



## Terms and conditions of sale

### 1. General

The terms and conditions set forth herein, together with any additional terms and conditions set forth in Seller's Quotation (the "Quote") and/or Order Acknowledgement Form, shall constitute the entire agreement between DMR Equipment ("Seller") and the applicable customer ("Buyer") for the sale of Seller's products, including systems and spare parts (collectively the "Products"). Seller will not be bound by any terms of Buyer's order that are inconsistent with the terms hereof. All purchase orders must be approved and accepted in writing by Seller and no term or condition contained in any purchase order form that varies from, or conflicts with, any of these Terms and Conditions shall become part of the contract for the sale of Products unless such term or condition is expressly accepted in writing by Seller's authorized representative. No waiver by Seller of any default or provision hereof shall be deemed a waiver of any other default or provision.

### 2. Products provided and price

(a) Product information, illustrations, drawings and specification on technical data from brochures etc. is to be considered guiding. The information from DMR is only binding when a final contract has been signed or an order acknowledgement has been sent to the Buyer. The Buyer has the full responsibility for the final selection of products, and also responsibility that the Buyer can obtain the expected results and functionality, and that the products can function as intended in the Buyers existing or intended environment of operation / project location.

(b) Prices quoted are only for the Products and services (if any) set forth in the Quote or Order Acknowledgement Form and do not include technical data, patent or other proprietary rights of any kind or tests other than Seller's standard tests unless expressly agreed to in writing by Seller. Unless otherwise stated by Seller in writing, all quotations constitute offers and are firm for, and unless noted, expire, sixty (60) days after the date thereof.

(c) Prices do not include federal, state, provincial or local sales, excise, use or other taxes applicable to the Products or services incident to this transaction (excluding only taxes based on Seller's income). Applicable taxes will be added to the sales price if Seller has the legal obligation to collect the same and will be invoiced to and paid by Buyer unless Buyer provides Seller with a proper tax exemption certificate. In the event Seller is required to pay any such tax, Buyer shall promptly reimburse Seller, therefore.

(d) Unless otherwise provided on the face hereof, Products furnished hereunder shall be newly manufactured, but may contain components that have been previously used in other product units. Any previously used components shall have been disassembled, reprocessed and reassembled, as appropriate, and meet the Seller's specifications for newly manufactured components.

(e) The obligation of Seller to provide Products, as well as any technical assistance, shall be subject to such Danish laws and regulations as shall govern the license and delivery of technology and products abroad by persons subject to the jurisdiction of Denmark, including the Export Administration Act of 1979, as amended, any successor legislation, and the Export Administration Regulations issued by the Department of Commerce.

Buyer will comply fully with the Export Administration Regulations and all other applicable United States laws and regulations governing exports.

### 3. Payment terms and security interest

(a) Unless otherwise stated in the Quote and Order Acknowledgement Form, the terms of sale for Products are payment at time of order. Upon reviewing Buyer's credit status, Seller may offer payment terms of net 30 days from date of invoice. Seller reserves the right to require alternative payment terms based upon Buyer's credit application. Buyer warrants that the credit application and other financial statements submitted to Seller are true and correct.

All amounts payable shall be invoiced and paid in USD or euro (depending on the quoted currency) and all payments shall be made to Seller at its office in Silkeborg, Denmark, or to such



other location as Seller may designate. Interest accrues on the unpaid balance of overdue invoices at the lesser of one percent (1%) per month, or the highest rate allowed by law, from the original due date of the invoice. Payment shall not be withheld for delay in installation if at Buyer's request, nor for delay in delivery of required documentation unless a separate price is stated therefore, and then only to the extent of the amount stated.

(b) All orders, and the obligation of Seller to make delivery, are subject to the right of the Seller to make shipment C.O.D or to require alternative payment terms, including payment of all or any part of the purchase price in advance of delivery. If Buyer: i) fails to make advance payment when requested by Seller, ii) is or becomes delinquent in the payment of any sum due Seller, or iii) refuses to accept C.O.D. shipment, then Seller shall have the right, in addition to any other remedy to which it may be entitled in law or equity, to cancel any order, refuse to make further deliveries and/or declare immediately due and payable all unpaid amounts for Products previously delivered to Buyer. Partial shipments made under any purchase order shall be treated as a separate transaction and payment therefore shall be made accordingly. However, in the event of any default by Buyer, Seller may decline to make further shipments without in any way affecting its rights with respect to such partial shipment

#### **4. Shipment and insurance: Title transfer and risk of loss**

(a) The price of all Products, unless otherwise specifically stated in the Quote or Order Acknowledgement Form, is FOB Origin (for U.S. customers) or Ex- Works, Santa Clara, California (for customers located outside the U.S.), each as defined by Incoterms 2020. The costs of normal packaging, handling and document preparation fees (if applicable) are disclosed on the invoice. Where Buyer specifies special packaging or handling, a charge will be made to cover any extra expense. If requested by Buyer, Seller will arrange for selection of a shipping company and shipment on Buyer's behalf. In the absence of shipping instructions from Buyer, Seller reserves the right to select the means of transportation and routing. Unless otherwise advised, Seller will ensure Products to their full value or declare full value thereof to the shipping carrier and all shipping and insurance costs shall be for Buyer's account and Buyer agrees to reimburse Seller for the cost of shipping and insurance. Confiscation or destruction of, or damage to, Products shall not release, reduce or in any way affect Buyer's obligation to pay for same.

(b) Unless otherwise agreed to in writing by Seller, title and risk of loss or damage shall pass to Buyer upon delivery of the Products to the shipping carrier at Seller's manufacturing facility.

#### **5. Inspection of products**

Buyer shall have the right to inspect the Products upon delivery. Buyer's exclusive remedy with respect to any defective or non-conforming Product shall be to have Seller repair or replace such defective or nonconforming Product or credit Buyer's account, whichever Seller may elect in its sole discretion. These remedies are available only if: i) Buyer notifies Seller promptly upon Buyer's discovery of a Product defect or non-conformity, in writing and within the warranty period; ii) Seller's examination of such Product discloses to Seller's satisfaction that such defect or non-conformity actually exists and the Product has not been repaired or altered by persons not authorized by Seller, subject to misuse, negligence or accident, or connected, installed, used or adjusted otherwise than in accordance with the instructions furnished by Seller. If it is found that any Product has been returned which is not defective or non-conforming, Buyer will be notified and such Product returned at Buyer's expense. In addition, a charge for testing and examination may, in Seller's sole discretion, be made on any Product so returned.

#### **6. Cancellations**

DMR Equipment produces and sell equipment on demand and the equipment is tailored specifically to each order. Cancellation more than 10 days after order confirmation is therefore not accepted.

Buyer understands and agrees that such terms are reasonable in context of the anticipated or actual harm to Seller.

#### **7. Software licence**

For all software Products proprietary to Seller and furnished by Seller to Buyer, Seller grants to Buyer a nonexclusive, perpetual (unless otherwise set forth in a Quote) nontransferable license

to use the software Products for their intended purpose. Buyer will not distribute, modify, de-compile or reverse engineer the Software nor permit anyone else to do so. Any software Products published by a third party are licensed to Buyer pursuant to such software publisher's terms and conditions.

To the extent that the Products contain or consist of software that is pre-installed or embedded in object code and is necessary for the proper functioning of the Products ("Firmware"), such Firmware is licensed to Buyer, not sold.

Seller grants to Buyer a non-exclusive, perpetual license to use the Firmware, in executable form, solely as embedded in the Products. Buyer acknowledges that the Firmware contains trade secrets of Seller, and, in order to protect such trade secrets, Buyer agrees not to disassemble, decompile or reverse engineer the Firmware nor permit any third party to do so, except to the extent such restrictions are prohibited by law. Seller reserves all rights and licenses in and to the Firmware not expressly granted to Buyer.

The Firmware or other software licensed by Seller to Buyer may contain software or libraries that are licensed or distributed as "open-source software", "free software" or other similar licensing or distribution models ("Open Source Software"). Buyer agrees that open-source software is and shall remain subject to the terms and conditions of the original providers and are not part of the Firmware or software Products licensed by Seller.

#### **8. Limited warranty, limitation or remedies**

(a) Except as otherwise agreed by Seller and Buyer in writing, Seller warrants that during the warranty period (as defined below) the Products will be free from defects in material and workmanship under normal uses and will conform to Seller's published Specifications for the Product. "Specifications" means the then-current user guide, technical specification or other Product documentation prepared by Seller (excluding marketing collateral). The "Warranty Period" means the period of time commencing upon shipment of the Product and continuing for twelve (12) months.

(b) Buyer's sole and exclusive remedy and the entire liability of Seller and its suppliers under this limited warranty will be, at Seller's option, repair of the Product; shipment of a replacement Product within the warranty period and according to Seller's replacement process; or a refund of the purchase price if the Product is returned to Seller. Seller replacement parts used in Product replacement may be new or equivalent to new. Seller will provide all parts and services required to repair or replace the Product, provided that repairs will be performed remotely or at Seller's factory. As part of the limited warranty, during the Warranty Period Seller may provide: (1) telephone and email technical support, including remote log-in capabilities during Seller's regular support hours and (2) software updates that Seller generally makes available without additional cost. Seller reserves the right to use local, authorized partners to assist in providing warranty repairs and/or factory returns and Buyer will cooperate with such local partners.

(c) In the event Seller replaces the Product under this warranty, the terms of Section 8 will apply. For any repair or replacement of a product under warranty, the Warranty Period will be extended for the longer of 6 months after repair or replacement if the warranty period is more than six months old. The total warranty period can maximum be 18 months for spare parts.

(d) The foregoing warranty: i) is made to Buyer only, and is nontransferable; ii) is in lieu of, and buyer hereby waives any and all other warranties of seller, express, statutory, written, oral, or implied, arising out of this agreement or in connection with the any agreement between buyer and seller to which these terms and conditions apply. Third party Products that are sold as non DMR Equipment branded products, are covered by the original manufacturer's warranty and Seller makes no warranty, express or implied, regarding such products.

(e) This limited warranty will be void if the Product (a) has been altered, except by Seller or by Buyer with Seller's prior written approval, (b) has not been installed and used in accordance with the Specifications, (c) has been subjected to abnormal physical or electrical stress (e.g. lightning), abnormal environmental conditions, misuse, negligence, or accident; (d) is licensed for beta, evaluation, testing or demonstration purposes. Seller's warranty remedy obligations do not extend to recovery or replacement of any data from any medium.

(f) Buyer agrees that the remedies provided by Seller for any breach of this warranty adequately protect Buyer's interests and expectations in the event it receives defective or non-conforming Products from Seller regardless of circumstances that may arise after Buyer agrees to these Terms and Conditions and when the Products are used by Buyer or Buyer's customers.

#### **9. Return of products**

Buyer may not return Products to Seller without first obtaining Seller's consent. Buyer must first submit a request for return with Seller and shall include P.O. number, approximate date shipped and any other identifying numbers (such as invoice number and date, etc.). Any request for return of Products for credit must state the type and quantity of Products, the part numbers and the reasons for the return. If return authorization is granted, Products shall be returned in Seller's original packaging materials. If original packaging materials are no longer available, Buyer shall contact Seller for packaging instructions. No credit allowance for defective Product will be made, nor will any replacement for any such Product be provided, unless the alleged defects are established to Seller's reasonable satisfaction after suitable testing and inspection. Buyer or Seller's local authorized partner will pay for shipping of the defective Product to Seller, and following repair of the Product Seller will pay for return shipment to Buyer. Notwithstanding any defect or nonconformity, or any other matter, all risk of loss shall remain in Buyer until the Products are returned to Seller's manufacturing facility (defined if seller consent to return of product).

#### **10. Fulfillment of seller's obligations**

Seller may use local, authorized partners who have been trained by Seller in the installation, maintenance and repair of Products. Seller will remain responsible for the failure of any such authorized partner to fulfill Seller's obligations with respect to installation, repair and maintenance of the Product and will re-perform such obligations in the event Seller's authorized partner does not complete such obligation to Buyer's satisfaction. The use of any such authorized partner will not be considered a subcontract or assignment of Seller's obligations hereunder.

#### **11. Bankruptcy or insolvency of buyer**

If the financial conditions of the Buyer at any time is such as to give Seller, in its reasonable judgment, grounds for insecurity concerning Buyer's ability to perform its obligations under this agreement, Seller may in its sole discretion: (a) by notice in writing to Buyer, cancel this agreement, without judicial intervention or declaration of default of Buyer and without prejudice to any right or remedy which may have accrued or may accrue thereafter to Seller, (b) require full or partial payment in advance and suspend any further deliveries or continuance of any work to be performed by Seller until such payment has been received; or (c) make all shipments to Buyer C.O.D.

#### **12. Seller's proprietary rights**

The sale of the Products to Buyer shall in no way be deemed to confer upon Buyer any right, interest or license in any patents or patent applications, trademarks or copyrights of the Seller. Seller retains for itself all proprietary rights in and to all designs, engineering details, and other data and materials pertaining to any Products supplied by Seller and to all discoveries, inventions, patents and other proprietary rights arising out of the work done by Seller in connection with the Products or with any products developed by Seller as a result thereof.

#### **13. Applicable law, jurisdiction and venue, attorney's fees and costs**

This agreement will be governed by the laws of Denmark. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this agreement. Denmark will have exclusive jurisdiction over and be the sole venue for the resolution of any dispute arising out of this agreement, and Buyer hereby consents to the jurisdiction of such courts.

#### **14. Limitation of liability**

Seller's liability under, for breach of, or otherwise arising out of this agreement and/or the sale of products will be limited to repair or replacement of any defective or non-conforming product or a refund of the purchase price of the product, at seller's sole option. Buyer agrees that seller shall in no event be liable for any incidental, special, indirect, or consequential or other damages, including without limitation personal injury to any person or entity including, without limitation, loss of profit, plant, equipment, information, property or production, arising from the

manufacture, sale, purchase, resale, repair or use of products and from any promise or offer to sell, purchase or repair products, regardless of whether or not seller has been informed of the possibility of such damages. This limitation of liability will apply regardless of the form of action, whether in contract or tort, including negligence. Buyer agrees that this limitation of damages is reasonable and will not cause it to lose any expected benefits, rights or remedies under any agreement for the sale of products. The essential purpose of this provision is to limit the potential liability of seller for claims arising out of this agreement and/or the sale of products.

**15. Delays beyond seller's control**

Seller will not be liable for any loss, damages or penalty resulting from delay in delivery of the Products when such delay is due to causes beyond the reasonable control of Seller, including without limitation, supplier delay, force majeure, act of God, labor unrest, fire, explosion or earthquake. In any such event, the delivery date will be deemed extended for a period equal to the delay. Seller will attempt to meet shipment schedules. However, any shipment quotation or forecast on an order acknowledgment is only an estimate of the time required to make shipment, and Seller hereby expressly disclaims all liability, for any losses, consequential or otherwise, because of any delay or failure to deliver all or any part of any order for any reason. Seller reserves the right to allocate inventories and current production in any way it deems desirable.

If delivery is delayed as a result of conditions in the Buyer's control or Buyers' location, the products are stored at DMR's storehouse at Buyers' risk and expense. DMR is justified expenses for storage during this period which is covered by the Buyer.