

## **Terms and Conditions of Sale**

Nicrom Electronic (Nicrom SA)

### **[1] Purchase Order**

An original or faxed copy of your purchase order must be received prior to shipment. Advance payment of a proforma invoice is considered a valid purchase order. E-mail orders are not accepted unless otherwise agreed between the parties.

### **[2] Prices**

We reserve the right to change prices without notice. All prices exclude for packing, delivery, VAT, taxes, duties or similar. All prices are in CHF (Swiss Francs) unless stated otherwise. All prices are subject to exchange rate fluctuations. Our prices are not binding. All orders are accepted on condition that any fluctuation in currency exchange rates, or the cost of the materials and / or wages beyond our control may entail an adjustment in the selling price of such orders that remain to be completed 4 (four) months after receipt of order.

### **[3] Damage in transit**

Damage in transit should be advised to us and the carriers within 3 (three) days of receipt of goods. All damaged articles should be immediately returned to us for inspection.

### **[4] Non-arrival of goods**

If goods are not received within 7 (seven) days after date of advice note or invoice, please notify us immediately. We take no responsibility for loss or breakage during transit.

### **[5] Insurance**

Where goods are insured by us at our discretion or at the customer's request, charges for insurance will be made on the invoice. Our liability shall be limited to the amount received by us under such insurance or the value of the goods, whichever is the less and from which a deduction may be made for expenses. Any specific insurance request from the customer must be agreed upon in writing.

### **[6] Title to goods**

Title to goods does not pass until the goods have been paid for in full. We reserve the right to repossess any such goods listed on any invoice still unpaid after 30 (thirty) days. We reserve the right to enter the buyer's premises if necessary to take repossession of any such goods.

### **[7] Quantities**

In the case of goods manufactured and supplied to the buyer's own design, drawing or specification, all orders are subject to over-run or under-run of 10% (ten percent). Minimum order quantities will be agreed upon in writing.

### **[8] Warranty**

We warrant that the goods will at the time of delivery correspond to the description given by us. All other warranties, conditions or terms relating to fitness for purpose, merchantability or condition of the goods, and whether implied by statute or common law or otherwise, are excluded.

### **[9] Responsibility**

Our responsibility is limited to the supply of goods in the kind and quantity ordered, subject to our acceptance of the order, and all consequential or resulting liability is expressly excluded. Customers are warned to test and examine goods and / or to exercise special care in cases where the use / storage of goods involves danger to person and / or property. In no circumstances shall we be liable for any indirect, special or consequential loss or damage arising from our supply to you of any goods.

### **[10] Acceptance**

The buyer is deemed to have accepted goods 7 (seven) days after delivery to the buyer. After acceptance, the buyer shall not be entitled to reject goods which are not in accordance with the contract. Where the buyer accepts or has been deemed to have accepted any goods then we shall have no liability whatever to the buyer in respect of the goods.

### **[11] Risk**

Risk shall pass to the buyer on delivery of the goods.

### **[12] Rejection**

Where the buyer rejects any goods, then the buyer shall have no further rights whatever in respect of the supply to the buyer of such goods or any failure by us to supply goods which conform to the contract of sale.

[13] Force Majeure

The Seller shall not be liable for any failure or delay in performance of this agreement due to any act of God, war, act of terrorism, strike, lock-out, industrial action, fire, flood, drought, tempest or other event beyond the reasonable control of the Seller.

[14] Terms of payment

Unless otherwise agreed between the parties, our standard terms of payment are 30 days net from invoice date by wire transfer (electronic transfer) to our bank account. Check payments are not accepted.

[15] Late payment

Accounts unpaid after 30 (thirty) days will be subject to interest charges at 2% (two percent) above the Clearing Bank's base rate. We reserve the right to stop or hold open deliveries without notice to those customers who have overdue payments towards our company. The material ordered may be shipped on a "cash only" basis at our sole discretion. The buyer is not entitled to withhold payments against any counterclaims he may want to purport. This applies in particular in the case of objections or claims and to any counterclaims expressly excluded by our Terms and Conditions of Sale.

[16] Transfer

We shall retain ownership and title of goods until payment is received in full.

[17] Quote Validity

Unless previously withdrawn, and except where otherwise stated, a tender or quotation is open for acceptance for a period of 60 (sixty) days after its date.

[18] Variation

Any variation to these terms and conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless expressly agreed in writing by a director of the Company.

[19] Applicable Law

The contract for sale and purchase shall be construed and have effect in all respects in accordance with Swiss Law. Area of jurisdiction is Mendrisio. The legal relations between the parties are subject to the Swiss right. The application of the uniform purchase right regulations is excluded.

[20] Purchaser Acknowledges

Purchaser acknowledges that goods which are being manufactured to the buyer's own design, drawing or specification, are being specially manufactured, and that this contract with the Seller is not cancellable by the Buyer.

[21] Cancellation

Customer may cancel an order provided written notice is given by fax to us prior to the commencement of manufacture. If manufacturing has started, including all engineering and tooling costs, we shall charge the customer the full invoice price.

[22] Delivery

Any delivery date given is based on normal conditions and supplies of material and whilst we will try to fulfill any orders placed with us within any stated time, we shall not be liable for the consequences of any delay or failure to deliver. Counterclaims for any delay or failure to deliver are excluded.

[23] Intellectual Property

The customer shall indemnify us against all claims (of whatsoever nature) or losses suffered by us in respect of any claim that goods supplied or their use infringe any patent, copyright, registered design, unregistered design, trademark or any other intellectual property rights.

[24] Terms & Conditions Applicable

These Terms and Conditions of Sale, together with the terms of any specific Contract entered into between Nicrom Electronic (Nicrom S.A.) and the customer, shall apply to all contracts for the sale of goods by Nicrom Electronic (Nicrom S.A.) to the customer to the exclusion of all other terms and conditions including any terms and conditions which the customer may purport to apply under any purchase order, confirmation of order or similar document. Non acceptance of our Terms and Conditions of Sale shall be advised to us in writing no later than 7 (seven) days after receipt of our order acknowledgment. After this period, the buyer is deemed to have accepted in full our Terms and Conditions of Sale and the goods will be manufactured, billed and delivered exclusively according to our Terms and Conditions of Sale.

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