

## Edmund Optics Inc. Standard Terms and Conditions of Purchase

### 1. ACCEPTANCE

Seller must acknowledge this Purchase Order by Edmund Optics, Inc. (Buyer) immediately advising of any proposed revisions in the quantity, delivery, or other terms or conditions listed on the Purchase Order. Buyer will not be bound by any terms of Seller's Sales Order or other acknowledgement form that are inconsistent with the terms herein. These terms and conditions may only be amended or waived in writing signed by an authorized representative of Buyer. Commencement of performance pursuant to this Purchase Order constitutes acceptance hereof by Seller.

### 2. DELIVERIES

Buyer's commitments to our customers are based on materials being delivered on the date specified on the Purchase Order. Time is of the essence with respect to this Purchase Order. Seller shall inform the Buyer of any delays in meeting the acknowledged ship date. If deliveries by the Seller are not made on the agreed upon date, Buyer reserves the right to cancel the Purchase Order or any individual item on the Purchase Order or deduct 1% from the invoiced amount for each week the specified date is missed by more than one month. Buyer's consent is required for partial shipments.

### 3. PRICES

Seller will advise Buyer of any pricing discrepancy on the Purchase Order during the acknowledgement process. If Seller's price reflects a higher than quoted price, the Buyer reserves the right to cancel with no further obligation. Seller's price increases emerging after the acknowledgement process must be approved by the Buyer prior to any shipments. If Buyer and Seller cannot agree on a new price, Buyer shall have the right to terminate without penalty.

### 4. OVERSHIPMENTS

Seller will inform Buyer prior to shipping on any quantity that may differ from the agreed upon Purchase Order quantity. At that time, the Buyer will inform the Seller of acceptance or rejection of the proposed quantity change. Any billing of over shipments by the Seller will be paid only if Buyer's procedures regarding overages are followed. The Buyer will not be liable for over shipment payments not adhering to these procedures.

### 5. CREDIT PERIOD

The credit period will begin on the date the goods are received or services performed at Buyer's designated location.

### 6. BILLING TERMS

The billing terms shall be within fifteen (15) days via a single use Commercial Card Number (Card Payment) through Wells Fargo or check payment net sixty (60) days, unless alternate terms are agreed upon by both parties in writing.

### 7. WARRANTY

Seller warrants all products sold to the Buyer shall be free from defects in material or workmanship and conform strictly in accordance with their specifications, drawings and/or samples. Seller warrants that the services it provides under this Purchase Order will be performed in a professional and workmanlike manner consistent with industry practices and standards.

### 8. INDEMNIFICATION

Seller hereby agrees to indemnify, defend and hold Edmund Optics, Inc., its subsidiaries and affiliates, and their respective partners, officers, directors, employees and agents, harmless from any and all claims, liabilities, damage loss or expenses, including but not limited to, attorney fees and costs of handling and defense, arising out of or related to any claim or proceeding whatsoever, including, but not limited to, actions or proceedings seeking damages for bodily injury, property damage, economic damage, infringement of patent, trademark, copyright, trade secret or any other proprietary right, or claims asserting the negligence or intentional acts of Seller, its partners, officers, employees or agents, regardless of the theory of indemnity, contribution, or any other theory, arising out of or relating to the sale, resale or use of products or merchandise delivered hereunder.

### 9. INSURANCE

Seller agrees to have and keep in force liability insurance naming Edmund Optics, Inc., its subsidiaries and affiliates, and their respective partners, officers, directors, employees and agents, as additional named insured covering all liability, or claims of liability, described in the preceding paragraph. Seller agrees to submit to Buyer, within thirty days after receipt of this Purchase Order, a certificate or certificates of insurance covering such liability or claims of liability and designating Buyer, its subsidiaries and affiliates, and their respective partners, officers, directors, employees and agents as named insured, and providing for liability limits not less than \$2,000,000, combined single limits. Seller agrees to provide thirty days prior written notice to Edmund Optics, Inc. in the event of amendment to or cancellation of the policy or policies of insurance underlying such certificates.

### 10. INSPECTION AND REJECTION

Final inspection and/or testing of Products shall be performed on the Buyer's premises. Material deemed as not conforming to supplied specifications, samples or drawings may be rejected and returned for credit, repair and/or replacement, at Buyer's option and at the Seller's expense, including transportation.

### 11. BUYER'S PROPERTY

All material including tools furnished or specifically paid for by Buyer shall be the property of the Buyer, shall be subject to the removal from any of Seller's locations at any time without additional cost upon demand, shall be used only in filling orders from the Buyer, shall be kept separate from other materials or tools and shall be the property of Buyer. Seller assumes all liability for loss or damage of said tooling, with the exception of normal wear and tear.

### 12. TAXES

Except as may be otherwise provided in this Purchase Order, the contract price includes all applicable Federal, State and Local taxes in effect on the contract date. In the case of new taxes or increased rates or the repeal of taxes or reduction of rates, contract price shall be adjusted accordingly.

### 13. CHANGES

Buyer shall have the right to make, from time to time and without notice to any sureties, changes as to packing, testing, destination, specifications, designs and delivery schedule (postponements only). Seller shall immediately notify Buyer of any increase in costs caused by such changes and an equitable adjustment in prices or other terms hereof shall be agreed upon in a written amendment to this Purchase Order.

### 14. BANKRUPTCY

In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Seller, including any proceedings under the Bankruptcy Act, or in the event of the appointment, with or without the Seller's consent, of an assignee for the benefit of creditors or of a receiver, Buyer may elect to cancel any unfilled part of this Purchase Order without any liability whatsoever.

### 15. CONTRACT

The parties hereto agree that this Purchase Order and the acceptance thereof shall be a contract made in the State of New Jersey and governed by the laws thereof.

### 16. PROOF OF SHIPMENT

Seller shall forward to Buyer with the invoice the express receipt or bill of lading, signed by the Carrier, evidencing the fact that shipment has been made. Seller shall receive and retain a mailing receipt for uninsured Parcel Post.

### 17. SUPPLEMENTARY INFORMATION

Any specifications, drawings, notes, instructions, engineering notes, or technical data referred to in this Purchase Order shall be deemed to be incorporated herein by reference as if fully set forth. In case of any discrepancies or questions, refer to Buyer for decisions or instructions or for interpretation.

### 18. TITLE TO DRAWINGS AND SPECIFICATIONS

Buyer shall at all times retain title to all drawings and specifications furnished by Buyer or its subsidiaries or affiliates to Seller. Seller shall use such supplied drawings and specifications only in conjunction with this order and shall not disclose such drawings and specifications to any individual, firm or corporation other than Seller's employees or subcontractors who need to know and agree to the restrictions contained in this paragraph 18, or, as required by law, Government inspectors. Seller shall be liable for failure of its employees or subcontractors to comply with such restrictions. The Seller shall, upon request or upon completion of the specified Purchase Order, promptly return all drawings and specifications to the Buyer.

### 19. PATENTS

In consideration of Buyer's purchase of the Products included in this Purchase Order, the Seller undertakes and agrees to indemnify, defend and hold harmless, at Seller's expense, all claims, suits, actions or proceedings brought against the Buyer, Buyer's subsidiaries or affiliates, any of Buyer's dealers or the users of any of the Products for actual or alleged infringement of any United States or foreign letters patent or other proprietary rights because or on account of the use, marketing, employment or sale of such Products, and further agrees to pay and discharge any settlement amounts and all judgments or decrees which may be rendered in any such suit, action or proceedings against the defendants therein. In the event the use of Products purchased hereunder is enjoined, at Buyer's election Seller shall substitute fully equivalent non-infringing products, obtain for Buyer and its subsidiaries, affiliates, dealers and users of the Products the right to continue the sale, marketing and use of the infringing Products, or refund all amounts paid..

**20. TERMS**

Buyer is not bound by any printed matter on Seller's acknowledgement forms or invoices which impose upon Buyer conditions at variance with the terms of this Purchase Order.

**21. REPRESENTATION OF PRODUCT**

This order is given with the Seller's guarantee that the component parts or ingredients of the products manufactured to fill this order are not altered, misbranded or prohibited in transfer in interstate or international commerce, do not contain inherent or latent substances which are hazardous by themselves or in combination or contact with other materials, and that the product or component ingredients is not in violation of any applicable law or regulation.

**22. PRODUCT LIABILITY**

If, for any reason, the Buyer is required to recall the Products purchased from Seller from the marketplace, the Seller agrees to pay all costs associated with this recall. If the Buyer is required to inform customers of a potential hazard of a Product, or ship an item that corrects the problem, the Seller agrees to pay all costs associated with this notification and/or repair device.

**23. IMPORT/EXPORT CONTROLS**

- (a) Seller acknowledges that certain U.S. export control laws and economic sanctions laws and regulations may apply to the performance of this Purchase Order, including, but not limited to the International Traffic in Arms Regulations (ITAR) (22 CFR 120 et seq.), the Export Administration Regulations (EAR) (15 CFR 730-774), and regulations of the Bureau of Alcohol, Tobacco, and Firearms (BATF) (27 CFR 447 et seq.) (collectively, "Export Control Laws"). Seller shall comply with applicable Export Control Laws.
- (b) Seller represents that it has obtained all registrations and licenses necessary to perform this Purchase Order. Seller shall not transfer any export controlled item, technical data, technology, or service ("Export Controlled Deliverables"), unless the Seller is registered with appropriate U.S. authorities and obtains all required export licenses, license exceptions, or license exemptions, as applicable. Additionally, Seller shall notify Buyer in writing of the export classification of any Export Controlled Deliverables subject to this Purchase Order, including, but not limited to classification under the ITAR U.S. Munitions List (22 CFR 121), the EAR Commerce Control List (15 CFR 774), and the BATF U.S. Munitions Import List (27 CFR 447.21).
- (c) Seller hereby represents that neither Seller nor any parent, subsidiary or affiliate of Seller is included on any of the restricted party lists maintained by the U.S. Government, including, but not limited to the Specially Designated Nationals List administered by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC), Denied Parties List, Unverified List or Entity List maintained by the U.S. Commerce Department's Bureau of Industry and Security (BIS), or the List of Statutorily Debarred Parties maintained by the U.S. State Department's Directorate of Defense Trade Controls (collectively, "Restricted Party Lists"). Seller shall immediately notify the Buyer if Seller, or any parent, subsidiary or affiliate of Seller becomes listed on any Restricted Party List or if Seller's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. or non-U.S. government entity or agency.
- (d) Seller shall include paragraphs (a) through (d) of this clause or equivalent provisions in lower tier subcontracts for the delivery of items, technical data, technology, or services that will be included in or delivered to Buyer. Seller shall immediately notify Buyer upon learning that any lower tier subcontractor with
- (e) **Seller hereby indemnifies Buyer and shall be responsible for all losses, costs, claims, causes of action, damages, liabilities and expense, including attorney's fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this paragraph 23.**

**24. GRATUITIES AND KICKBACKS PROHIBITED**

Seller shall not provide, attempt to provide, or offer any gratuity or kickback, nor shall it solicit, accept, or attempt to accept any gratuity or kickback intended to obtain a contract or favorable treatment from Buyer. Seller shall have reasonable procedures designed to prevent and detect possible violations of this paragraph 24. The prohibitions of this paragraph 24 do not apply to standard, bona fide discounts offered in the normal course of business.

**25. STOP WORK, TERMINATION FOR CONVENIENCE, PRIORITY RATINGS**

If this Purchase Order is in support of a U.S. government contract, Buyer's higher-tiered contract may be subject to stop work orders, terminations for convenience of the government, and priority ratings under the Defense Priorities and Allocation System (DPAS). Buyer will notify Seller when performance is under a U.S. government contract, and will therefore require that Seller complies with the provisions of the Federal Acquisition Regulation (FAR) Clauses at 48 CFR 52.242-15 ("Stop Work Order"), 48 CFR 52.249-2 ("Termination for Convenience of the Government - Fixed-Price"), and 48 CFR 52.211-15 ("Defense Priority and Allocation System Requirements"). Buyer will also notify Seller of any applicable DPAS rating assigned to such contract.

**26. EQUAL OPPORTUNITY EMPLOYMENT PRACTICES**

Seller shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Seller shall not discriminate against qualified individuals on the basis of disability, and commits to affirmative action to employ and advance in employment qualified individuals with disabilities. Seller shall not discriminate against qualified protected veterans, and commits to affirmative action to employ and advance in employment qualified protected veterans. Additionally, Seller represents that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. Seller shall include this clause in every lower-tiered subcontract and purchase order issued in support of this Purchase Order that is subject by law to the terms of this paragraph 26.

REV 06/2017