

GENERAL CONDITIONS OF SALE AND DELIVERY

General Provisions

These Conditions of Sale and Delivery shall apply to all current and future agreements whereby a Buyer purchases goods from SWINDON SILICON SYSTEMS LTD.

1. DEFINITIONS & INTERPRETATIONS:

- 1.1 "Buyer" means the person to whom Seller is selling the Goods.
- 1.2 "Conditions" means the terms and conditions set out in this document as amended from time to time.
- 1.3 "Contract" means the contract between Seller and Buyer for the sale and purchase of Goods in accordance with these Conditions.
- 1.4 "Goods" means the goods, parts, products, deliverables, items or services provided by Seller to Buyer pursuant to these Conditions.
- 1.5 "Order" means Buyer's order for the Goods as set out in Buyer's purchase order form.
- 1.6 "Seller" means SWINDON SILICON SYSTEMS LTD with a registered address at Interface House, Interface Business Park, Bincknoll Lane, Royal Wootton Bassett, Swindon, Wiltshire, England, SN4 8SY Company no: 01378199.
- 1.7 "Writing" includes facsimile transmissions, e-mail and comparable means of communication. Any notice and/or other communication in writing required to be given by one party to the other shall be addressed to that other party at its registered office or principal place of business.
- 1.8 The headings in these Conditions are for convenience only and shall not affect their interpretation.
- 1.9 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision shall not be affected thereby.

2. BASIS OF CONTRACT:

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by Buyer to purchase the Goods in accordance with these Conditions. Buyer is responsible for ensuring that the terms of the Order and any applicable specification submitted by Buyer are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when Seller issues a written acceptance of the Order, at which point the Contract will come into existence.
- 2.4 The Contract constitutes the entire agreement between the parties. Buyer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Seller which is not set out in the Contract.
- 2.5 Any samples, drawings, descriptive matter, or advertising produced by Seller and any illustrations contained in Seller's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods. They shall not form part of the Contract or have any contractual force.
- 2.6 A quotation for Goods by Seller shall not constitute an offer. A quotation shall only be valid for a period of 30 days from the date of issue.
- 2.7 In the event of a conflict between the terms of the Contract and these Conditions, these Conditions shall prevail.

3. ALTERATIONS:

- 3.1 Seller reserves the right to modify the specifications of Goods designed by Seller providing that the modifications will not materially affect the performance of the Goods.
- 3.2 Any changes or modifications requested by Buyer, to volume, materials, quality, shipping, delivery, scope of work, specifications etc., must be expressly agreed to in writing by Seller, and Seller hereby reserves the right, under its sole discretion, to adjust the price of such Goods affected by Buyer's change request.

4. ACCEPTANCE /WARRANTY/ LIMITATION OF LIABILITY:

- 4.1 Unless otherwise specified, acceptance of Goods received under the Contract will take place on delivery to Seller's nominated facility.

4.2 Seller warrants that on delivery the Goods shall (a) conform in all material respects with their description or the applicable Goods specification; (b) be free from material defects in design, material and workmanship; (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and (d) be fit for purpose held out by Seller. Unless a longer period is agreed in writing between the parties, Seller's warranty shall be effective for a period of 1 year from the date of delivery to Buyer.

4.3 If the Goods fail to conform to the warranty as set forth in clause 4.2, Seller's sole and exclusive liability shall be (at Seller's option) to repair, replace or credit Buyer's account for any such Goods which are returned by Buyer, provided that (a) Seller is promptly notified in writing upon discovery by Buyer that such Goods failed to conform to the warranty, with a detailed explanation of any alleged nonconformity, (b) such Goods are returned, at Buyer's expense to Seller, F.O.B. at Seller's nominated facility (Incoterms in its latest version), and (c) Seller's examination of such Goods shall disclose to Seller's satisfaction that such alleged nonconformities actually exist and were not caused by accident, misuse, neglect, alteration, improper installation, unauthorised repair, improper testing or by any other means beyond the control of Seller. If Goods are determined, in Seller's sole discretion, to be nonconforming, Seller shall reimburse Buyer for the transportation charges paid by Buyer for the return of the Goods. If Seller elects to repair or replace the Goods, Seller shall have a commercially reasonable time to make such repairs or replace the Goods. If Seller, in its sole discretion, determines that the alleged nonconformity does not fall within the warranty as set forth in clause 4.2, Buyer shall reimburse Seller for all cost associated with Seller's inspection of the Goods.

4.4 Subject to clause 4.2, under no circumstances whatsoever shall Seller be liable to Buyer whether in contract, tort, (including negligence), breach of statutory duty or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and Seller's total liability to Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the total purchase price under the Contract less the purchase price for any Goods delivered and accepted under the Contract prior to the occurrence of the breach.

4.5 Nothing in the Contract shall limit or exclude Seller's liability for (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; (b) fraud or fraudulent misrepresentation; (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or (d) defective products under the Consumer Protection Act 1987.

4.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

5. TRANSFER OF TITLE / PROPRIETARY INFORMATION/ TOOLS:

5.1 The risk in the Goods shall pass on delivery to Buyer, Ex Works Seller's nominated facility (Incoterms in its latest version).

5.2 Title to the Goods will pass to Buyer upon payment in full. Until title has passed to Buyer, Buyer will: (a) hold the Goods on a fiduciary basis as Seller's bailee; (b) store Goods separately and ensure they are easily identifiable from all other goods; (c) maintain Goods in good condition and keep them insured against all risks for their full price on Seller's behalf from the date of delivery; and (d) Buyer will notify Seller immediately if it becomes subject to any risk of insolvency proceedings within the meaning of sections 123 and 268 of the Insolvency Act 1986.

5.3 Subject to clause 5.2, Buyer may resell or use the Goods in the ordinary course of its business (but not otherwise) before Seller receives payment for the Goods. However, if Buyer resells the Goods before that time it does so as principal and not as Seller's agent; and title to the Goods shall pass from Seller to Buyer immediately before the time at which resale by Buyer occurs.

5.4 If before title to the Goods passes to Buyer and Buyer becomes subject to any risk of insolvency proceedings within the meaning of sections 123 and 268 of the Insolvency Act 1986, then without limiting any other right or remedy Seller may have Buyer's right to resell Goods or use

- them in the ordinary course of its business ceases immediately; and Seller may at any time require Buyer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and if Buyer fails to do so promptly, Seller may enter Buyer's premises or of any third party where the Goods are stored, in order to recover them.
- 5.5 All information which Seller makes available to Buyer for the purpose of performing the Contract is confidential. Buyer agrees not to disclose such information to any third party and/or use that information for purposes other than submitting a bid or performing a Contract unless otherwise agreed in writing by Seller. Further, Buyer shall ensure that its officers, employees and agents (including those officers, employees and agents who may terminate their relationship with Buyer) shall abide by the same obligation as if their names were inserted in the place of "Buyer". This clause 5.5 shall survive indefinitely.
- 5.6 If it becomes necessary for Buyer to disclose confidential information to Seller or if it becomes necessary for Seller to disclose confidential information other than that outlined clause 5.5, the obligations related to such information shall be set forth in a separate nondisclosure agreement to be executed by the parties prior to the disclosure of such confidential information.
- 5.7 Drawings, samples, formulas and tools which Seller makes available to Buyer for submission of a bid or performance of a Contract, remain Seller's property and may not be copied or used for purposes other than the Contract. They must be returned to Seller upon request after refusal of bid or performance of the Contract.
- 5.8 All Seller owned tooling, equipment and materials which are kept on Buyer's premises will be held by Buyer on a bailment basis for Seller's benefit.
- 6. INTELLECTUAL PROPERTY:**
- 6.1 All Intellectual property rights in or arising out of or in connection with the Goods shall be owned exclusively by Seller.
- 6.2 Seller shall defend any suit or proceeding brought against Buyer insofar as such suit or proceeding is based on a claim that any Goods directly infringe upon any duly issued United Kingdom patent and Seller shall pay all damages and costs finally awarded therein against Buyer, provided that Seller is promptly informed and furnished a copy of each communication, notice or other action relating to the alleged infringement and is given authority, information and assistance (at Seller's expense) necessary to defend or settle said suit or proceeding. Seller shall not be obligated to defend or be liable for costs and damages if infringement arises out of compliance with Buyer's specification(s) or from a combination with, in addition to, or a modification of the Goods after delivery by Seller, or from the use of Goods, or any part thereof. Seller's obligations hereunder shall not apply to any continued infringement occurring after Buyer has received notice of such suit or proceeding alleging the infringement, unless Seller has given written permission for such continuing infringement.
- 6.3 If any Goods manufactured and supplied by Seller to Buyer shall be held to infringe any United Kingdom patent and Buyer shall be enjoined from using the same, Seller will exert its reasonable efforts, at its option and its expense, (a) to procure for Buyer the right to use such Goods free of any liability for patent infringement or (b) to replace such Goods with a non-infringing substitute otherwise complying substantially with all requirements of the Contract; or (c) refund the purchase price and the transportation costs of the Goods.
- 6.4 If the infringement by Buyer is alleged prior to completion of delivery of the Goods, Seller may decline to make further shipments without being in breach, and provided Seller has not been enjoined from selling said Goods to Buyer, Seller agrees to supply said Goods to Buyer, at Buyer's option, whereupon the patent indemnity obligation stated under this provision with respect to Seller, shall reciprocally apply to Buyer.
- 6.5 If any suit or proceeding is brought against Seller based on a claim that the Goods manufactured by Seller in compliance with Buyer's specification and supplied to Buyer directly infringe any duly issued United Kingdom patent, then the patent indemnity obligations herein stated with respect to Seller shall reciprocally apply with respect to Buyer. THE FOREGOING STATES THE SOLE AND EXCLUSIVE LIABILITY

OF SELLER FOR PATENT INFRINGEMENT AND IS IN LIEU OF ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, IN REGARD THERETO.

7. DELIVERIES:

- 7.1 Delivery is made Ex Works Seller's nominated facility unless otherwise agreed in writing (Incoterms in its latest version).
- 7.2 Transportation is to be arranged by Buyer at its own and exclusive risk and expense. This risk also includes any direct or indirect damage to the delivered Goods.
- 7.3 If requested in writing, Seller will take care of the transportation at Buyer's risk and expense in a manner most appropriate in Seller's opinion.
- 7.4 Time for delivery begins at the date of written acceptance of the Contract by Seller, but not until Seller has received from Buyer the information and materials necessary for the execution of the Contract. If Buyer has not supplied Seller with the information and materials necessary for the execution of the Contract within 2 weeks after the Contract is formed, Seller shall be entitled to cancel the Contract and Buyer shall be liable for all costs, incurred by Seller including a reasonable allowance for pro-rated indirect costs and anticipated profits.
- 7.5 If the Contract mentions a time for delivery, this time will be considered a target period, time is not of the essence for delivery. Delay in time of delivery does not give Buyer the right to claim damages, to refuse the Goods, or to wholly or partly cancel the Contract. The time for delivery ends the moment Seller has informed Buyer that the Goods are ready for shipment at Seller's nominated facility.
- 7.6 Seller has the right to carry out the Contract by means of partial delivery.
- 7.7 For all volume Contracts a deviation of a maximum of 10% more or less than the quantity ordered shall constitute compliance with the Contract, and the unit price shall continue to apply.

8. CONTRACTUAL PRICE AND PAYMENT:

- 8.1 Contractual prices agreed on the written acceptance of the Order shall be binding for Buyer and Seller. The price agreed in the Contract has been calculated for delivery Ex Works Seller's nominated facility (Incoterms in the latest version) net of VAT, packaging and loading costs.
- 8.2 Payment terms shall be net within 30 days after the date of invoice. Each invoice shall be paid in pounds sterling by telegraphic transfer to Seller's nominated bank account within 30 days after the date of the relevant invoice. Seller reserves the right to demand advance payment in whole or in part or to ask for cash on delivery.
- 8.3 If the Contract has been carried out by means of a partial delivery, these Conditions apply to each part delivered separately.
- 8.4 Buyer is obliged to pay irrespective of whether it did or did not examine the Goods. Time for payment is of the essence and no payment shall be deemed to have been made until Seller has received full payment in cleared funds.
- 8.5 If delay arises in the delivery due to circumstances for which Buyer can be held liable, the amount owing will be due on the original date of shipment. Storage of the Goods on behalf of Buyer is made at the risk and cost of Buyer. If the financial position of Buyer deteriorates, before payment becomes due, or if Seller receives unfavourable information about Buyer, then Buyer is obliged to arrange for immediate payment should Seller so require. If Buyer is in payment arrears Seller can, regardless of any further claims, postpone or cancel the performance of its obligations under the Contract charging Buyer with all costs incurred.
- 8.6 If Buyer does not pay within the time agreed Seller has the right, without any proof of default, to charge interest at 8% above the Bank of England base rate, without prejudice to any other remedy available to Seller.
- 8.7 In no event may Buyer set off against any sums due to Seller whether under this Contract or otherwise any lawful set-off or counterclaim to which Buyer may at any time claim.

9. NON- WAIVER OF DEFAULT:

9.1 In case of non-performance by Buyer, Seller may decline to make further shipment. If Seller elects to continue to make shipments, Seller's action shall not constitute a waiver to claim any default from Buyer, without prejudice to Seller's right to demand specific performance of the Contract and/or claim damages from Buyer.

10. FORCE MAJEURE:

10.1 Neither Buyer nor Seller shall be in breach of Contract nor be liable for delay in performing, or failure to perform, any of its obligations under it if such a delay is caused by a Force Majeure Event. For the purpose of these Conditions "A Force Majeure Event" shall mean any event beyond a reasonable party's control, which by its nature could not have foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's) failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

11. TERMINATION:

11.1 Buyer does not have the right to cancel Contracts, except in the case as foreseen in clause 10.1, than after written acceptance by Seller. If Seller accepts such cancellation Buyer shall be liable for termination charges which shall include a price adjustment based on the quantity of Goods actually delivered, and all costs, direct or indirect, incurred and committed for the Contract together with a reasonable allowance for pro-rated expenses and lost profits.

11.2 If Buyer ceases to conduct its operations in the normal course of business or if any proceedings under the bankruptcy or insolvency laws are brought by or against Buyer, Seller may without intervention of any judicial authority terminate any Contract between Buyer and Seller based upon the Goods delivered previously in accordance with the Contract. Such notice shall indicate the extent and effective date of such termination.

11.3 Seller may without intervention of any judicial authority immediately dissolve the Contract in the event Buyer offers a gift or makes a promise in whatever form to Seller or one of his subordinates.

12. RETURNS:

12.1 Except as provided in the Contract with regards to warranty claims, all Goods sold are final and no returns will be accepted without Seller's written approval.

13. ATTORNEY COSTS AND FEES:

13.1 If Seller is required to bring any legal action against Buyer to enforce the Contract, Seller will be entitled to recover reasonable attorney fees and costs from Buyer.

14. ASSIGNMENT AND OTHER DEALINGS:

14.1 Seller, may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

14.2 Buyer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Seller.

14.3 A person who is not a party to the Contract shall not have any rights to enforce its terms.

14.4 Subject to proof of the contrary, the administrative data and accounting records of Seller are final proof in connection with the Contract made between Buyer and Seller.

15. PATENTS, TRADE NAMES AND TRADEMARKS:

15.1 Any reference to the name of Swindon Silicon Systems or to any of Seller's trade names or trademarks shall not be made unless Seller has granted prior written approval.

16. APPLICABLE LAW:

16.1 The Contract shall be governed by English law. For the avoidance of doubt, the United Nations Convention on the International Sale of Goods shall not apply to the Contract.

16.2 In order to facilitate the exchange of information in accordance with the Contract and in conformity with the laws and regulations of the United States and the European Union relating to the exportation of technical data, Seller and Buyer agree to comply fully with all relevant laws and regulations of the United States and the European Union.

17. JURISDICTION:

17.1 Each party irrevocably agrees that the competent Courts of England and Wales shall have exclusive jurisdiction to hear all disputes arising in connection with the terms and conditions of the Contract.

18. EXPORT CONTROL COMPLIANCE:

18.1 Both Seller and Buyer agree to obtain any necessary export licence or other documentation prior to the exportation or re-exportation of any product, technical data, software or software source code covered under the Contract or any direct product of such technical data, software or software source. Accordingly, neither Seller nor Buyer shall sell, export, re-export, transfer, divert or otherwise dispose of any such product, technical data, software or software source code directly or indirectly to any person, firm, entity, country or countries prohibited by U.S. or applicable non-U.S. laws. The responsible party shall secure, at its own expense, such licences and export and import documents as are necessary for each respective party to fulfil its obligations under the Contract.

19. COMPLIANCE WITH ANTI-CORRUPTION LAWS:

19.1 Both Seller and Buyer represents, warrants and undertakes to comply with any anticorruption law or similar legislation, codes, rules, policies and regulation applicable to the performance of its obligations in relation to any Contract and/or Order ('Anti-Corruption Laws') and not take any action or permit, authorise or tolerate any action in violation of the Anti-Corruption Laws.

20. COMPLIANCE WITH DATA PROTECTION:

20.1 From time to time Seller may transfer data acquired from Buyer for the purpose of carrying out the performance of this Contract with any member of its group (which means subsidiaries, ultimate holding company and its subsidiaries worldwide). The data collected may be transferred to, and stored at, a destination outside the European Economic Area ("EEA"). It may also be processed by staff operating outside the EEA who work for Seller. By Buyer submitting data, Buyer agrees to this transfer, storing or processing. Seller will take reasonable steps necessary to ensure that Buyer's data is treated securely and in accordance with the practices contained in Directive 94/46/EC.