

## **General terms and conditions of DMG MORI Academy GmbH for Additive Manufacturing**

### **1. General information**

- 1.1. The following terms and conditions apply to all agreements between DMG MORI Academy GmbH (“**DMG MORI Academy**”) and companies (§ 14 BGB - German Civil Code), corporate bodies under public law or special funds under public law (“**customer**”) in the field of 3D printing (*Additive Manufacturing*) concerning the following services:
  - 1.1.1. Production of workpieces and assembly groups (“AM products“) based on (i) 3D CAD data sets provided by the customer or (ii) 3D CAD data sets developed by DMG MORI Academy based on its own research, development, design and production services (“AM services“); the initial result of this work is production of 3D CAD data sets for the desired AM products, which are transmitted by e-mail, provided for download and/or saved on a data storage medium;
  - 1.1.2. Production of AM products based on self-developed or customer-provided 3D CAD data sets with production including 3D printing of metal as well as any required post-processing, including machining processes;
  - 1.1.3. Creation of production documents and technical drawings for the customer;
  - 1.1.4. Sale and delivery of AM products (prototypes) produced with Additive Manufacturing to the customer.
- 1.2. These general terms and conditions of DMG MORI Academy apply exclusively. Deviating, conflicting or supplemental general terms and conditions of the customer shall only become part of the agreement if and to the extent that DMG MORI Academy has explicitly confirmed their validity.
- 1.3. DMG MORI Academy offers are subject to change and non-binding. The customer’s order is regarded as a binding agreement offer. It shall be accepted by a written order confirmation by DMG MORI Academy, which creates an agreement about the services listed in 1.1.2 - 1.1.4.

### **2. Performance of services by DMG MORI Academy**

- 2.1. If and insofar as DMG MORI Academy is to perform AM services or produce AM products for which an accepted state of the art or established findings of science and the ideas in question do not yet exist, DMG MORI Academy shall only be obligated to provide a scientifically reasonable service based on accepted methods of research and knowledge acquisition. Such AM services and the resulting AM products of DMG MORI Academy generally require practical testing, inspection and development, which shall not be part of DMG MORI Academy’s scope of services without an explicit agreement.
- 2.2. AM products and samples developed in the context of the contractual AM services provided by DMG MORI Academy shall, unless otherwise agreed, be research, trial or inspection objects requiring testing and further development to be ready for serial production.
- 2.3. The specific content and scope of the services to be provided by DMG MORI Academy is based on the written order confirmation issued by DMG MORI Academy.
- 2.4. If additional or supplementary activities should become necessary, these must be agreed in writing and remunerated separately.
- 2.5. Verbal and telephone information, explanations, consultations or recommendations shall be given to the best of the parties’ knowledge and belief. They are, however, only binding, if they are confirmed in writing.

### **3. Obligations of the customer**

- 3.1. The customer shall support DMG MORI Academy in providing the Additive Manufacturing processes required by the agreement. This includes timely submission of project-relevant information, data sets and documents as well as provision of other collaborative tasks that have been agreed or are required by the nature of the agreement.
- 3.2. DMG MORI Academy shall assume for the purpose of its services that the information, data sets and documents provided by the customer are correct and complete. Unless otherwise agreed in writing, DMG MORI Academy is not obligated to verify the correctness, completeness or due form of this information and these documents. In addition, section 9 applies.
- 3.3. If the customer does not meet their obligations and if DMG MORI Academy cannot perform its contractual services fully or in part within the agreed time for this reason, the agreed time shall be extended as is reasonable.

### **4. Transfer of risk for AM products, acceptance**

- 4.1. The transfer of risk of AM products shall take place on hand-over to a suitable transport person who shall be determined by DMG MORI Academy, unless otherwise agreed. The risk shall also be transferred if partial deliveries are performed or if DMG MORI Academy is responsible for other services, e.g. shipping costs and delivery. Any agreed acceptance procedure must be performed immediately at the date of acceptance or, as an auxiliary alternative, after DMG MORI Academy’s notification of readiness for acceptance.
- 4.2. If either dispatch or acceptance is delayed due to circumstances that cannot be attributed to DMG MORI Academy, the risk passes to the customer from the day of the notification of readiness for dispatch or acceptance. DMG MORI Academy undertakes to take out the insurance requested by the customer at the customer’s expense.

## **5. Payment and terms of payment**

- 5.1. Unless otherwise agreed, the AM services shall be invoiced monthly based on the daily or hourly work rates agreed in the agreement.
- 5.2. A price per unit shall be agreed for the AM products to be produced.
- 5.3. The respective invoice total shall be due 14 days from the invoice date.
- 5.4. The customer shall only have a right to offset or right to retention to the extent that the customer's claim is undisputed or has been established by legal judgement.

## **6. Reservation of proprietary rights to AM products**

- 6.1. DMG MORI Academy shall reserve the proprietary rights to AM products until all contractually agreed payments have been received.
- 6.2. DMG MORI Academy is entitled to insure AM products at the customer's expense against theft, damage resulting from breakage, fire, water and other damage, unless the customer can prove that they have taken out the insurance themselves.
- 6.3. The customer may only sell, pledge the AM products or assign them by way of security with the express prior written consent of DMG MORI Academy. In the event of pledges and sequestration or other third-party disposals, the customer shall immediately inform DMG MORI Academy accordingly.

## **7. Industrial property rights, usage rights**

- 7.1. If DMG MORI Academy is obligated to provide AM services or supply AM products based on drawings, models or samples provided by the customer, the customer is responsible for ensuring that the AM services, production and delivery of AM products do not violate any industrial property rights of third parties.
- 7.2. Should DMG MORI Academy be prohibited from producing and delivering AM products based on the customer's drawings, models or samples by a third party due to existing property rights, DMG MORI Academy has the right to withdraw from the agreement based on legal regulations to the exclusion of any claims by the customer. The customer must bear the cost already incurred by DMG MORI Academy through contractual performance. In any case of the aforementioned type, the customer undertakes to indemnify DMG MORI Academy from claims for compensation made by third parties and to pay full damages for any loss caused by violation of or assertion of property rights of third parties.
- 7.3. DMG MORI Academy shall receive a simple right of usage to AM services performed based on DMG MORI Academy's own development and design work. Neither payment of the agreed sum for development, design or other subsequent agreements requiring payment nor handing over of additional copies of the design documents shall affect the aforementioned provision.
- 7.4. If AM services and/or AM products are registered for a patent by the customer, DMG MORI Academy must be listed as the inventor.

## **8. Warranty**

The rights of the customer in the event of defects shall be determined by the legal regulations, provided no other agreements are made.

### **8.1. Material defects**

- 8.1.1. The customer shall give DMG MORI Academy the required time and opportunity for supplementary performance, in particular for submitting the AM services or AM products subject to the complaint for testing purposes. In the case of a replacement delivery, the customer shall return the faulty item to DMG MORI Academy as required by the legal regulations. Supplementary performance shall include neither dismantling nor re-installation of the faulty item, if DMG MORI Academy was not originally obligated to perform the installation thereof.
- 8.1.2. DMG MORI Academy shall bear the costs required for testing and supplementary performance, in particular transport, travel, work and material costs as well as the costs of dismantling and installation as required by legal regulations, if a defect actually exists. Otherwise DMG MORI Academy may demand reimbursement of the costs incurred due to unwarranted demands for defect elimination (in particular testing and transport costs) from the customer, unless the lack of a defect was not detectable for the customer.
- 8.1.3. If the customer or a third party performs improper repairs, DMG MORI Academy shall not assume liability for any consequences thereof. The same applies to changes made to AM products without prior authorisation by DMG MORI Academy.
- 8.1.4. The customer shall only be entitled to damages or reimbursement of wasted expenditure as defined in section 9. No other claims for damages shall be accepted.
- 8.1.5. No warranty shall be accepted in the following cases: Unsuitable or improper exertion of influence on the 3D data sets, unsuitable or improper use of AM products, faulty assembly or commissioning by the customer or third parties, natural wear, faulty or negligent treatment, production of AM products under conditions other than those specified by DMG MORI Academy, improper maintenance, unsuitable equipment, chemical, electro-chemical or electrical connections - unless they can be attributed to DMG MORI Academy.
- 8.1.6. The customer is aware that the AM services and AM products are prototypes and are not designed for serial production. Accordingly, DMG MORI Academy does not assume any liability for damage, regardless of their type,

resulting from serial production; the customer shall indemnify DMG MORI Academy from related claims by third parties.

## 8.2. Defect of title

- 8.2.1. Should the use of an AM service or AM product lead to the infringement of industrial property rights or copyrights in the domestic market, DMG MORI Academy will, at its own cost, obtain for the customer the fundamental right of continued use, or modify the AM product in a reasonable manner for the customer such that the infringement of industrial property rights is eliminated. Should this not be possible at economically reasonable conditions or within an appropriate period of time, the customer is entitled to withdraw from the contract. Under the prerequisites outlined above, DMG MORI Academy shall also be entitled to withdraw from the contract.
- 8.2.2. The obligations of DMG MORI Academy listed in section 8.2.1 are exhaustive for the event of breaches of property rights or copyright, subject to section 9. They shall only apply, if
- a) the customer notifies DMG MORI Academy immediately of any claimed infringements of protection rights and copyrights,
  - b) the customer supports DMG MORI Academy to a reasonable extent in the defence against asserted claims or allows DMG MORI Academy to take modification measures in accordance with section 8.2.1,
  - c) DMG MORI Academy retains the right to proceed with any defensive measures including arrangements outside of court,
  - d) the defect of title is not based on the customer's instructions and
  - e) the defect in title was not caused by the customer changing the AM product without authorisation or using it in a manner not intended by the contract.

## 9. Liability of DMG MORI Academy; exclusion of liability

DMG MORI Academy shall only be liable for damage not suffered on the AM product itself, on whatever legal basis, in the following cases:

- a) if caused with intent;
- b) if caused with gross negligence of the owner/ the company bodies or senior staff;
- c) in the event of culpable contravention of the life, body and health;
- d) in the event of defects that DMG MORI Academy has fraudulently concealed or the absence of which it has guaranteed;
- e) in the event of defects of AM products, insofar as DMG MORI Academy is liable according to the product liability law relating to personal injury or material damage to privately used objects.

In the case of culpable infringement of contractual duties, (duties whose proper performance is required to make the contract possibly and on adherence to which the contract partner can generally rely) DMG MORI Academy is also liable for gross negligence of staff other than senior staff and minor negligence, in the latter case limited to agreement-typical damage that could have reasonably been expected. All other claims are excluded.

## 10. Confidentiality

- 10.1. The customer and DMG MORI Academy undertake to treat any mutually disclosed business or technical information for which a confidentiality requirement was specifically stated or which obviously require confidentiality as confidential, including beyond the duration of the agreement, and to refrain from disclosing this information to third parties, to ensure that they protection is protected from third parties and to refrain from using it for third parties. This obligation applies for the duration of the agreement and beyond until the information becomes publicly available.
- 10.2. This obligation does not apply to information,
- a) which was demonstrably already known to DMG MORI Academy and/or the customer before disclosure in the context of the agreement or becomes known through the actions of third parties after entering into the agreement without any violation of a confidentiality agreement, legal regulations or official decrees;
  - b) which is public knowledge at the conclusion of the agreement or became public knowledge afterwards;
  - c) which must be disclosed to the public based on legal obligations or by judicial or official order. As far as permissible and possible, the receiver under obligation to disclose shall inform the other party beforehand and give the latter the opportunity to file objection against the disclosure.
- 10.3. Third parties within the meaning of section 10 do not include sub-contractors or companies affiliated with DMG MORI Academy that have been tasked with providing services in the context of the Additive Manufacturing agreement.

## 11. Force majeure

- 11.1. If and for the period that a case of force majeure applies, DMG MORI Academy shall not be obligated to provide the services due. Force majeure includes in particular strikes, lock-outs, failure of suppliers to deliver, official decrees or the death or long-term illness of a DMG MORI Academy employee tasked with processing the agreement involving the customer. In this case, DMG MORI Academy has the right to postpone its obligations for the duration of the obstruction and a reasonable preparatory period.

11.2. Should the force majeure last for over 6 weeks, each agreement party is entitled to adapt the agreement or to withdraw from the agreement without further claims by the other agreement party.

## **12. Statute of limitation**

All claims of the customer, on whatever legal basis, shall be subject to a statute of limitations of 12 months from delivery or, if agreed accordingly, from acceptance. The legally mandated periods apply to intent or malicious actions as well as claims based on the Product Liability Act.

## **13. Final provisions**

13.1. All legal relationships between DMG MORI Academy and the customer are subject to the law of the Federal Republic of Germany excluding the United Nations Convention on Contracts for the International Sale of Goods.

13.2. The exclusive place of jurisdiction is Bielefeld.

13.3. If one or several provisions of these terms and conditions are or become invalid, this does not affect the validity of all other provisions. Invalid provisions shall be regarded as replaced by valid provisions which come as close as possible to the intended economic purpose of the invalid provision. The provisions of section 13.3 also apply to omissions.