



Sales Terms & Conditions, page 1

1 Definitions

- 1.1 "Company" means GEM UK Limited, a company registered in England, registration number: 4573085.
- 1.2 "Customer" means the customer of the Company.
- 1.3 "Contract" means any contract entered into for the supply of Goods by the Company to the Customer.
- 1.4 "Goods" means any goods forming the subject matter of any Contract including (where the context so admits) services and any goods belonging to the Customer on which the Company perform services.

2 Quotations and Contracts

- 2.1 Quotations by the Company are subject to alteration or withdrawal at any time without notice but unless previously withdrawn shall be open for consideration by the Customer for thirty (30) days (or other period therein stated) from the date of the quotation. All quotations supplied by the company must be signed by an approved signatory otherwise the quotation is not valid.
- 2.2 These conditions shall be incorporated in all Contracts to the exclusion of any terms or conditions referred to by the customer. Acceptance of any delivery or performance by or on behalf of the Customer shall in any event be conclusive evidence of the Customer's acceptance of these conditions.
- 2.3 None of the Company's personnel or any other person is authorised to make any variation of these conditions or any Contract or give any representations on behalf of the Company unless confirmed in writing and signed by a Director of the Company.

3 Orders and Specifications

- 3.1 No order submitted by the Customer shall be deemed accepted by the Company until confirmed in writing by the Company.
- 3.2 The Customer shall be responsible to the Company for ensuring the accuracy of the terms of the order and for ensuring the Company has sufficient time to enable the Company to perform the work in accordance with the order.
- 3.3 Specifications, part references and revision levels are based on data supplied by the Customer and detailed on the Company's quotation. Any errors or anomalies are the responsibility of the Customer.
- 3.4 No order which has been accepted by the Company may be cancelled by the Customer unless agreed by the Company in writing and in any event that the Customer shall indemnify the Company in full against all loss (including loss of profit), costs (including costs of material and labour), damages, charges and all other expenses incurred as a result of the cancellation.
- 3.5 In the event that the Customer reschedules an order, the Company will make every effort to accommodate Customer's rescheduling requests but the Company reserves the right to refuse any such request and deliver on the dates agreed and confirmed by the Company's Sales Order Confirmation or as near as practical. If the Company agrees to the rescheduling, the company reserves the right to invoice the value of stock procured and work performed in relation to the Goods.

4 Prices

- 4.1 The Company's prices exclude VAT where applicable and all other taxes or duties of whatsoever kind and unless otherwise agreed in writing by the Company are ex the Company's works inclusive of packaging but exclusive of carriage and insurance.
- 4.2 The Company's prices may be varied at any time, at the Company's discretion, for any increases in costs incurred by the Company after the date on which they were quoted, from fluctuations (including currency variations) in the cost of materials, equipment, labour, transport or utilities arising from whatever cause, any alterations in specifications or quantities or production, delivery or performance schedules or any suspension of work requested by the Customer, or any delay in the supply by or on behalf of the Customer of any instructions, data or materials (including "free issue" items) or any inaccuracy, insufficiency or defect in them.
- 4.3 Customers are reminded that the Company's purchasing may be placed in United States Dollars. The Company makes arrangements to protect itself from exchange fluctuations but reserves the right to surcharge any sale value where the exchange rate at date of sale has varied by more than 5% from the exchange rate detailed on the Company's quotation. Exchange rates are taken from HM Revenue and Customs website.

5 Payment

- 5.1 All amounts due to the Company, unless otherwise agreed in writing, shall be payable not later than 21 days from the month end without any discount, set-off or other deduction whatsoever.
- 5.2 In addition to any other rights of the Company, if the invoice is not paid in full when due (i) interest shall be payable on any overdue amount from the date on which payment was due to that in which it is made (whether before or after judgement) on a daily basis at the rate of three (3) per cent over the LIBOR, compounded monthly, (ii) all other invoices, whether or not they are due for payment, shall become immediately due and payable and (iii) the Company reserves the right to apply amounts received first in settlement of any interest on overdue debts then on debts due beginning with the oldest. The Customer shall also pay all legal and other costs incurred by the Company in recovering any amounts owing from the Customer and any Goods in which title has been retained by the Company and such costs shall be due for payment immediately on invoice.
- 5.3 The Company shall have the right at its discretion and without being required to give any reason, notwithstanding any agreement or arrangement with the Customer or any contract which the Customer may have with a third party, without liability to the Customer, at any time, to exercise any one or more of the following rights, namely (i) withdraw or limit the amount of any credit granted to the Customer, (ii) to require the price of any Goods to be paid in a manner satisfactory to the Company and (iii) to refrain from delivering the goods until the price has been so paid.

6 Goods being Printed Circuit Board Assemblies (including Printed Circuit Boards without components)

- 6.1 Any bespoke/custom parts purchased by the Company are on a NCNR (Non Cancel/Non Return) basis. Full explanation on request.
- 6.2 Surplus Components may be charged (at cost) to the Customer 3 months after date of last delivery.
- 6.3 Alternative components proposed by the Company are considered as acceptable unless specifically disapproved by the Customer in writing.
- 6.4 At the Company's discretion it may increase or decrease any order quantity by 2% of the order quantity and regard the order as complete.
- 6.5 The Customer is responsible for the quality, integrity and scheduling of any materials they supply.
- 6.5.1 The Customer is responsible for managing the manufacturer or supplier of any such materials.
- 6.5.2 Customer supplied materials must be supplied in a suitable format for automated manufacture eg in tubes or taped & reeled. Materials must be at the Company's premises at least 10 working days prior to confirmed build start date unless otherwise agreed in writing.
- 6.6 The Customer is responsible for providing all data to the latest level including schematics, Bill of Materials, CAD data etc for the product.
- 6.6.1 The revision number for the product will be shown on the Company's quotation.
- 6.7 The Customer will be responsible for requesting any test or special procedure such as Flying probe, ICT, Functional, ESS, Conformal coating, X-Ray and Program IC etc.
- 6.8 The Company will be responsible for maintaining all test fixtures but may pass the cost of any such maintenance to the Customer.
- 6.9 If the Company provides functional test then for any Goods failing test and provided the Company has made all reasonable efforts to eliminate faults arising from assembly then the Company will deliver and charge for the Goods as if fully functional.
- 6.10 It is the duty of the Customer to ensure compliance with the European Directives concerning ROHS (Restriction of use of certain Hazardous Substances).
- 6.11 It is the duty of the Customer to ensure compliance with the European Directives concerning WEEE (Waste from Electrical and Electronic Equipment).



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Contract Electronics Manufacture



Sales Terms & Conditions, page 2

7 Warranty

- 7.1 The Company endeavours to secure high standards of materials and workmanship and accordingly will, at its own expense, within a reasonable period, make good by replacing at the original point of delivery or, in its discretion, repairing, or, at its option, allowing credit for the invoice value of any Goods in which any defect of materials and workmanship is shown to have existed at the time of despatch by the Company provided that the Customer has given the Company written notice of the defect immediately upon its becoming apparent and in any event within 12 months from receipt of the Goods.
- 7.2 If the Customer makes any changes or reworks to the Goods without written permission from the Company then the warranty is no longer valid.
- 7.3 Except as expressly provided in these conditions the Company accepts no liability, express or implied, for any life or wear of any Goods or their quality or suitability for any particular purpose or use under specific conditions (whether or not known to the Company) and it is the sole responsibility of the Customer to ensure that the Goods will meet its requirements.
- 7.4 The Company shall only have liability for defects arising from incorrect assembly or test against an agreed build and will carry no liability for any Goods which have been improperly installed, used, maintained, serviced, adjusted or stored or have suffered any excessive wear, overloading or accident;
- 7.4.1 any proprietary parts or fittings and if any item which is not of the Company's manufacture is alleged to be defective, the Company's liability shall be limited to assigning to the Customer (so far as it is able to do so) any warranty given by the manufacturer of that item;
- 7.4.2 any Goods who's serial number or other identification mark or plate has been removed, defaced or tampered with;
- 7.4.3 any Goods supplied or serviced as used or reconditioned goods except as expressly agreed in writing by the Company;
- 7.4.4 any costs (including labour) of removing any Goods forming the subject of any claim which has been accepted by the Company or the refitting of any repaired or replacement items or the transportation to the Customer of any replacement parts;
- 7.4.5 any discrepancy which results from any design, specification, advice, information, details or materials (including "free-issue" items) supplied by or on behalf of the Customer;
- 7.4.6 any defect in any replacement Goods or re-performed services which appears after the warranty period applicable to the original Goods has expired; or any consumable parts or items.

8 Delivery, Risk and Performance

- 8.1 Unless otherwise agreed in writing by the Company Goods shall be delivered and the risk in them shall pass to the Customer when they are made available to the Customer at the Company's works or other delivery point agreed in writing by the Company.
- 8.2 The Company will make reasonable efforts to meet any dates or times of delivery, performance or availability requested by the Customer and at its discretion, where it identifies any inability or failure to satisfy such a request, to inform the Customer accordingly but the Company shall not be liable for any loss, damage or expense arising from any delay or failure in delivery or performance from any cause whatsoever nor shall any such delay or failure entitle the Customer to refuse to accept any delivery or repudiate any Contract.
- 8.3 If the Customer fails to take delivery of any Goods when tendered or to provide adequate delivery instructions or to collect them when notified they are ready for collection the Company, at its discretion, may exercise any or all of the following rights, namely (i) to store the Goods at the risk of the Customer, (ii) to require the Customer to pay all storage, transportation, handling or other charges (including expenses in connection with the delay or detention of vehicles) incurred by the Company as a result of such failure and (iii) to require the Customer to pay for the Goods as though delivery had taken place.
- 8.4 The Company may deliver the Goods by instalments each of which shall be deemed to be the subject of a separate Contract and, unless otherwise agreed in writing, no failure by the Company in any one or more instalments shall entitle the Customer to repudiate any Contract for Goods previously delivered or to refuse to accept any undelivered Goods.

9 Title

- 9.1 Risk of loss or damage to any of the Products will pass to the Customer upon delivery.
- 9.2 Despite delivery and the passing of risk in the Goods, ownership of the Goods shall not pass to the Customer until the Company has received in cash or cleared funds payment in full for the Goods and/or all other Goods agreed to be sold by the Company to the Customer under this and any other agreement.
- 9.3 Until title passes:
- 9.3.1 The Customer shall hold the Goods as Bailee for the Company and ensure that they are at all times clearly identified as the property of the Company;
- 9.3.2 The Company shall be entitled at any time on demand to: repossess and sell all or any of the Goods and thereby terminate (without any liability to the Customer) the Customer's right to use or sell them; and enter any premises where the Goods are located for the purpose of inspecting or repossessing them.
- 9.4 The Company shall, without prejudice to any other remedy, be entitled to maintain an action for the price of the Goods although title in them has not passed to the Customer.
- 9.5 The Company transfers to the Customer only such title and rights of use as the Company has in any Goods and in the case of material provided by any third party shall transfer only such title and rights as that party had and has transferred to the Company. In particular the supply of any Goods does not imply freedom from patent or other third party intellectual property rights relating to the Goods or their use in particular applications.

10 Missing, Lost or Damaged Goods etc.

- 10.1 If on delivery of Goods to the Customer any are missing, lost or damaged the Company will at its own expense make good the discrepancy within a reasonable period by replacing the Goods concerned at the original point of delivery or in its discretion, their repair, or, at its option, allowing credit for their invoice value.
- 10.2 The Company shall have no obligation or liability beyond that noted in clause 7.1 in respect of any such discrepancy and in any event not unless the Customer has given written notice of the claim:
- 10.2.1 In the case of missing or damaged Goods to the Company (otherwise than on the carrier's documents) within 3 working days of receipt, and to the carrier in accordance with the carrier's claims procedure;
- 10.2.2 In the case of loss of a whole consignment, to the Company within 7 days from the date of the invoice; or
- 10.2.3 In the case of any damage which could not reasonably be detected on inspection immediately on the discrepancy becoming apparent and in any event within 1 month from the date of the invoice.

11 Claims

- 11.1 The Company shall have no liability in respect of any claim by the Customer under these conditions unless:
- 11.1.1 The Customer has afforded the Company reasonable opportunity and facilities for the investigation of any claim and the making good of any discrepancy and complied with any request by the Company for evidence or reports relating to any defect, and, if the Company so requests, the collection or return of any Goods (but no Goods may be returned without the Company's prior written authorisation); and
- 11.1.2 The opportunity for the Company to investigate any claim is given (in the case of any discrepancy which is reasonably apparent on inspection) within not less than three (3) days from the date on which notice of the claim is given and in any event before the Goods are used or re-sold.
- 11.2 Where a claim is accepted, any replaced items shall belong to the Company and may be disposed of only in accordance with the Company's instructions.

12 Extent of Liability

- 12.1 Except to the extent stated in these conditions or otherwise agreed in writing by it:
- 12.1.1 the Company shall have no obligation, duty or liability in Contract, tort (including negligence or breach of statutory duty) or otherwise howsoever under or in



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Contract Electronics Manufacture



Sales Terms & Conditions, page 3

- connection with any Goods other than for death or personal injury resulting from its negligence or for fraud on the part of any of its employees whilst acting in the course of their employment; and
- 12.1.2 in particular, the Company shall have no liability for any indirect or consequential loss or damage suffered by the Customer under or in connection with any Goods, including but not limited to wasted time or expenditure, loss of profits, production, business revenue, expected savings or goodwill or any claim against the Customer by any person.
- 12.2 The Company's liability in connection with the Goods shall in no circumstances exceed their invoice price.
- 12.3 The Company shall be discharged of all liability to which these conditions apply unless proceedings are begun within twelve months after the Customer became aware (or should reasonably have become aware) of the facts giving rise to such liability.
- 13 Termination or Suspension**
- 13.1 If the Customer fails to make any payment when and as due or otherwise defaults in any of its obligations under the Contract or any other agreement with the Company, is unable to pay its debts in the ordinary course of its business, has a receiver, manager, administrator, administrative receiver or trustee in bankruptcy (as the case may be) appointed for all or any part of its undertaking, assets or income, has a resolution passed or a petition presented to any court for its winding up (compulsorily or voluntarily), enters into any composition or arrangement with its creditors (whether formal or informal), has any distraint or execution levied on any of its assets, suffers any action similar to any of the foregoing in any jurisdiction or ceases to trade or the Company bona fide believes that any of the foregoing matters may occur, then, in any such event, the Company shall, without prejudice to any other remedy, be entitled at its discretion, without liability to the Customer, by giving the Customer written notice at any time or times, to suspend its performance of or (whether or not such performance has previously been suspended) terminate such Contract.
- 14 Force Majeure**
- 14.1 The Company shall not be liable for any delay or other failure to perform the whole or any part of any Contract resulting from any cause whatsoever beyond the Company's control existing at the date of the Contract or arising thereafter including but not limited to fire, explosion, breakdown or failure of plant or machinery, lack or failure of transportation facilities, or the supply of labour, materials or power, strike, lockout or labour dispute (whether or not at the Company's works), illness, epidemic, flood, drought, war, civil commotion, or restriction of any authority or governmental agency and the time for performance shall be extended by the period of any such delay.
- 15 General**
- 15.1 The Company operates a continuous programme for the development and improvement of its goods and services and reserves the right to alter their specifications at any time without notice and to deliver Goods conforming to the altered specification in fulfilment of any Contract. No Contract shall constitute a sale by sample notwithstanding that any products may have been exhibited to or inspected by the Customer.
- 15.2 The Company may at its discretion sub-contract all or any of its obligations under the Contract but the Contract shall not be assigned by the Customer without the Company's prior written consent.
- 15.3 The Company shall have no liability for any advice, opinion or information furnished by the Company or its personnel.
- 15.4 The Company shall have a lien on any goods (including materials supplied by the Customer on which the Company has carried out or is to carry out work) in the Company's possession for all sums due at any time from the Customer on any account shall be entitled to keep possession of or at its option sell or dispose of the same as agent for and at the expense of the Customer and apply any proceeds in and towards the payment of such sums on twenty eight (28) day written notice to the Customer.
- 15.5 The Customer shall be responsible for and shall indemnify and hold harmless the Company against any and all claims, proceedings, costs, damages, liabilities and expenses incurred or suffered by the Company arising from any instructions, data, drawings, specifications, tooling, equipment, materials (including "free-issue" items), services or other items supplied by or on behalf of the Customer to the Company or from any failure to supply the same or any inaccuracy, insufficiency or default in them or from any infringement or alleged infringement of the rights of any third party resulting from the Company's use of any of the foregoing items.
- 15.6 The acceptance of cancellation of any Contract requested by the Customer shall be at the Company's discretion and take effect only when written confirmation of such acceptance has been given by the Company.
- 16 Confidentiality**
- 16.1 The contract and the subject matter thereof shall be treated as confidential between the parties and shall not be disclosed or publicised to any third parties for any reason whatsoever without the Company's written consent.
- 17 Law, Jurisdiction and Construction**
- 17.1 The Contract shall be governed by English law and the parties consent to the exclusive jurisdiction of the English courts in all matters relating to the Contract except to the extent the Company invokes the jurisdiction of the courts of any other country.
- 17.2 The headings of conditions are for convenience of reference only and shall not affect their interpretation.
- 18 Notices**
- 18.1 Any notice to be given to either party shall be in writing and if sent by telecopy or electronic mail or forwarded by prepaid first class (or in the case of customers outside UK) airmail letter post to the receiving party at its business address as last notified in writing to the other party shall be deemed to have been given on the date of the telecopy or electronic mail transmission (if a copy is sent the same day by post as aforesaid) or 2 working days (or 7 working days in the case of customers outside the United Kingdom) following the date of posting.