

# Terms and Conditions of Purchase

**PUR011**

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*Instruction - Part of the  
process documentation:*

**PUR**

Any delivery of products ("Products") or supply of services ("Services") shall be subject to the terms and conditions below in so far as they do not conflict with any other contractual provisions expressly agreed between OIP (hereinafter called "Buyer") and the party delivering the Products or Services (hereinafter called "Seller") and as mentioned in the purchase order or contract (hereinafter called the "Purchase Order"). Products or Services specific warranty riders supplementing or superseding the warranty provisions contained herein may apply. No other general terms and conditions that may be referred to in Seller's proposal or order confirmation shall apply, even if these have not been rejected by Buyer.

## 1. Ordering

- 1.1 Purchase Orders from Buyer will be in writing and shall be based exclusively on these Terms and Conditions of Purchase to the extent the Purchase Order does not contain any regulations to the contrary, or unless specifically agreed otherwise in writing between Seller and Buyer. In case of doubt, the content of discussions conducted verbally and by telephone shall only be binding if confirmed in writing.
- 1.2 The Seller shall check Purchase Orders without delay for any errors, ambiguities, incompleteness or lack of suitability in respect of the specifications selected by the Buyer for the intended use of such Purchase Orders, and shall notify the Buyer immediately of any necessity for changes to or for specifying such Purchase Orders in more detail, in any case before proceeding with the manufacture or delivery of Products. If Seller fails to do so, any consequences shall be for his account.
- 1.3 Sub-ordering: these Terms and Conditions of Purchase are to be extended to all sub-orders issued by Seller in connection herewith. Seller shall supply Buyer upon request with unpriced copies of his orders to subcontractors and any requested shipping information including that of subcontractor's orders.

## 2. Delivery

- 2.1 Products shall be delivered in accordance with "Incoterms", edition valid on the date of the Purchase Order, as published by the International Chamber of Commerce (ICC).
- 2.2 Delivery of the Products shall take place according to the terms agreed between Seller and Buyer, in such quantities and at such times as Buyer shall have designated in any Purchase Order or other written communication to Seller.

- 2.3 The Seller should at all times do his utmost to meet the agreed delivery time and other contractual obligations. Insofar as the Seller is aware that he is unable to fulfil his delivery and other contractual obligations in whole or in part or in a timely manner, he shall notify the Buyer of any such circumstance without delay and shall state the reasons for and the potential duration of any such delay. The acceptance of late deliveries shall not constitute a waiver by Buyer of its right to cancel a Purchase Order or to refuse further deliveries.
- 2.4 In the event of early execution of all or part of the Purchase Order, which is permitted only with prior written approval, payment will nevertheless be effected as if the initially agreed time(s) had been adhered to.
- 2.5 Failure by the Seller to perform within the agreed time or times, to adhere to the agreed quantities, or to fulfill the requirements or otherwise to perform any of the obligations pursuant to the Purchase Order and agreement(s) relating thereto shall entitle the Buyer at his opinion:
  - a. To give the Seller the opportunity to remedy his failure within a period of time to be fixed by Buyer, or
  - b. To cancel the Purchase Order at Buyers' option wholly or partially without notice of default or recourse to the court; Buyer shall also be entitled to cancel in such manner in the event that the Seller shall not have remedied his failure within the period of time fixed by Buyer in accordance with (a) above, provided that Buyer shall always be entitled to be indemnified by the Seller for all losses, damages, costs and expenses including fines which Buyer may incur directly or indirectly as a result of such failure.

### **3. Prices**

- 3.1 The prices mentioned by the Seller shall be fixed prices and as specified in the Purchase Order. All costs of labor, material, packaging, documentation and/or other (legal) requirements for supply are included in the purchase price(s), unless otherwise stated in the Purchase Order.
- 3.2 The Seller shall not be authorized to change the prices in the meantime unless agreed otherwise in writing.
- 3.3 In case of conflict between the documents of the Purchase Order, Seller shall inform Buyer of such conflict and the order of precedence in resolving such conflict shall be as follows:
  - a. The Purchase Order document as amended;
  - b. The attachments to the Purchase Order document, as amended and
  - c. These Terms and Conditions of Purchase.

### **4. Transfer of Title**

- 4.1 The transfer of title shall at the latest pass to Buyer at the place of delivery as stated in the Purchase Order.

## **5. Invoicing – Payment - Default**

- 5.1 Invoices shall be sent by Seller to [accounting@oip.be](mailto:accounting@oip.be) separately and shall state, in addition to the legally required data, the correct Buyer's Purchase Order number, Buyer's company name, address, VAT number, all as specified in the Purchase Order; name and address of Seller's Bank, SWIFT and IBAN code. Invoices for partial deliveries will not be accepted, unless expressly agreed upon in the Purchase Order. Any invoice failing to meet any of the above conditions shall remain unpaid without bearing any interest and a copy thereof shall be returned to Seller for correction.
- 5.2 Unless otherwise agreed in writing, payment shall be effected after the Purchase Order has been duly executed and after receipt of the relevant invoice in accordance with the agreed payment terms, unless Buyer has objected to the way in which the Purchase Order has been executed before payment is due.
- 5.3 Payments shall not be deemed as acknowledgement that the Product or Service is in accordance with the contract. In the event that a Product or Service is defective or incomplete, Buyer shall be entitled, without prejudice to Buyer's other rights, to withhold a reasonable amount of payments with regard to debts based on the business relationship, until Seller has performed in accordance with its contractual obligations.

## **6. Technical data - Property**

- 6.1 The Seller shall transfer to Buyer the property of all items such as models, dies, molds, jigs, gauges, tools and drawings specifically acquired or manufactured by the Seller, and paid for by the Buyer for the execution of Buyer's Purchase Order.
- 6.2 Unless otherwise specified, Seller shall keep records on file and available to the Buyer's representatives for at least 7 years.
- 6.3 If so requested and when so required, the Buyer, or any entity the Buyer deems necessary to be present, will be granted access at the Seller's production facilities to both the applicable documented information and to any level of the supply chain processes in connection to the Purchase Order.
- 6.4 The Seller shall have the obligation to notify and to obtain the Buyer's prior approval in the event that alterations on the production process are intended or implemented by the Seller. These alterations also include changes with respect to the location of manufacturing or with respect to the Seller's external providers involved in the delivery of the Products or the Services.
- 6.5 The Seller shall ensure that all applicable requirements to which the Seller needs to adhere, will also be of application by the Seller's external providers.
- 6.6 If so requested by the Buyer, the Seller shall provide test specimens, in order to facilitate inspection and to obtain approval of the Product(s) or components of the Product(s).

## **7. On site installation – Acceptance tests**

- 7.1 Where the Purchase Order provides for installation, assembly, commissioning or any other work to be carried out by the Seller, the same shall be at his expense and risk, whether carried out by himself or by third parties on his behalf of which, however, Buyer may withhold his consent. The Seller shall take all precautions necessary to ensure that the work is carried out in accordance with mandatory and other regulations where the same is carried out and he shall be liable for injuries and damages to persons and properties inflicted as a result of the said work. The Seller shall affect at his own expense all insurances necessary to indemnify Buyer for all damages, costs and claims resulting from any negligence or act or omission on the part of the Seller by the above mentioned third parties and persons used by the Seller and such third parties and shall provide satisfactory evidence thereof on demand.
- 7.2 Buyer shall be entitled to inspect the Products upon their arrival at the ultimate place of destination and to inspect the installation, assembly, commissioning or any other work carried out pursuant to the Purchase Order, within a reasonable period after the Seller has informed Buyer of its completion, in order to ascertain whether the agreed requirements are complied with. In the event of rejection or non-acceptance, Buyer will inform the Seller immediately in writing. At the risk and expense of the Seller, Buyer is entitled either at any time to return the rejected Products or to retain the same until the Seller has given Buyer instructions as to their disposal. From the date of dispatch of Buyer's written notice the property of the Products shall pass to the Seller.

## **8. Warranty**

- 8.1 Warranty:
- a. Hardware: Seller hereby warrants that the Products shall (i) be new and conform to the specifications, drawings and provisions of the technical documentation, reference sample and models attached to or referred to in the Purchase Order free from defects in design, and (ii) be free from defects in material and workmanship. All Products shall be free and clear of all liens, security interests and encumbrances.
  - b. Software: Seller warrants that software shall perform in accordance with the specifications in effect at the date of delivery.
  - c. Services: Seller warrants that it shall supply the Services in a workmanlike manner.
- 8.2 The Warranty Period:
- a. Hardware: 12 months commencing on the date of shipment or, if applicable, the date of acceptance.
  - b. Software: 3 months commencing on the date of delivery or, if applicable, the date of acceptance.
  - c. Spare Parts: 12 months commencing on the date of shipment.
- In case of repair or replacement, the warranty period shall continue to run until its expiry or 3 months after the repair or replacement, whichever is longer.

- 8.3 Claims for repair or replacement under Warranty:  
Any claim under Warranty will be notified to Seller in writing within 8 days from the discovery of the defect or failure.
- 8.4 Remedies under the Warranty:  
Under the Warranty, Seller shall, at its sole option and cost, and without undue delay, with respect to:
- a. Hardware: (i) repair or correct the Product or part; or (ii) replace the Product or supply part(s) or component(s). A replacement part shall be at least functionally equivalent to the original part.
  - b. Software: amend the software or supply an alternative version of the software.
  - c. Service: re-perform the Service.
- If Seller does not make such corrections promptly, Buyer will make or have made the required alterations, repairs and replacements at Seller's expense.
- 8.5 If the fault or failure to function properly cannot be corrected as set forth above, the defective Products shall be removed by or at the expense of Seller and Seller shall, without cost to Buyer, promptly furnish a satisfactory Product which completely fulfils the specifications and intent of the Purchase Order, or, at Buyer's option, refund the full purchase price. This provision is without prejudice to any other rights Buyer may have.
- 8.6 Seller will supply all maintenance and repair services and spare parts at fair remuneration during a period of 10 years after expiration of the guarantee period.

## **9. Force Majeure**

- 9.1 Force Majeure is defined as any occurrence which cannot be reasonably foreseen, controlled and prevented by Seller and which materially affects the execution of the Purchase Order. Normal risks such as ordinary hazards of inclement weather, availability of labor or material or transport, rejection of material, strikes other than general strikes, fluctuation of prices or wages, bankruptcy or insolvency of Seller, etc. shall not be considered Force Majeure. Seller shall notify OIP immediately in writing of an occurrence of Force Majeure and provide details. Seller claiming an extension of time because of Force Majeure shall have the burden of proof of the existence of a situation of Force Majeure and that the occurrence affects the progress of the execution of the Purchase Order. Extra costs caused by Force Majeure encountered by Seller will not be compensated by Buyer. Buyer may cancel the Purchase Order in the event that a Force Majeure event has prevented Seller to supply for 60 days.

## **10. Termination for Convenience**

- 10.1 Buyer, at its sole discretion, may at any time terminate the Purchase Order in whole or in part by giving written notice to Seller, and Buyer and Seller shall negotiate an equitable amount to be paid by Buyer to Seller to compensate Seller for the demonstrable and reasonable actual cost incurred by Seller as a result of Buyer's termination. If applicable, such may result in reimbursement by Seller in case of prepayment by the Buyer.

## **11. Termination for Default**

11.1 In case of Seller's failure to comply with any provision of the Purchase Order, Buyer may cancel the Purchase Order or part thereof without further notice of default and without judicial or arbitral intervention and without cost or penalty to Buyer. In that case Buyer shall pay and Seller shall accept payment of costs incurred prior to such termination that may under generally recognized accounting principles be reasonably allocated to the part of the Purchase Order fulfilled by Seller, less any prepayments made and less compensation for damage caused by Seller's default. In addition Buyer shall be entitled to claims as provided for in the Purchase order and/or in the applicable rules of law.

## **12. Liability**

- 12.1 Seller is liable for and indemnifies Buyer against all costs and/or damages arising from his whole or partial non-compliance with the Purchase Order.
- 12.2 Buyer will give written notice to Seller of the nature and extent of the damages incurred. Seller will reimburse the damages within 30 days after receipt of said notice.
- 12.3 Seller will take out adequate insurance to cover all damages resulting from its breaches of its obligations and Seller will provide Buyer upon Buyer's written request with a certificate of insurance evidencing such coverage.

## **13. Third party Rights**

- 13.1 Seller shall hold harmless and indemnify Buyer, its directors, employees, agents, and any third party (the "Indemnitees") from and against any and all claims, actions, suit or proceedings, liabilities, damages, losses, costs and expenses (including without limitation reasonable attorney fees) of every kind whatsoever direct damages, losses and expenses asserted against or incurred by the Indemnitees as a result of or in any way connected with a defective workmanship, non-conforming Products or Services, direct or indirect breach of contract of the Warranties by Seller or Seller's negligence or Seller's failure to comply with laws and regulations or arising from infringement of any patent, trademark or copyright of a third party by a Product or Service and defend and settle at its sole expense any claim brought against Buyer, provided that (i) Seller is promptly notified by Buyer in writing after a claim has been asserted against Buyer, and (ii) Seller shall assume sole control of the defense and any settlement negotiations, and (iii) Buyer shall not make any representation or concession, negotiate, settle or compromise any claim without the prior written consent of Seller and (iv) Buyer, at its cost, shall provide assistance and support, as Seller may require, in connection with the defense and any settlement negotiations.
- 13.2 Every repaired or corrected Products and Services, component and part thereof, shall be subject to the same indemnity.

- 13.3 Seller warrants that Seller does not directly or indirectly employ children, prison labor, indentured labor, bonded labor or use corporal punishment or other forms of mental and physical coercion as a form of discipline and acts in compliance with the International Labor Organization (ILO) Convention. Seller warrants that all employment relationships are of a voluntary nature without any discrimination and at working conditions reflecting the applicable national and local legal requirements.

#### **14. Secrecy – Intellectual Property Rights**

- 14.1 Seller shall not disclose any proprietary or confidential information, know-how and data, whether technical or non-technical of Buyer. Seller shall prevent unauthorized disclosure to and unauthorized use by others of Buyer's information, except to Seller's employees and subcontractors on a need to know basis to properly execute the Purchase Order, after having being informed in writing, at least to the same extent as Seller is obligated hereunder.
- 14.2 Any patents, trademarks, copyrights, any other intellectual property rights or any proprietary or confidential information, whether existing prior to the date of Buyer's order or developed as of the date thereof, shall remain the property of Buyer or its licensor, as the case may be, and nothing herein shall be construed as conferring on the Buyer by implication or otherwise, any right, title or interest in, or any license under any intellectual property right, confidential information or other trade secret. Seller shall however not enforce its intellectual property rights against Buyer, its successors or assigns who are operating the Products or Services as authorized hereunder.
- 14.3 The Seller shall hold harmless and indemnify Buyer from and against any and all damages, claims, charges, losses and expenses arising from infringement or alleged infringement of any patent, trademark or copyright of such third party by the Products and Services, a component or any part thereof and/or arising from the use by Buyer or Buyer's customer of the Products and Services and shall defend and settle at Seller's sole expense any claim, action, suit or proceeding brought against Buyer, provided that Seller is notified promptly in writing of the commencement of such suit or proceeding and provided further that Buyer shall not settle or compromise any such suit or proceeding without the prior written consent of Seller.

#### **15. Compliance - Licenses**

- 15.1 Seller shall comply with any applicable laws, standards, codes and regulations (including without limitation anti-bribery, anti-money laundering, antiterrorism, trade control, economic sanction and anti-boycott laws, technical standards, health and safety codes, environmental regulations (including but not limited to REACH, ROHS, WEEE, Batteries & accumulators) and import and export control regulations), in force in the EU and in the country in which the Products are to be used.
- 15.2 The Buyer expects from the Seller a commitment to Quality through the maintenance of an effective Quality Management System (QMS), providing a framework where the improvement of products, services, and processes are accomplished.

- 15.3 Seller shall timely provide Buyer of any local rules or regulations which may restrict, technically, regulatory or otherwise, the deployment or operation of the Products or supply of the Services in Buyer's country.
- 15.4 Seller shall, at its cost, obtain any and all licenses and permits, certificates, attests and other documents and perform any tests, as required by the applicable laws, standards, codes and regulations. No delay on the part of official authorities in relation to the foregoing shall be considered as a case of Force Majeure.

## **16. Counterfeit Work**

- 16.1 For purposes of this clause, Work consists of those parts delivered under the Purchase Order that are the lowest level of separately identifiable items. "Counterfeit Work" means: (i) Work that is or contains items misrepresented as having been designed and/or produced under an approved system or other acceptable method; (ii) Work that has reached a design life limit, (iii) Work that has been damaged beyond possible repair, but is altered and misrepresented as acceptable, or (iv) previously used parts pulled or reclaimed as "new". Seller represents warrants and shall ensure that Counterfeit Work is not delivered to Buyer. Seller shall only sell Products to be delivered and incorporated as Work to Buyer directly from the Original Component Manufacturer ("OCM") / Original Equipment Manufacturer ("OEM"), or through an OCM/OEM authorized distribution chain.
- 16.2 In the event that Work delivered under the Purchase Order constitutes or includes Counterfeit Work, such Counterfeit Work shall be impounded and Seller shall, at its expense, promptly replace such Counterfeit Work with genuine Work conforming to the requirements of the Purchase Order. Notwithstanding any other provision in the Purchase Order, Seller shall be liable for all costs relating to the impoundment, removal and replacement of Counterfeit Work, including without limitation Buyer's costs of removing Counterfeit Work, of reinserting replacement Work and of any testing necessitated by the reinstallation of Work after Counterfeit Work has been exchanged. Buyer may turn such Counterfeit Work over to US Governmental authorities (Office of Inspector General, Defense Criminal Investigative Service, Federal Bureau of investigation, other any other applicable authority) for investigation and reserves the right to withhold payment for the Counterfeit Work pending the results of the investigation.
- 16.3 The Seller shall establish and maintain a counterfeit prevention program using AS5553 or equivalent as a guidance for Electrical, Electronic or Electromechanical ("EEE") parts to ensure that Counterfeit Work is not delivered to Buyer under this Purchase Order. The purpose of Seller's counterfeit prevention plan shall be, including but not limited: (i) to monitor all sources of parts per Seller's internal purchasing controls procedures; (ii) to mitigate risk of procuring non-authentic parts from sources other than the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM) or OCM/OEM-authorized distribution chain; and (iii) to have a material control and disposition process for confirmed or suspect non-authentic parts. The process shall include containment and disposition of the parts in a manner that prevents the use in contract items and the re-entry into the supply chain.



16.4 The Seller shall maintain a method of item traceability that ensures tracking of the supply chain back to the manufacturer of all EEE parts included in assemblies and subassemblies being delivered under this Purchase Order. This traceability method shall clearly identify the name and location of all of the supply chain intermediaries from the manufacturer to the direct source of the Product for the Seller, and shall include the manufacturer's batch identification for the item(s) such as date codes, lot codes, serializations, or other batch identifications.

## **17. Assignment**

17.1 Seller shall not assign or transfer any of its rights or obligations under the Purchase Order or any agreement, without Buyer's prior written approval.

## **18. Data Protection**

18.1 A. Parties confirm to have exchanged personal data only which are necessary for the execution of this Purchase Order and to have collected them lawfully, in accordance with Articles 6, 13 and 14 of Regulation (EU) 2016/679 ("GDPR"), including any subsequent amendment.

18.2 Both Seller and Buyer undertake to use, store, transfer and otherwise process personal data that it has received from the other party, only for the purpose of the execution of the Purchase Order (including the performance and fulfilment of the respective obligations deriving from it) and in compliance with applicable laws and regulations pertaining to security, confidentiality, and protection of personal data, including the GDPR and any secondary (European or national) legislation adopted pursuant to the GDPR.

18.3 For Buyer, reference is made to the privacy notice available here: <https://www.oip.be/about-us/ethics-privacy>.

18.4 If Buyer or Seller undertakes any processing of personal data under the instructions and on behalf of the other party for the purpose of the execution of the Purchase Order, parties shall enter into a data processing agreement pursuant to Article 28 of GDPR and any relevant provisions under applicable laws and regulations.

## **19. Awareness - Code of Conduct**

19.1 The Seller shall ensure that its employees are aware of:

- a. Their contribution to product or service conformity.
- b. Their contribution to product safety.
- c. The importance of ethical behavior.

19.2 The code of conduct of Buyer is available on <https://www.oip.be/about-us/ethics-privacy>.

**20. Governing law and Jurisdiction**

20.1 The Purchase Order shall be governed by, subject to, and construed in accordance with the laws of Belgium.

The 'Treaty for the Sale of Goods' (Vienna, 11 April 1980) will not be applicable.

20.2 Any and all disputes between Seller and Buyer arising out of or in connection with this Purchase Order shall be finally settled by the competent court of law in Brussels.