



INTELLIGENT MEMORY LTD, TERMS OF SERVICE

www.intelligentmemory.com

Until March 21, 2024

1. General

1.1 The present General Terms and Conditions apply to all supplies and sales by INTELLIGENT MEMORY, hereinafter referred to as "Seller".

1.2 The Seller exclusively effects supplies on basis of the present General Terms and Conditions. Any other commercial terms and conditions, in particular purchase conditions stipulated by the Buyer, do not become part of any sales contract, even if such conditions are not explicitly excepted.

1.3 Any agreements, including additional covenants and amendments, require to be in writing and explicitly approved by the Seller. The Seller's employees shall not be authorized to make oral agreements or undertakings exceeding the written agreement. If the order confirmation by the Seller is not objected to immediately, within 2 weeks upon receipt at the latest, its contents shall be legally binding.

1.4 The Seller's offers are made on a non-binding basis unless designated as fixed price offers.

1.5 Models, samples, drawings, figures, specifications on types, dimensions, standards, as well as other documents provided to the Buyer in connection with the Seller's offer, as well as data indicated in brochures, are only binding if explicitly approved in writing. Any property rights or copyrights to such documentation shall remain with the Seller.

1.6 The Seller shall be entitled to continuously develop the products. Deviations of delivered products from ordered products are permissible unless they are not reasonable to the Buyer. This particularly applies to product successors.

1.7 The Seller reserves the right to base the contract conclusion on the provision of an advance payment, downpayment or performance bond.

1.8 One the General Terms and Conditions have been accepted by the Buyer, they shall also be applicable for any subsequent transactions as revised from time to time.

2. Pricing and payment conditions

2.1 Prices shall be applicable excluding packaging and transport cost unless otherwise specifically agreed upon. Should the Seller be responsible for dispatch, the conditions agreed upon in the purchase order shall apply on the basis of INCOTERMS 2010.

2.2 Payment shall be due immediately without any deductions; deviation conditions of payment are indicated above.

2.3 The Buyer may offset invoice amounts only against undisputed or legally valid claims. The Buyer shall only be entitled to retain payment partly or in whole due to own counter-claims, if such claims have resulted from the same contractual relationship as the Seller's payment claims.

2.4 In case of delay, payments shall always be used to settle the oldest due debits plus accrued interest for delay. Subject to the verification of higher damage, interest for delay shall be due at a rate of 8 % points above the base rate.

2.5 In case of doubt about the financial standing of the customer, the seller is entitled even after confirmation of order to suspend customers' supply or to predicate it on providing a bank guarantee at any time. To ensure all outstanding accounts concerning the customer, the Seller may demand a bank guarantee of a major European bank, or other safety measures anytime.

2.6 In case of delayed payment, filing for bankruptcy or declaration of bankruptcy, all outstanding accounts will become immediately due.

2.7 All cases referred to in 2.6 may cause advance payments or security deposits concerning all pending deliveries. If there is still no payment after a grace period, the Seller can cancel the contract.

3. Retention of title

3.1 The Seller retains the title to any products delivered until payment of the total claim from the business transaction has been effected. This shall also be applicable if payment is made for particularly identified supplies. In case of payment per cheque or bill, the retention of title only expires when a potential cheque or bill-related liability on part of the Seller has expired. In case of current accounts, the retained title to the products (goods subject to retention of title) shall serve as security for the Seller's balance claim. The Buyer shall treat good subject to retention of title with care.

3.2 If goods subject to retention of title are processed and/or combined or mixed with other goods, the Buyer shall immediately assign any rights of property or co-property to the resulting goods to the Seller; this shall not result in any obligations on part of the Seller. The newly created goods shall be considered as goods subject to retention of title in terms of the present Conditions.

3.3 The Buyer may dispose of goods subject to retention of title in the ordinary course of business. Any other dispositions, particularly pledging and transfer by way of security of goods subject to retention of title shall be prohibited. As soon as upon conclusion of the relevant delivery agreement, the Buyer shall assign to the Seller any claims, including any additional rights to which the Buyer is entitled opposite its clients and which result from sales or otherwise, by way of security up to the amount of open claims on part of the Seller. The Buyer shall be entitled to collect any assigned claims in the ordinary course of business. Upon request, the Buyer shall provide any information and documents required by the Seller for the assertion of rights against its customer.



3.4 If the value of claims assigned by the Buyer by way of security and the value of goods subject to retention of title exceeds the Seller's total claim by more than 20%, the Buyer may request the release or retransfer of excessive securities.

3.5 The Seller's authorization to sell goods subject to retention of title and collect claims which may have arisen shall expire in case of non-compliance with the payment conditions, unauthorized dispositions, and if insolvency proceedings against the Buyer are applied for. In such case the Seller shall be entitled to immediately take possession of the goods subject to retention of title.

3.6 Should third parties take possession of goods subject to retention of title, the Buyer shall inform such third parties of the Seller's property title and notify the Seller immediately.

3.7 If the Seller utilizes its right to retention of title by withdrawal of goods subject to retention of title, the Seller shall be entitled to freely dispose of such goods or have them auctioned. Additional claims for damages, in particular for loss of profit, are reserved by the Seller.

4. Transfer of risk

The transfer of risk terms as defined in INCOTERMS 2010 shall be applicable.

5. Guarantee, liability

5.1 The Seller shall only be liable for defaults which do not only insubstantially adversely affect use of the products as intended by the contract. Explicitly excluded from any liability are wear parts as well as damage resulting from ordinary use or improper installation, use and/or operation, as well as from rework or maintenance work or alterations not explicitly authorized by the Seller.

5.2 Hardware products which are proven to be defective at the time of transfer, and for which the Seller is liable pursuant to Section 5.1, shall be replaced or reworked in the Seller's discretion, if such defects are immediately notified by the Buyer in writing upon detection. Any additional guarantee claims, in particular redhibitory action, reduction in purchase price and damages shall be excluded.

5.3 Liability for direct damage, indirect damage, subsequent damage and third party damage shall be excluded to the legally permissible extent. Liability in case of intent shall be unaffected by this. Liability shall be limited to the purchase price in any case.

5.4 The Seller's warranties are limited to the following terms, calculated by transfer of risk:

Product Category	Warranty Term
NAND Flash Products	3 years or TBW* limit is reached
DRAM Components	3 years
DRAM Modules	3 years

*TBW = Terabyte Written

Any guarantee claims, including those described in Section 5.3, will have expired after this period.

5.5 Guarantee claims against the Seller cannot be assigned and may only be asserted by the Buyer.

5.6 The Buyer loses any guarantee claims upon improper installation, storage or handling, modification or processing of the products delivered unless the Buyer may prove that such installation, storage or handling, modification or processing of the products delivered has not been the root cause for the claimed defect.

5.7 If the Seller has reworked or replaced the products, the liability for such products shall be the same as for the originally delivered products in compliance with the present General Terms and Conditions.

6. General limitation of liability

Unless explicitly stipulated otherwise in the present General Terms and Conditions, claims for damages of any kind, in particular due to damage subsequent to defects or impermissible action, are excluded. This shall also apply to claims against the Seller's employees. Liability for gross negligence, warranted properties, as well as liability pursuant to the product liability act shall remain unaffected.

7. Delivery and Force Majeure

7.1 Delivery dates indicated by the Seller shall be approximate dates. Delivery periods shall commence at the date of order confirmation. The promise of a binding delivery date requires separate written agreement. Partial deliveries shall be permissible to a reasonable extent and may be invoiced separately.

7.2 The Seller shall be deemed in default if the Buyer requests delivery by written reminder within a reasonable term after the delivery due date.

7.3 Should the Seller be prevented from performance in due time by Force Majeure or other unforeseeable circumstances through no fault on part of the Seller, e.g. impeded official approval or legal situation, civil commotions, breakdowns, strikes, lock-outs, omission or delay of own supplies by subcontractors, the delivery period shall be extended by the time required to remedy the cause of impediment plus a reasonable time for resumption of procedures.

If delivery becomes impossible or unreasonable for the Seller due to circumstances as described above, the Seller shall be released from its delivery obligation. If the impediment continues for more than 2 months, the Seller may withdraw from the contract; the same right is granted to the Buyer if continued acceptance has become unreasonable for the Buyer due to the delay. The Seller shall immediately notify the Buyer if such circumstances occur.

7.4 The amount of damage for delay liable to compensation is limited to 10% of the net order amount of the supplies and services affected by the delay. Liability for intent or gross negligence remains unaffected.

8. Export

8.1 All goods and services should remain in arrival country which was agreed between Seller and customer. In case of a continuing supply of these products to third parties, the customer is obliged to comply with the export regulations of the exporting country, the U.S. and the EU. Also the customer shall gather appropriate information by himself.

8.2 The seller assumes no liability for any further export permissions and suitability.

8.3 The customer has to assure that all necessary licenses concerning the use of products and services will be respected and followed.

9. Privacy Policy

9.1 All necessary personal customer data are stored and handled in accordance with applicable law.

9.2 If required, the customer will be informed about the personal data stored by the Seller. If necessary the record will be corrected and updated.

9.3 Further information and conditions are available, due to written request to the Seller's Data Protection Supervisor.

10. Place of performance and place of jurisdiction

10.1 The place of performance shall be the place of the registered office of the Seller.

10.2 For any present and future claims resulting from the business relationship with registered traders, the exclusive place of jurisdiction shall be the place of the registered office of the Seller.

10.3 The place of jurisdiction shall also be the same if the Buyer does not have any general place of venue in the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter referred to as "HKSAR"), relocates its residence or domicile to a place outside of HKSAR upon contract execution, or if its residence or domicile is not known at the time of filing a suit.

11. Miscellaneous

11.1 The present General Terms and Conditions shall be governed by the laws of the HKSAR. The provisions of the uniform law on the international sale of goods of 17/07/1973 (EKG) and the uniform law on the conclusion of international purchase agreements for goods dated 17/07/1973 (EAG) shall not be applicable.

11.2 Should any provisions entirely or partly be or become invalid, the validity of the remaining provisions and the entire validity of the contracts based on these General Terms and Conditions shall not be affected by this. An invalid provision shall be replaced by a valid one which is nearest to the desired economic purpose.