

## **General Terms and Conditions DMG MORI ASIA PTE LTD (the "Supplier")**

### **1. Delivery Terms**

- 1.1. Unless otherwise provided for, the Supplier shall deliver the Machine FOB or CIF NEVA SHEVA / CHENNAI, Incoterms@2010 to the agreed destination (the "Site").
- 1.2. The commissioning of the Machine will be carried out at the Site.
- 1.3. The Supplier will provide training on use of the Machine (up to one (1) week).
- 1.4. Delivery dates are merely indicative and are calculated on a working days' basis.
- 1.5. The Supplier is not responsible for damages in case of advanced or postponed deliveries.
- 1.6. In the case where the Buyer does not fulfil all its obligations regarding the payment of the monies for down payment, the Supplier shall be entitled to suspend or delay any delivery of the Machine until the Buyer has settled all outstanding payments.

### **2. Title and Risk of Loss**

The Supplier shall remain responsible for risk of loss to the Machine until the delivery of the Machine to the Site. Title and property to the Machine shall pass to the Buyer upon full payment of the price by Buyer to the Supplier.

### **3. Warranty**

- 3.1. The Supplier warrants that the Machine shall be designed according to the contract specifications, and shall be free from defects that could make the Machine unsuitable for use expressly provided. The above warranty operates only for defects in workmanship and materials that are attributable to the Supplier. The Supplier does not warrant the products or any repaired or replacement parts against normal wear and tear.
- 3.2. The Supplier shall provide a warranty period as specified in the quotation or the order confirmation on parts of the Machine and on labour costs commencing on the date of commissioning of the Machine at Site, however no later than three (3) months after delivery of the Machine at Site.
- 3.3. During the warranty period, the Supplier or any of the affiliated companies of the DMG MORI group shall take over the follow-up for all defects covered by the warranty. If the Buyer has purchased the extended warranty, the foregoing warranty period will be extended accordingly.
- 3.4. The warranty set forth herein is further conditioned upon:
  - the Buyer's compliance with the operational instructions and maintenance works specified in the Machine's manual;
  - the Buyer shall arrange for inspections to be exclusively carried out at regular intervals of not more than one (1) month by the Supplier and/or the Supplier's authorised personnel;
  - all activities of the Machine being documented in the logbook which is attached to the Machine; and
  - the Machine being put in use only after the completion of commissioning.

Any damage to the Machine which is caused by unauthorised use without completed commissioning is not covered by the warranty.

### **4. Confidentiality**

All drawings, designs, specifications, manuals, programs and prices furnished to the Buyer by the Supplier shall remain the confidential and proprietary property of the Supplier. All such information, except as may be found in the public domain, shall be held in strict confidence by the Buyer and shall not be disclosed by the Buyer to any third parties. Copyright in all materials made available by the Supplier shall remain in the Supplier at all times.

### **5. Safety Precautions**

The Buyer shall require employees to use all safety devices, guards and proper safe operating procedures as set forth in manuals and instruction sheets furnished by the Supplier. The Buyer shall not remove or modify any such device, guard or sign. It is the Buyer's responsibility to provide all the means that may be necessary to effectively protect all employees from serious bodily injury which otherwise may result from the method of particular use, operation, set-up or service of the Machine. If the Buyer fails to comply with such provisions of this paragraph or the applicable standards or regulations aforementioned, the Buyer shall indemnify and hold the Supplier harmless from and against any and all claims, losses or damages arising from such failure. It is the responsibility of the Buyer to comply with all local laws, regulations and codes.

### **6. Intellectual Property Infringement**

The Buyer shall indemnify the Supplier and hold the Supplier harmless from any infringement of any patent, trademark or copyright arising from the Buyer's use of the Machine, including but not limited to the reimbursement of costs and expenses, including attorney's fees, incurred by the Supplier with respect to a claim of infringement.

### **7. Time Study and Description of Machine**

All time study figures provided by the Supplier are estimates only and are based on the Supplier's understanding of the accuracy and finish required, machinability of the material, amount of material to be removed and the Buyer's operating conditions. The Supplier makes no warranty based upon or relating to time study figures. All weights and measurements given are estimates, stated as correctly as possible, and any minor deviations shall not constitute non-conformity of the goods. Brochures, photographs and other illustrations representing the equipment offered are for illustration only and are not binding in detail. Brochures and product designs and specifications are subject to change without notice.

## **8. Exportation**

All contracts are subject to export permit by the Government of Singapore or any other Government authority. The Buyer shall comply with local laws and regulations governing the exportation or re-exportation of the Machine. The Machine is subject to export restrictions imposed by Singapore or any other Government Authority and that the Buyer will not export or permit the export of the Machine anywhere without proper Government authorization. To prevent the illegal diversion of the Machine to individuals or nations that threaten international security, it may include a "Relocation Machine Security Function" that automatically disables the Machine if it is moved following installation. If the Machine is so-disabled, it can only be re-enabled by contacting the Supplier. The Supplier may refuse to re-enable the Machine if it determines that doing so would be an unauthorised export of technology or otherwise violate applicable export restrictions. The Supplier shall have no obligation to re-enable such Machine and shall have no liability (including for lost profits or business interruption or under the limited service warranty) as a result thereof.

## **9. Limitation of Liability**

The seller Liability shall be limited to its promises, warranty and repairs etc. as expressively stated herein. Any further liability for loss of profit or production and other indirect and consequential damages shall be excluded from the seller. The cap of seller liability is 5 percent of entire contract value.

## **10. Severability**

If any of this Agreement shall be held to be invalid or by a tribunal with competent jurisdiction, it shall be severed from this Agreement, and the remaining provisions shall remain full force and effect. The Supplier and the Buyer promptly shall negotiate a replacement.

## **11. Assignments**

The Buyer's rights and duties under this Agreement shall not be assigned or delegated or transferred by operation of law without the other party's expression written consent, which may be granted or withheld at the Supplier's or the Buyer's sole discretion. Any attempted assignment or delegation not in accordance with the foregoing shall be wholly and totally ineffective for all purposes.

## **12. Force Majeure**

The Supplier shall not be responsible for non-performance or late performance of any part of the contract where such failure is caused solely and directly by an Act of God or by any riot, act of terrorism, civil commotion, strike, lockout or other labour disturbance, orders, or embargos, regulations and/or ordinances by government or by any fire, war, blockade, insurrection, mobilization or due to any other causes or circumstances beyond the Supplier's control. If an event of force majeure occurs, the Supplier may at its option either extend the time of performing affected obligations during the period the event of force majeure continues, or to cancel the order.

## **13. Supplementary Devices**

The Supplier shall not be responsible for the correct and safe functioning of any additional equipment which was not ordered from the Supplier for the Machine or which was not particularly and previously agreed upon.

## **14. Withdrawal of Order**

14.1. In the event the Supplier accepts a withdrawal of the order by the Buyer, the compensation payable by the Buyer for such withdrawal shall be determined as follows:

- 10% of the agreed total purchase price including supplementary payments within 7 days after receipt of the order confirmation
- 30% of the agreed total purchase price including supplementary payments within 30 days after receipt of the order confirmation
- 40% of the agreed total purchase price including supplementary payments plus the entire purchase price allocated to the features specifically made for the Buyer after the beginning of the production of the Machine.
- 60% of the agreed total purchase price including supplementary payments plus the entire purchase price allocated to the features specifically made for the Buyer after the Machine has been completed.

14.2. The Supplier will inform the Buyer about the start and the completion of production.

- 14.3. The purchase price allocated to the features shall be assessed and determined by the Supplier whose decision shall be final and binding on the Buyer.
- 14.4. In the case where the Buyer has paid the full amount for the features, the Supplier shall on the Buyer's request, where physically possible, handover and transfer all property parts, components and similar devices of the features to the Buyer.
- 14.5. The "features" referred to in this Clause shall include all individual constructions for the standard machine, the control, the options for the machine, power tools and services. It shall however, not include commissioning, training, transport and/or packaging.

## **15. Dispute Resolution**

- 15.1. Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be
- referred to arbitration at the Singapore International Arbitration Centre in accordance with its rules and procedures; or
  - at the sole discretion of the Supplier, be submitted to the Courts of Singapore, which jurisdiction the Supplier and the Buyer hereby irrevocably submit to.
- 15.2. The commencement of any arbitration or court proceedings under this clause shall in no way stop, delay or affect the performance of obligations under the Agreement which shall continue without interruption except insofar as such obligations relate to the subject matter of such proceedings.
- 15.3. All arbitration and court proceedings shall be in the English Language.
- 15.4. All disputes that may arise in connection with this Agreement shall be commenced no later than one year from the date of the alleged breach.

## **16. Governing Law**

This Agreement shall be construed in accordance with the laws of Singapore. The provisions of this agreement are divisible and the invalidity or unenforceability of any provision or provisions contained herein shall not in any way affect the validity or enforceability of any other provision(s) contained in this Agreement.

## **17. Contracts (Rights of Third Parties) Act (Cap. 53B)**

Any person who is not a party to this Agreement shall have no right whatsoever under the Contracts (Rights of Third Parties) Act (Cap. 53B) to enforce this Agreement or any of its terms.

## **18. Additional Information on Planning Documents, Transportation and Installation Instructions**

All relevant information in this document is to be redirected by the Buyer to the Buyer's in-house departments and/or external companies contracted by the Buyer. This is especially relevant for information (including dos and don'ts) that deal with the machine installation and electrical connection.

According to the planning document, for easy transfer of drilling to the floor, there is an optionally available so-called template, which is not an internal crane, but with a roller transport systems (tanks rolling, hydraulic jacks, etc) should be transported and installed. The planning documents, the transportation and installation instructions form an integral part of the instructions which are supplied with the machine.

## **19. Legal Relationship**

The parties hereby acknowledge and agree, that each is an independent contractor, that no party shall be considered to be the agent, representative, master or servant of any other party hereto for any purpose whatsoever, and that no party has any authority to enter into any contract, assume any obligations or to give any warranties or representations on behalf of any other party. Nothing in this Agreement shall be construed to create a relationship of partners, joint ventures, fiduciaries, or any other similar relationship between the parties.