

General Conditions of Supplies of DMG MORI Polska sp.z o.o.

1. General provisions and definitions

- 1.1. These General Conditions of Supplies ("General Conditions") regulate the principles of trade relations between the Supplier and the Ordering Party within the scope of sale and related services ("Supplies"). These General Conditions do not apply to the Ordering Parties which are consumers within the meaning of art. 221 of the Civil Code.
- 1.2. Definitions:
 - (I) **Supplier** means DMG MORI Polska sp. z o.o. with its registered office in Pleszew, at ul. Fabryczna 7, 63-300 Pleszew, entered into the entrepreneurs' register maintained by the District Court for Poznań-Nowe Miasto i Wilda in Poznań, IX Commercial Department – KRS 124604;
 - (II) **Ordering Party** means each natural person who carries out a business activity, a legal person and an organizational unit that is not a legal person, with a statutory legal capacity, who purchases the Subject of the Supply;
 - (III) **Subject of the Supply** means goods offered for sale and supply by the Supplier.
- 1.3. In accordance with the provisions of the Act of November 29th, 2000 on foreign trade in goods, technologies and services of strategic importance for national security as well as for maintenance of the international peace and security (Journal of Laws 2013.194 unified text) and EC Council Regulation 428/2009 of May 5th, 2009, the Subject of the Supply is a commodity of a dual-use. It shall be subjected to special control and its export requires a license for export. In case of change of the end user or the target use of the Subject of the Supply (including location change) the Ordering Party is obliged to inform the importer and the Ministry of Economy, unless the Supplier explicitly indicates the Ordering Party other way.
- 1.4. The Ordering Party or a person authorized by it will place an order to the Supplier for the Subject of the Supply in writing, by e-mail or by other agreed means of distance communication. Placing the order by the Ordering Party means the acceptance of these General Conditions. Unless the Parties agree otherwise in a separate agreement, the agreement enters into force as of written confirmation of the placed order by the Supplier, with reservation that in the case of the requirement to make an advance payment by the Ordering Party or fulfilment of other conditions, only upon additional confirmation by the Supplier of receipt of the advance payment or fulfilment of the aforesaid conditions. These General Conditions are made available to the Supplier at conclusion of the agreement and are also available in written form in the registered seat of the Supplier as well as in electronic form on the website <http://pl.dmgmori.com/terms-and-conditions> from where they can be freely downloaded in form allowing for their storing.

2. Price and Payment

- 2.1. In the absence of specific agreement, agreed prices are ExW prices in accordance with INCOTERMS 2010 and also include the loading costs onto the transportation means provided in the agreed time and place by the Ordering Party. To avoid any doubts, they do not include packaging of the Subject of the Supply, its insurance during transportation, transportation costs and unloading. VAT at the statutory value as well as other public and legal charges (e.g. duty), if due, shall be added to the prices each time.
- 2.2. The prices may be expressed in Polish Zloty or its EURO equivalent in Polish Zloty calculated in accordance with the average NBP exchange rate published on the day preceding the date of the invoice.
- 2.3. In the absence of specific agreement, the price is payable by transfer, without any deductions, to the Supplier's account indicated in the invoice/confirmation of order as follows:
 - 40% within 7 days from the day of issuing the proforma invoice,
 - 50% within 7 days from the day in which the Ordering Party is informed that the Subject of the Supply is ready for shipment,
 - the remaining amount of the price within 7 days from issuing the protocol of the Subject of the Supply commissioning or from the day such protocol was to be issued in accordance with the agreement, no later than within 60 days from the date of hand-over of the Subject of the Supply.
- 2.4. Delay in settlement of any payments entitles the Supplier to charge statutory interest for each day of delay, starting from the day following the payment due date, payable without any additional requests to the Supplier's account indicated in the invoice/confirmation of the order.
- 2.5. The Ordering Party shall be entitled to withhold the payment of the price or to deduct the price from its own receivables against the Supplier only upon prior written explicit consent of the Supplier.
- 2.6. In the absence of other agreement, the price includes all license fees for the use of author's economic rights within the scope necessary for the use of the Subject of the Supply in accordance with the agreement and any other remuneration related to the use of software for the Subject of the Supply.

3. Supply deadline, delays in supply

- 3.1. Supply deadline shall be determined by the Parties in the confirmation of acceptance of the order for commissioning, referred to in Point 1.4 above. Commencement of the Supply shall be conditioned upon the confirmation by the Supplier of fulfilment by the Ordering Party of all obligations agreed in accordance with Point

- 1.4. above, including agreement on technical specifications as well as fulfilment by the Ordering Party of all its respective obligations e.g. submission of required certificates, permits, advance payment, etc. If the Ordering Party fails to fulfill its aforesaid obligations, the deadline shall be extended accordingly, unless the Supplier is exclusively responsible for the failure to fulfill those obligations.
- 3.2. The supply deadline is met when, before the lapse of that time,
- (i) the loading of the Subject of the Supply is commenced or
 - (ii) the Supplier informed the Ordering Party that the Subject of the Supply is ready to be collected.
- 3.3. If the delay in shipment or receipt of the Subject of the Supply occurs for the events under the Ordering Party's influence, it will be charged with the lump-sum costs arisen in relation to the said delay, starting from the day of its notification by the Supplier of the readiness of the Subject of the Supply for dispatch or collection, in the amount constituting the equivalent in Polish Zloty of 100 Euro for each started day of delay.
- 3.4. If the delay occurs due to force majeure, the supply deadline shall be extended accordingly. The Supplier shall inform the Ordering Party, without undue delay, about the beginning and the ending of such occurrences. "Force Majeure" means all occurrences of external nature, which unable the Supply, including those which
- (i) are beyond the Parties' influence,
 - (ii) none of the Parties could avoid or prevent, or
 - (iii) are not caused by any of the Parties, including, among others: war or any other occurrence of military nature, acts of terrorism or similar events, constituting a threat to the public order, natural disaster such as flood, hurricane, earthquake or other extraordinary weather conditions, strike, embargoes or trade restrictions as well as any measures having similar effect which influences the ability to perform the Supply.
- 3.5. Until the transfer of the risk to the Ordering Party, the Ordering Party may, upon determination of an additional time limit for the Supplier to perform the Supply, withdraw from the agreement, if it arises that the Supplier, even despite determination of the additional time limit for performance of the agreement, will not be able to perform the order at all. The Ordering Party is entitled to withdraw from the agreement also when the Supplier is able to perform only a part of the Supplies, and the Ordering Party has a legitimate reason to refuse to accept a part of the Subject of the Supply. In the absence of such reason the Ordering Party shall accept a partial Supply and pay part of the price attributable to such a delivered part of the Subject of the Supply.
If the Supplier's performance is not possible to be met if the Ordering Party is predominantly or entirely responsible for this, the Ordering Party is obliged to consideration.
- 3.6. When the Supplier is in delay with the Supply of the Subject of the Supply and the Ordering Party suffers a damage in this respect, the Ordering Party shall be entitled to demand a contractual penalty from the Supplier starting from 21th day following the day of the Supply, in the amount of 0.5% net price of the Subject of the Supply, for each full week of delay, but in total no more than 5% of the value of that part of the Subject of the Supply that, due to the delay, cannot be used in due time or cannot be used in the manner provided in this agreement.
- 3.7. The Ordering Party is entitled to the same contractual penalty, if due to other actions or omissions for which the Supplier is responsible, the Ordering Party cannot benefit from the Subject of the Supply in accordance to the agreement what results in a damage on the part of the Ordering Party.
- 3.8. The contractual penalties payable under all the titles to the Ordering Party shall not exceed 5% of net price of the Subject of the Supply.

4. Transfer of risk, commissioning, receipt, third parties services

- 4.1. The risk of accidental loss or damage to the Subject of the Supply passes to the Ordering Party as of commencement of the loading of the Subject of the Supply for transportation or failure of the Ordering Party to collect it within the fixed time limit, in particular in case of the non-commencement of the loading of the Subject of the Supply due to reasons, the Supplier is not responsible for. For the avoidance of doubt, the above provision also applies when the Supply is to be partial or the Supplier is obliged to an additional performance e.g. cover the costs of the Supply, transport the Subject of the Supply to the place indicated by the Ordering Party and unload it. In case of fixing the date of receipt, the receipt shall take place immediately or immediately upon the Supplier's notification of readiness to deliver the Subject of the Supply.
- 4.2. The Ordering Party is not entitled to refuse to accept the Subject of the Supply in case of the occurrence of an insignificant defect.
- 4.3. The Subject of the Supply can be commissioned also by a third party indicated by the Supplier.
- 4.4. The Supplier undertakes to provide all insurances required by the Ordering Party at the expense of the latter.
- 4.5. Partial Supplies are permitted on condition that their receipt does not violate the interests of the Ordering Party.

5. Retention of title

- 5.1. The Supplier reserves the ownership title in relation to the Subject of the Supply or its part until the receipt of all payments arising from the Supply along with accrued interests and associated unpaid costs.
- 5.2. The Supplier is entitled to demand from the Ordering Party to provide to it one counterpart of the agreement with a certified date at the expense of the latter. Until the transfer of ownership the Ordering Party is obliged to visibly and solidly mark the Subject of Supply or its relevant part as being owned by the Supplier.
- 5.3. In case of seizure, detention, takeover or other disposition of the Subject of the Supply or its part by third parties,

the Ordering Party is obliged to notify the Supplier immediately, not later than within 2 days.

- 5.4. In the case that the customer is in breach of the contract, in particular in the case of non-payment despite maturity, the supplier is entitled to withdraw from the contract as is provided for by the statutory provisions and to claim return of the delivered goods relying on both the reservation of title and the withdrawal. Pursuing the rights arising from the reservation of the ownership title by the Supplier or establishing the right of pledge on the Subject of the Supply or its part does not imply the Supplier's withdrawing from the agreement.
- 5.5. In case of return of the Subject of the Supply or its part, the Supplier may claim a respective remuneration for normal wear and tear or damage to the Subject of the Supply. In case of the request to return the Subject of the Supply or its part, the Ordering Party is obliged, at its own cost and risk, to return the Subject of the Supply or its part, for which the payment has not been received, within the time limit and at the place indicated in a written request of the Supplier. In such case the Ordering Party is charged with loading, transportation and unloading of the Subject of the Supply or its part.
- 5.6. In case of modifications to the Subject of the Supply or its part leading to the creation of an object composed of parts not belonging to the Supplier, the Supplier acquires joint ownership of the newly formed device in proportion corresponding to the value of the Subject of the Supply to the value of the parts remaining at the time of such modification.
- 5.7. Application for declaration of bankruptcy entitles the Supplier to withdraw from the agreement and to claim return of the Subject of the Supply or its part.

6. Warranty

- 6.1. Provisions relating to the warranty stipulated in Point 6.2. – 6.10. below apply only to such Supplies with respect to which the Supplier explicitly confirms granting a warranty in a separate warranty document.
- 6.2. The warranty covers defects of the Subject of the Supply resulting from the faulty manufacture or assembly of the Subject of the Supply provided it has been operated in accordance with the provided technical documentation and the assembly has been made by persons authorized by the Supplier. The warranty covers faults and defects in the Subject of the Supply discovered within 18 (eighteen) months from signing the commissioning protocol.
- 6.3. In order to avoid doubts, the warranty referred to in this Point 6. is not granted if the protocol of the Subject of the Supply commissioning is not signed by the Ordering Party for reasons not related to the Supplier after 3 months from the date of handing over the Subject of the Supply or using it not in accordance with the technical documentation.
- 6.4. The warranty does not cover:
 - (a) wear and damage resulting from the usage of the Subject of the Supply improper with the technical documentation as well as normal wear and tear occurred due to the operation of the Subject of the Supply,
 - (b) services as well as fast wearing operational and maintenance materials specified in the documentation of the Subject of the Supply,
 - (c) damages, overloads or faults resulting directly or indirectly from any of the reasons specified below:
 - operation of the Subject of the Supply without signing the commissioning protocol,
 - improper location of the Subject of the Supply and factors such as ambient temperature as well as chemical, electrochemical and electrical influence,
 - negligence or lack of diligence of the Ordering Party in operation and service of the Subject of the Supply, by which is meant in particular failure to comply with principles specified in the technical documentation of the Subject of the Supply,
 - operation of the Subject of the Supply against rules specified in the technical documentation, including appliance of incorrect operational materials,
 - repairs carried out by the Ordering Party without clear written consent of the Supplier,
 - assembly of unauthorized and/or non original spare parts,
 - omission or late call for the Supplier's service to repair the Subject of the Supply,
 - modifications, conversions, installation of unauthorized additional equipment,
 - (d) any defects which are directly or indirectly attributable to the Ordering Party.
- 6.5. Notification of need for repair under the warranty should be done immediately, not later than within 10 (ten) hours from discovering the fault by the Ordering Party. In any event, the notification shall contain a detailed description of the fault including codes, alarms and circumstances of fault occurrence.

After receipt of notification about the fault the Supplier's service is obliged:

 - (a) to take actions to determine the cause of fault and need to apply spare parts, within 24 hours from the notification. Moreover, if it is possible and if the repair does not require application of spare parts, the Supplier's service shall provide the Ordering Party with the assistance in self correction of the fault. These actions can be implemented entirely in the form of a telephone consultation with relevant staff/services of the Ordering Party,
 - (b) to start the repair of the Subject of the Supply within 48 hours from the time of recognizing the cause of the fault, if the Ordering Party is not able to carry out the repair itself. This does not apply to the situation when the repair requires applying spare parts. In such situation the Supplier's service shall start the repair within 24 hours from the spare parts delivery.

- Saturdays, Sundays and public holidays are not included in the time of the Supplier's service response time.
- 6.6. The Ordering Party may be charged with all warranty repair costs
- (i) if the Supplier determines that the fault is caused by the reasons specified in Point 6.4. and/or
 - (ii) when the Ordering Party fails to notify the Supplier about the fault within the required period and/or
 - (iii) if the notification of fault does not contain detailed specification of the alleged defect as per Point 6.5.
- Costs related to the service staff arrival (travel costs, accommodation and food) and the work carried out (assembly/ disassembly) as well as materials applied are included in the costs of a warranty repair.
- 6.7. The Ordering Party is obliged to return to the Supplier (during the warranty period at the expense of the Supplier) the spare parts that have not been used and any other parts of the Subject of the Supply which have been disassembled in connection with the repair within 7 (seven) days from the repair completion. After this period the Ordering Party shall be charged with costs of those spare parts without the possibility of their return.
- 6.8. The warranty expires prior the lapse of its term if the Ordering Party:
- (a) ceases carrying out paid service inspections specified in the documentation of the Subject of the Supply,
 - (b) aborts carrying out necessary servicing specified in the documentation of the Subject of the Supply,
 - (c) prevents the Supplier from fulfilling the warranty obligations by refusing to make the Subject of the Supply available for repair,
 - (d) ceases to disclose or refuses to remove defects, faults or malfunctions which could lead to profound failure or other defect,
 - (e) interferes or does not prevent from interfering into the meter of the Subject of the Supply.
- 6.9. In case of warranty replacement or major repair of the Subject of the Supply or its part, the warranty for the replaced or significantly repaired part starts as a full warranty.
- 6.10. The Parties exclude the application of an implied, statutory warranty for defects (*rekojmia*) provisions to the Supplies.

7. Liability

Save for events of willful actions or deprivation of life, bodily injury or causing health disorder, within limits permitted under Polish law

- (i) the liability of the Supplier is in all cases limited to the value of the Subject of the Supply and
- (ii) the Supplier is not liable for loss of profit, indirect damages, loss of use of the Subject of Supply or its part, as well as for downtime costs of the Ordering Party.

8. Use of the software/copyrights and industrial property rights

- 8.1. The Supplier or a relevant company of the Supplier's capital group remains the owner of any intellectual property rights and industrial property rights with respect to the Subject of the Supply and any documentation related to it, in particular to economic author's rights with respect to projects, designs, estimates, pricelists, drawings and any similar information, which may be in a tangible and intangible form (also in electronic form). Furthermore, documentation in writing, designs, estimates, project materials constitute a company secret of the Supplier within the meaning of art. 11 of the Act of April 16th, 1993 on Combating Unfair Competition, and may not be made available, delivered or disclosed to third parties, without a written consent of the Supplier. The Supplier undertakes to make available to third parties information and documents which have been delivered to it by the Ordering Party and indicated as confidential information only upon the consent of the Ordering Party. The above confidentiality obligation applies also to the Ordering Party as regards information and documents delivered by the Supplier.
- 8.2. The Supplier grants the Ordering Party a non-exclusive, limited to the place of installation of the Subject of the Supply and the term of the agreement, license to use the software and the relevant documentation necessary for a proper operation of the Subject of the Supply. The license covers only the right to use the software and the documentation in order to operate, maintain and repair the Subject of the Supply. The Ordering Party has no rights to grant sub-licenses for the software and the documentation without an express written consent of the Supplier or to use the software in more than one Subject of the Supply which does not derive from the Supplier or in another device. The Ordering Party may not dispose of or use the derivative copyrights in software program or the relevant documentation.
- 8.3. The Ordering Party is not entitled to use, publish and disseminate trademarks of the Supplier or a relevant company of the Supplier's capital group without the Supplier's explicit consent.
- 8.4. If usage of the software or the documentation related to Subject of the Supply constitutes the violation of industrial property rights or copyrights of third parties, as confirmed by the binding court verdict, or when such violation is obvious and a respective claim was filed by a third party, the Supplier shall indemnify and hold harmless the Ordering Party from any liability within that scope and, subject to the provisions below, shall ensure further use of the Subject of the Supply by the Ordering Party in accordance with the law and at own expense, including in particular by its appropriate modification. If such necessary modification makes the use of the Subject of the Supply impossible for a significant period of time, exceeding 12 weeks, then the Ordering Party has the right to withdraw from the agreement in writing with giving reasons. The Supplier shall have the right to withdraw from the agreement in case the software modification generated excessive costs, exceeding 5% of the value of the Subject of the Supply.

The Ordering Party is entitled to all the above rights only when:

- the Ordering Party shall promptly, not later than within 4 days, notify the Supplier in writing about the pursued claims arising from violation of the copyright or other rights;
- the Ordering Party shall support the Supplier in an appropriate manner in connection with the defense against the reported claims or in carrying out the appropriate modification of the Subject of the Supply;
- the Supplier shall be exclusively entitled to take any defense actions including extrajudicial proceedings;
- violation of law occurred due to the instructions provided by the Supplier;
- violation of law was not caused by the fact that the Ordering Party modified in any manner the Subject of the Supply or used it against its intended use described in the agreement.

9. Applicable law, the competent court

- 9.1. Any agreements on manufacturing, sale or supply entered into between the Supplier and the Ordering Party are governed by Polish law. The application of provisions of the United Nations Convention on Contracts for the International Sale of Goods is excluded.
- 9.2. The court competent for the registered seat of the Supplier is a competent court for settlement of any disputes relating to or arising from any agreements on sale and supply between the Supplier and the Ordering Party.

10. Final provisions

- 10.1. If any of the provisions of these General Conditions prove to be partially or fully invalid or ineffective, it does not affect the validity or effectiveness of its other provisions. Invalid or ineffective provisions shall be replaced with such a valid and effective provision which is as close as possible to the economic purpose of the invalid or ineffective one.
- 10.2. By accepting these General Conditions the Ordering Party agrees to processing its personal data by the Supplier as data administrator and entities of the Supplier's group in connection with performance of the concluded agreements.

11. Failure to use the powers

Failure to use the powers arising from these General Conditions by any of the Parties does not constitute a waiver to exercise these powers in the future.