

General Sales Conditions

1. – Scope

1.1 All quotations, sales, deliveries and services from DENSO GmbH, Felderstraße 24, D-51371 Leverkusen, Germany (hereafter: „DENSO“) exclusively underlie the following sales conditions (hereafter "sales conditions"). Customers' own general terms and conditions according to §§ 305 ff BGB (German Civil Code) are hereby expressly contradicted.

1.2 The following sales conditions are a part of all contracts, which DENSO as vendor concludes with the customer for his deliveries or services. They are acknowledged by the customer through the issue of a purchase order or acceptance of a delivery. They do not apply to a relationship with a consumer according to § 13 BGB (German Civil Code).

1.3 If building work is undertaken by DENSO against payment, then the VOB, part B (General conditions of contract for building works in Germany) in the currently valid form is the basis for the contract. Any provisions deviating from this must be in writing.

2. – Quotation, acceptance, conclusion of contract

2.1 Quotations from DENSO are subject to alteration and without obligation.

2.2 DENSO can accept orders from customers within 30 days. The customer will allow DENSO in this respect a corresponding 30 day period for acceptance for each future order. An order counts as accepted after it has been confirmed by DENSO in writing or invoiced. Deliveries and invoices also count as order confirmations.

2.3 Orders, for which no fixed price has been agreed, are invoiced at the list price on the day of delivery. Should delivery be made within four months from the conclusion of the contract, then the price remains the price valid at the time of conclusion of the contract.

2.4 All information from DENSO in catalogues, price lists, other publicity material etc. concerning the subject of the delivery or service (e.g. weight, dimensions, tolerances) and all pictures, descriptions, diagrams and illustrations serve solely as descriptions and are only intended to give an general impression of the goods described in them. They contain no declarations, other assurances or guarantees and do not become part of the contract. Variations and alterations, as are usual in the trade, which are the result of legal regulations or technical improvements, are permissible, so long as the utilisation for the purpose intended in the contract is unaffected.

3. – Delivery, dispatch, transfer of risk

3.1 All deliveries are principally "ex works" or "ex stores" DENSO, unless a different agreement has been agreed in writing. Delivery deadlines and dates always count as approximate, unless they are agreed as fixed in writing. Delivery dates always refer to the point in time of handover to the transport company or transport driver. DENSO is entitled to retain outstanding deliveries if the customer has not met his payment obligations or if there is good reason to expect that he cannot meet them.

3.2 DENSO reserves the right, in case of default by the customer, to only provide future deliveries and services against payment in advance or payment on delivery.

3.3 Partial deliveries are permissible, as long as this is reasonable for the customer. Each partial delivery counts as an individual trade.

3.4 Reasonably early deliveries as well as delivery of quantities over or under that ordered, according to the usual practice in the trade, are also permissible.

3.5 If the delivery of an outgoing product by a supplier to DENSO is delayed, then the delivery to the customer will be delayed correspondingly.

3.6 DENSO is entitled to terminate if there is an impediment to the fulfilment of the delivery or service according to the contract of more than temporary nature, which DENSO is not responsible for and which makes the delivery or performance of the service considerably harder or impossible, especially if this is a case of force majeure (e.g. war, insurgence, strikes, lock-outs, stipulations by authorities).

3.7 If an impediment as laid down in point 3.6 considerably alters the economic significance or the content of a delivery or has a considerable effect on the business of DENSO, then the contract will be

suitably adapted in good faith. If this is not economically reasonable, then the customer has the right to terminate the contract. If he intends to make use of this right of termination, then he shall inform DENSO immediately about the consequences of the event.

3.8 The type of dispatch and packaging are at the discretion of DENSO. For packaged items, DENSO is entitled to round up the ordered quantity to the next standard packaging size.

3.9 The risk transfers to the customer at the latest with the handover of the delivery item to the transport company or driver. This also applies to partial deliveries. If the dispatch or the handover is delayed as a result of a circumstance for which the customer is responsible, then the risk transfers to the customer from the day of the readiness to dispatch.

3.10 The customer is obliged to inspect the goods immediately after receipt for damage and freedom from defects. Defects, incorrect deliveries of insufficient quantities are to be notified to DENSO in writing within 7 days after the receipt of the goods, otherwise the goods count as accepted. The customer shall point out transport damage and clear defects to the relevant transport firm or to the driver and also to DENSO, otherwise the customer is liable in case the transport company or driver cannot be made liable.

4. – Defects liability

4.1 All parts, deliveries or services are, at the choice of DENSO, to be delivered again or rectified twice at no charge (supplementary performance), if they show a material defect within the limitation period and the cause of this was already present at the time of risk transfer.

4.2 DENSO is always to be given the opportunity to rectify within a reasonable deadline as specified in point 4.1.

4.3 If the rectification is unsuccessful, then the customer can, without affecting further compensation claims, either terminate the contract or reduce the price, whichever he prefers.

4.4 Claims regarding defects liability do not arise from minimal deviations from the agreed properties, from natural wear or damage caused after the transfer of risk through incorrect or neglectful treatment, excessive loading or use, unsuitable storage or erection, failure to observe the installation and handling instructions or operating instructions, incorrect maintenance or care, unsuitable consumables, defective building works, unsuitable ground for foundations, or out of circumstances not foreseen in the contract.

4.5 If inexpert or unauthorised alterations or repair works are made to the goods by the customer or by third parties, then there is no liability for defects as a result of this, unless the customer is able to demonstrate that the inexpert or unauthorised alterations or repair works were not the cause of the defect. Claims regarding defects liability never arise if non-original parts have been installed by the customer or by a third party, or if non-original replacement or accessory parts have been installed by the customer or by a third party, and the defect is caused by such alteration or the use of such parts.

4.6 Claims by the customer regarding expenses for the purpose of rectification, particularly transport, travelling expenses, working or material costs are also excluded to the extent that the expenses were increased by the object of the delivery being subsequently transported to another location than the place of business of the customer.

4.7 Claims to legal regress by the customer against DENSO are also excluded if the customer has made no agreement with his recipient exceeding the legal rights concerning defects liability.

4.8 The level of compensation according to point 4.7 is limited to the customer's own costs (e.g. transport and material costs), and excludes his profit margin from his recipient.

4.9 Further claims of the customer against DENSO and rectification assistance from DENSO regarding material defects are, subject to the provisions of point 5 of these sales conditions, ruled out.

4.10 Claims of defects liability, which are not included in §§ 438 section 1 No. 2, 479 section 1 und 634a section 1 No. 2 BGB (German Civil Code), are limited to the first year from delivery.

4.11 Claims of defects liability resulting from §§ 438 section 1 No. 2, 479 section 1 und 634a section 1 BGB, are limited to two years from delivery.

4.12 Claims regarding damage from the infringement of duties associated with sales contracts, which do not consist of a defect of the item, are also limited to one year from delivery.

5. – Liability

5.1 Compensation claims, for any reason, from the customer are ruled out except for cases of intent, negligence, on account of death or injury or impairment of health, on account of an infringement of a guarantee according to § 444 BGB (German Civil Code), or on account of incapacity or the infringement of essential contract duties. Compensation for the infringement of essential duties under the contract is, how-

ever, limited to contractually typical, foreseeable damage, unless it is a case of intent or negligence or the liability arises from death or injury to the body or impairment of health. No alteration of the burden of proof to the disadvantage of the customer is connected with the above provisions.

5.2 If the customer is thereafter entitled to demand compensation for a delivery or performance of a service being impossible for reasons within the responsibility of DENSO, then the right to compensation of the customer is limited to 10% of the value of that part of the delivery or service, which could not be used for the intended purpose because of such impossibility. This limitation does not apply if liability is mandatory because of intent or negligence or injury to the body. No alteration of the burden of proof to the disadvantage of the customer results from this either. The right of the customer to terminate the contract remains unaffected.

5.3 If DENSO defaults on a delivery or the performance of a service, then the customer can – so long as he can demonstrate that he has suffered damage – demand compensation under the above preconditions for each completed week of 0.5%, to a total of maximum 5% of the price of the part of the delivery, which could not be put into service because of the default.

5.4 Compensation claims from the customer on account of delay to the delivery or performance of the service exceeding the limits stated in point 5.3 are ruled out, also after the expiry of any delivery deadlines set by DENSO. This does not apply in cases where liability is mandatory because of intent or negligence or injury to the body. No alteration of the burden of proof to the disadvantage of the customer results from this. The customer can, however, only terminate the contract if the delay to the delivery or performance of the service is the responsibility of DENSO according to point 5.1. The statutory right of the customer to terminate remains unaffected.

5.5 The customer is obliged, at the request of DENSO, to declare within a reasonable time whether, on account of the delay to the delivery or performance of the service, he is terminating the contract, demanding compensation instead of the delivery or performance of the service, or insists on delivery.

5.6 The provisions of the law regarding product liability are valid without restriction.

5.7 Consultancy contracts between the parties are to be in writing. Verbal information and consultancy services from DENSO are only binding after they have been confirmed in writing by DENSO. General advice and presentations of products are exclusively for information and are without obligation.

5.8 The customer undertakes to use the products exclusively according to the DENSO application instructions. Liability of DENSO is ruled out if the product is used in a way not in accordance with the DENSO application instructions. In case the customer does not have a copy of the application instructions, these can be requested from DENSO at any time in writing or over the Internet. The customer is always obliged, regarding the application and scope of use of the product, to write to the responsible person at DENSO in cases of doubt, particularly where the application differs from the application instructions. DENSO is also not liable if the product has been applied by unqualified persons.

6. – Reservation of title

6.1 The goods remain the property of DENSO until full payment of all outstanding claims from the business relationship, including associated claims, compensation claims and redemption of cheques or bills of exchange.

6.2 The reservation of title also continues if individual claims by DENSO are included in a running invoice and the balance is struck and recognised.

6.3 The authority of the customer to sell goods subject to retention of title as a normal part of business ceases with an objection by DENSO resulting from a deterioration in the financial condition of the customer, at the latest with his suspension of payments or with the application or opening of insolvency proceedings concerning his property.

6.4 The customer assigns in this case outstanding payments, with all associated rights, resulting from the distribution of goods subject to retention – including any outstanding balance – to DENSO. If the customer has sold the entitlement to payment as part of genuine factoring, then the claim by DENSO becomes due immediately and the customer assigns the substitute entitlements to payment against the factor to DENSO and forwards his sales earnings to DENSO without delay. DENSO accepts such an assignment.

6.5 The customer is, as long as he fulfils his payment obligations, authorised to collect the assigned payments. The authorisation to collect expires after an objection, or at the latest with default on payment by the customer or with a substantial deterioration in the financial status of the customer. In this case, DENSO can threaten the customer with debt collection by DENSO or through an appointed third party. Af-

ter the expiry of a notice period, DENSO is authorised by the customer to instruct the consumer of the assignment and collect the claim. The customer is obliged to hand over to DENSO on request an exact listing of the claims due to DENSO with name and address of the consumer, amount of the individual payments due, invoice date etc. and to provide DENSO with all the information necessary for asserting the assigned rights to payment and to permit the checking of this information.

6.6 If the value of the guarantee for DENSO exceeds their total claim by more than 10 %, then DENSO is, on request by the customer or by a third party affected by the over-security of DENSO, obliged to release guarantees, as selected by DENSO, to this extent.

6.7 Pledging or handing over as security of the goods subject to retention of title or the assigned claims is not permissible. DENSO is to be notified of any pledging immediately with the name of the holder of the pledge.

6.8 If the customer does not fulfil his payment obligations or infringes other contractual obligations, then DENSO is entitled, after setting a notice period without effect, to terminate. If DENSO exercises this right of termination, then DENSO can satisfy its own claims through unrestricted sales of the goods subject to retention of title.

6.9 The customer stores the goods subject to retention of title for DENSO without charge. He shall insure them for the usual risks, like for example fire, theft and flood, with the usual level of cover. The customer assigns in this case his claims against insurance companies, or others obliged to compensate, to compensation resulting from damage as stated above to DENSO in the sum of the invoice value of the goods. DENSO accepts the assignment.

6.10 All claims and rights arising from retention of title of all the special types mentioned in these conditions remain valid until the complete settlement of any liabilities, which DENSO has entered in the interest of the customer.

6.11 Payments by the customer to purchasing associations, central regulators and other institutions represent no fulfilment and have no effect on the right of retention; rather the actual receipt of payment by DENSO is more relevant. The above-named institutions do not count as "third parties" according to § 362 section 2 of the German Civil Code.

6.12 Processing or reforming is always done for DENSO as manufacturer. If the property of DENSO lapses through combination or mixing, then it is agreed now that a share according to the value (invoice values) of the ownership of the customer of the unitary item transfers to DENSO.

7. – Payment conditions

7.1 All invoiced amounts are net sums ex works plus VAT and are to be paid within 30 days of the invoice date. The customer defaults in all cases where he has not paid within 30 days of receiving the invoice. No additional reminder is required in this case. All invoices, with the exception of a payment by bill of exchange, are payable within 14 days from receipt of invoice with 2 % rebate, otherwise payable without any deduction, unless a different prior agreement has been made in writing. The date of payment means the date of receipt by DENSO. Cheques, bills of exchange and money transfers first count as paid after redemption or appearance in the DENSO account. For payment by bill of exchange, the customer will be charged the incidental discount or bill of exchange expenses as well as any other extra costs arising. If bills of exchange, which have been accepted, are not discounted by the bank, then DENSO can request immediate cash payment.

7.2 If the payment dates specified under point 7.1. are not observed by the customer, then he is to pay interest on the outstanding payment of 8 % over the base rate according to § 247 BGB (German Civil Code). The right to assert further damages due to delay is reserved.

7.3 The retention of payments or the deduction of counterclaims by the customer is only permissible if the counterclaims are unchallenged or legally enforceable.

7.4 All rights and duties under these sales conditions or from contracts produced from them cannot, with the exception of financial claims, be assigned or transferred by the customer without the prior written permission of DENSO.

7.5 If DENSO receives information about a deterioration of the financial circumstances of the customer, or if DENSO discovers that the customer is behaving against the terms of the contract in other ways, then DENSO is entitled only to make outstanding deliveries or perform outstanding services against payment in advance or with financial guarantee.

8. – Data storage

The customer acknowledges that DENSO saves data concerning the contractual relationship for purposes of data processing. To the extent that is necessary in the framework of the business relations with the customer, for example for invoicing, DENSO is authorised to transfer the required data from the customer to third parties. The customer now agrees to such a transfer of data to third parties.

9. – Final provisions

9.1 Court jurisdiction for all legal disputes between DENSO and the customer is Leverkusen. DENSO is also entitled to take action against the customer at his own court of jurisdiction.

9.2 Place of fulfilment for all rights and duties of DENSO and the customer under these sales conditions or under contracts produced by him is the relevant location of DENSO. This also applies particularly to supplementary performance.

9.3 The legal relationship between DENSO and the customer is subject solely to the law of the Federal Republic of Germany. The United Nations treaty concerning the international purchase of goods of the 11th April 1980 (CISG) does not apply.

9.4 If one or more provisions of these purchasing conditions are partially or wholly invalid, then the validity of the remaining part or the remaining provisions is not affected.

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