



**D&G MACHINE PRODUCTS INC.**

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## **D&G Machine Products, Inc. Standard Terms and Conditions**

Any quotation, proposal, order, or contract for goods or materials ("Goods") or for services ("Services") purchased or to be purchased from D&G Machine Products, Inc.

("DGM") is subject to these Standard Terms and Conditions:

a. Risk of loss and/or damage to Goods, and to items, other than Goods, produced through, or subject to, the provision of Services ("Products"), shall pass to the Buyer at such time as the Goods and Products leave DGM's place of business for delivery to or at the direction of the Buyer. Risk of loss and/or damage for any materials provided by or on behalf of Buyer to DGM for use in producing a Good or Product shall remain with Buyer at all times when such materials are not in the actual possession of DGM, and shall, at the latest, pass back to the Buyer when the risk of loss and/or damage for any resulting Goods and Products have passed to Buyer. Any sale of Goods shall occur, and title to those Goods shall pass to Buyer, when such Goods leave DGM's place of business for delivery to or at the direction of the Buyer. Any sale of Services shall occur when such Services are provided to the Buyer. Title to materials and other items provided to DGM by or on behalf of Buyer shall remain with Buyer unless and until incorporated into any Goods. Title to Products shall remain in Buyer.

b. Shipping and delivery dates offered in any quotation or proposal by DGM are approximate and are based upon production capacity available at the time of that quotation or proposal. Such production capacity is subject to prior sales and may no longer be available at the time that a purchase order is placed or a contract is entered into between Buyer and DGM.

c. The sale of any Goods or Services offered in any quotation or proposal is contingent upon the availability of the Goods and/or of materials to produce the Goods, and of sufficient materials and of personnel and equipment to provide the Services, at the time that an order is accepted by DGM, or a contract is otherwise entered into between Buyer and DGM, for the purchase of the Goods and/or Services by Buyer. If required Goods, materials, personnel, or equipment are no longer available, or if costs have changed by the time that a purchase order is placed or a contract is entered into between Buyer and DGM, DGM will so advise the Buyer of such changes, and no order or contract for the purchase of the same by Buyer will be entered into unless and until these changes are accepted in writing by Buyer and DGM.

d. The delay of any shipment, delivery, or provision of Goods, Products, or Services through any act or neglect of the carrier or any other person, including sub-contractors and suppliers, or by any other labor difficulties, shortages of or inability to obtain shipping space or transportation, fire, accident, government seizure or requisition, or by reason of any other cause whatsoever, whether domestic or foreign, whether direct or indirect, shall not be the responsibility of DGM, and the shipment, delivery, or provision of any Goods, Products, and Services may be postponed or cancelled by DGM at its option without liability hereunder.

e. To be binding upon DGM, any request by Buyer for cancellation or alteration of any order or contract, DGM must be accepted by DGM in a writing signed by DGM's duly authorized representative. No action or inaction of DGM shall result in the waiver or relinquishment of any of its rights under any such order or contract unless set forth in a writing signed by DGM's duly authorized representative.

f. It is the responsibility of Buyer to inspect Goods when they are delivered to the Buyer, and Services when they are provided or any resulting Product is delivered to Buyer. Buyer shall be deemed to have approved and accepted the Goods, Products, and Services shipped, delivered, or provided by DGM unless Buyer provides DGM with a written notice of any defect in the same within 20 days after delivery of the Goods or Products, or provision of any Services to the extent that the provision of those Services do not result in a Product. Buyer shall permit DGM's representatives to investigate such claims and to examine all Goods, Products, and other items in connection with which Services have been provided, and for which any such claim is made.

g. Buyer's remedies, whether by reason of any breach of any order or contract between the parties, in tort, or otherwise, against DGM are strictly limited to, at DGM's option, either (a) repair or replacement of the Goods, Products, and Services; or (b) refund of the purchase price of the Goods, Products, and Services. In no event shall DGM be liable to Buyer for lost profits, injury to good will, or any other special, exemplary, punitive, incidental, or consequential damages.

h. Materials supplied by Buyer are the sole responsibility of the Buyer. DGM has no responsibility for defective, damaged, or spoiled materials supplied by the Buyer. If an order or contract requires DGM to perform work on raw or semi-finished materials supplied by or on behalf of the Buyer, Buyer shall supply an adequate excess to allow for machining losses. In the event the Buyer-supplied materials are defective, the Buyer will remove the materials at the Buyer's expense, deliver suitable replacements to DGM at no charge, and, in addition to any other amounts paid or payable to DGM under the terms of any order or contract, or otherwise, shall pay DGM for all additional work performed to the time when the defect was discovered.

i. Buyer acknowledges that DGM makes no representation or warranty with respect to items of Buyer's (or third party) design, or items made to Buyer's (or third party) specifications, except that DGM shall provide any Services with respect to the same in a workmanlike manner. In the event that DGM, in its sole discretion, determines that fabrication or machining of the item is impracticable, Buyer will pay DGM for materials, labor, and overhead on a prorated basis.

j. DGM warrants that all Goods which it sells to Buyer shall meet DGM's specifications for those Goods and that DGM will provide all Services in a workmanlike manner. Any claim that these warranties have been breached must be made in writing to DGM within one year from the date of the sale of any such Goods or Services. DGM DISCLAIMS ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE, with respect to all Goods, Products, and Services.

k. Payment is to be made 30 days from the date of invoice, unless otherwise specified. Unpaid balances over 30 days will be subject to a late charge computed at a rate of 1.5% per month (18% per year). Prompt payment is not subject to, and DGM will not accept delay in payment caused by or related to, receipt by Buyer of payment from a third party. In addition to any other liens provided to DGM under the common law, by statute, or otherwise, DGM shall retain a security interest in all Goods and Products to secure payment for those Goods and all Services provided by DGM in connection with such Products.

l. In the event DGM must bring suit to compel performance, reasonable attorney's fees and costs shall also be due from Buyer to DGM. Buyer hereby submits to the exclusive jurisdiction of the state and federal courts located in the State of Maine with respect to any claims, whether arising in contract, tort or otherwise, relating to any Goods, Products, Services, and any contract between the parties, and agrees that venue in any such court is proper against Buyer. The internal laws of the State of Maine apply to this agreement without reference to conflict of laws principles. No third parties shall have any rights under the terms of any order or other contract between DGM and the Buyer.