

General Terms and Conditions of Contract

InnoLas Semiconductor GmbH

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As Of: January 2016

1. Binding Effect

Any order placed with us shall be governed exclusively by the terms and conditions set forth below („Terms and Conditions“). No deviations from said Terms and Conditions will be valid and binding, unless the same are expressly confirmed by us in writing.

2. Export Regulations

The obligation to deliver goods or provide services shall cease, if it conflicts with German or other export regulations, e.g. due to the designated purpose of use.

3. Extension of Time

If any modifications or changes, which are affecting the scheduled production time, will be agreed between the parties after conclusion of the contract, then the agreed times for performance of our obligations shall be reasonably extended. Such times shall also be reasonably extended, if any delays occur due to industrial action or due to any unforeseeable hindrances beyond our reasonable control.

4. Setoff and Retention

Any rights of retention and any rights to refuse performance are waived. The parties also waive any right to setoff mutual claims, except in the case that the claims are recognized or have become res judicata.

5. Retention of Title

The delivered goods remain the property of InnoLas Semiconductor GmbH until payment in full of any sums owed to InnoLas Semiconductor GmbH under this contract is received by InnoLas Semiconductor GmbH. The purchaser (hereinafter „the Purchaser“) may not resell the goods subject to said retention of title (hereinafter „the Reserved Goods“), unless he has obtained our express written consent to do so. The parties hereby agree that any claims arising to the Purchaser out of the resale of the Reserved Goods shall be assigned to us with effect of the date hereof as a collateral for our claim in the amount of the invoice value of the Reserved Goods resold. The Purchaser agrees to give notice of said assignment to his debtor, if requested by us to do so. The Purchaser shall not pledge, mortgage or assign the Reserved Goods by way of security, unless and to the extent that we are still the owner of such goods. The Purchaser has to give immediate notice to us, if he sustains any attachment, seizure, levy, arrest, confiscation or other order by third parties that affect our rights in the Reserved Goods. The Purchaser bears any expenses incurred to defend such attachment, seizure, levy, arrest, confiscation or other order by third parties.

6. Performance Specification

The contract of the sale is based upon the specification of services contained in our quotation or, if confirmed by us in writing, upon the specification of services set out in a performance specification.

7. Documentation

The operation and maintenance of our systems will be detailed in our documentation. The instructions contained in said documentation must be strictly adhered to, particularly with regard to any safety installations (if any) for the commissioning and operation of the delivered goods.

8. Default of Acceptance

If the Purchaser fails to take delivery or if he cancels his order in whole or in part then we may in our discretion either claim performance of contract or claim damages for non-performance in an amount of at least thirty percent (30%) of the order value. Furthermore we reserve the right to enforce higher damages, particularly in the case that the non-performance causes damages to us in excess of the aforementioned amount.

9. Warranty

We warrant, that the systems supplied by us meet the contractual specifications in terms of design, material, workmanship and represented characteristics. To the extent that we have agreed to provide additional services besides the delivery, we warrant the performance of such services in accordance with the contract and without any defects (hereinafter „the Warranty“). In the case that our delivery or service shows any defects or fails to have all of the represented characteristics and therefore does not meet the Warranty, then we are at our option obligated and entitled to rectify the defects or replace the defective parts at no cost or, as the case may be, to correct the defective service. Any replaced parts become our property.

- a. No warranty claim shall arise, if the use of our delivery or service is affected by other circumstances. This applies particularly in the case of wear and tear, chemical and mechanical impacts and for the consequences of an improper installation/commissioning performed by you or an improper operation of the delivered goods. Any warranty obligation terminates, if the Purchaser or any third party makes any alterations, changes, modifications to, or repairs the equipment. After commissioning of the delivered items without any objections, any agreed process characteristics of the delivered items are no longer subject of the Warranty. If the commissioning has not been performed within the Warranty Period (as hereinafter defined), then our obligations under the Warranty terminate at the time of the expiry of the Warranty Period with respect to any process engineering characteristics.
- b. Necessary expenses and travel costs incurred by our staff are covered by the Warranty if our delivery is installed in Germany. If our delivery or goods are installed outside Germany any necessary expenses, travel costs and travel time incurred by our staff , as well as any costs of transportation and customs duties for replacement parts are not included in the Warranty and are at the expense of the Purchaser. Consumables such as filters, gas, lamps, protection glasses, focusing lenses and similar items are excluded from the Warranty. Excluded from the warranty are also laser rods.
- c. Our Warranty is limited to a period of twelve (12) months from installation/commissioning of the system, but shall in any case cease fifteen (15) months after the delivery being ready for shipment (the „Warranty Period“). With respect to parts or spare parts delivered to customers under the Warranty, the Warranty Period ends with the expiry of the Warranty Period for the system as a whole. The Warranty for spare parts delivered outside the Warranty Period of the system is limited to six (6) months and applies to the material cost only.
- d. Laser pump diodes are warranted with a pro rata per hour warranty based on 5000 hours expected life time. That means failure earlier than 5000 hours life time will be replaced free of charge to the extent to which the diode modules did not reach the minimum expected 5000h life time. However, any warranty beyond 12 months after system installation or spare part delivery is not granted.
- e. Any claims in excess of the above mentioned Warranty are hereby excluded. In particular, any liabilities for consequential damages or loss of production incurred by the Purchaser or third parties as a result of the use or operation of our products and the service provided therefore are excluded. The exclusion of claims does not apply in the case of damages caused intentionally or by gross negligence on the part of one of our legal representatives or officers. Furthermore, the aforementioned exclusion does not apply in those cases, in which a liability under the product liability act arises for personal injury or damage to personal property.

10. Substituted Performance, Reduction, Rescission

In the case of our default in rectifying any defects you may exercise any right provided by the law of the Federal Republic of Germany (if any) to rectify the defects yourself or have the same rectified by a third party, provided that we have failed to fulfill our obligation within a reasonable period of grace and provided further that you have first noticed us in writing, stating the default, the period of grace and the right you intend to exercise in the case of a futile expiry of said grace period. The same applies for any rights of reduction in purchase price or rescission of contract.

11. Amendments in Writing

No amendment of our supplements to this contract are valid and effective, unless agreed between the parties in writing. This requirement of form can only be waived by a written agreement.

12. Delimitation

Deliveries of goods or provisions of services that are not expressly set forth by name in the contract, are not part of the delivery contract. Any information given and agreements reached prior to the conclusion of this contract are not binding, unless the same are expressly included in the contract in writing. Any modifications that may arise after technical clarification shall be included and calculated in supplementary quotations.

13. Applicable Law, Place of Performance, Jurisdiction

This contract is governed by and shall be construed in accordance with the laws of the Federal Republic of Germany. To the extent permitted by law, the parties hereby submit to the jurisdiction of the courts in Munich, Germany, and agree that the performance of this contract and of any default actions, bills of exchange and/or cheques shall take place in Munich, Germany.