

Melexis standard terms and conditions for sale and delivery of products and services

- A. The term "Melexis" as used herein shall mean Melexis NV or the affiliate of Melexis NV named as the seller in the order acknowledgement to which Customer's order pertains. The term "Customer" shall mean the third party placing a purchase order or otherwise desiring to purchase products or services from Melexis.
- B. Subject to the provisions hereof, all quotes submitted by Melexis are firm for thirty (30) days from the date of the quotation unless indicated differently on the face of the quotation. Alterations or changes of quotations after thirty (30) days may be made at the sole discretion of Melexis without notice.
- C. No contractual relationship between Melexis and Customer shall arise until such time as Melexis has accepted Customer's purchase order through an order acknowledgement.

1. Object

- 1.1. The terms and conditions for sale and delivery of goods and services contained herein shall apply to all Melexis' quotations, any and all purchase orders placed by Customer with Melexis that have been accepted in writing by Melexis and any order acknowledgement from Melexis with regard to the sale of both Application Specific Integrated Circuits (ASICs), Application Specific Standard Products (ASSPs) and/or other goods as well as related services (these documents, including these terms and conditions, referred to hereafter as the "Agreement").
- 1.2. Acceptance by Melexis of Customer's purchase order or any other documents of Customer is made only on the express understanding and condition that only the terms and conditions contained herein shall govern and establish any rights and obligations of the parties with respect to the goods and services covered thereby. Melexis' failure to object to provisions contained in any document or communication from Customer shall not be deemed a waiver of the application of the terms and conditions contained herein. Without limiting the generality of the foregoing, any terms or conditions set forth on any documents or forms utilized by Customer and any communications (written or oral) between the parties that are inconsistent with, or are not included within, the terms and conditions contained herein shall be of no force or effect unless signed by an authorized officer of each party.
- 1.3. Any changes from the Agreement must be specifically agreed to in writing by an authorized officer of Melexis before becoming binding on Melexis.
- 1.4. By entering into the Agreement, Customer expressly confirms that it is not a consumer.

2. Prices and payment terms

- 2.1. Prices are ex works (EXW, Incoterms 2000), excluding VAT and any other taxes and/or duties.
- 2.2. Payment shall be due thirty (30) days from the date of Melexis' invoice. Payment shall be made in full, without any set-off or deduction whatsoever.
- 2.3. All payments shall be in EUR unless otherwise agreed in writing.
- 2.4. Interest will automatically and without any notice of default accrue on overdue invoices from the due date until payment at the rate of 8 percentage points above the «marginal lending facility» interest rate of the European Central Bank per annum., increased with a fixed indemnity of fifteen percent (15%) of the total past-due invoice amount to cover

administrative costs, as well as with litigation costs and attorney's fees, if any.

- 2.5. Melexis reserves the right to carry out a credit check against Customer prior to acceptance by Melexis of any purchase order and subsequently may request from Customer prepayment or a bank guarantee in a form to be approved by Melexis and issued by a bank acceptable to it in an amount not exceeding the total price of the purchase order. If Customer fails to make payment for goods or services as herein provided, or if, in Melexis' opinion, a change in Customer's financial condition or other circumstances has created reasonable concerns as to Customer's credit worthiness, Melexis may at any time request (additional) guarantees or may demand prepayment before delivery of any part of the goods or services.

3. Title and delivery

- 3.1. The goods shall be delivered ex works Melexis' premises (EXW INCO-terms 2000).
- 3.2. Title in the goods shall not pass to Customer until Melexis has received in full all amounts owed by Customer with respect to such goods and any related services under the Agreement or any other agreement. As long as the title in the goods has not passed to Customer, it shall not be entitled to put the goods under pledge or liens or to encumber them or dispose of them in any way.
- 3.3. For as long as payment is overdue for all or part of a certain shipment, Customer shall, if requested by Melexis, return the shipment to Melexis. If Customer refuses to return the shipment when so requested, (i) Melexis shall be entitled at any time to recover possession of the shipment from Customer, and (ii) Melexis or its duly authorized agent is hereby irrevocably authorized by Customer to enter into the premises of Customer during normal business hours to take possession of this shipment.

4. Delivery schedule

- 4.1. Customer acknowledges that any delivery schedule provided by Melexis is only an estimation of the lead times. Melexis will use commercially reasonable efforts to initiate shipment and schedule delivery as close as possible to Customer's requested delivery schedule but shall not be liable to Customer for failure to meet any delivery schedule or for the costs to procure or design substitute goods.
- 4.2. Any delay or change in schedules resulting from Customer's acts or negligence may be subject to a price adjustment. If a delivery is delayed at Customer's request by more than one month after ready for shipment notification, Melexis may charge demurrage costs in the amount of 0,5% of the purchase price of the order for each started month of delay up to a maximum of 5% of the total purchase price. If Customer fails to pick up the goods within two (2) months after notification, Melexis will be free to sell the goods to other customers without any indemnity.
- 4.3. Melexis reserves the right to make deliveries in installments. Delivery of a quantity that varies from the quantity specified in Customer's order shall not relieve Customer of its obligation to accept delivery and pay for the goods delivered. Customer shall not refuse to accept delivery or any consignment or installment on account of any shortage or defect in any other delivery.

5. Inspection

- 5.1. Customer shall notify Melexis promptly in writing upon receipt of goods of all discoverable defects, including, but not limited to, quantity shortages, incorrect product, and

visible defects, but no later than thirty (30) days from delivery date.

- 5.2. Any variation in quantities shipped over or under the quantities ordered not to exceed 20% shall constitute compliance with Customer's order and the stated unit price will continue to apply.
- 5.3. No return of goods will be accepted by Melexis without Melexis' prior authorization. Returned goods must be in original manufacturer's shipping cartons complete with all packing materials.
- 5.4. In the event that Customer fails to inspect the goods or does not present a rejection notice to Melexis in writing within thirty (30) days of delivery date, the goods shall be deemed accepted. At that time, Customer's only recourse or remedy for non-conforming or defective goods shall be Melexis' standard warranty as provided for in clause 7.

6. Specifications

- 6.1. Melexis reserves the right to change the specifications of ASSPs (including all statements and data appearing in Melexis' catalogs, data sheets and advertisements) without notice. Melexis will publish the modified specifications on its website and will notify Customer if it properly subscribed on Melexis' website to receive this information. If such changes to specifications are made, Melexis shall have no obligation to provide the change on goods previously purchased.
- 6.2. Any changes to the specifications of ASICs will be proposed by Melexis in accordance with Process Change Notice (PCN) provisions. In the event that Customer fails to reply to any Process Change Intent Notification (PCIN) to Melexis in writing within thirty (30) days of submitting such proposal, the change shall be deemed accepted.

7. Warranty

- 7.1. Melexis warrants to Customer that:
 - (a) goods delivered hereunder will at time of delivery conform to the specifications agreed upon between parties and the quality levels specified in the applicable quality agreement between the parties, if any, for a period of twelve (12) months from date of shipment to Customer;
 - (b) title to the goods will be free and clear of third party industrial property rights in the country of shipment and without liens to the extent used in accordance with the specifications.
- 7.2. Melexis gives no warranty or guarantee whatsoever with respect to sales or orders through unauthorized sales channels. Goods sold under such sales or purchase orders are provided "as is" and with all visible and hidden defects.
- 7.3. Melexis sole and maximum liability for breach of its warranties herein for defective goods or failure to meet the applicable specifications or quality levels is limited to the obligation, at Melexis' sole discretion, to either repair or replace the defective goods or credit Customer's account with the purchase price of the goods concerned, provided that:
 - (a) Melexis is notified in writing by Customer within five (5) business days after discovery of hidden defects or failure to meet the specifications or quality levels;
 - (b) Customer obtains an authorization from Melexis prior to returning any defective goods to Melexis in accordance with clause 5.3;
 - (c) the defective goods are returned to Melexis, transportation charges prepaid by Customer (if upon examination by Melexis, it determines that the goods are entitled to this warranty, Melexis

shall be responsible for all transportation charges to and from Melexis' facility);

- (d) the defective goods are received by Melexis no later than four (4) weeks following the last day of the warranty period;
- (e) Melexis' examination of such goods shall conclude that such defects or failures have not been caused by misuse, abuse, neglect, improper installation or application, repair, alteration, damage by water, fire, casualty or by accident or negligence in use, storage, transportation or handling, or by non-compatibility with other components used by Customer; or by power surges or failures, or other events beyond Melexis' control; and
- (f) Customer did not request a third party to repair or replace the defective or non-conforming goods without Melexis' authorization.

- 7.4. In the event that any of the conditions mentioned in clause 7.3 is not met, Melexis shall have no liability under this warranty whatsoever.
- 7.5. Melexis' obligation to honour this warranty is contingent upon Melexis' receipt of payment in full for the goods covered by this warranty.
- 7.6. Disclaimer of warranties: All warranties and representations, and implied warranties for hidden defects, merchantability or fitness for a particular purpose, whether oral or in writing and whether express or implied either by operation of law, statute or otherwise, other than those set forth in this Agreement, are excluded to the maximum extent permitted by law.
- 7.7. The provisions of this clause 7 are Melexis' only liability and Customer's exclusive remedy for any claim, whether arising in tort, contract or for breach of warranty.

8. Intellectual property rights

- 8.1. Goods sold hereunder are or will be protected by intellectual property rights of Melexis anywhere in the world, including, but not limited to, rights under issued and pending patents, issued and pending model and design rights, copyright rights, issued and pending trademark rights, database rights, rights on semi-conductors and know-how rights. Nothing in this Agreement is intended to confer on Customer or third parties any rights or interests therein.
- 8.2. In case of an ASIC and upon full payment of all charges in accordance with clause 2, Customer shall have a limited, non-transferable, exclusive license for a period of eighteen (18) months as from date of purchase order to use the goods sold hereunder solely for the applications set forth in the purchase order. Such license to use the ASICs shall exclude any non-mandatory rights which may be conferred to Customer by law, such as, but not limited to, the right to disassemble or reverse engineer the goods. No implied licenses to use the ASICs in any other manner shall flow from this Agreement.
- 8.3. Further, Customer and third parties will acquire hereby no rights or interests or licenses in any:
 - (a) drawings, specifications, technical information, moulds, masks, tools, know-how used by Melexis;
 - (b) building blocks or custom cells used or designed by Melexis to develop the goods;
 - (c) business processes used by Melexis to design, develop, manufacture or test the goods.
- 8.4. Customer agrees and acknowledges that any intellectual property rights to an improvement in or modification to drawings, specifications, technical information, tools, know-how used by Melexis shall be irrevocably transferred to and become the sole property of Melexis, regardless of whether any such improvement or modification was developed by or made on specific request of Customer.

8.5. Customer further agrees to use and respect all appropriate copyright and proprietary notices and markings on all goods delivered hereunder regardless of their intended use, and shall ensure that such notices and markings remain apposed upon delivery.

9. Infringement on intellectual property rights

9.1. Melexis shall defend any legal proceeding brought against Customer insofar as such legal proceeding is based on a claim that any goods shipped by Melexis infringe any patent(s), copyright(s) or trademark(s) in the country of the place of delivery, if Melexis is notified promptly in writing of the existence of such suit or proceeding or the risk of such suit or proceeding being initiated and is given full and complete authority, information and assistance by Customer for such defense.

9.2. In the event that such goods are held in such suit or proceeding to be infringing and their use is enjoined, Melexis will use its reasonable efforts, at its option and at its expense, to either:

- (a) procure for Customer the right to continue using such goods;
- (b) modify such goods so that they become non-infringing;
- (c) replace such goods with non-infringing goods; or
- (d) accept the return of such goods, granting Customer a refund or credit equal to the depreciated value thereof.

9.3. Any provision herein to the contrary notwithstanding, Melexis shall have no obligation to Customer and Customer shall indemnify and hold Melexis harmless against any claim arising from any infringement, misappropriation or misuse claimed by any third party or parties if any such claim arises out of

- (a) a modification of the goods not introduced or approved by Melexis; or
- (b) the interconnection or use of the goods in combination with goods or other devices or with a manufacturing, assembly or other process; or
- (c) the use of the goods in other than an application recommended by Melexis or
- (d) compliance with Customer's design, specifications and/or instructions.

9.4. Melexis shall notify Customer promptly in writing of a proceeding provided for in clause 9.3 and give Customer full and complete authority, information and assistance for such defense. Customer shall pay all damages and costs finally awarded against Melexis in any such suit or proceeding, but Customer shall not be responsible for any settlement in this respect made by Melexis without the written consent of Customer (which consent shall not be unreasonably withheld or unduly delayed).

9.5. The foregoing clauses state the sole and exclusive liability of the parties in respect on infringement of intellectual property rights.

10. Confidentiality

10.1. For the purpose of this Agreement, Confidential Information shall mean: all information (in whatever format) which: (i) relates to the Agreement; (ii) is designated as confidential by either party; or (iii) relates to the business, affairs, networks, customers, products, developments, trade secrets, know-how and personnel of either party (including customer data) and which may reasonably be regarded as confidential information of the disclosing party.

10.2. Subject to clause 10.3, each of Melexis and the Customer shall:

- (a) only use Confidential Information of the other party for the purposes of this Agreement;
- (b) only disclose Confidential Information of the other party to a third party with the prior written consent of the other party (except that Melexis may disclose Confidential Information of Customer to Melexis affiliates or to its employees, agents or contractors, including professional advisors or auditors, and Customer may disclose Confidential Information of Melexis to Customer affiliates for the purposes of this Agreement); and
- (c) ensure that any third party to whom Confidential Information of the other party is disclosed executes a confidentiality undertaking substantially similar to the terms of this clause 10.

10.3. The provisions of clause 10.2 shall not apply to any Confidential Information which: (i) is or comes into the public domain other than by breach of this clause 10; or (ii) is or has been independently generated by the recipient party; or (iii) is properly disclosed pursuant to a separate written consent or a statutory obligation, the order of a court of competent jurisdiction or the requirement of a competent regulatory body.

11. Force majeure

11.1. Melexis shall not be liable for delay in performance or failure to perform in whole or in part the terms of this Agreement due to causes beyond the reasonable control of Melexis, including, without limitation, strike, labor disputes (whether or not in relation to one of the parties workforce), shortages of material, war, acts of terrorism, riot or civil commotion, acts of the public enemy, insurrection, sabotage, or fire, flood or other acts of God.

11.2. The period for performance for the party affected by such a cause shall be extended by the duration of the condition, provided, however, if any such delay shall continue for more than three consecutive (3) months, each party may terminate this Agreement or any purchase order in accordance with clause 16.3 without liability.

12. Assignment and subcontracting

12.1. Neither party may assign, charge, transfer or otherwise dispose of this Agreement or any rights or obligations therein in whole or in part, without the written consent of the other party (which consent shall not be unreasonably withheld or unduly delayed).

12.2. Notwithstanding clause 12.1, Melexis may assign any and all of its rights and obligations hereunder upon notification to (i) any Melexis affiliated company; (ii) a third party pursuant to any sale or transfer of all or part of the assets or business of Melexis; or (iii) a third party pursuant to any financing, merger, or reorganisation of Melexis.

12.3. Melexis may subcontract any part of the work or services to be provided under the Agreement.

13. Export control

13.1. Customer acknowledges that Melexis will provide Customer with technical data/technology, services, and/or, products, in finished or unfinished state that may be subject to U.S. export controls under the laws and regulations of the United States (collectively "Export Controlled Technology" or "ECT"). U.S. export control laws and regulations include, but are not limited to, the International Traffic in Arms Regulations ("ITAR"), 22 C.F.R. §§ 120 et seq., and/or the Export Administration Regulations, 15 C.F.R. §§ 730 et seq. Customer warrants and agrees that it shall not export any ECT, except pursuant to a U.S. government license or other

- approval, or upon determination that such export may be lawfully exported without prior approval under a license exception, exemption, or other authority.
- 13.3. Customer will be fully responsible to apply for export licenses in order [for Melexis?] to ship ECT to Customer, and Melexis may assist Customer in order to obtain such license.
- 13.4. In compliance with U.S. regulations regarding Technology and Software under Restriction ("TSR"), Customer hereby agrees that, without express approval of Melexis (pursuant to issuance of an export license from the Bureau of Industry and Security), Customer will not re-export or release any technology related to the goods provided by Melexis to Customer to a national of a country specified in Country Groups D:1 or E:2 as set forth in 15 C.F.R. Part 740, Supplement No. 1 and as amended.
- 13.5. Melexis shall have no responsibility for delayed delivery or non-delivery resulting from (i) any governmental action under U.S. or other applicable law suspending or revoking a necessary export license or authorization, or (ii) any failure by Customer to furnish reasonable assurance, upon request, of its compliance with applicable export requirements, or (iii) obtaining a necessary export license for the goods to be shipped hereunder.

14. Use of goods in life support, nuclear and certain other applications

- 14.1. Goods sold by Melexis are not designed, intended or authorized for use in life support, life sustaining, nuclear, or other applications, including, but not limited to, public transportation operating systems, in which the failure of such goods could reasonably be expected to result in personal injury, loss of life or severe property or environmental damage.
- 14.2. Customer acknowledges that use of Melexis' goods in such product applications is understood to be fully at the risk of Customer and that Customer is responsible for verification and validation of the suitability of Melexis' goods in such applications. Customer agrees that Melexis is not and shall not be not liable, in whole or in part, for any claim or damage arising from use in such applications. Customer agrees to indemnify, defend and hold Melexis harmless from and against any and all claims, damages, losses, costs, expenses and liabilities arising out of or in connection with such use.

15. Limitation of liability

- 15.1. Subject to clause 15.3 but otherwise notwithstanding anything else in this Agreement, Melexis' total liability in contract, tort, strict liability or otherwise arising in connection with the Agreement, shall be limited to the amounts paid by Customer for the goods giving rise to such claims in any six months period preceding the event with a maximum of one (1) million EUR.
- 15.2. Subject to clause 15.3 but otherwise notwithstanding anything else in this Agreement, Melexis shall in no event be liable to Customer for indirect, incidental, collateral, special, punitive, or consequential damages or losses such as but not limited to line stop, recalls, harm to business or business reputation, loss of revenues, loss of anticipated savings or lost profits, whether or not foreseeable and whether arising in contract (including warranty), tort (including active, passive or imputed negligence), strict liability or otherwise
- 15.3. Nothing in this Agreement shall serve to limit either party's liability in respect of (i) death or personal injury caused by or arising from its gross negligence or (ii) willful misconduct.
- 15.4. Notwithstanding anything else in this Agreement, Melexis shall not be liable for and Customer agrees to indemnify and

- 15.5. hold Melexis harmless from all liability for any and all damages arising from or in connection with the use of goods by Customer, its employees, customers and others. Notwithstanding anything else in this Agreement, Melexis shall not be liable for and Customer agrees to indemnify and hold Melexis harmless from any claims based on Melexis' compliance with Customer's designs, specifications or instructions or modification of any goods by parties other than Melexis, misuse of the goods by Customer or use in combination with other products.

16. Term and termination

- 16.1. The Agreement shall take effect from the date the first purchase order is accepted by Melexis, or the date Customer first takes receipt of the goods, whichever of these is earlier, and shall continue in force unless and until terminated in accordance with this clause 16.
- 16.2. If the Agreement relates to a one time, non-recurrent delivery of products or services, the Agreement will automatically be terminated after the products or services concerned have been delivered, accepted and paid for in full. Except if agreed differently between the parties, if the Agreement relates to a recurrent delivery of products or services, the Agreement only terminates after all products and services concerned have been delivered, accepted and paid for in full
- 16.3. Either Melexis or Customer may terminate this Agreement or any purchase order immediately upon notice in writing:
- (a) if the other has a receiver or an administrative receiver appointed over it or over any part of its undertaking or assets or passes a resolution for winding up or a court of competent jurisdiction makes an order to that effect or if the other enters into any voluntary arrangement with its creditors or ceases or threatens to cease to carry on business, or undergoes or is subject to any analogous acts or proceedings under any foreign law; or
- (b) in the event of a force majeure event as provided for in clause 12.1, which has application to all goods or services and which subsists for a period exceeding three (3) consecutive months.
- 16.4. Melexis may terminate this Agreement or the relevant purchase order without further obligation or liability of Melexis on five (5) business days' notice if Customer fails to:
- (a) make any payment, when due, in accordance with the terms of this Agreement.
- (b) comply with any request made by Melexis under clause 2.5.
- 16.5. Clauses 1, 6.1., 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19 and 20 of these terms and conditions will survive the termination or expiration of the Agreement.

17. Cancellations

- 17.1. No cancellations of orders by Customer will be accepted within thirty (30) days of the earliest requested ship date.
- 17.2. All cancellations of orders by Customer between thirty-one (31) and ninety (90) days prior to the earliest requested ship date shall result in a cancellation charge to be reasonably determined by Melexis based on such factors as whether the product was manufactured specifically for Customer, Melexis' ability to change its production schedule within the period of the notice provided by Customer and whether Melexis acquired or allocated particular supplies or equipment to meet Customer's order, with a minimum of:
- (a) Fifty (50)% of the total price set forth in the order acknowledgement that is being cancelled if cancellation is received between thirty-one (31)

- and sixty (60) days prior to the earliest requested ship date;
- (b) twenty five (25)% of the total price set forth in the order acknowledgement that is being cancelled if cancellation is received between sixty-one (61) and ninety (90) days prior to the earliest requested ship date.

18. Applicable law and jurisdiction

- 18.1. This Agreement shall be governed by the laws of the country in which the Melexis selling entity specified in the order acknowledgement is registered, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.
- 18.2. The sole court that has jurisdiction for any legal actions related to this Agreement shall be the commercial court competent for the registered address of the Melexis selling entity specified in the order acknowledgement. However Melexis, at its option, also has the possibility to summon Customer before the commercial courts competent for the location of the registered address of Customer.

19. Notices

- 19.1. Any notice to be given under this Agreement shall be in writing and may be hand-delivered (including delivery by courier) or sent by fax transmission to the receiving party's address indicated on the order acknowledgment of Melexis, or such other address or number as may be notified by that party from time to time for this purpose.
- 19.2. Unless the contrary shall be proved, notice shall be deemed to have been given, if by hand delivery (including courier) during working hours on a working day, when left at the relevant address, and otherwise on the next working day after delivery, and if by fax during working hours on a working day, when transmitted, and otherwise on the next working day after transmission.

20. Miscellaneous

- 20.1. **Severability.** If any provision of the Agreement, including any limitation of warranty or liability, is held by a court or any governmental agency or authority to be invalid, void or unenforceable, the remainder of this Agreement shall nevertheless remain legal, valid, and enforceable.
- 20.2. **No Waiver.** Failure or delay by either party to exercise or enforce any right conferred by this Agreement, including Melexis' right to deliver invoices in accordance with clause 2, shall not be deemed to be a waiver of any such right.
- 20.3. **Relationship.** Nothing in the Agreement and no action taken by the parties pursuant to the Agreement shall constitute or be deemed to constitute between the parties a partnership, agency, association, joint venture or other co-operative entity.
- 20.4. **Variation.** The Agreement shall be modified only by the written agreement of the parties represented by duly authorized officers.
- 20.5. **Entire Agreement.** The Agreement sets out the entire and exclusive agreement between Melexis and Customer and, as the case may be, supersedes all prior proposals, representations, agreements or understandings concerning the subject matter addressed herein.
- 20.6. **Translations.** The Agreement is entered into in the English language. If the parties would make a translation thereof in another language, such translation will be for information purposes only and the English version will apply in case of dispute or in case of inconsistency between both versions.