

TT ELECTRONICS INTEGRATED MANUFACTURING SERVICES LIMITED

CONDITIONS OF SALE

1 Interpretation

In these terms and conditions "the Seller" means TT electronics integrated manufacturing services Limited, "the Buyer" means the party with whom the Seller is contracting and "the Goods" means the goods and/or services which the Seller contracts to supply. Where services are being provided in part or whole the definition of "Goods" shall be deemed to mean services as to give the most practical definition of such services in each particular circumstance.

2 Basis of the sale

- 2.1 These terms and conditions shall form the entire agreement between the Seller and the Buyer. No variation or addition to these terms and conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller. No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of any contract between the Seller and the Buyer to supply the Goods.
- 2.2 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by an authorised representative of the Seller in writing.

3 Orders and specifications

- 3.1 No binding agreement shall exist between the Buyer and the Seller until the Seller has sent a written acceptance of the Buyer's order to the Buyer ("a Written Acceptance"). In the event that there are any changes to the availability of the raw materials after the Seller has issued its quotation, the Seller shall be entitled to vary or withdraw its quotation, notwithstanding the fact that a Written Acceptance has been issued by the Seller.
- 3.2 If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification, the Buyer shall submit such specification with its order.
- 3.3 No order for which a Written Acceptance has been issued by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller, and the Buyer shall be responsible for all costs and damages incurred by the Seller as a result of the cancellation.
- 3.4 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable legislation or regulatory requirements, or where the Goods are to be supplied to the Seller's specification which do not materially affect their quality or performance.

4 Price of the Goods

- 4.1 The price of the Goods shall be the Seller's quoted price. Any quotation is valid for 30 days only from its date, provided the Seller has not previously withdrawn it.
- 4.2 The Seller reserves the right, without notice to the Buyer, to increase the price of the Goods at any time before delivery 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, adverse market conditions and any increase in the costs of manufacture) or which is due to any factor caused by the Buyer.
- 4.3 The price is exclusive of any applicable duty, value added tax, or sales tax, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.

5 Terms of payment

- 5.1 The Seller may invoice the Buyer for the price of the Goods prior to 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 event 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. The Buyer shall pay the price of the Goods within 30 days of the date of the Seller's invoice. Time for payment shall be of the essence.

- 5.2 If the Buyer fails to make any payment on the due date then, without limiting any other right or remedy available to the Seller, the Seller may cancel the contract and take possession of the Goods in accordance with clause 8.3 and/or charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 3% per cent per annum above HSBC Bank base rate from time to time, from the due date for payment until payment in full is made.
- 5.3 The Buyer shall make all payments due under any contract to which these terms and conditions apply in full without deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Seller to the Buyer.

6 Delivery

- 6.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to such place.
Where the Seller agrees to deliver the Goods otherwise than at the Seller's premises the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.
- 6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Seller's negligence) or as the case may be, any early delivery of the Goods howsoever caused. Time for delivery shall not be of the essence and shall not be made of the essence by notice.
- 6.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these terms and conditions shall not entitle the Buyer to treat the agreement as a whole as repudiated.
- 6.4 The Seller shall not be liable for any non-delivery of Goods (even if caused by the Seller's negligence) unless the Buyer gives written notice to the Seller of the non-delivery within 7 days of the date when the Goods would in the ordinary course of events have been received. Any liability of the Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata contract rate against any invoice raised for such Goods.
- 6.5 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time the Seller notifies the Buyer that the Goods are ready for delivery, then risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Seller's negligence) and the Seller shall be entitled to, at its discretion, store the Goods until actual delivery, the cost of which shall be borne by the Buyer, or sell the Goods with the Buyer remaining responsible for any difference in price resulting in a loss to the Seller

7 Risk

- 7.1 The Goods are at the risk of the Buyer from the time of delivery.

8 Retention of Title

- 8.1 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these terms and conditions, ownership 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 sums which are or become due to the Seller from the Buyer on any account.
- 8.2 Until such time as ownership in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, insured and identified as the Seller's property, but the Buyer may resell the Goods provided the Buyer does so as fiduciary agent of the Seller. Any such resale is to be at arms length and on market terms. The Buyer will receive the proceeds from such resale in trust for the Seller and will keep such proceeds in a separate account until the liability of the Seller has been discharged.

- 8.3 Until such time as ownership in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller may at any time with good cause require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, enter on any premises of the Buyer and the Buyer expressly and irrevocably gives the Seller the right to enter upon the Buyer's premises at any time to exercise such rights for the purpose of repossessing such Goods.
- 8.4 In the event that the Buyer uses the Goods in some manufacturing process of its own or some third party, then the Buyer shall hold such part of the proceeds of such manufacturing process as relates to the Goods in trust for the Seller and shall keep such proceeds in a separate account until the liability of the Seller has been discharged. Such part of the proceeds shall equal the amount owing by the Buyer to the Seller at the time of receipt of such proceeds.
- 8.5 Where the Buyer is required to keep the proceeds of a resale or manufacturing process of the Goods in a separate account in accordance with clause 8.2 and 8.4 above, then the Buyer shall be obliged to keep a separate record of these proceeds and shall allow the Seller to inspect these records upon a reasonable request by the Seller to do so.
- 8.6 The Buyer shall not be entitled to pledge or in any way charge or encumber by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without limiting any other right or remedy of the Seller) forthwith become due and payable.

9 Warranties and liability

- 9.1 The Buyer shall rely upon its own skill and judgment as to the suitability of the Goods for the purpose for which they are intended unless any specific conditions relating to the use of the Goods are notified to the Seller and accepted by it in writing prior to the issuing of the Written Acceptance.
- 9.2 Subject to the provisions of the remainder of this clause 9 the Seller warrants that the Goods will be free from defects in material and workmanship. This warranty is given by the Seller subject to the following conditions:
- 9.2.1 the Seller shall not be liable in respect of any defect in the Goods arising from any drawing, design, instruction, requirement or specification supplied by the Buyer;
- 9.2.2 the Seller shall not be liable in respect of any defect arising from fair wear and tear, accidental or wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval;
- 9.2.3 the warranty in this clause 9.2 does not extend to parts, materials or equipment not manufactured by the Seller;
- 9.2.4 The Seller shall not be liable for a breach of the warranty in this clause 9.2 unless the Buyer gives written notice of the defect to the Seller within seven days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within seven days after discovery of the defect or failure (but in any event within twelve months of delivery). If the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the goods and the Seller shall have no liability for such 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.
- 9.3 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are excluded to the fullest extent permitted by law.
- 9.4 Where a valid claim in respect of a defect of the Goods is notified to the Seller in accordance with clause 9.2.4 of these terms and conditions, the Seller may replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, repair the Goods free of charge.
- 9.5 If the Seller complies with clause 9.4 it shall have no further liability for a breach of the warranty in clause 9.2 in respect of such Goods.
- 9.6 Nothing in these conditions excludes or limits the liability of the Seller:-
- 9.6.1 for death or personal injury caused by the Seller's negligence; or
- 9.6.2 under section 2(3), Consumer Protection Act 1987; or
- 9.6.3 for any matter which it would be illegal for the Seller to exclude or attempt to exclude its liability; or
- 9.6.4 for fraud or fraudulent misrepresentation.
- 9.7 Subject to clause 9.3 and clause 9.6:-

- 9.7.1 the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of any contract to which these terms and conditions apply shall be limited to the relevant contract price; and
- 9.7.2 the Seller shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the contract.

10 Indemnity

The Buyer agrees to indemnify the Seller and keep the Seller fully indemnified against all loss, actions, costs (including the costs of defending any legal proceedings), claims, damages or other expenses which may arise from:-

- 10.1 any infringement or alleged infringement of patents, trademarks or tradenames, designs (registered and unregistered), copyright or other industrial property rights by Goods or possession, sale or use of Goods made to instructions in the Buyer's design, specification or requirements whether such instructions are expressed or implied;
- 10.2 any action taken by the Seller which the Seller deems necessary, in its sole discretion, in order to comply with any applicable statutory requirements and regulations relating to waste management throughout the European Union; and
- 10.3 any claim or alleged claim that the Goods infringe, or their import, use, possession or sale breaches any applicable statutory requirements or regulations relating to such Goods throughout the European Union.

11 Force Majeure

- 11.1 The Seller shall not be liable to the Buyer by reason of any delay or failure in performing its obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without limiting the foregoing, causes beyond the Seller's reasonable control shall include an act of God, flood, fire or accident, war, sabotage, civil disturbance, statutes, restrictions, regulations, bye-laws, import or export regulations or embargoes; industrial actions or trade disputes, difficulties in obtaining raw materials, labour, fuel, parts or machinery, power failure or breakdown in machinery.

12 Health and Safety

- 12.1 The Seller has available up-to-date information and literature relating to the Goods and the conditions necessary to ensure that the Goods supplied will be safe and without risk to health when properly used. It is the Buyer's obligation to obtain this information and literature from the Seller in order to ensure proper use of the Goods.
- 12.2 The Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller as a result of any claims made or actions brought by a third party in respect of injury, loss or damage arising either directly or indirectly from the sale, installation or operation in a negligent or improper manner of the Goods by the Buyer, its employees or agents.

13 Insolvency of buyer

- 13.1 In the event of the insolvency of the Buyer (or where the Seller reasonably apprehends that an event of insolvency is about to occur to the Buyer and notifies the Buyer accordingly), then without limiting any other right or remedy available to the Seller, the Seller may cancel any contract between the Seller and the Buyer relating to the supply of the Goods and any order for the Goods accepted by the Seller and if the Goods have been delivered but not paid for the price of the Goods shall become immediately due and the Seller shall be entitled to take possession of the Goods in accordance with clause 8.3.

14 Testing

- 14.1 If the Buyer requires testing and inspection of the Goods before taking delivery, the Buyer shall be responsible for the costs of such testing and inspection at the Seller's premises. The Seller shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection.

15 Confidentiality

- 15.1 The existence of this agreement between the Seller and the Buyer relating to the supply of Goods and the terms of this agreement, including price and quantity, is a confidential matter and shall not be disclosed by the Buyer to any third party without the written consent of the Seller.

16 General

- 16.1 This agreement shall be governed by the laws of England, and the Buyer agrees to submit to the exclusive jurisdiction of the English courts.
- 16.2 The provisions of The Contracts (Rights of Third Parties) Act 1999 are hereby excluded and shall not apply.
- 16.3 If any provision of these terms and conditions is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these terms and conditions and the remainder of the provision in question shall not be affected.
- 16.4 Each right or remedy of the Seller under any contract to which these terms and conditions apply is without prejudice to any other right or remedy of the Seller whether under these terms and conditions or not.
- 16.5 Failure or delay by the Seller in enforcing or partially enforcing any provision of these terms and conditions shall not be construed as a waiver of any of its rights under them. Any waiver by the Seller of any breach of, or any default under, any provision of these terms and conditions by the Buyer shall not be deemed a waiver of any subsequent breach of default and shall in no way affect the remainder of the terms and conditions.
- 16.6 The Buyer shall not be entitled to assign any contract to which these terms and conditions apply or any part of it without the prior written consent of the Seller.