

General terms and conditions on after sales services and spare parts delivery of DMG MORI Belux BVBA - SPRL

1. General Provisions

The following terms and conditions shall apply to all current and future after sales services of our company ("Supplier") in relation to the repair, maintenance and other services for machine tools ("Services") as well as the delivery of spare and replacement parts ("Parts" or "Part"). These terms and conditions shall apply exclusively. Differing or contrary terms of the Customer shall not apply, unless expressly agreed upon. A 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 to the extent necessary at his own risk and expense assistant staff, 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 a Supplier's instruction; in this case, section 17 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.
- 2.3. The Customer shall be obliged to take reasonable care for the safety in the workplace, compliance with relevant safety regulations and appropriate working conditions. In particular, the Customer shall thoroughly clean machines that are to be repaired by Supplier. The Customer shall instruct the Supplier's working staff regarding any specific safety regulations that apply in his workplace.
- 2.4. The Customer shall procure any necessary 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 claim advance payment of up to 90 % of the price 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 Supplier (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 base interest ("taux directeur" / "referentie-interestvoet") as defined in the Belgian Act of 2 August 2002.
- 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, undisputed or assessed in a legally binding judgment.

4. Unfeasibility of Services

- 4.1. In the event that Services are unfeasible or can otherwise not be performed for 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 was not revealed or apparent 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 put back the serviced item in its original state upon the Customer's express request and at Customer's expense. This does not apply if and to the extent to which the Supplier's Services prove not to be necessary.
- 4.3. If Services are not feasible or can otherwise not be performed, the Supplier shall not – irrespective of the legal ground – be liable for damage to the serviced item, breach of non-material contractual obligations or damage or loss not caused to the serviced item itself. In the event of wilful intent or gross negligence of the Supplier, its directors or its employees, or in the event of breach of a material contractual obligation, the Supplier shall be liable according to the provisions of applicable law. If the Supplier is in breach of any material contractual obligation (i.e. obligations, the fulfilment of which is essential for due performance of the contract and on the compliance of which the other party

may regularly rely), its liability shall be limited to the typically foreseeable damage (save in the event of wilful intent or gross negligence of the Supplier, its directors or its employees).

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 (travel times, kilo-meters, expense allowances, etc.), but not accommodation expenses. Expenses incurred for incoming or outgoing international air travel will be invoiced to the customer at cost.

6. Service expenses

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.

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. The time period for Services shall commence on the day that all of the following requirements are met:
 - 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;
 - where necessary, the Customer has obtained permits from the relevant authorities;
 - 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 and the Supplier and Customer agree on such additional Services in writing, the time period shall be extended accordingly.
- 7.3. If Services are ready for acceptance within the time period or, if a test run is scheduled, the test run is ready to commence, the time period shall be deemed met.
- 7.4. If provision of the Services is delayed due to force majeure, the Customer's fault, labour conflicts or other events beyond the Supplier's control, the time period shall be extended accordingly.
- 7.5. The Customer shall not be entitled to any compensation for failure to provide Services in good time or for any damage or loss that may result from such delay, except as foreseen under section 17.

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. If Services prove defective, the Supplier shall cure the defect in accordance with Section 9. Acceptance may not be refused by reason of minor defects (understood as defects that do not impair use of the serviced item).
- 8.2. Services shall be deemed accepted, if the Customer, for reasons not attributable to the Supplier, does not accept or refuse Services within 2 weeks upon notification of completion or puts the serviced item into operation.
- 8.3. Upon acceptance of the Services, the Supplier's liability for obvious defects shall be excluded, unless the Customer has expressly reserved his rights with regard to the respective defect.

9. Warranty for Services

- 9.1. If Services are defective upon completion and / or acceptance, notwithstanding sections 9.4 and 17, the Supplier shall, to the exclusion of any further claims of the Customer, be obliged to remedy the defect, provided the Customer gives 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 the consequences of any alterations, repairs or maintenance works of the serviced item by the Customer or third parties without the Supplier's approval.
- 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 17.
- 9.4. If the Supplier does not remedy the defect within a reasonable cure period and such delay is solely attributable to the Supplier, the Customer may terminate the contract. Any further liability shall be subject to section 17.
- 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 the Supplier's expenses accordingly.
- 9.6. The Supplier shall not be liable for any defects of the Services if the defect is due to

- willful damage, incorrect connections or incorrect operation by the Customer,
- force majeure (e.g. lightning bolts),
- wear and tear due to over-use of mechanical and / or electronic items or
- extraordinary mechanical, chemical or atmospheric influences.

9.7. Subject to the provisions of section 12, any warranty claims relating to the Supplier's Services shall become statute-barred within 12 months. This limitation period shall commence after the earlier of 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 for obtaining and maintaining insurance coverage for the serviced item regarding fire, floods, storms, machine breakage and the like, unless insurance coverage for such risks is expressly requested and paid for by the Customer.
- 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 also be entitled to store the serviced item elsewhere. 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 on delivery time, delay in delivery, warranties and passing of risk shall apply to any delivery of Parts not subject to a repair or service order:

- 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. Delivery times are for information purposes only and are therefore non-binding. Delivery times will also be automatically extended if
- (I) not all commercial and technical matters have been settled between the Supplier and the Customer,
 - (II) the Customer has not fulfilled all contractual obligations or
 - (III) where applicable, the Supplier's pre-suppliers fail to deliver the Part to the Supplier in due time, provided such circumstances are not attributable to the Supplier.
- Delivery times shall also be extended in the event of force majeure, labour conflicts or other events beyond the Supplier's control. The Supplier shall notify the Customer of the begin and the end of such circumstances as soon as possible.
- 11.3. The Customer shall not be entitled to demand any compensation for failure to deliver the Parts in due time or for any damage or loss that may result from such delay, except as foreseen under section 17.
- 11.4. The Supplier shall be entitled to make partial deliveries.
- 11.5. The Parts will be delivered Ex Works (Incoterms 2010) at the premises of the Supplier, such that the risk of loss or damage will pass to the Customer when the Part is made available by the Supplier at its own premises. 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 Parts

- 12.1. If Parts, upon passing of risk, are defective, the Supplier – at his discretion – shall either remedy the defect, deliver a new Part free of defects or issue a credit note for the net invoice value of the Part in question, provided the Customer has given 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 for consequences resulting from said defect(s) 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 17.
- 12.4. The Supplier shall not be liable for the consequences of unsuitable or improper use, defective assembly, installation or operation by the Customer or third parties, 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.
- 12.5. If the Customer or a third party modifies or repairs the Part without the Supplier's approval, the Supplier shall have no liability towards the Customer.
- 12.6. Any warranty claims relating to the delivery of Parts shall become statute-barred within 12 months for new Parts and within 6 months for used Parts. This limitation period shall commence after the earlier of acceptance or operation of

the 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.

13. Infringement of intellectual property rights of third parties

If the use of the Parts as foreseen in the contract is in breach of 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 under reasonable economic conditions or within a reasonable time period, the Customer and the Supplier shall each be entitled to terminate the contract with immediate effect, without (prior) notice, without indemnity and without the prior intervention of a court. The Supplier shall also indemnify and hold the Customer harmless against intellectual property right claims of third parties that are acknowledged, undisputed or assessed in a legally binding judgment. Without prejudice to the provisions of section 17, the Supplier's foregoing obligations in the event of an infringement of intellectual property rights shall be conclusive and conditional on the following requirements: (a) the Customer notifies the Supplier without undue delay of any intellectual property right claim made and (I) supports the Supplier in defending such claims to the extent reasonable and / or (II) enables the Supplier to modify the delivered part to the effect that an infringement of intellectual property rights no longer persists, it being understood that the Supplier reserves the right to use any defence measures, including out-of-court settlements; (b) 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.

14. Retention of title

- 14.1. The Supplier retains title to all accessories and Parts until receipt of all payments due in relation to the relevant service or delivery contract.
- 14.2. 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 terminating the contract.
- 14.3. The Customer may resell the Part subject to the aforementioned retention of title only in the course of his regular business. In such a case, the Customer hereby assigns all claims arising out of such resale or use of 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 payment on behalf of the Supplier in relation to 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 payment obligations 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.
- 14.4. The Customer hereby also assigns to the Supplier all claims against third parties that may arise from the incorporation or combination of the item into or with real estate or movable goods.
- 14.5. If the foregoing securities exceed the secured claims by more than 20 %, the Supplier may, at his own discretion, return part or all of such securities to the Customer upon the Customer's request.
- 14.6. Upon the opening of insolvency proceedings regarding the Customer, the Supplier shall be entitled to terminate the contract, with immediate effect, without (prior) notice, without indemnity and without the prior intervention of a court, and to take possession of the item.

15. Processing of replacement parts

- 15.1. Prices for replacement parts are subject to the Customer transferring to the Supplier the property of a corresponding, 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 (Incoterms 2010) if within the same country and Delivered Duty Paid (Incoterms 2010) if from abroad.
- 15.2. 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 will be charged.

16. Return of unused spare parts

- 16.1. 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 (Incoterms 2010) if within the same country and Delivered Duty Paid (Incoterms 2010) if from abroad, within 2 weeks upon completion of the repairs.
- 16.2. 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 part. Spare parts with a value of less than 65.00 EUR shall not be taken back by the Supplier; these spare parts shall not be credited.

17. Supplier's liability and limitation of liability

- 17.1. If the Supplier is responsible for damage to Parts, 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. For the surplus, section 17.3 shall apply.
- 17.2. 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-material 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.
- 17.3. For damages other than to the delivered Parts or the Services themselves, the Supplier – irrespective of the legal ground, and to the extent permitted by law – shall only be liable in the event of
 - a. Wilful intent,
 - b. Gross negligence of the Supplier or his organs or executive staff,
 - c. Damage or harm to life, body or health,
 - d. Fraudulent concealment of damage,
 - e. An explicit guarantee,
 - f. Liability according to the applicable legislation on product liability.

If the Supplier is in breach of material contractual obligations (i.e. obligations, the fulfilment of which is essential for due performance of the contract and on the compliance of which the other party may regularly rely) the Supplier shall also be liable in the event of gross negligence of non-executive staff. Any further liability shall be disclaimed. The Supplier's liability under this Section 17.3 shall in any event be limited to the invoice value of the Services rendered or Parts delivered that caused or incurred damage or, if the damage is covered by an insurance policy of the Supplier, to the amount actually paid out by the insurer in relation to such damage.

18. Statute of limitations

Except as foreseen under section 12, any claims of the Customer – irrespective of the legal ground – shall become statute-barred within 12 months. With regard to claims for damages pursuant to section 17.3 a) – d) and f), the statutory periods of limitation shall apply. The statutory periods of limitation shall also apply in relation to defects of a building or if the delivered item has been used for a building in accordance with the normal way it is used and has resulted in the defectiveness of the building.

19. Applicable law and jurisdiction, personal data

- 19.1. The legal relationship between the Supplier and the Customer shall be governed by the laws of Belgium, with the exception of provisions relating to the conflict of laws and of the provisions of the Vienna Convention on the International Sale of Goods.
- 19.2. 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.
- 19.3. In the framework of performance of the contract, personal data concerning the Customer and persons linked to the Customer may be communicated to the Supplier. Such personal data will be used by the Supplier for customer management. The Customer acknowledges that it has been informed of and agrees with the processing of such personal data in accordance with applicable laws on data protection. The Customer may always request access to its data or obtain the rectification of inaccurate data through contacting DMG MORI BENELUX [+ ADDRESS OF THE SUPPLIER]. Moreover, the Customer may always object, free of charge and upon request, to the use of its data for direct marketing purposes by contacting the Supplier in the aforementioned manner. Where the personal data concern persons linked to the Customer, the Customer warrants that such persons have been informed of and agree with the aforementioned processing.