



## TERMS AND CONDITION OF SALE

### 1) Contract Formation

- a) If this instrument is a quotation, whether or not responsive to a request from the Buyer, it constitutes the offer of DIMO Corp. to the Buyer, and becomes a binding contract under the terms and conditions set forth herein when it is accepted by the Buyer. However, any such acceptance shall be valid only if made within (30) thirty days of the date of this instrument or such other time period specified herein. If Purchase Order is received after specified period DIMO Corp. reserves the right to decline Purchase Order or request.
- b) If this instrument is an acknowledgment, it constitutes DIMO Corp.'s acceptance of the Buyer's order, subject, however, to the terms and conditions set forth herein. Upon the creation of a contract, this instrument will recite the entire agreement between the parties with respect to the goods, equipment or services being purchased, and shall supersede any other agreement, writing, or understanding whether made before or after the date of this instrument. Thus, DIMO Corp.'s contractual obligations are expressly limited to the terms contained herein. The inclusion of any different or additional terms in any other instrument is objected to, and performance by DIMO Corp. shall occur with the express understanding that only the terms and conditions recited herein shall control.

### 2) Terms of Payment

- a) All payments are to be made in U.S. funds and without expense to DIMO Corp.
- b) Payment shall be Advanced Pay, Cash With Order (CWO), Cash On Delivery of good or services (COD), or Sight Draft Attached to the Bill of Lading (or other shipping documents) at the option of DIMO Corp.
- c) When credit is extended by DIMO Corp., invoices shall be due and payable within agreed upon credit terms. For example credit terms: Net 10 payment due 10 days from invoice date, Net 15 payment 15 days from invoice date, Net 30 due 30 days from invoice date. Past due invoices are subject to a monthly service charge of up to 10%, plus collection agency fees if collection becomes necessary. However, notwithstanding the foregoing, DIMO Corp. retains the option to refuse or revoke credit, and to require immediate payment of all outstanding balances and payment on delivery for all future deliveries.
- d) Buyer agrees to pay any expenses incurred in collecting any unpaid balance of the purchase price, or in recovering possession of the goods including reasonable attorney's fees.
- e) If DIMO Corp. extends credit to the Buyer, then for the purpose of securing payment and performance of all Buyers' obligations hereunder, DIMO Corp. shall retain a security interest in all goods being sold pursuant to this agreement. At DIMO Corp.'s request, Buyer shall execute and join in executing all financing statements and other instruments, in form satisfactory to DIMO Corp., which DIMO Corp. deems necessary or desirable to perfect its security interest in the goods being sold pursuant to this agreement.

### 3) Packing and Shipment

- a) Packing and shipment shall be in accordance with good commercial practices.
- b) Cash On Delivery of goods and services (COD) terms require shipping to be on DIMO Corp.'s FEDEX account.
- c) All shipments that require FEDEX Ground will only be shipped in this manner at the Buyers request and only after the customer's account number is provided.
- d) The Buyer contractually agrees to waive DIMO Corp. of any monetary responsibility should their shipping bill/invoice become delinquent.
- e) DIMO Corp. adheres to all MIL-STD-2073-1 compliance for military packaging for Government Contracts. Military packaging will only be adhered to if DIMO Corp. is the contract awardee.

### 4) Delivery and Title

- a) For orders with delivery inside the United States, FOB shipping point shall apply as provided for in the Uniform Commercial Code. Risk of loss and title shall pass to the Buyer at the FOB point.
- b) For orders with delivery outside the United States, DIMO Corp. and Buyer agree to apply INCOTERMS 2000. Delivery shall be Ex Works (EXW) seller's facility or another named place (i.e. works, factory, warehouse etc.) not cleared for export and not loaded on any collecting vehicle. The Buyer is responsible for and bears all cost and risks involved in taking the goods from DIMO Corp.'s facility, unless otherwise agreed by DIMO Corp. and specifically stated in the order. Risk of loss and title



shall pass to the Buyer as provided by INCOTERMS 2000. Under no circumstances shall DIMO Corp. have any liability whatsoever for delays, loss of use, or for any indirect or consequential damages arising from any delay or loss of use.

- c) DIMO Corp. shall not be responsible for the failure to perform any obligations arising due to events beyond its control. These events shall include, but not limited to, fire, storm, flood, earthquake, explosion, accidents, acts of public enemy, sabotage, strikes, labor disputes, labor shortages, work stoppages, transportation embargoes or delays, failure or shortage of materials or machinery used by the Vendor of the goods supplied hereunder, Act of God, failure of suppliers or subcontractors to satisfactorily meet schedules deliveries, and acts or regulations or priorities of the Federal, State or Local government or branches or agent thereof, government contracts or shipments to purchase to fulfill contracts.
- d) No claims for discrepancies in delivered goods will be accepted unless reported to DIMO Corp., in writing, within (10) ten days after receipt of goods.

#### **5) Patents**

- a) The Buyer shall not receive, as a result of the sale of goods hereunder, any right or license of any kind under any patent owned or controlled by DIMO Corp., or its Vendors under which DIMO Corp. might be licensed. However, the foregoing provision shall not limit the right of the customer to use or sell such goods, in the event such goods are covered by any such patent.
- b) The Manufacturer of goods is solely responsible legally and financially for pursuing any Buyer for patent infringement with no recourse on DIMO Corp.'s behalf as we do not hold the patent for the goods received.

#### **6) Indemnity**

If any goods are made in compliance with the Buyer's plans, designs, specifications, or instructions, Buyer shall indemnify and hold harmless, and defend DIMO Corp. from and against any damage, loss, expense, liability, claims, suits, judgments, decrees, and cost caused by or related to the plans, designs, specifications, or instructions for such goods, including patent infringement or alleged patent infringement.

#### **7) DIMO Corp. Standard Product Warranty**

- a) DIMO Corp. warrants that goods supplied shall, at the time of shipment to Buyer, conform to applicable specification and drawings, and be free of defects in material and workmanship. Design, essential performance, or other provisions expressly stated to be goals or objectives shall be deemed to be requirements subject to this Warranty.
- b) Unless otherwise specified, DIMO Corp.'s obligation under this Warranty shall be limited to repair or replacement of the nonconforming goods at DIMO Corp.'s discretion. The warranty period for newly manufactured goods shall extend (12) twelve months from the date of shipment by DIMO Corp. unless a different warranty period is agreed upon by DIMO Corp. and is stipulated contractually. The warranty period for repair/overhauled goods shall expire 90 days after the shipment date from DIMO Corp.'s facility. The warranty period for repaired/overhauled goods shall be in accordance with DIMO Corp.'s original quote to the customers' buyer. If Buyer is proven to DIMO Corp.'s satisfaction to have been supplied nonconforming goods at the time of shipment then DIMO Corp.'s obligation under this warranty shall be limited to the repair of the nonconforming goods. As a condition of this Warranty, Buyer shall notify DIMO Corp. in writing of any claimed nonconformance immediately upon discovery and shall return the goods to DIMO Corp. for inspection and evaluation and will receive a Return Material Authorization (RMA). An RMA must be issued by DIMO Corp prior to the discrepant or non-conformant goods being returned for Warranty evaluation. DIMO Corp. shall not be responsible for any work done or unauthorized repairs made by Buyer or others at any time. Product tampering, disassembly, broken seals, or any attempt made to repair the goods by anyone other than persons authorized by DIMO Corp. will void the terms of the warranty.
- c) DIMO Corp. shall not be responsible for the performance of any goods which incorporates items manufactured or supplied by DIMO Corp. unless such performance is expressly designated as DIMO Corp.'s responsibility under the terms of the written agreement between DIMO Corp. and the Buyer.
- d) DIMO Corp. shall not be liable for improper use, installation, accidents, operation, or maintenance of goods supplied by DIMO Corp., nor for any damage resulting therefrom, or from negligence on the part of the Buyers employees or agents.
- e) DIMO Corp. shall not be responsible for any consequential to incidental damages occasioned by failure of any goods supplied by DIMO Corp., or by failure of any component, part, assembly or sub-assembly item in which a good supplied by DIMO Corp. is incorporated.



- f) Unless previously agreed in writing, DIMO Corp. shall not provide field repairs, modifications, or any other field services under this Warranty.
- g) The Warranties contained herein are exclusive and are given in lieu of all other Warranties, expressed, implied or statutory, including the implied warranty of merchantability or fitness for a particular purpose, and all other obligations and liabilities. With respect to contracts directly between DIMO Corp. and the U.S. Government or Agencies, the rights and remedies afforded to the Government or Agency by this Standard Product Warranty are in addition to and do not limit any rights afforded by any other provisions of the contract.

**8) Information, Data and Design**

Any proposal, prints, brochures, drawings, designs, data and other information furnished to the Buyer by DIMO Corp. before, after, or contemporaneously with execution of this contract are intended for the confidential use by the Buyer and shall remain the property of DIMO Corp. and its Vendors, and shall not be used to the detriment of DIMO Corp.'s competitive position. When given, all such proposals, performance, and production projections, prints, brochures, drawings, designs, data and other information are based on DIMO Corp.'s knowledge and understanding, but are, in all events, estimates only and are not guaranteed or warranted in any respect. The providing of any design information by DIMO Corp. shall not constitute an assumption of design responsibility unless otherwise expressly assumed by DIMO Corp.

**9) Cancellation of Contract**

Under no condition may the Buyer cancel their obligations under this contract. Any attempt to do so will entitle DIMO Corp., in its sole discretion, to either (a) recover the direct, indirect, and consequential damages arising by reason of the attempted cancellation, or (b) retain as liquidated damages any customer deposit made under this contract.

**10) Applicable Law**

In the event of a dispute regarding any of the terms or conditions contained herein, the parties agree that the laws of Delaware will control. The exclusive forum for any disputes, claims, differences, actions or lawsuits arising out of or under the Order will be the state or federal courts of Delaware. The parties agree to submit to the jurisdiction of the state and federal courts of Delaware with respect to any such dispute, claim, difference, action or lawsuit.

**11) Assignments**

The Buyer's right may not be assigned or otherwise transferred to any other person or entity whether by operation of law or otherwise, without DIMO Corp.'s prior written approval.

**12) Waivers**

Waiver by DIMO Corp. of any breach of any of these provisions, or its failure to exercise any right, shall not be construed as a waiver of any other breach, or waiver to exercise any other right.

**13) Indemnification**

Buyer will indemnify DIMO Corp. and hold DIMO Corp. harmless from any and all claims made by Buyer's employees or agents for injuries or damages including death, arising from or related to tasks performed under this quotation or contract.

**14) Default**

If the Buyer fails to pay any invoice when due, or fails to accept shipment as scheduled, DIMO Corp. may, at its option and without prejudice to other remedies, either defer further shipments until the default is corrected or cancel DIMO Corp.'s remaining obligations under the contract.

**15) Buyer's Authorization**

Buyer represents and warrants that the person who executed the offer which this instrument accepts, or will execute the Buyer's acceptance of the offer contained in this instrument, has duly executed the relevant documents on behalf of the Buyer, and is duly authorized to so act.

**16) Compliance with U.S. Export Regulations**

The Buyer is hereby placed on notice that technical data or goods furnished with this quotation or order acknowledgement may relate to articles controlled by the U.S. Government for export and therefore, may be subject to export licensing requirements and limitations on disclosure or shipment to foreign nationals under U.S. Law. Federal, criminal and civil penalties may result from violation of these export provisions. BUYER INDEMNIFIES DIMO Corp. FROM ANY BREACH OF SUCH REQUIREMENTS AND LAWS FOLLOWING BUYER'S RECEIPT OF EXPORT CONTROLLED DATA OR GOODS.



- (a) Buyer acknowledges and agrees that the goods shall not be exported, re-exported, trans-shipped or otherwise transferred to Cuba, Iran, North Korea, Syria, Sudan or any other countries for which the United States maintains an embargo (collectively, "Embargoed Countries"), or national or resident thereof, or to any person or entity on the U.S. Department of Treasury List of Specifically Designated Nationals, The U.S Department of Commerce Denied Parties or Entity List. The lists of Embargoed Countries and Denied or Restricted Parties are subject to change without notice. Buyer represents or warrants that neither it nor any of their users is located in, a national or resident of, or under the control of an Embargoed Country or similarly Denied or Restricted Party. Buyer specifically shall obtain all required export licenses and authorizations from the U.S. Government before transferring or otherwise disclosing technical data, goods or technology, to any Foreign Person.
- (b) Registration for ITAR controlled items
  - (i) In accordance with 22 C.F.R. Part 122, any person who engages in the United States in the business of either manufacturing or exporting defense articles or furnishing defense services is required to register with the U.S. State Department's Directorate of Defense Trade controls. Engaging in the business of manufacturing or exporting defense articles or furnishing defense services requires only the occasion of manufacturing or exporting a defense article or furnishing defense services. Manufacturers who do not engage in exporting must nevertheless register.
  - (ii) Acceptance of these terms and conditions certifies to DIMO Corp. that the Buyer is in compliance with 22 C.F.R. Part 120 as required and the Buyer's registration will remain valid during the terms of this agreement.
  - (iii) Further to acceptance , the Buyer further certifies it:
    - a. Understands its obligation to protect EAR and ITAR controlled Goods and Services as data as necessary from unauthorized disclosure or access to any foreign person employees or visitors
    - b. In the performance of the contract, the Buyer understands its obligation to determine whether it will require the use of the third party subcontractors to access any technical data, Goods and Services. If required, the Buyer is responsible for identifying and licensing any activity that requires export authorization from the Department of Commerce, Bureau of Industry and Security or the Department of State, Directorate of Defense Trade Controls.

#### **17) Corrupt Practices**

The Buyer presents and warrants that it understands that provisions of any relevant laws relating to prevention of corruption and agrees to comply with them to the extent that they apply.