

## General terms and conditions on Customer after sales services and spare parts delivery of DMG MORI in Hungary

### **1. General provisions**

The following terms and conditions shall apply to all current and future after sales services of our company ("Supplier") provided to customers not qualifying as consumers pursuant to Article 8:1, section (1), point 3 of the Civil Code ("Customer"), in relation to the repair, maintenance and other services (collectively "Services" or "Repair Services") as well as the delivery of spare and replacement parts ("Parts" or "Part"). Supplier hereby explicitly refuses any terms differing or contrary to the terms and conditions herein suggested by the Customer, regardless of the fact whether the Supplier expressly and repeatedly refused the same upon notification thereof. 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 service hotline.

### **2. Customer's cooperation and technical assistance**

- 2.1. The Customer shall provide at his own risk and expense assistant staff (in adequate number and for the necessary period of time), 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 safe storage of delivery parts, tools, clothes and other valuables of the staff. The Customer is responsible for his assistant staff following the service manager's instructions, however the Supplier shall not be liable for any damage caused by the Customer's assistant staff. For any respective damage caused by the assistant staff due to the service manager's instruction; section 18 shall apply.
- 2.2. In the event that any of the Supplier's materials, tools or devices are damaged or lost at the Customer's work-site, the Customer shall be liable to replace them.
- 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, certifications 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 for Repair Services/Services which is available for the Customer at the Supplier in an electronic format at any time. The Supplier shall be entitled to issue an invoice for the amount of 90% of the Services carried out at any time.
- 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. Statutory VAT shall be added.
- 3.4. If the Customer fails to make payment on the due date, the Customer shall be subject to a late payment interest defined in Article 6:155 of the Civil Code as late payment interest applicable to business entities from the due date, plus additional costs will be charged to the Customer arising in relation to the late payment, including but not limited to the provisions set forth under Act IX of 2016.
- 3.5. Unless expressly agreed otherwise, payment for Services and deliveries of Parts is due within 8 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 Repair Service/ Service orders**

- 4.1. In the event that Repair Services/Services are unfeasible for reasons not attributable to the Supplier, any expenses, in particular such expenses for fault diagnostics needed for a price offer and additional costs and expenses triggered and documentable by the Supplier, shall be borne by the Customer. This provision particularly applies to the following circumstances:
- if the alleged fault did not occur during the fault diagnostics,
  - if the Customer wrongfully 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/repaired 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 necessary.
- 4.3. If Repair Services/Services are not feasible, the Supplier shall not – irrespective of the legal ground – be liable for damages of the serviced/repaired item, breach of non-fundamental contractual obligations and damages not caused to the serviced/repaired item itself. In the event of intent or gross negligence of the Supplier or his organs or executive staff, or breach of a fundamental contractual obligations, the Supplier shall be liable according to the provisions of applicable law. If the Supplier is in breach of a fundamental contractual obligations (i.e. obligations, the fulfillment of which is essential for due performance of the contract and on the compliance of which the other party relied or may rely), his liability, except he or his organs of executive staff act intentionally or grossly negligent, shall be limited to the typically foreseeable damage.

## **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 on weekends or public holidays, the flat call-out rate will be billed per attendance.
- 5.2. The flat call-out rate includes all incidental service costs (travel times, kilometres, 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**

- 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 Repair Services/Services are to be carried out are based on estimates only and are, therefore, not binding. The Customer may only demand an agreement on a binding time period for Repair Services/Services 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 period for Repair Services/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 location where the Repair Services/Services shall be carried out, and the Customer has given clearance for the Repair Services/Services to commence. The clearance protocol shall be documented in a minutes, which shall state the commencement date and shall be signed by the Supplier and the Customer.
- 7.2. If the Customer requires an extension of the Repair Services/Services or additional Repair Services/Services become necessary, 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. In the event of Force Majeure, labour conflicts impacting the whole or major part of the work site or other events beyond the Supplier's control, the time period shall be extended accordingly.

- 7.5. If the Supplier's failure to provide Services in good time results in a damage to the Customer, the Customer shall be entitled to demand a lump sum compensation. This compensation shall be 0,5 % for each completed calendar week, but in total no more than 5 % of the Repair Service/Service price of this part of the item to be serviced by the Supplier that cannot be used due to the delay.
- 7.6. If the Supplier does not carry out the agreed Services in good time, the Customer may withdraw from the contract in full compliance with the applicable laws, provided, if statutory exceptions do not apply, the Customer has specified after the due date, without result, an additional period for performance. Further claims for delay shall be subject to section 18.

## **8. Acceptance**

- 8.1. If the Supplier notifies the Customer on the completion of the Services, or, if pre-agreed in the Repair Service/Service contract, a test run has been completed, the Customer shall be obliged to accept the completed Services. If the Repair Services/Services prove not being in conformity with the contract, the Supplier shall cure the defect, unless the defect is minor or attributable to the Customer. Acceptance may not be refused by reason of minor defects.
- 8.2. Services shall be deemed accepted, if the Customer, for reasons not attributable to the Supplier, does not accept the Repair Services/Services within 2 weeks upon notification of completion or puts the equipment or machine into operation.
- 8.3. Upon acceptance of the Repair Services/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. Implied warranty for Repair Services/ Services**

- 9.1. Upon acceptance of the Repair Services/Services, in accordance with sections 9.4 and 18, the Supplier shall, to the exclusion of any further 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 the Customer, in particular if the defect arises from any spare part provided by the Customer. The Customer shall allow reasonable time and opportunity 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 prior 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 or, in case statutory exceptions do not apply, if a reasonable period for cure specified by the Customer has been expired without result.
- 9.3. In the event of justified complaint, the Supplier bears the necessary cost for the rectification of defects, unless there is a disproportionate burden on the Supplier.
- 9.4. If the Supplier does not remedy the defect, then, if statutory exceptions do not apply, after a reasonable set period of time to provide remedy under the implied warranty, the Customer may reduce the price, in full compliance with the applicable laws. Customer shall only be entitled to withdraw from the contract if he has no interest in remedying the defect despite reducing the price, which can be evidenced. Any further liability shall be subject to section 18.
- 9.5. If during the enforcement of the implied warranty claim it turns out that the alleged defect does not result from the technical problem for which the Services were rendered, then implied warranty claims are refused and the Customer shall reimburse the Supplier's documented expenses.
- 9.6. The Supplier shall be under no implied warranty obligation in respect of any defects of the Services if the defect is
- due to willful damage, incorrect connections or incorrect operation,
  - Force Majeure (e.g. lightning bolts),
  - tear and wear due to overuse of mechanical and/or electronic items or
  - extraordinary mechanical, chemical or atmospheric influences.
- 9.7. Subject to the provisions of section 13, any implied warranty claims relating to the Supplier's Repair Services/Services carried out at the Customer's work-site shall become statute-barred within 12 months. This limitation period shall commence after acceptance of the Services or installation of the serviced item.

## **10. Repair, maintenance and overhaul of defective parts at the Supplier's work-site**

- 10.1. Any expenses arising from transporting the serviced item for repair 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 Repair Services at the Supplier's or his subcontractor's work-site, there shall be no insurance coverage. The Customer shall be responsible to maintain insurance coverage for the serviced item regarding fire, mains water, 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 be entitled to store the serviced item otherwise. 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 or installation (if needed) of spare and replacement parts ("Parts") not being subject to a repair or service order with regard to delivery time, delay in delivery, implied warranties and passing of risk:

- 11.1. The Customer shall be responsible for the correct specification and technical description 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 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 agreed delivery time, if the Supplier's presuppliers and the part manufacturers deliver the Part in due time. 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 presupplier to the Customer, or the Customer has been notified that the Part is ready for dispatch. In the event of Force Majeure, labour conflicts impacting the entire work-site or a significant part thereof, or other events beyond the Supplier's control, the 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's failure to deliver the Parts in good time results in a damage to the Customer, the Customer shall be entitled to demand a lump sum compensation at the amount of 0,5 % for each completed calendar week, but in total no more than 5 % of the value of the Parts delivered in delay. If the Supplier does not deliver the Parts in good time, the Customer may withdraw from the contract, in full compliance with the applicable laws, provided, if statutory exceptions do not apply, the Customer has specified after the due date, without result, an additional period for delivery. Upon the Supplier's request, the Customer shall declare whether he will exercise his right to withdraw from the contract. Further claims for delay shall be subject to section 18.3.
- 11.5. 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. Implied warranty for new parts**

- 12.1. If new Parts, upon passing of risk, are defective for a reason existing prior to the passing of risk, the Supplier – at his discretion – shall be obliged to remedy the defect free-of-charge 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 and opportunity 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. In the event of justified complaint, the Supplier bears the necessary cost for the rectification of defects, unless there is a disproportionate burden on the Supplier.

- 12.4. If the Supplier does not remedy the defect or deliver a new Part free of defect, then, if statutory exceptions do not apply, after a reasonable set period of time, the Customer may withdraw from the contract, in full compliance with all applicable laws. If the defect is minor, the Customer shall only be entitled to a corresponding price reduction. Apart from that, the right to reduce the price shall be disclaimed. Any further liability shall be subject to section 18.3.
- 12.5. The Supplier shall not be liable in particular for unsuitable or improper use, defective assembly, installation or operation of the Customer or third parties, fair wear and tear, defective or 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 repairs, maintenance and service works the Part. The same applies to any modifications carried out on the spare or replacement parts supplied by the Supplier, without the Supplier's prior written approval.
- 12.7. Any implied warranty claims relating to the delivery of new Parts shall become statute-barred within 12 months. This limitation period shall commence after acceptance or installation of the Part by the Customer, but not later than 1 month after delivery.

### **13. Implied warranty for used spare or replacement parts**

Unless agreed otherwise, any warranty claims relating to the delivery of used spare or replacement parts shall become statute-barred within 6 months. This limitation period shall commence after acceptance or installation 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 enforcement of other claims arising out of the provisions herein 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 according to the Customer's instructions to the effect that the infringement of intellectual property rights no longer persists. If that is not possible under reasonable economical conditions or within a reasonable time period, the Customer shall be entitled to withdraw from the contract. Supplier shall also be entitled to withdraw from the contract provided that the referred conditions are met. Also, the Supplier shall indemnify and hold the Customer harmless against intellectual property right claims of third parties being acknowledged, undisputed or assessed in a legally binding judgment. 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 defence 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, spare or replacement parts used or delivered until receipt of all payments being due to the respective delivery or service contract.
- 15.2. In case of breach of contract by the Customer in particular a delay in payment, the Supplier shall be entitled to take possession of the item following a prior notification 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 withdrawal from the contract.
- 15.3. The Customer may resale the Parts delivered in the course of his regular business. For this case, the Customer hereby assigns all claims for the entire invoiced amount (including VAT) arising out of such resale or use for services to the recipient or third parties, irrespective of whether the goods have been processed prior or not prior to their resale, 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, is not in delay with payment, and does not become subject to an application for insolvency or to any stay of payment; in these events, however, the Supplier shall be entitled to demand that the Customer 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 moveables.
- 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 withdraw from the contract and demand the Customer to allow to take immediate possession of the item.

## **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 risk relating to the replacement part passing to the Customer, 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 abroad, "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, in a case where upon placing the order it was not certain as to which spare part is suitable, the Customer has – in explicit prior coordination with the Supplier – ordered several spare parts for the purpose of reducing the time for repairing and servicing, such Customer has the right, with respect of the not required spare parts, to withdraw from the order within 4 weeks. The exercising of such right of withdrawal within the deadline requires the return of the respective spare parts and the receipt of them by the Supplier or any of its affiliates as designated by the Supplier within four weeks of the delivery of these spare parts to the Customer. The return is carried out at the expense and risk of the customer (Carriage Insurance Paid storage place of the Supplier – CIP Incoterms 2020). The Customer compensates the Supplier for any impairments of the returned spare part (e.g. signs of use as a result installation or removal).
- 17.2. The Supplier may charge the Customer with a fee for inspection and restocking of the returned spare parts. Such fee amounts to 10% of the price of the respective spare part, but not more than 175 EUR per a spare part. Redemption of spare parts with a value of less than 65 EUR per item or position 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 a damage to parts of the repaired/serviced item, the Supplier, at his discretion and own costs, shall repair the part or deliver a new part, as he sees fit. The Supplier's liability shall be limited to the price agreed for the repair. 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 - in particular instructions on the operation and maintenance of the serviced item or delivered Parts -, or breach of other non-fundamental contractual obligations, the Customer cannot use the delivered Parts or Services rendered by the Supplier as agreed upon, the following provisions, to the exclusion of any further claims of the Customer, shall apply.
- 18.3. For damages other than to the delivered Parts or the Services themselves for whatever reason, the Supplier shall only be liable in the event of
  - a) intent,
  - b) gross negligence of the Supplier or his organs or executive staff,
  - c) wrongful damages to life, physical integrity or health,
  - d) fraudulent concealment of damages,
  - e) an explicit guarantee,
  - f) liability for a default of the delivered product according to the Product Liability Act, pursuant to which the Supplier shall be liable for personal or material damages occurring during private use.

If the Supplier is in wrongful breach of fundamental contractual obligations (i.e. obligations, the fulfillment of which is essential for due performance of the contract and on the compliance of which the other party relies and may regularly rely) the Supplier shall also be liable in the event of gross negligence of non-executive staff and slight negligence. In case of slight negligence, the Supplier's liability shall be limited to the typically foreseeable damages. Any further liability shall be disclaimed.

## **19. Statute of limitations**

Except for section 13, 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 18.3. 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.

## **20. Applicable law and jurisdiction: personal data**

- 20.1. The legal relationship between the Supplier and the Customer shall be exclusively governed by the laws of Hungary as applicable between domestic parties.
- 20.2. The jurisdiction venue for any potential legal disputes arising 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 personal data of the Customer's representatives by means of electronic data processing.

The "General terms and conditions on Customer after sales services and spare parts delivery of DMG MORI in Hungary" are made in Hungarian, English and German languages. In case there is any discrepancy between these versions, the Hungarian language version shall prevail.