

DMG MORI UK LIMITED – Detailed Terms and Conditions

1. Interpretation

In these Conditions:

- 'SELLER' means DMG MORI UK Limited (registered in England under number 1030108). 'BUYER' means the person who accepts a quotation of the SELLER for the sale of the Goods or whose order for the Goods is accepted by the Seller.
- 'CONDITIONS' means the conditions set out in this document 'CONTRACT' means any goods (including any instalment of the goods or any parts of them) which the Seller is to supply in accordance with these Conditions.

2. Basis of the Sale

- 2.1. The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer, which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made by the Buyer.
- 2.2. No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.

3. Orders and Specifications

- 3.1. No order submitted by the Buyer shall be deemed to be accepted by the Seller unless until confirmed in writing by the Seller's authorised representative and the Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order.
- 3.2. The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller) and cycle times on calculation sheets have a tolerance of +/- 10%, depending on the material, tools and applied technology. TRAINING IS TO BE TAKEN WITHIN 1 YEAR FROM DELIVERY, OTHERWISE IT IS CHARGEABLE.

4. Price of the Goods

- 4.1. The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the order.
- 4.2. The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller.
- 4.3. Where prices are quoted in pounds sterling, calculated at a specific exchange rate, the Seller reserves the right to make an adjustment between the quoted and the actual exchange rate at the time payment is received by the Seller.
- 4.4. The price of the Goods includes the cost of delivery to the place agreed with the Buyer, but does not include Value Added Tax, which must be paid at the appropriate rate. The cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods, but full credit will be given to the Buyer provided they are returned undamaged to the Seller before the due payment date.

5. Terms of Payment

- 5.1. The Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled, but without any other deduction) by the date (if any) specified in the Seller's invoice or (in the absence of such date) within 30 days of the date of the invoice, and the Seller shall be entitled to recover the price notwithstanding that the property of the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the contract.
- 5.2. If the Buyer fails to make any payment on the due date, then without prejudice to any other right or remedy, the Seller shall be entitled to cancel the contract or suspend any further deliveries to the Buyer and/or to charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of four per cent per annum above National Westminster Bank base rate from time to time.

6. Delivery and Acceptance

- 6.1. Delivery of the Goods shall be made by the Seller delivering them to such place as shall have been agreed with the Buyer unless the Buyer has elected to collect the Goods.
- 6.2. Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing.
- 6.3. If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

- 6.4. If the Buyer fails to take delivery of the Goods then, without prejudice to any other right for remedy available to the Seller, the Seller may:
- 6.4.1. store the Goods until delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
- 6.4.2. sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the contract or charge the Buyer for any shortfall below the price under the contract. The Buyer will be deemed to have accepted the Goods on delivery unless he notifies the Seller to the contrary within 7 days after delivery. Goods will at the Buyer's request (but subject to additional charge) be made available for inspection and demonstration before delivery at the DMG MORI Group Manufacturing Division Works prior to dispatch.

7. Risk and Property

- 7.1. In the case of Goods delivered to the Buyer, the risk of damage or loss will pass to the Buyer when the delivery vehicle arrives at the Buyer's premises, at the moment of daylight between the delivery vehicle and the underside of the Goods. In the case of Goods collected by the Buyer, the risk will pass at the moment the Goods are lowered onto the vehicle collecting those Goods.
- 7.2. Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.
- 7.3. Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected, insured and identified as the Seller's property.
- 7.4. Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time after payment has become due to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

8. Warranty and Liability

- 8.1. Please note that the factory warranty conditions are as follows:
In addition to the terms and conditions mentioned above, DMG Mori grants its customers a machine warranty period of 24 months (annotation: spindles of MASTER-Series have a component-specific warranty of 36 months). The warranty period commences on the date installation and commissioning is carried out by our qualified technicians. However, the warranty period will commence no later than 3 months from the date the buyer accepts delivery of the machine, if documented installation and commissioning delays are caused by circumstances beyond the control of DMG Mori. Any damage to the machine incurred as a result of improper use prior to the machine being commissioned, is not covered by the warranty. A warranty claim is only valid if appropriate servicing and maintenance has been carried out as stated in the operating instructions of the respective machines. In addition, all inspections are to be conducted by the manufacturer or by technicians authorized by the manufacturer at the required intervals. All operations must be documented in the logbook supplied with the machine and then confirmed using the 'DMG MORI MACHINE check' facility, if this is included in the product configuration. Otherwise, the same warranty terms apply to the terms and conditions governing the supply of machine tools.
- 8.2. The above warranty is given by the Seller subject to the following conditions:
- 8.2.1. The Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer.
- 8.2.2. the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval:
- 8.2.3. the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment:
- 8.3. Subject, as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Terms in Consumer Contracts Regulations 1994), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 8.4. Where the Goods are sold to a consumer (as defined above) the statutory rights of the Buyer are not affected by these Conditions.
- 8.5. Where any valid claim is made in respect of any of the Goods that they are defective, the Seller shall be entitled to replace them free of charge or, to refund the price of those Goods, but the Seller shall have no further liability to the Buyer.
- 8.6. Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer for any consequential loss or damage whatsoever.

- 8.7. The Company shall be excused from liability if the performance of the contract is prevented or hindered by any cause whatsoever beyond the Company's control and in particular, but without prejudice to, the generality of the foregoing by act of God, War (whether declared or not) Government control, restrictions or prohibitions by any Government act or mission whether local or national, fire, flood, subsidence, sabotage, acts of strike or lock-out, force majeure, rebellion, enemy action, civil war, riot, acts of sabotage or subversive activity or other cause beyond their control and shall not be liable for any loss or damage resulting from any such circumstances.
- 8.8. The Seller will agree, subject to matters hereinafter set out, to replace goods supplied that are shown to be faulty, subject to the Seller's right, which it hereby reserves, to have the goods inspected by the Seller's Engineering Division at the manufacturing plant, whose decision shall be final and binding save in the case of manifest error. The Buyer agrees that where the Seller's Engineering Division confirms that the part which has failed has been used other than as directed or following modification of the same, or the machine to which the same is fitted, then no warranty will be payable in connection therewith. The Buyer agrees that this provision is fair and reasonable.

9. Spindle and Rotary Couplings Warranties

- 9.1. Milling machines:
- New Spindles carry an 18 month warranty;
 - Speedmaster spindles carry a 36 month warranty;
 - Exchange spindle have a 9 month warranty;;
 - It is required that the rotary feed through be checked every 2,000 hours.

10. Insolvency of Buyer

This clause applies if:

- 10.1. The Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or, being an individual or firm, becomes bankrupt or, being a company, goes into liquidation, otherwise than for the purpose of amalgamation or reconstruction; or
- 10.2. an encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
- 10.3. the Buyer ceases, or threatens to cease, to carry on business; or
- 10.4. the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly. If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the contract or suspend any further deliveries under the contract without any liability to the Buyer, and if the Goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

11. General

- 11.1. No waiver by the Seller of any breach of the contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 11.2. The Contract shall in all respects be construed and governed by the laws of England and both parties hereto shall submit to the jurisdiction of the English Courts.

12. Cancellation

- 12.1. Orders cancelled within one week of order date will be subject to a cancellation fee equal to 10% of the order value.
- 12.2. Orders cancelled after one week of order date will be subject to a cancellation fee equal to 30% of the order value.
- 12.3. Any order cancelled within 90 days of planned shipment date from the factory will be subject to a cancellation fee equal to 50% of the order value.
- 12.4. Any order cancelled within 60 days of the planned shipment date from the factory will be subject to a cancellation fee equal to 75% of the order value
- 12.5. Any order cancelled within 30 days of planned shipment date from the factory will be subject to a cancellation fee equal to 100% of the order value.