the enforcement of the retention of title nor the attachment of the item by the Supplier shall be deemed as termination of the contract.

15.3 | The Customer may resale the Part subject to the above retention of title only in the cause of his regular business. For this case, the Customer hereby assigns all claims arising out of such resale or use for services, irrespective of whether the goods have been processed or not, to the Supplier. Notwithstanding the Supplier's right to claim direct payment, the Customer shall be entitled to receive the payment on the assigned claims. To this end, the Supplier agrees not to demand payment on the assigned claims to the extent the Customer complies with all his obligations for payment and does not become subject to an application for insolvency or to any stay of payment; in these events, however, the Customer shall disclose to the Supplier the assigned claims and the respective debtor and provide the Supplier with all information and documents necessary for debt collection and notify the debtors (third parties) of the assignment.

15.4 | The Customer shall also assign to the Supplier such claims which arise against third parties from the incorporation or combination of the item into or with real estate or movable property.

15.5 | If the foregoing securities exceed the secured claims by more than 20 %, the Supplier, at his own discretion, shall return to the Customer such securities upon the Customer's request.

15.6 | Upon the opening of insolvency proceedings, the Supplier shall be entitled to terminate the Contract and take possession of the Part.

16. Processing of replacement parts

16.1 | Prices for replacement parts are subject to the Customer transferring to the Supplier the property of an according, repairable used part as replacement. If the used part is not received by the Supplier within 2 weeks after the Customer has received the replacement part from the Supplier, the Supplier shall be entitled to charge the price for a new part. The used part shall be shipped to the Supplier's work-site "Carriage Insurance Paid" (CIP Incoterms 2010) or, from outside EU / EFTA, "Delivered Duty Paid" (DDP Incoterms 2010).

16.2 | If a return delivery note is missing, the used part will be returned unidentified to the Customer. If the Customer refrains from specifying the defect of the returned part, an inspection fee of 50.00 EUR shall be charged.

17. Return of unused spare parts

17.1 | If the Customer orders several spare parts and, upon placing of order, he is not certain as to which spare part is suitable, the Customer shall, at his own risk and expenses, return the spare parts not required to the Supplier's work-site "Carriage Insurance Paid" (CIP Incoterms 2010) within 2 weeks upon completion of the repairs.

17.2 | The Supplier may charge the Customer with a 10 % fee for inspection and restocking of returned spare parts, but not more than 175.00 EUR per position. Redemption of spare parts with a value of below 65.00 EUR shall be excluded; these spare parts shall not be credited.

18. Supplier's liability and limitation of liability

18.1 | If the Supplier is responsible for damage to parts of the serviced item, the Supplier, at his discretion and own costs, shall repair the part or deliver a new part. The Supplier's liability shall be limited to the price agreed for the Services. Apart from that, section 18.3 shall apply.

18.2 | In the event that – due to the Supplier’s responsibility for omitted or faulty execution of advice given before or after the Contract, or breach of other non-fundamental contractual obligations, in particular instructions on the operation and maintenance of the serviced item or delivered Parts – the Customer cannot use the Services or delivered Parts as agreed upon, the following provisions, to the exclusion of any further claims of the Customer, shall apply.

18.3 | For damage other than to the delivered Parts or the Services themselves, the Supplier – irrespective of the legal ground – shall only be liable in the event of

- a) intent,
- b) gross negligence of the Supplier,
- c) damages to life, body or health,
- d) fraudulent concealment of damage,
- e) an explicit guarantee,
- f) liability according to the Product Liability Act (“Produktansvarsloven”).

If the Supplier is in material breach of the Contract, the Supplier shall also be liable in the event of slight negligence. The Supplier’s liability shall in no way (neither in the event of gross or slight negligence) be liable for loss of production, loss of profits, loss of business or indirect loss or consequential losses of any kind.

19. Statute of limitations

Except for section 13, any claims of the Customer – irrespective of the legal ground – shall become time-barred within 6 months, unless a longer statutory period of limitation applies.

20. Applicable law and jurisdiction; personal data

20.1 | The legal relationship between the Supplier and the Customer shall be governed by Danish law as applicable between domestic parties.

20.2 | The venue shall be the court with jurisdiction at the Supplier’s registered office. However, the Supplier shall also be entitled to take legal action at the Customer’s registered office.

20.3 | The Supplier shall be entitled to save and process the Customer’s personal data by means of electronic data processing in accordance with the Danish Act on Processing of Personal Data.