

SW North America, Inc.
30160 Lyon Industrial Court
New Hudson, MI 48165
(THE "SELLER")

SALES TERMS AND CONDITIONS

1. TERMS AND CONDITIONS: All descriptions, quotations, proposals, offers, acknowledgments, acceptances, and sales of Seller's products are subject to and shall be governed exclusively by the terms and conditions stated herein. An offer or proposal is not binding upon Seller until executed by a duly authorized representative of Seller. Buyer's acceptance of any offer to sell is limited to these terms and conditions. Any terms or conditions, in addition to or inconsistent with those stated herein, proposed by Buyer are hereby objected to and rejected by Seller. No such additional, different, or inconsistent terms and conditions shall become part of the contract between the Buyer and Seller unless expressly agreed to in writing by Seller. Acceptance or utilization of Seller's products, including, but not limited to Machines and/or tooling ("Products") or services or spare parts, shall constitute agreement to all terms and conditions set forth herein. Seller reserves the right to reject any or all orders for Products, and in no event shall Seller be obligated to provide Products pursuant to any offer to purchase, whether made by Buyer or otherwise.

2. PAYMENT: Except for spare parts and service orders, Buyer, unless amended in writing, agrees to pay Seller for all Products, as follows:

- 30% of the purchase price immediately after the receipt of Seller's order confirmation and invoice for the first partial payment;
- 30% of the purchase price at the earlier of four months after the receipt of Seller's order confirmation or the conclusion of the Base Machine Test (as set forth in 4 herein) or, if specified in the Order Confirmation, the conclusion of the Preliminary Test (as set forth in 5 herein) at Seller's facility;
- 30% of the purchase price immediately after the Seller notifies Buyer, in writing, that the Products are ready for delivery to Buyer;
- 10% balance upon the acceptance by Buyer at the Buyer's facility or the successful completion of an agreed upon Acceptance Test (as set forth in 6 herein) at Buyer's facility, if specified in the Order Confirmation, but no later than 120 days after delivery OR no later than Buyer's start

of production utilizing Seller's Products.

All costs and expenses incurred by Seller as a result of nonpayment or delinquent payment by Buyer, including collection costs, interest, and reasonable attorney fees shall be paid by the Buyer. Amounts past due shall be subject to an interest charge equal to the prime commercial loan rate for short term loans as then quoted by "The Wall Street Journal" as of the date of default.

Buyer agrees to pay Seller Net 20 payment terms for all spare part and service orders. Net 20 is to be considered as twenty calendar days after date of invoice.

3. DELIVERY: All Products, including machine and tooling shipments, will be F.O.B. Waldmoessingen, Germany unless otherwise stated on the face of the Purchase Order. All spare part shipments and service orders will be F.O.B. Canton, MI United States of America. Risk of loss shall pass to Buyer at FOB. Shipments will not be insured except at Buyer's written request and expense.

Title shall pass to Buyer after Seller receives final payment for the Products or spare parts. Partial shipments shall be allowed. All claims for loss or damage during shipment must be made immediately by Buyer against the carrier. Any claims by Buyer for omissions or shortages in a shipment shall be waived unless Seller receives written notice thereof within ten (10) days after Buyer's receipt of shipment. Deliveries are to be made both in quantities and at times as agreed upon in writing by Buyer and Seller. All deadlines agreed to do not include the installation and trial acceptance tests. Buyer may, after obtaining written confirmation from Seller, change delivery schedules. Seller shall not be liable for any delays caused by any common carriers, riggers, shippers, customs, or force majeure. Any additional costs or expenses incurred as a result of change orders or delays shall be paid for by Buyer.

If specified in the Order Confirmation, Seller shall install the Products at Buyer's facility and shall provide installation drawings before delivery of the Products. If Seller installs the Products, Buyer shall be responsible for all rigging, unloading, and locating of equipment at Buyer's facility. Seller shall provide dowels, anchor screws, and leveling pads for the installation of the Products. Buyer to complete all installation of dowels, anchor screws, and leveling pads and provide all electrical, water, and pneumatic hook ups per Seller's specifications and installation drawings.

All Buyer supplied assemblies, work holding, tooling,

gaging, raw or finished work pieces, Acceptance Test materials, etc. provided late, malfunctioning or not delivered to the engineering specifications as agreed upon which cause any delays to the Preliminary Test, delivery, installation or final Acceptance Test shall not be the responsibility of Seller and all costs and expenses arising therefrom shall be borne by Buyer.

4. BASE MACHINE TEST: Seller's base machines, without tooling or work holding devices or any Buyer provided equipment ("Base Machines"), as specified by Seller in the Order Confirmation will be tested, including power sequence, dry run, and geometry check, at Seller's facility prior to shipment. If the Order Confirmation does not require a Preliminary Test, as defined in 5 herein, and the Base Machine Test results are within the Seller's prescribed specifications, the Seller shall notify Buyer that the Products are ready for delivery and payment is due in accordance with the schedule set forth in 2 above.

5. PRELIMINARY TEST: Before shipment, a Preliminary Test of the Products, including machines, tooling, and, if applicable, equipment provided by Buyer, as specified in the Order Confirmation, will be conducted at Seller's facility in Waldmoessingen, Germany. The results of the Preliminary Test will be submitted, in writing, to Buyer. If the results of the Preliminary Test are within the agreed upon specifications, the Seller shall notify the Buyer that the Products are ready for delivery and payment will be due and payable in accordance with the payment schedule set forth in 2 above. If the results of the Preliminary Test are not within the agreed upon specifications, Seller shall make the necessary modifications, re-test the modifications limited to the failed tests only, submit the test results to Buyer and, if approved by Buyer, prepare the Products for delivery to Buyer and notify Buyer payment is due and payable in accordance with the payment schedule set forth in 2 above.

6. ACCEPTANCE TEST AT BUYER'S FACILITY: An Acceptance Test at the Buyer's place of business shall be performed only if specified in the Purchase Order or Order Confirmation.

7. TESTING PROTOCOL for Preliminary and Acceptance Test: Quality and cycle time shall be checked if provided for and agreed to in the Order Confirmation. Buyer shall provide at its cost all work prices to be utilized for the testing processes. The Preliminary Test and the Acceptance Test include

among other items, a machine capability test according to the VDAMA guideline 8669 based upon a CmK value as agreed upon in the order confirmation. The number of work pieces to be machined per clamping position is also to be agreed upon and shall be evaluated during the testing process. The statistical evaluation of the clamping positions shall be considered and analyzed separately.

The formula applicable to one-sided tolerated dimensions: $(x \text{ mean value} + 3 \times Sp) < 75\%$ of the work piece tolerances.

Seller shall check up to 10 features per each work piece where each feature shall be agreed to before the Preliminary Test date.

The machining process as well as the tools and/or the work piece clamping fixtures shall be determined by the Seller. Buyer shall purchase the tools and other operating materials required for the specific machining of Buyer's work piece for all testing procedures from the Seller.

The Buyer is responsible for the functionality of any workholding, tools, part programming, gauging, or any and all items not purchased from the Seller.

The Preliminary Test and the Acceptance Test shall be documented by a report specifying the dates for remedying possible defects and shall be signed by the Buyer and the Seller.

The payment required after the completion of the testing protocol may only be delayed if a critical defect is found during the testing process.

The Acceptance Test shall be considered complete and successful if the test is delayed for any reason beyond the control of the Seller, or 4 weeks after the start of production of sellable work pieces complying with the drawings provided by the Buyer and the agreed upon specifications. Additionally the Acceptance Test shall be considered successfully completed if the Buyer refuses to give the Seller the proper time and access to perform the corrections required.

8. RIGHT OF INSPECTION: Buyer shall have the right to inspect the Products at Seller's facility in Waldmoessingen, Germany, prior to delivery. Said inspection shall be conducted by Buyer at Seller's plant in Waldmoessingen, Germany. Any expenses incurred by Buyer to conduct said inspection shall be paid for by Buyer.

9. TECHNICAL SPECIFICATIONS: Seller confirms that all Products delivered will conform to the following standards and guidelines:

EC Guidelines:

EC machine guideline 2006/42/EG

EC guideline on electromagnetic compatibility 2004/108/EG

Harmonized standards:

EN ISO 12100-1:2003/A1:2009: Safety of machines, equipment facilities

EN 12100-2:2003/A1:2009

EN 60204-1:2006/A1:2009: Electrical equipment of industrial machinery

Company Standards: Only if agreed upon after the receipt of the quotation, the Buyer shall inform the Seller of any regional, or additional regulations which must be observed. Seller shall not be liable for any additional laws or regulations which may be in effect

10. MODIFICATIONS: Modifications to the original Purchase Order shall be permitted if requested in writing. Seller must confirm and agree to any modifications in writing. Seller will invoice Buyer separately for any agreed upon modifications and that invoice shall be paid in full prior to shipment of the Products. Any credit due to the Buyer as a result of the modifications will be applied to the final payment referenced in 2 herein.

11. LIMITED WARRANTY: The Seller shall be liable for all quality and workmanship defects in the first 12 months after delivery of the Products to Buyer or the successful completion of a contracted for Acceptance Test or 14 months from the date of delivery if the Acceptance Test is delayed for reasons not within the control of the Seller. The Limited Warranty period shall commence immediately upon Buyer's start of production using the Products. This Limited Warranty is not transferrable. In the event one or more of the Products delivered is defective, Seller, at its choice, shall undertake the timely repair or replacement of the defective part or shall pay costs, not to exceed a total dollar amount equal to 15% of the original purchase price, associated with and exclusive to the repair or replacement of the defective part, including dismantling, reassembling, labor, transportation, the provision of cranes, etc. Seller shall not be liable for any damage or malfunction of the Products that is caused by the lack of proper maintenance. Seller shall not be liable for any secondary, consequential, economic, indirect, or incidental damages such as lost general capacity, failure to meet timelines, short term internal or external capacity support, penalties, offset debits or "claw backs" by Buyer's customer.

It is expressly understood and agreed upon by the Seller and Buyer that Seller's damages under the

repair and replace terms of this Agreement, or under any theory of liability, for any cause of action arising out of this relationship, shall be strictly limited to 15% of the total purchase price of the defective part(s).

12. WEAR PARTS:

Wear parts are covered by the warranty only to the extent that the wear detected is outside the scope of usual wear expected on a properly maintained part. The Seller grants a warranty for these wear parts only for the operating times specified in this paragraph or for the maximum of 12 months, whichever comes first.

- Wipers in working area 4000 operating hours
- Telescopic covers and covers in working area 4000 operating hours
- Illumination- 1000 operating hours

The Seller shall grant a Spindle warranty only for the following operating times and load:

- Collet- 2000 operating hours
- Tool draw bar for 1.2 million clamping cycles
- Rotary coupling- 3000 operating hours
- Spindle Bearings- 8000 operating hours (depending on speed)

13. TECHNICAL AVAILABILITY: Buyer and Seller agree that during the applicable Limited Warranty period, the technical failure rate of the Products should not exceed a maximum of 5.0% according to VDI 3423 and the terms hereof.

This rate shall be calculated according to the following formula:

$$AT = \frac{T_A (\text{downtime caused by technical failure} \times 100\%)}{T_a (\text{planned utilization time of the machine})}$$

Recordings shall begin three (3) months after commissioning of a specific machine, and shall end at the end of the twelfth month after commissioning.

If the calculated rate of technical failure exceeds 5.0% during the limited warranty period, the limited warranty period will be extended by one (1) month, up to a maximum of six (6) months, provided that the average calculated failure rate during the last three (3) months of the period observed is above the maximum percentage of 5.0%.

The calculation of the failure rate refers to a specific free-

standing machine, and is limited to the Products supplied by Seller.

The failure rate shall be documented by measuring instruments, techniques, methods, schedules, and records accepted by Buyer and Seller. The Buyer bears the burden of proof that the failure rate exceeds 5.0%.

The terms of the Technical Availability Agreement are subject to Buyer purchasing Seller's online monitoring system as part of the Products AND completing all preventive maintenance with properly trained technicians in accordance with Seller's provided maintenance schedules.

14. SERVICE & PARTS AVAILABILITY: The Seller shall start to remedy any defects or service request within 24 hours of receipt of a written request by the Buyer. Seller shall provide a qualified service technician or other qualified specialist in a timely manner. After any service call, the Seller shall provide the Buyer with a short protocol description of the work performed and the materials used.

Seller shall maintain the ability to provide and deliver spare parts for the Products ordered for a period of 10 years after the delivery date.

If the defect or product failure is within the warranty period listed in 11, the Seller shall be liable for all costs of the service and repairs up to the cap in 11. Otherwise all costs shall be covered by the Buyer.

Any ongoing maintenance work shall be performed by properly trained and accredited technicians. Maintenance work completed by Buyer which is out of specification or with improperly trained personnel may void warranty.

Buyer agrees to hold Seller harmless from any damages or causes of action arising out of the negligence of Seller's service technicians or Seller's third party approved service technicians while at the Buyer's place of business.

15. TAXES: Unless otherwise indicated, all prices and charges are exclusive of excise, sales, use, property, occupational, federal, state, or other taxes which may be imposed by any taxing authority upon the manufacture, sale or delivery of the products sold hereunder. If any such taxes must be paid by Seller or if Seller is liable for collection of such tax, the amount thereof shall be added to the invoice price for the products sold hereunder. Buyer agrees to pay all such taxes or to reimburse Seller therefore upon receipt of Seller's invoice. If Buyer claims exemption from any taxes, Buyer shall submit to Seller a "Tax Exempt Certificate".

16. PRICING: Only written and agreed to price

quotations shall be binding upon the Seller **and such written quotations shall apply only to the specific quantity and delivery schedule shown.** Written quotations will be honored to their expiration date, or in the absence of a specific date, for a period of sixty (60) days.

17. FORCE MAJEURE: Seller does not assume the risk of and shall not be liable for delay or failure to perform any of Seller's obligations by reason of circumstances beyond the reasonable control of Seller (hereinafter "Events of Force Majeure"). Events of Force Majeure shall include without limitation accidents, acts of God, strikes, labor disputes, terrorist acts, laws, rules or regulations of any government or government agency, fires, floods, delays or failures in delivery of carriers or suppliers, shortages of raw materials and parts and any other cause beyond Seller's control.

18. INDEMNITY: Buyer, its officers, agents or employees, its successors and assigns, and its customers shall indemnify and hold Seller, its officers, agents and employees, shareholders and directors harmless from and against any and all claims, losses, damages (direct, indirect, consequential, secondary or incidental), liabilities, costs, and expenses, including attorney fees and other costs of defending any action, that Seller may sustain or incur as a result of any claim of breach of contract, tort (including negligence), breach of implied warranty, strict liability in tort or other theories of law, whether direct or indirect, arising in connection with the use of the products furnished hereunder.

19. SECONDARY LIABILITY: Seller is expressly and completely exempt and not liable for any secondary, consequential, economic, indirect or incidental liability or damages such as lost general capacity, failure to meet timelines, short term internal or external capacity support, penalties, offsets, debits or "claw backs" to which Buyer may be subjected as a direct or indirect result of the Products or services furnished under this order. Seller's maximum liability shall be limited to the repair or replacement of the Products manufactured by Seller or one-third (1/3) of the original purchase price of the defective Products, whichever is less.

20. PATENTS/TRADEMARKS: Seller warrants that the Products purchased hereunder shall be delivered free of any rightful claim for infringement of any United States patent or trademark, provided however, that this warranty shall not apply with respect to claims for patent and trademark

infringement to the extent that any Products purchased hereunder are: (1) manufactured to the Buyer's specifications, or (2) used in a manner not reasonably anticipated by Seller.

21. DRAWINGS, SOFTWARE AND OTHER INFORMATION: All drawings, layouts, diagrams, specifications, software and other material or information furnished to Buyer by Seller in connection with this proposal shall remain the exclusive property of the Seller and Buyer agrees to treat all such materials and information as confidential and proprietary to Seller unless written permission to the contrary is given by Seller.

22. WAIVER: No failure by the Seller to insist upon strict compliance with any term of the contract between the Seller and Buyer, to exercise any option, enforce any right, or seek any remedy under the contract shall constitute a waiver of Seller's rights under the contract. No custom or practice at variance with any provisions of the contract between the Seller and Buyer shall affect or constitute a waiver of Seller's right under the contract.

23. SEVERABILITY: If a court of competent jurisdiction determines that any provision of the contract between the Seller and Buyer is prohibited or invalid, such invalidity shall not affect the remaining provisions of this contract which shall remain in full force and effect.

24. SECURITY AGREEMENT: Acceptance of these terms and conditions by Buyer, in writing or through the course of business, shall constitute a legally binding security agreement between Buyer and Seller and Seller shall have the right to file a UCC financing statement and thereby retain its ownership rights to the products delivered to Buyer. Additionally Buyer agrees to enter into a valid more formal security agreement or assist in obtaining a subordination agreement from the proper third party if required by local or State law.

25. ONLINE SERVICES: Seller's terms and conditions regarding online services as referenced in 25, shall be binding upon Buyer and as set forth on Seller's website and are incorporated herein, and made a part hereof.

26. ARBITRATION: All claims and disputes arising under or relating to the Terms and Conditions are to be settled by binding arbitration in the state of Michigan or another location mutually agreeable to Buyer and Seller. The arbitration shall be conducted on a confidential basis

pursuant to the Commercial Arbitration Rules of the American Arbitration Association. An award of arbitration may be confirmed by a court of competent jurisdiction.

27. ENTIRE AGREEMENT: The terms and conditions set forth herein, together with any amendments, modifications and any different terms or conditions expressly accepted by Seller in writing, shall constitute the entire agreement concerning the products sold, and there are no oral or other representations or agreements which pertain thereto.

28. GOVERNING LAW/VENUE: This agreement shall be governed by the laws of the State of Michigan. Buyer and Seller agree that exclusive jurisdiction and venue reside with the Courts in the geographic area of the Seller. With respect to any dispute which may arise between the Parties, the Sales Terms and Conditions set forth herein shall control.

29. CAPTIONS: Captions to the various sections of this contract between Seller and Buyer are not part of the context hereof, but are labels to assist in locating those sections and shall be ignored in construing the contract.