



STMicroelectronics GENERAL TERMS AND CONDITIONS OF PURCHASE

1. ORDERS

1.1. Unless otherwise stated in a written agreement signed by STMicroelectronics (hereafter called "Buyer"), the terms and conditions herein shall apply to all purchase orders for materials, equipment or services of any kind (hereafter referred to as "Goods") issued by Buyer. Notwithstanding anything to the contrary stated in Seller's conditions of sale, Seller agrees that its acceptance of Buyer's purchase order constitutes (1) Seller's express disclaimer of all its conditions of sale and (2) Seller's express acceptance of the terms and conditions set out herein.

1.2. An order will be considered as final and binding upon Buyer's reception in writing, by electronic mail or by EDI (when either system has been agreed by the Parties for the purposes hereof) of Seller's acknowledgment of order within ten (10) days from the date of order. Failure to return the order acknowledgment within ten (10) days will give Buyer the right to cancel the order without any penalty. Any condition set out in Seller's order acknowledgment form that modifies conflicts with or contradicts any of these General Terms and Conditions of Purchase shall be deemed invalid and not applicable.

1.3. An order bearing mention "price to be indicated", will be deemed valid only upon Buyer's acceptance in writing of the price to be indicated.

2. PRICING, INVOICING AND PAYMENT

2.1. Applicable price is the price mentioned in Buyer's purchase order or resulting from price calculation formulas as stipulated in the purchase order. Such price shall always be stipulated firm, and not subject to revision or escalation, or any adjustment due to currency fluctuation. Unless otherwise agreed in writing, price is fully inclusive of standard packaging and of any and all costs, risks and profits related to or in connection with the performance of the purchase order. No extra charge of any kind will be allowed unless specifically agreed in writing by Buyer in advance and stated on the purchase order.

2.2. Seller shall invoice Buyer according to the invoicing schedule set out in the purchase order. Invoices shall include purchase order number or reference, quantity and description of supplied Goods, date and reference of delivery notice and detailed price, and shall be accompanied by all the necessary supporting documents. Unless otherwise stated on the purchase order, Seller shall issue one invoice per order and unless a different invoicing address is specified, invoices shall accompany the Goods. Invoices that do not comply with the above mentioned condition shall be treated by Buyer as null and void and shall be returned to Seller.

2.3. Unless otherwise agreed in writing on the purchase order, payment term shall be ninety (90) days date of invoice, end of month.

3. PACKAGING AND DELIVERIES

3.1. Unless special packaging is specifically requested by Buyer on the purchase order, Seller shall supply the Goods with adequate packaging, taking into account the nature of the Goods and taking all measures to protect the Goods from bad weather, corrosion, loading accidents, transportation or storage constraints, vibrations or shocks, etc. In any case Goods shall be packed, packaged, marked and otherwise prepared for shipment in a manner which is (i) in accordance with good commercial practice, (ii) acceptable to common carriers for shipment at the lowest rates and (iii) adequate to insure safe arrival of the supplies at the named destination. In case Seller is in charge of special packaging, it shall comply with all the corresponding instructions provided by Buyer.

3.2. Seller shall mark all packages and containers with all necessary lifting, handling, and shipping instructions, clearly identifying and marking items that need special care or special storage and/or transportation conditions, indicating the precautions to be taken. Seller shall label each package and container with shipping information, purchase order numbers, date of shipment, and name and address of consignor and consignee.

3.3. Seller shall be considered solely responsible for any damage to the Goods or any extra expenses due to incorrect or inadequate packaging, marking or labeling, except for damages or expenses due to special packaging, marking or labeling instructions provided in writing by Buyer.

3.4. When delivering Goods, Seller shall at the time of dispatch send Buyer a notice of delivery in two (2) copies, specifying (i) the complete reference number of the purchase order and its date, (ii) the complete address of the consignor and of the consignee warehouse, (iii) a detailed description of the Goods, (iv) the total number of packages in the shipment, (v) the identification gross and net weight of each package, (vi) the mode of transportation, and (vii) the date of shipment.

3.5. The method of delivery and the respective obligations of the Parties shall be specified in the purchase order, subject to **INCOTERMS 2000**. Where not otherwise specified, carriage of Goods shall be at Seller's own risk and expense. In any case, Seller shall provide adequate insurance of the Goods until arrival of the Goods at Buyer's premises or the destination otherwise agreed.

4. TIME SCHEDULE AND DELAYS

4.1. Time schedule and delivery date(s) are specified in the purchase order. Seller's acceptance of the purchase order means Seller's irrevocable commitment to meet the time schedule and delivery date(s) thereby set out.

4.2. Time schedule and delivery date(s) specified in the purchase order are of the essence of the purchase order and can be changed only by written agreement signed by both Parties. **4.2.1.** Early deliveries shall not be allowed unless accepted in writing by Buyer in advance. In any case Seller shall not be entitled to bonus for any early delivery. **4.2.2.** Seller shall promptly inform Buyer in writing of the full details of any events which may delay the execution of the purchase order, without however being entitled to any claim to extend the delivery time therefore. Seller shall make all reasonable efforts to minimize the delay in delivery and the consequences of the delay. Except in case of Force Majeure, Buyer shall have the right to cancel the order without Seller having right to any indemnity or compensation and unaffected Buyer's right to claim for any damage, loss or prejudice arising from the delay, (i) if the forecast delivery is too late according to Buyer's needs and (ii) in the event of any delay that has not been notified in writing in advance.

5. CHANGES AND SUBSTITUTIONS

5.1. Buyer shall have the right to make any changes in the order, and no such change shall in any way vitiate or invalidate the purchase order. Seller shall promptly inform Buyer of any price and/or schedule alterations needed due to changes requested by Buyer, and such alterations shall be agreed in writing by the Parties in an amendment of the purchase order or in a new purchase order signed by both Parties.

5.2. No changes or substitutions of the supply or deliveries of non-conforming Goods made or proposed by Seller shall be allowed unless accepted in writing by Buyer in advance.

6. PERFORMANCE, INSPECTION AND REFUSAL OF GOODS

6.1. Seller agrees that during the time of performance of the purchase order, Buyer shall have the right to access Seller's premises to supervise the manufacturing process or give special instructions and to control and/or test ordered Goods, using Seller's plant control and testing facilities. Conditions and modalities of such inspections shall be agreed by the Parties in advance. Such inspection shall not in any case reduce Seller's liabilities towards Buyer.

6.2. Buyer shall have the right to refuse Goods that do not comply with the relevant purchase order or the applicable specifications or requirements. Non acceptance of Goods shall promptly be notified to Seller by registered letter or by fax, telex or e-mail confirmed by registered letter. Seller shall at its expense take back non-accepted delivered Goods within ten (10) working days from date of reception of the notice of non-acceptance. After the ten (10) days period has elapsed, Buyer will return the Goods to Seller at Seller's expense. **6.2.1.** Prior payment to secure cash discounts does not constitute Buyer's acceptance of the Goods. **6.2.2.** Non-refusal of the Goods does not in any way limit the warranties as per Section 9 below.

7. OVERSHIPMENTS

7.1. Buyer agrees to pay only for the ordered quantities, provided that such quantities can be subject to the provisions of Section 5 above. Over shipments will be held at Seller's sole risk and expense for a period of time not exceeding ten (10) days from the date of delivery. After such period of time has elapsed without Seller taking back the Goods or sending instructions for shipment at Seller's expense, Buyer will return Goods exceeding the ordered quantities to Seller at Seller's sole risk and expense.

7.2. Seller agrees that Buyer, at its sole discretion, may elect to purchase any, all or part of such over shipments according to the terms of the applicable purchase order and to these General Terms and Conditions of Purchase.

8. TRANSFER OF TITLE AND TRANSFER OF RISK

8.1. Unless otherwise agreed in writing by the Parties, transfer of title shall take place upon arrival of the Goods at Buyer's premises or the destination otherwise agreed. Any reservation of title or property right clauses coming from Seller shall be deemed not written.

8.2. Transfer of risk shall take place according to the **INCOTERMS 2000** provisions applicable to the supply. If no **INCOTERMS 2000** provision is applicable or if it is not specified, transfer of risk shall follow transfer of title.

9. WARRANTIES

9.1. Unless otherwise agreed in writing by the Parties, Seller shall warrant for a period of twelve (12) months, that the Goods supplied (i) comply with all the specifications, blueprints, drawings and data of Seller (in any format) or provided by Buyer and accepted by Seller or jointly agreed by the Parties in writing, and with all the requirements and conditions written on the purchase order, (ii) are of good workmanship and free from any design, material, manufacturing or operating defect, (iii) are of merchantable quality. It is understood and agreed that Seller is responsible for supply of all parts required for a complete operation of the Goods, even if not expressly mentioned by Buyer.

9.2. During the warranty period, Buyer shall notify Seller in writing of any defect or malfunction of Goods supplied and Seller shall without any delay and at its expense replace or repair the Goods or correct the defect or malfunction. Seller shall provide another twelve (12) months warranty period for any replacement, repair or correction made during the warranty period, starting on the day of successful and satisfactory completion of such replacement, repair or correction.

9.3. If Seller does not satisfactorily replace or repair the Goods or correct the defect or malfunction, Buyer shall have the right, at Buyer's exclusive option, to (i) make the replacement, repair or correction itself at Seller's sole cost and expense, or (ii) have such replacement, repair or correction made by a third party at Seller's sole cost and expense, or (iii) to obtain from Seller total reimbursement of the purchase price paid for the defective or malfunctioning Goods.

9.4. Seller agrees that the warranties specified herein shall be in addition to any warranties implied by law or expressly granted by Seller other than specified herein and to any other warranties, whether express or implied, applicable to the relevant purchase. They shall survive any inspection, test, acceptance and payments by Buyer, as well as any termination of orders or of agreements related to orders.

10. INDUSTRIAL AND INTELLECTUAL PROPERTY

10.1. Seller guarantees that the Goods to be supplied and any part of them do not infringe any patent, license, industrial patent right, copyright, mask work right or any other industrial and/or intellectual property right of any third party. Seller guarantees that it has full right to use, produce and sell the Goods to be supplied and that Buyer shall have full right to use and re-sell such Goods.

10.2. Seller agrees to hold Buyer harmless against any claim or action for infringement of a third party industrial or intellectual property right, to pay all costs incurred by Buyer for the defense of such claim or action, including reasonable attorney fees, and to indemnify Buyer for any damage, loss and prejudice suffered by Buyer as a direct or indirect consequence of such claim or action.

11. PROPRIETARY INFORMATION AND CONFIDENTIALITY

11.1. Any data, drawing, design, equipment or other material or information which is (i) provided by Buyer or (ii) provided by Seller but paid by Buyer as a part of the Goods' purchase price, shall be solely owned by Buyer and shall be considered Buyer's proprietary and confidential information.

11.2. Seller agrees to keep strictly confidential any and all materials and information under 11.1 as well as any other Buyer's proprietary materials and/or information received for the purposes hereof and to avoid communication or disclosure of such material and/or information to any third party unless with prior written consent of Buyer.

11.3. Any advertising or oral or written communication concerning the order or its details shall be subject to Buyer's prior written approval.

12. TERMINATION

12.1. Buyer shall have the right to terminate the purchase order by registered letter with acknowledgment of receipt, without paying any compensation or penalty to Seller, (a) before Seller's acknowledgment of order pursuant to clause 1.2 above, or (b) if any of the following events occurs: (i) Seller fails to deliver the Goods (including the performance of any services) within the date scheduled in the purchase order, and the delay lasts more than one (1) week without being approved by Buyer; (ii) Seller fails to comply with warranty obligations; (iii) Seller unreasonably withholds its consent to purchase order changes as per Section 5 above; (iv) Seller is in breach of any of its obligations arising from these General Terms and Conditions of Purchase or from a contract between the parties to which the purchase order is subject, and breach is not cured within ten (10) days from reception of written notice from Buyer of the breach; (v) a proceeding under insolvency, bankruptcy or similar laws is commenced against Seller; or (vi) an occurrence that constitutes a circumstance of Force Majeure according to Section 14 hereafter gives rise to a delay lasting more than three months from the scheduled delivery date.

12.2. Furthermore, subject to clause 12.2.1. below and unless otherwise agreed in writing, Buyer reserves the right to terminate at any time the order in full or in part, by registered letter with acknowledgment of receipt without having to justify the decision. Upon reception of purchase order's termination Seller shall immediately stop all work under that purchase order, place no further orders nor make any further commitments for materials or services to complete the work and make any reasonable effort to minimize costs and losses due to the termination. **12.2.1.** In case of termination not due to a default by Seller, Seller shall be entitled to claim compensation, the amount of which shall be settled by mutual agreement of the Parties, taking into account the time of termination, the work already carried out and the costs and expenses already sustained by Seller under the terminated purchase order, as well as the possibility to sell the Goods to other customers.

13. LIABILITY AND INSURANCE

13.1. Seller shall be solely responsible and liable towards Buyer and any third party for any physical injury, property damage or any other material damage, loss or prejudice arising from performance by Seller or Seller's employees, agents or subcontractors, of Seller's obligations under the purchase order.

13.2. Seller shall take out adequate insurance policies to cover any liability that, subject to clause 13.1 above, might arise towards Buyer, and hereby agrees to indemnify and hold Buyer harmless against any such damage and liability.

14. FORCE MAJEURE

Neither party shall be responsible or liable for any delay or failure in performance arising as a result of any occurrence or contingency beyond its reasonable control, including but not limited to, accident, act of God, acts of the public enemy, earthquake, fire, flood, labor disputes, riots, civil commotion, war (declared or not), requirements or acts of any government or agency thereof. The delayed party shall send written notice of the delay and the reason therefore to the other party as soon as possible after the party delayed knew of the cause of delay in question.

15. APPLICABLE LAW AND JURISDICTION

The applicable law shall be the law of the country in which Buyer is established. In the case of dispute and in the absence of an amicable settlement, the only competent jurisdiction shall be that of the country in which Buyer is established. The applicable laws shall be the laws where the competent jurisdiction is established. The 1980 Vienna Convention on the International Sale of Goods shall not be applicable.

16. GENERAL

16.1. Severance. In the event any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and these General Terms and Conditions of Purchase shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

16.2. Observance of laws and regulations. Seller is aware of, and shall in all respects abide by, laws, decrees and regulations issued by any local or other authorities, and any rules or regulations issued by private or public organizations relating to its activity within the framework of the implementation of the purchase order. Seller shall bear all the financial and/or administrative consequences incurred by Buyer; in particular, as a result of the failure by Seller or its employees, sub-contractors and suppliers, to comply with the provisions of the said laws, decrees, regulations or other above mentioned texts.

16.3. Waiver. Buyer's waiver of a Seller's breach or default under these General Terms and Conditions of Purchase shall not be a waiver of any subsequent default. Failure of Buyer to enforce compliance with any term or condition hereof shall not constitute a waiver of such term or condition nor shall it affect Buyer's right to enforce compliance to such term or condition at a later time.

16.4. Sub-contracting. Seller shall not, without Buyer's prior written consent, sub-contract directly or indirectly at any level the performance of the purchase order or any part thereof. Seller shall indemnify and hold Buyer harmless against any and all claims of its contractors and/or suppliers.

16.5. Assignment. The purchase order shall not be assigned without the prior written consent of Buyer, except that it may be assigned to subsidiaries or affiliates of either Party, to any surviving corporation of a merger by either Party, or to a purchaser of all or substantially all of the assets of either Party.
