

Light is OSRAM

Purchasing Conditions Issued: May 2017

1. Order and Order Confirmation

- (a) The following purchasing conditions shall apply to our orders. Any general terms and conditions imposed by the supplier/contractor shall be binding on us only insofar as they are compatible with our terms and conditions or in case we have expressly indicated our agreement in writing.
- (b) Acceptance of the contract shall be confirmed immediately - no later than 3 days after receipt of our order - by returning the copy of our order form duly signed.
- (c) We may revoke the order if we have not received confirmation within the specified period.
- (d) If the conditions set out in the contract confirmation form differ from our order, we shall be bound by the revised conditions only if we have indicated our agreement to the change(s) in writing. Acceptance of supplies or services or payment for such supplies or services does not constitute agreement.
- (e) The supplier/contractor is obliged to provide proof of origin, as defined by EG preferential agreements in the form of supplier declarations in accordance with EC Regulation 1207/2001 or in the form of movement certificates. If the goods do not have a certified origin, the words "Not original goods" must be included on the contract confirmation form and on the invoice. In this case, we have the right to revoke the order.
- (f) Amendments and additions to the order must be made in writing.
- (g) In case of orders for materials or preparations covered by a material safety data sheet, the supplier/contractor shall automatically provide this data sheet in accordance with EC Regulation 91/155 free of charge. The supplier /contractor shall send a copy to the OSRAM purchasing department.

2. Prices

- (a) The prices quoted in our order and confirmed by the supplier/contractor shall be considered as fixed prices.
- (b) Any increase or decrease of the price as a result of changes affecting the execution of the work must be notified to us immediately and require our written agreement before the goods are shipped.

3. Payment

- (a) On receipt of all goods or on provision of all services we shall settle the invoice on which our order number shall be quoted, in the first week of the month following the Payment Term. Payment term is 90 Days net.
- (b) Payment on our part does not indicate our acceptance that supplies or services have been made according to the contract.
- (c) We shall make payments only to the supplier/contractor. Assignment of a claim requires our prior written approval.
- (d) We shall not pay in cases where payment is in conflict with national or international foreign trade legislation, embargoes or other sanctions.

4. Date of Delivery

- (a) The goods must have been supplied to our designated reception point by the specified deadline. This shall apply analogously to services rendered.
- (b) Requests on the part of the supplier/contractor to extend the agreed deadlines must be made as soon as possible so that we can decide whether or not to hold up the original order.
- (c) Supplies over or above the contracted quantity or (part) supplies in advance of agreed deadlines require our prior approval. Any additional costs incurred shall be borne by the supplier/contractor.

5. Packaging

Unless otherwise indicated in the order, the costs of packaging shall be included in the prices. In the case of agreements with separate enforcement, packaging shall be invoiced at cost.

6. Shipment

- (a) Shipment to our designated reception point is at the supplier's/contractor's own risk.
- (b) Unless otherwise agreed, the supplier/contractor shall bear all shipment costs so that the agreed prices are free delivered.
- (c) If the prices are ex works or ex supplier's/contractor's warehouse, or if we are paying freight charges, the shipments shall be made at the lowest possible cost. If we have expressly specified a particular method of shipment, a particular freight forwarder and/or a particular route, the supplier/contractor shall be responsible for ensuring that the specified shipment incurs the lowest possible costs.
- (d) If we are paying freight charges, the freight forwarder must be notified according to 21.2 ADSp 2003 (General German Freight Forwarders Terms and Conditions) that no insurance of the goods may be concluded.
- (e) Postal packages and parcels must be submitted free of charges to us. For ex works prices the postage shall be charged to the goods.

7. Warranty

- (a) The supplier/contractor shall warrant his supplies and services according to the applicable laws and within the statutory warranty periods. If no statutory period is prescribed, then the warranty period shall be 2 years or product shelf life, whichever is longer. The warranty period for defects in title shall be 8 years.
- (b) Defects which lead to the rejection of the goods/services and all defects detected at the passing of the risk or during the warranty period shall be eliminated by the supplier/contractor at the supplier's/contractor's cost, or the supplier/contractor, at the request of OSRAM, shall supply new goods/services free from defects.
- (c) If the supplier/contractor does not eliminate the defects or supply new goods/services within a reasonable period to be set by OSRAM, then OSRAM is entitled to
 - withdraw entirely or in part from the contract with impunity,
 - demand a price reduction,
 - eliminate the defects itself, have them eliminated or arrange for new supplies, the costs to be borne in each case by the supplier/contractor, or
 - claim damages for non-fulfilment of contractual obligations.

The same applies if the supplier/contractor declares himself unable to eliminate the defects or provide new goods/services within the specified period.

(d) Complaints in respect of defects are considered to be made in good time if they are lodged within one month of the supply of the goods/services or, if the defects are such that they do not appear until the goods are further processed or used, within one month of their appearance.

(e) Claims of OSRAM under statutory provisions remain unaffected by the above remedies.

(f) The supplier/contractor shall bear the costs and risks relating to the return of defective goods.

(g) If a claim is filed against OSRAM based on statutory law in connection with supplied defective products, the supplier/contractor shall indemnify OSRAM if the damage is attributable to him.

(h) The supplier/contractor shall defend and indemnify OSRAM against any claim or action arising out of supplier's/contractor's performance of this Purchasing Conditions.

8. Accident Prevention/ Environmental Protection Regulations

(a.) The supplied goods and services and also the production processes of the supplied goods must comply with statutory requirements, particularly with the Malaysian and German law governing technical equipment (equipment safety law), the Malaysian and German law on dangerous chemicals, other relevant standards and other recognized practices and procedures. The requirements of the OSRAM Index List Environment have to be fulfilled. The regulations of any international associations specified in the order must also be observed. The same applies to environmental protection regulations.

(b) Any necessary protective equipment shall be provided by the supplier/contractor and shall be included in the price.

(c) Regulations governing the transport of dangerous goods must be observed. If the order indicates that the goods are to be forwarded by sea or air, the supplier/contractor shall also comply with all the regulations connected with these types of transport in respect of packaging and labelling.

9. Drawings, Samples and Tools

Drawings, models, samples or tools made available to the supplier/contractor by us remain our property and shall be returned on request at any time, but no later than the completion date for the order. They shall be labelled as our property and may be used only for the completion of our order. The supplier/contractor shall preserve their secrecy and must not allow them to be copied. Their loss must be reported to us immediately. We reserve the right to claim for damages.

10. Provided Material

(a) All materials provided by us remain our property and we are considered as manufacturers. As manufacturers we retain or automatically acquire property rights on the objects produced through the processing of these materials. The materials and objects shall be specially labelled, stored for us in a safe place and insured against risks such as fire and theft.

(b) Palettes and other transport materials supplied by us remain our property and must be returned to us. We reserve the right to claim compensation for any unreturned items.

11. Industrial Property Rights

- (1) The contractor grants OSRAM a simple, irrevocable, worldwide license to own industrial property rights or other rights for the ownership, supply and use of the supplied goods and products resulting thereof.
- (2) The contractor has to deliver the goods free of industrial property rights or any other third party rights. If third party industrial property rights are violated due to the supplied goods or their use, the contractor has to make any effort in order to provide to OSRAM an unlimited right of use.
- (3) The contractor is obliged to release OSRAM from any third party claims made on the basis of the violation mentioned in paragraph 2, and to reimburse OSRAM for all adequate expenses in relation with the claim. OSRAM will not accept any claims without the contractor's approval and will not enter into any settlement, unless approval is refused arbitrarily.
- (4) If the contractor deems the third party claim unjustified, it has to make a potential defense against such claims at its own expenses if requested by OSRAM. If the contractor assumes defense against the asserted claims in the name of OSRAM, the contractor is obliged to always safeguard OSRAM's commercial interests and to keep OSRAM informed about any significant steps. The contractor is not allowed to enter into a settlement which affects OSRAM's rights and interests without OSRAM's express written approval, whereas OSRAM will not refuse approval randomly.
- (5) The obligations in Paras 3 and 4 do not affect the contractor insofar as it can prove that it is not responsible for the violation of property rights.
- (6) Further statutory claims following a defect of title of the goods supplied to OSRAM remain unaffected.

12. Secrecy / Data Protection

- (a) The order and any commercial or technical information supplied by us to the supplier/contractor in connection with the order are confidential. We reserve the right to claim for damages if confidentiality is violated.
- (b) If the supplier/contractor handles or processes any personal data in connection with his contractual obligations, he must ensure that all employees involved are bound in writing to the data secrecy in accordance with the Malaysian Personal Data Protection Act, 2010 and § 5 of the Bundesdatenschutzgesetz (Federal Data Protection Act).

13. Advertising

No reference may be made to commercial links with us for the purpose of advertising unless we have given our written approval.

14. Withdrawal/Termination

- (a) We may withdraw from the contract, respectively terminate the relationship, if the supplier/contractor stops payment, applies for insolvency proceedings (or any similar foreign procedure) or does not fulfill his obligations according to clause 15 of these Purchasing Conditions. Except for the right of supplier/contractor to assign its right to payment, neither party shall assign its rights nor delegate performance of its obligations under this agreement to any third person, without the prior written consent of other party, any attempted assignment without this consent shall be void

(b) Neither supplier/contractor nor OSRAM shall be liable to each other for failure to fill the orders upon the scheduled delivery date for such orders where such failure or delay is due to force majeure including without limitation the direct or indirect results of fire, natural phenomena, acts, restrictions or failure to act of any government authority, domestic or foreign, strikes, labor disputes, breakdowns or accidents to machinery, shortages of materials in the market, civil commotion, delays in transportation and other cause beyond its reasonable control provided that in any such event supplier/contractor or OSRAM shall use its best efforts to fulfill such orders in so far as practicable. If the Force Majeure continues for a cumulative period of ninety (90) days or more, either party may terminate this Agreement and/or any ORDER by giving the other party thirty (30) days prior written notice. Termination shall be effective upon receipt of the notice. If OSRAM terminates, OSRAM's sole liability and supplier's/contractor's exclusive remedy under this Agreement or any ORDER will be for OSRAM to pay any balance due for PRODUCTS (1) delivered by supplier/contractor before receipt of OSRAM's termination notice; and (2) ordered by OSRAM for delivery and actually delivered within thirty (30) days after receipt of OSRAM's termination notice.

(c) At any time during the term of the Purchase Order, if there is a default by supplier/contractor, OSRAM may, subject to a thirty (30) days prior default notice, terminate the Purchase Order, or at its option, suspend performance of its obligations hereunder, unless supplier/contractor remedies the default within thirty (30) days after receipt of the default notice.

15. Late delivery penalties before termination

Except for reasons of an event of force majeure, if supplier/contractor is in default with the shipment of goods or provision of services, OSRAM may – without limiting any other rights OSRAM may have under governing law – claim for liquidated damages in the amount of [one percent (1%)] of the purchase price for the respective delayed goods or services for [every single day] of the delay (as computed from the Delivery Date of the Purchase Order Acknowledgement), up to a maximum amount of [ten (10%)] of the purchase price of delayed goods or services in total.

After the maximum amount of liquidated damages as stipulated above is reached, OSRAM will be entitled to immediately cancel the respective accepted Purchase Order in whole or in part without incurring any liability.

16. Compliance

The supplier/contractor shall fulfil all relevant statutory requirements and international standards of ethical behaviour. We especially point out the need to comply with antitrust laws and regulations to hinder corruption. Offering gifts to employees shall be considered a breach of contractual or pre-contractual obligations. Within his own organization the supplier/contractor is obliged to respect the basic rights of his employees and to procure a safe work environment. The supplier/contractor shall observe the prohibition of child labour according to the Declaration of the International Labour Organization on basic labour principles.

17. ROHS and WEEE

The supplier/contractor shall fulfil all legal requirements, particularly those arising from directives ROHS 2002/95/EG and WEEE 2002/96/EG, as well as the resulting national regulations.

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