

Sales Conditions

1. Interpretation – In these Conditions

- 1.1. **"BUYER"** means the person who purchases Goods from the Seller. **"GOODS"** means the goods which the Seller is to supply in accordance with these Conditions.
- "SELLER"** means the EMS manufacturer named on the front page of the document on the back of which these Conditions are set out. **"CONDITIONS"** means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes and special terms and conditions agreed in writing between the Buyer and the Seller. **"CONTRACT"** means the contract for the purchase and sale of the Goods. **"ORDER"** means reiterate order received from Buyer and according to quotation and based on yearly sales volume. **"WRITING"** includes telex, cable, facsimile transmission, e-mail and other means of communication.

2. Basis of Sale

- 2.1. The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written (reiterate) order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such (reiterate) order is made or purported to be made by the Buyer. No deviation from these Conditions applies, has the Seller not explicitly accepted it in writing.
- 2.2. The Goods shall not be used or supplied to any party directly or indirectly for nuclear use, chemical and biological weapon or missile technology.

3. Orders and Specifications

- 3.1. No order shall be binding on the Seller unless and until confirmed in Writing by the Seller's authorized representative. Quotations, proforma invoices and other preceding correspondence are not binding for the Seller.
- 3.2. The quantity, quality and description of any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).
- 3.3. If the Goods are made wholly in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses which may be suffered or incurred by the Seller from any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Sellers use of the Buyer's specification.
- 3.4. The Seller may make any changes in the specification of the Goods which are required to conform to any applicable legal requirements or where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.
- 3.5. If the Goods are made wholly or partly in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses which may be suffered or incurred by the Buyer or any of the Buyer's contractors, as the Buyer is responsible for the correct elaboration of the specifications. Subject to any special terms agreed in Writing between the Buyer and the Seller, the Buyer is exclusively and fully responsible for the testing and application of the purchased goods.
- 3.6. No order which has been accepted by the Seller may be cancelled by the Buyer unless a written request for cancellation is served by the Buyer no later than 60 days before the due date of the first delivery and is accepted by the Seller and the charges fixed by the Seller (including present and previous costs imposed on the Seller by sub-contractors in relation to the execution of the accepted order) are paid.
- 3.7. No specifications on which the accepted order is based may be changed by the Buyer unless a written request for changes is served by the buyer no later than 60 days before the due date of the first delivery and is accepted by the Seller and the costs for such changes fixed by the Seller, including present and previous costs imposed on the Seller by sub-contractors in relation to the execution of the accepted order of which the specifications are changed, are paid.
- 3.8. Materials purchased to fulfill reiterate order, hereunder forecast, such as, long lead time components, MOQ or in quanta's, ordered material by suppliers, are subject to the liability of the Buyer. The Seller may, if no order is received within three month and by giving notice to the Buyer, be entitled to cancel placed order at suppliers and take the liabilities out of warehouse, send the liability to the Buyer's named place of destination and invoice the actual delivered quantity to the Buyer.
- 3.9. Re-scheduling of the order, partial or all, requires 10 days prior notice in Writing from the Buyer and is subject to the Seller's confirmation and acceptance in Writing.

4. Price of the Goods

- 4.1. The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a noted price is no longer valid), the price listed in the Seller's price list current at the date of acceptance of the order.
- 4.2. The Seller may, by giving notice to the Buyer at any time before delivery, increase the otherwise confirmed price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 4.3. Except as otherwise stated under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in Writing between the Buyer and the Seller, all prices are given by the Seller on an ex-works basis.

5. Terms of Payment

- 5.1. Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which even the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.
- 5.2. The Buyer shall pay the price of the Goods without any deduction within the credit term allowed by the Seller in Writing and the Seller shall be entitled to recover their price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract.
- 5.3. If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to (a) cancel the Contract or suspend any further deliveries to the Buyer (whether under the same Contract to which the failure relates or under any other Contract.); (b) appropriate any payment made by the Buyer to such of the Goods (or the Goods supplied under any other Contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and (c) charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 1.5 percent per annum above the Best Lending Rate quoted by the Danish branch of the Danske Bank for Danish Kroner from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
- 5.4. At overdue payment the Seller is entitled to charge the Buyer any reasonable costs due to any judicial or extrajudicial measures taken with reference to collecting the money.
- 5.5. The Buyer is not entitled to retain any payment with reference to any alleged claim, unless the claim and the amount is confirmed in Writing by the Seller.

6. Delivery

- 6.1. Subject to any special agreement in Writing between the Buyer and the Seller, all deliveries from the Seller are effected ex works, and the Buyer bears every risk of losses, damages and delays in transit, no matter who pays for shipment and insurance.
- 6.2. The Seller shall not be liable for any delay in delivery of the Goods however caused, including, without limitation any delay caused by any delay or default on the part of the supplier(s) who supply the Goods to the Seller for resale to the buyer. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 6.3. The Buyer shall not be entitled to reschedule the delivery unless a written request is made by the Buyer not later than 3 days before the due date of the first delivery and is accepted by the Seller.
- 6.4. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and any default by the Seller relating to any one or more of the instalments (whether in respect of delivery, quality or otherwise) shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 6.5. For each product the Seller reserves the right to deliver $\pm 10\%$ over the agreed quantity, the Seller will invoice the actual delivered quantity to the Buyer.

- 6.6. If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery then, without prejudice to any other right or remedy available to the Seller, the Seller may store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) charge the Buyer for the shortfall (if any) below the price under the Contract.

- 6.7. Subject to any special agreement in Writing between the Buyer and the Seller, shipment and insurance are solely effected at the Buyer's expense. If no special instructions have been given by the Buyer, the shipment is effected in the way the Seller think fit without the Seller incurring any responsibility whatsoever. Insurance is taken out at the Buyer's request only.

7. Risk and Property

- 7.1. Risk of damage to or loss of the Goods shall pass to the Buyer : - (a) in the case of Goods to be delivered at the Seller's premises at the time when the Seller notifies the Buyer that the Goods are available for collection; or (b) in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
- 7.2. Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is the due, no matter if the Buyer has taken the Goods to use, under preparation or incorporated this one in his product.
- 7.3. Until the property in the Goods passes to the Buyer, the Buyer shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but shall be entitled to resell or use the Goods in the ordinary course of its business.
- 7.4. Until the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

8. Warranties and Liability

- 8.1. Subject to the conditions set out below the Seller warrants that the goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of six month from the date of their initial use or from delivery (i.e. from the Goods have reached the Buyer's named place of destination), whichever is the first to expire.
- 8.2. The above warranty is given by the Seller subject to the following conditions : - (a) the Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer; or from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure related to component type, misuse or alteration or repair of the Goods without the Seller's approval; (b) the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment; (c) the above warranty does not extend to parts, materials or equipment not manufactured by the Seller; (d) the above warranty (or any other warranty, condition or guarantee) does not extend to parts, materials or equipment when resold to a third-party, the Seller solely being liable to the Buyer.
- 8.3. Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 8.4. Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be deemed waived absolutely unless notified to the Seller within 14 days from the date of delivery (i.e. from the Goods have reached the Buyer's named place of destination) or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 8.5. Any damage or loss in transit is no concern of the Seller and such claims can solely be advanced against the transporter.
- 8.6. Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or the part in question by rework) free of charge or, at the Seller's sole discretion, but the Seller shall have no further liability to the Buyer.
- 8.7. The Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use of resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.
- 8.8. The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control (including (without limitation) any delay, default or failure on this part of the supplier(s) who supply directly or indirectly the Goods to the Seller for resale to the Buyer.

9. Insolvency of Buyer

- 9.1. If the Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (or otherwise than for the purposes of amalgamation or reconstruction); or (b) an emburcance takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or (c) the Buyer ceases, or threatens to cease, to carry on business; or (d) the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly. Then without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

10. Product liability

- 10.1. The Seller is besides only responsible for the damage a defective Goods supplied by the Seller may cause if it can be documented that the damage is due to faults committed by the Seller. "Defective" means that the safety of the Goods is not such as persons generally are entitled to expect. The Seller is not responsible for any working deficits, loss of profits or any other indirect loss.
- 10.2. The Seller is not responsible for losses resulting from misapplication, accidents, poor maintenance, incorrect installation, defective installations, faults in the application or in the product, in which the Goods supplied by the Seller may find use.
- 10.3. The Seller's responsibility for damage to property for private use or consumption cannot exceed 200.000 DKK. The Seller is liable one year only for damages caused by the defect Goods from the date of their initial use or from delivery, whichever is first to expire. Any claim or complaint about the Goods supplied by the Seller must be put forward to the Seller without any delay.
- 10.4. Subject as expressly provided in these Conditions, product liability implied by statute or common law is excluded to the fullest extent permitted by law.

11. Venue

- 11.1. Any disagreement and dispute between the Seller and the Buyer are merely to be settled according to Danish law. The Buyer is liable to prosecution with the court, trying for the action for damages and claims for compensation against the Seller with reference to the Goods sold.
- 11.2. Unless the Seller, in Writing, accepts arbitration, which will then have to be settled in Denmark, any dispute will have to be settled by the court domiciled in Denmark, which according to Danish law, is competent to deal with cases of the domicile of the Seller being Delfi Electronics ApS in Denmark.
- 11.3. Any disagreement regarding interpreting of above sales conditions translated into English, the Danish will always be the valid version.
- 11.4. The sales conditions may be changed without prior notice and without incurring any obligation or liability for the Seller.

Delfi Group companies:

Delfi Tech Mfg., Ltd, Hong Kong

Delfi Denmark ApS, Denmark

Delfi Tech Deutschland GmbH, Germany