

OPTOSCI LIMITED

CONDITIONS FOR THE PURCHASE OF GOODS

1. DEFINITIONS

In these Conditions the following words shall have the following meanings:-

"the Buyer" shall mean any company, firm, institution or other legal person (including the company named overleaf) who shall have placed an order for the supply of the Goods.

"the Company" shall mean Optosci Limited.

"the Conditions" shall mean the conditions on this page and overleaf.

"the Goods" shall mean the goods specified overleaf.

"the Price" shall mean the price specified overleaf.

2. ACCEPTANCE AND CANCELLATION OF ORDERS

The invoice or other documentation on the reverse of which these Conditions are printed shall incorporate the following terms and conditions which shall apply to all supplies of Goods by the Company and which are accepted by the Buyer by his placing an order with the Company. Each order for Goods is subject to acceptance in writing by a duly authorised officer of the Company. Any written acknowledgement of receipt of any order shall not in and of itself constitute such acceptance. Orders accepted by the Company may be cancelled by the Buyer only with the written consent of the Company and only in the event that the Buyer pays the Company such sum as represents the value of work carried out for the Buyer prior to cancellation of the order. The cost to be charged in respect of such prior work carried out shall be calculated at unit sales price. The Buyer shall also be liable for all costs, whether direct or indirect, of any work in progress, together with any costs resulting from such cancellation, together with a reasonable profit margin relating thereto.

3. DELIVERY

3.1 Delivery costs

Unless otherwise specified in any sales contract between the Company and the Buyer, the Buyer shall pay all freight, handling, delivery and insurance charges for shipment of goods and the Company shall have absolute discretion as to the means of effecting delivery of the Goods.

3.2 Time for delivery

3.2.1 Any time quoted by the Company for despatch or delivery is an estimate only and in no event shall the Company be liable for any damages or penalty for delay in despatch or delivery. In the event of any delay the contractual date of delivery, if any, shall be extended for a period equal to the time lost as a consequence of such delay without penalty to the Company.

3.2.2 The Company shall not be responsible (in contract or delict, or otherwise howsoever) for any loss or damage sustained by any delay in delivery, non-delivery of the goods or any part thereof, where such delay or non-delivery is attributable in whole or in part to any circumstances beyond the Company's control including (without prejudice to the foregoing generality) labour disputes, shortages of supply or the act, default or omission of any carrier to whom the goods have been consigned.

3.3 Associated delivery issues

The Company shall be entitled to refuse or to delay shipment of any Goods in the event of failure by the Buyer to pay promptly any payments due to the Company whether on this or any other contract between the Company and the Buyer. The Company shall be entitled to deliver all goods at one time or in portions from time to time for delivery in instalments.

4. INSPECTION AND ACCEPTANCE OF GOODS

Final inspection and acceptance of the Goods shall be at the Buyer's facility. The Buyer shall be responsible to inspect the Goods within 24 hours after delivery. The Buyer shall be responsible for conducting the final acceptance test, if necessary, which test shall be completed promptly and in any event no later than 3 days after delivery (or 4 days including Saturday and Sunday where delivery has taken place on a Friday, Saturday or Sunday). Acceptance by the Buyer shall be deemed to occur upon completion of tests provided the Goods are in accordance with their manufacturer's specification.

5. INSTALLATION

The Buyer shall be solely responsible for the installation and operation of the Goods covered hereby including without limitation the obtaining of all permits, licences or certificates required for the installation or use of the Goods.

6. TECHNICAL DATA

Without the Company's prior written consent the Buyer shall not use, duplicate or disclose any technical data delivered or disclosed by the Company to the Buyer for any purpose other than for the installation, operation or maintenance of the Goods purchased by the Buyer.

7. TERMS OF PAYMENT

7.1 Unless otherwise agreed in writing, the Buyer must pay the full purchase price on or prior to delivery of the Goods. If the purchase price has not been paid in full by this date, the Buyer will be liable to pay the full purchase price together with daily interest on the amount remaining outstanding at the rate of 3 per cent per annum above the base lending rate for the time being of the Company's principal bankers from the date payment becomes due until the Company receives payment in full, and the Company may at its option (a) suspend or cancel further deliveries under any contract with the Buyer's, and/or (b) resell the Goods. Pallets and other returnable containers rendered by the Company may be returned to the Buyer within 30 days of the due payment date.

7.2 Cheques

All cheques are accepted subject to being honoured in full and the Buyer shall pay all costs arising from the collection and honouring of those cheques including without prejudice to the foregoing generality, reasonable legal fees. Any cheques received from the Buyer may be applied by the Company against any obligation of the Buyer to the Company under this or any other agreement, notwithstanding any statement appearing on such cheque or any covering note or letter accompanying such cheque. Acceptance by the Company of any partial payment shall not constitute a waiver of the Company's right to payment in full of amounts of whatsoever nature owing from the Buyer to the Company.

7.3 Title

Notwithstanding Clause 3 above, the property and title in the Goods will not pass to the Buyer until payment in full of all sums (including any interest) due in respect of the Goods has been received by the Company not only under the agreement of which these terms and conditions form part but under any other agreement between the Buyer and the Company for the supply of goods. Until such passing of property and title in the Goods:-

7.3.1 the Buyer shall keep the Goods on its own premises in safe custody, insured, identified as the Company's property and separate from any goods which are the property of the Buyer or any third party;

7.3.2 the Company shall be entitled at any time to require the Buyer to deliver the Goods to the Company and if the Buyer fails to do so the Company shall be entitled forthwith to enter upon the premises of the Buyer or any third party where the Goods are stored and repossess the Goods. The exercise of such a right shall be without prejudice to any other rights the Company may have; and

7.3.3 the Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods.

8. DEFAULT

In the event of any default by the Buyer under the agreement of which these terms and conditions form part or any such breach by the Buyer of these conditions, the Buyer shall pay all costs incurred by the Company in collecting any amounts due under the agreement of which these terms and conditions form part including reasonable legal fees and costs. The waiver by the Company of any breach of these conditions or of any default by the Buyer in any payment shall not be deemed to constitute a waiver of any succeeding breach or default by the Buyer. In the event of such default by the Buyer, the Company shall have all the remedies provided in law which shall be cumulative with any other remedies under any other agreement to which the Company is a party, without limitation. The exercise or failure by the Company to exercise any remedy shall not preclude the exercise of that remedy at another time or of any other remedy at any time. No action of any type whatsoever arising out of or in any way connected with the Goods furnished or services rendered by the Company may be brought by the Buyer more than 12 months after the cause of action has arisen or commenced earlier.

9. THE COMPANY'S RIGHT TO VARY PRICES

The Company reserves the right to vary the selling price of any of the Goods (which will be the applicable price in force as at the date of the order, unless other prices have been stipulated in the sale agreement between the Company and the Buyer and approved by a duly authorised employee of the Company) at any time prior to shipment of such Goods from the Company's place of business, in response to an increase in the cost of such Goods to the Company or otherwise. The selling price quoted shall, upon an increase in price by any supplier to the Company, be increased by a percentage equal to the percentage of increase in the cost of the Goods to the Company imposed by such supplier, and the Buyer agrees to pay any such increased price in accordance with the terms hereof.

10. DUTIES AND TAXES

The Company's prices quoted by the Company do not include any value added tax, excise duty or other taxes. Accordingly, the Buyer shall, in addition to the prices specified by the Company, pay any such value added tax, excise duty or other taxes attributable to the sale of the Goods covered hereby or, in lieu thereof, shall provide the Company with the relevant exemption certificates acceptable to the taxing authorities.

11. WARRANTIES AND LIABILITIES

Save as provided in Clause 12 below, the Company makes no warranty, express or implied, with respect to the Goods and in particular the Company disclaims and excludes all other warranties

whether express or implied, save as required by statute, including but not limited to any warranty with regard to the description, design, satisfactory quality of goods, fitness for a particular purpose, appearance, finish, freedom from minor defects, safety and durability or arising from any previous course of dealing, usage or trade practice. The Company neither assumes nor authorises the Buyer or any other person to assume on behalf of the Company any other liabilities in connection with the sale of the Goods. The Company's sole liability will be as provided herein and the Buyer's sole and exclusive remedies will be as provided for in these conditions. The Company shall not be liable for any damages due to delay in delivery, service, use of equipment or other performance. The Company shall in no event be liable, whether for breach of contract, breach of warranty under the law of delict (including strict liability and negligence) or otherwise for any direct or indirect incidental, special or consequential loss or damage including without limitation, any business losses (including in respect of loss of data or loss of profits) and personal property damage, all of which are hereby expressly excluded.

12. LIMITED WARRANTY FOR THE GOODS

12.1 The Company warrants that the Goods will conform to the specifications agreed between the Company and the Buyer for a period of one year following delivery. The Company shall replace or repair free of charge to the Buyer any Goods which fail to meet the physical specifications required by the Buyer and shall (subject to compliance by the Buyer with the terms of Clause 4 above) do so within a reasonable period of time following intimation to the Company of the defect. Notwithstanding the foregoing such replacement will only be effected if the Buyer has given prior written notice to the Company if the Goods supplied have been used at all times in accordance with all relevant instructions provided to the Buyer by the Company (whether express or implied) and if the end use of the Goods is as previously intimated to the Company in writing and provided that any further instructions of the Company as to the use and compatibility of the Goods have been complied with in full by the Buyer. Should the Goods prove defective the Buyer will (save as otherwise expressly provided in these conditions) assume the entire cost of all necessary servicing, repair or correction and any incidental or consequential loss or damage. Disassembly and decompilation of the Goods is prohibited.

12.2 The Goods or any part of them shall not be returnable for adjustment repair or replacement unless the Company has been informed that such return is to take place. In any event, no credit shall be granted in respect of defective products and no replacement product will be expedited to the Buyer unless the alleged defects are, inter alia, established to be defective to the satisfaction of the Company after adequate tests and inspections have been carried out by the Company. The Company shall have no liability whatsoever in respect of any defective product unless the Goods have been returned to the Company within 30 days following the date of delivery.

13. INTELLECTUAL PROPERTY RIGHTS

13.1 The Company shall have no liability of any kind to the Buyer in respect of any actual or alleged infringement of any patent, trademark, copyright or other intellectual property right of national, European Union, United States of America or other origin. The Buyer shall comply with the terms of any intellectual property rights, licenses, assignments and intellectual property obligations of any type whatsoever to which the Goods are subject.

13.2 Provided that the Company is immediately notified in writing by the Buyer and receives from the Buyer its authority, information and assistance concerning the defence of an litigation or proceedings intimated to the Buyer, subject to the Company receiving from the Buyer an appropriate indemnity as to costs in terms satisfactory to the Company and provided further that such litigation or proceedings concern contravention of any patent, trade mark or service mark registered in the United Kingdom in respect of products purchased from the Company and provided further that such products have been used or sold for the means for which they were authorised, the Company shall be entitled at its option to defend such litigation or proceedings and shall be entitled to recover from the Buyer in respect of any losses or compensation which the Buyer would have been required to pay in the event of a decree being granted against the Buyer in respect of such contravention to the extent that the decree is based on the price of sale of the Goods.

13.3 Notwithstanding the provisions of Clause 13.2, the Company shall assume no liability whatsoever and the Buyer hereby agrees to indemnify the Company against any loss, damage or claim suffered by the Company relating to a patent claim in respect of a piece of equipment or any assembly, circuit, set-up, method or process in which such products may be used, or against any infringement of trade mark legislation relating to a trade mark or trade name not registered by the Company or relating to a trade mark or a name registered at the request of the Buyer.

13.4 Furthermore, notwithstanding whose responsibility it may be, the Company shall not be liable for and the Buyer hereby agrees to indemnify the Company in the event of, and all claims resulting from the manufacture of products in accordance with the specifications of the Buyer or resulting from the use of such equipment, materials, parts or machines supplied by the Buyer as part of the production process for the production of finished articles, materials, parts of machines in accordance with the specifications of the Buyer.

14. INTEGRATION AND ASSIGNATION

These terms and conditions of supply constitute the entire agreement between the Company and the Buyer are legally binding on the Buyer and the Company and are expressly hereby incorporated in the agreement between the Company and the Buyer for supply of the Goods and any representation, term or condition not specifically incorporated herein in writing shall not be binding on either party. Any conflicting statements on the terms listed on the Buyer's purchase order, confirmation or other documents or correspondence of the Buyer are nullified and superseded by these terms and conditions of supply. Any modification of the terms hereof shall be effective only when embodied in a written agreement signed by both parties to these standard terms and conditions of supply. Any assignment of the agreement of which these conditions form part or any rights hereunder by the Buyer is not permitted and shall be void without the Company's prior written consent.

15. GENERAL

These terms and conditions of supply and performance by the parties hereunder shall be construed in accordance with the laws of Scotland and the Buyer agrees to submit to the jurisdiction of the Scottish courts in all matters relating to the subject matter hereof. All agreements, covenants, conditions and provisions contained herein shall apply to and bind any permitted assignee or successor in title to the interests of the Buyer. If any clause or provision of these conditions is held to be invalid, illegal, unreasonable or unenforceable, the other clauses or provisions hereof shall not be affected. The clause headings used herein are for the convenience of the parties only and shall not affect the construction or interpretation hereof.