

1 Area of Application

- 1.1 These General Terms and Conditions of Purchase form the basis for the delivery of all goods and the rendering of all services by suppliers instructed by Qioptiq Photonics GmbH & Co. KG ("Qioptiq") on the basis of a contract with reference to these General Terms and Conditions of Purchase. They shall govern conclusively the terms of delivery and minimum requirements for the goods supplied by the supplier to Qioptiq and shall also apply with regard to all future delivery of goods, services rendered or offers to Qioptiq, even if they are not subject to a separate new agreement. The term "Supplier" shall mean all persons instructed by Qioptiq to deliver goods and render services.
- 1.2 Conflicting, derogating or supplemental general terms and conditions of business of the Supplier or third parties shall not apply, even if the application thereof is not expressly negated. Even if Qioptiq refers to a letter which contains terms and conditions of business of the Supplier or of a third party to which refers to the same, or if Qioptiq accepts the goods supplied/service rendered without having again referred to its Terms and Conditions of Purchase, this shall not constitute any consent to the application of such terms and conditions of business.

2 Orders

- 2.1 Qioptiq shall commission the supply of goods in the form of written orders. These must be confirmed in writing by the Supplier within three working days.
- 2.2 The Supplier thereby also confirms the completeness, accuracy and clarity of the details given in the order.
- 2.3 Until the time of receipt of order confirmation from the Supplier, Qioptiq may withdraw the order at any time without providing any indication of reasons.
- 2.4 Supplier's offer shall be submitted free of charge and shall not establish any obligations on the part of Qioptiq.

3 Cancellation of orders

- 3.1 If the necessity of cancellation arises from the perspective of Qioptiq (e.g. due to changes in the market), then Qioptiq shall immediately inform the Supplier. The Supplier shall be required to avert or reduce in good faith any possible loss thereby arising by taking suitable measures.
- 3.2 Qioptiq shall pay for defect-free goods already manufactured in accordance with the order, and the actual direct costs documented by the Supplier of unfinished products and raw materials which the Supplier has incurred in the provision of goods in accordance with the order. The Supplier shall have no further claims.

4 Prices, invoice details

- 4.1 The prices stated in the respective order shall be deemed fixed prices unless the Supplier reduces its prices during the period between order and delivery; in such event, the prices valid on the date of delivery shall apply.
- 4.2 The net prices must be indicated with value added tax shown separately. The agreed price shall, as a general rule, comprise a right of use as well as the possibility of using the product at one's own discretion without any obligation to make a further payment or to pay licence fees.
- 4.3 In the absence of a written agreement to the contrary, the price shall include insured delivery and transportation to the despatch address stated in the contract including packaging.

5 Movement certificate

- If, with regard to a consignment to be delivered, rules of origin must be fulfilled under EU preference agreements, the Supplier shall provide the corresponding preference documentation, such as declaration of origin or movement certificate. The Supplier undertakes to enable verification of origin documentation and Supplier declarations by the customs authorities and to furnish both the requisite information for such purpose and any requisite official confirmation (disclosure forms). Costs arising in connection with furnishing of the documentary evidence and confirmation as stated in this clause 5 shall be borne by the Supplier.

6 Terms and conditions of payment

- 6.1 Qioptiq shall make payment within 14 days with 2% discount or within 60 days net without discount, unless otherwise agreed in writing, counting from delivery/performance and receipt of invoice, whichever occurs later.
- 6.2 Upon the acceptance of early delivery, the payment terms shall be based on the agreed delivery date. Payments shall not signify any acknowledgment that a performance is in accordance with contractual terms or that the amount invoiced is correct.
- 6.3 Unless otherwise agreed in writing, customs duties and other levies shall be borne by the Supplier. Qioptiq shall be entitled within the framework of the statutory provisions to retain taxes and levies payable by the Supplier.
- 6.4 Qioptiq shall hold offsetting rights and rights of retention to the extent permitted by applicable laws.

7 Delivery date and delivery, transfer of risk, title

- 7.1 The delivery date indicated in the order shall be binding. The relevant date shall be the date of receipt of the goods by Qioptiq at the agreed supply address. Upon failure to meet the delivery date, the Supplier shall be deemed in default without the requirement of any reminder.
- 7.2 The delivery note must contain the following details: order number, part number(s) and quantity.
- 7.3 The Supplier shall be under a duty to inform Qioptiq immediately in writing if circumstances arise or circumstances become apparent which mean that the delivery date indicated in the order cannot be met; the Supplier must also notify the reasons for and duration of the delay.
- 7.4 In the event of delivery default not reported pursuant to 7.3 above, or which is due to the sole fault of the Supplier, Qioptiq shall be entitled, further to prior written notice, to invoice for each week or part of a week during which the delivery is delayed a flat-rate contractual penalty in the sum of 1% of the order value, but not more than 10% of the order value, however, at least a sum of EUR 100 per order/call-off order. Qioptiq shall be entitled to claim a contractual penalty in addition to performance. Section 341 (3) of the Civil Code (*Bürgerliches Gesetzbuch, BGB*) shall not apply.
- 7.5 In addition, in the event of delivery default, Qioptiq shall be entitled to statutory claims. In particular, Qioptiq shall be entitled, further to expiry without effect of a reasonable time limit, to claim damages instead of performance. Any contractual penalty forfeited shall be applied against such damages claims. If Qioptiq claims damages, the Supplier shall be entitled to provide evidence to Qioptiq to the effect that it is not responsible for the breach of duty in question.
- 7.6 Early delivery, short deliveries or excess deliveries shall only be permitted with the prior consent of Qioptiq.
- 7.7 Transfer of risk shall be based on the ICC INCOTERMS (latest version) stated on the order documents.
- 7.8 Title to goods shall pass to Qioptiq upon payment. If the goods remain with the Supplier, the Supplier shall store them on behalf of Qioptiq with the diligence of a prudent businessman.
- 7.9 Retentions of title on the part of the Supplier shall only apply in so far as they relate to the payment obligation of Qioptiq for the respective products to which the Supplier is retaining title. Any expanded or extended retention of title shall not be permitted.

8 General statutory requirements

- 8.1 With regard to the consignment to be delivered the Supplier shall be under a duty to observe all relevant laws, rules, provisions or instructions and industrial standards, the respectively valid provisions in the realm of accident prevention, health protection, safety and environmental protection; with regard to electrical equipment, the goods supplied must comply with the provisions of the VDE (*Verband der Elektrotechnik, Elektronik und Informationstechnik*, Association for Electrical, Electronic and Information Technologies).
- 8.2 Notwithstanding terms contrary to these conditions, the supplier shall be liable for all damages, losses and liabilities incurred by Qioptiq on the basis of failure on the part of the supplier to meet the obligations under this clause 8.

9 Packaging

- 9.1 The Supplier shall pack all goods - as far as possible depending on their particular features - in a proper manner, as minimally as possible, and taking account of the Packaging Ordinance (*Verpackungsverordnung*). The Supplier shall in particular pack the goods in a way that protects them, as far as necessary, against transportation damage.

10 Hazardous goods/Safety instructions

- 10.1 The Supplier shall be responsible for compliance with the relevant provisions governing hazardous goods, and in particular with regard to the handling and transportation of dangerous goods and substances. The Supplier shall be under a duty to provide an overview of all dangerous goods and substances which it uses in production of the parts for Qioptiq. The Supplier shall automatically send the corresponding safety data sheets to Qioptiq no later than with the first consignment delivered and upon each change made. The data sheet shall be provided to Qioptiq at any time upon request.
- 10.2 The Supplier shall indemnify Qioptiq against all claims or losses of third parties due to improper or unlawful use of dangerous goods and substances unless the Supplier has sufficiently complied with the duties of disclosure set out above (clause 10.1).
- 10.3 The Supplier shall provide suitable installation, operation and maintenance manuals and shall identify the goods and the packaging with specific warning indications if this is necessary for the purpose of use of the products supplied or required by statute.
- 10.4 If a CE mark is required or the introduction onto the market of particular goods renders a CE mark necessary, the Supplier shall be under a duty to provide to Qioptiq a CE conformity declaration including the corresponding documentation together with the first consignment delivered.
- 10.5 Products of Qioptiq are subject in particular to the following directives in their version from time to time in force:
 - EU Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment (2002/95/EC, RoHS)
 - Regulation (EC) No. 1907/2006 on the registration, evaluation, authorization and restriction of chemicals (REACH)
 - EU Directive on waste electrical and electronic equipment (2002/96/EC, WEEE)
- 10.6 The requirements contained therein must be heeded by the Supplier and it shall be the Supplier's responsibility to comply with the same. Upon request, conformity must be confirmed to Qioptiq. In the event of deviations, the Supplier shall be under a duty to inform Qioptiq thereof in writing.

11 Securing ownership, confidentiality

- 11.1 All drafts, models, materials, calculations and other documents, information and tools provided by Qioptiq to the Supplier for the purpose of executing orders and/or orders shall remain in the unrestricted ownership of Qioptiq and may not be reproduced or rendered accessible to third parties without the express written consent of Qioptiq. They are exclusively to be used for production on the basis of an order of Qioptiq. They must be immediately returned if requested by Qioptiq.
- 11.2 The information brought to the knowledge of the Supplier in connection with orders shall be deemed confidential. The duty to observe confidentiality shall also continue to apply further to completed performance and termination of the contract. It shall cease if and in so far as the manufacturing knowledge contained in the documents provided has become generally known.
- 11.3 At the end of the contractual relationship, all production resources and test facilities paid for and/or provided by Qioptiq must be returned to Qioptiq automatically at the cost of the Supplier.
- 11.4 The Supplier shall be liable for all losses arising from a breach of the above obligation.

12 Defects, notices of defects and guarantee claims

- 12.1 The Supplier warrants that its performance is free of defects. The Supplier in particular warrants that the quality and composition of the performance corresponds to the contractual agreements and at the time of delivery corresponds to the generally-recognized technical rules, the state of the art, the Equipment Safety Act (*Gerätesicherheitsgesetz*) from time to time in force and the technical safety requirements from time to time in force.
- 12.2 Qioptiq shall in all instances be entitled to require the Supplier either to remedy a defect or to supply a new item, as it shall see fit. The right to damages, in particular to damages in place of performance, shall not be affected by this.
- 12.3 Claims in respect of defects shall become statute-barred 24 months from delivery of the goods to Qioptiq's customer or, where a formal acceptance is required, 24 months from the date of formal acceptance by Qioptiq's customer, but no later than 36 months further to delivery/formal acceptance of the performance by Qioptiq. In so far as the law provides a longer limitation period, this shall apply.
- 12.4 In the event of a prompt and substantiated notice of defects, the limitation period for claims in respect of defects in the context of supplementary performance through remedy of defects shall be extended by the time period between the notice of defects and the completion of remedial action or failure thereof or rejection by the Supplier. In the case of supplementary performance by way of delivery of a new item, the limitation period for claims in respect of defects shall begin afresh, or in the case of part new delivery, this shall apply with regard to the replaced parts.
- 12.5 If the Supplier delivers a new item for the purpose of supplementary performance, then the defective item in respect of which a complaint has been made shall remain at the disposal of Qioptiq until replacement and shall be returned by Qioptiq to the Supplier concurrently against supply of the new item.
- 12.6 Qioptiq shall limit its incoming goods check to the establishment of the identity and quantity of the products delivered, as well as externally identifiable transportation damage and externally identifiable errors. The incoming goods check at Qioptiq shall not affect the liability of the Supplier for adherence to delivery quality.
- 12.7 Discrepancies established by the Supplier must be notified immediately to Qioptiq, e.g. in respect of:
 - the quantity of products in question
 - the nature and reason for discrepancy
 - measures planned or already taken in order to remedy the error and avoid repetition
 - impact on the delivery date
- 12.8 In the event of an imminent danger or in the case of urgent need, Qioptiq shall be entitled to remedy a defect itself at the cost of the Supplier.
- 12.9 Qioptiq shall not waive its rights for claims due to defects through formally accepting or approving specimens or samples presented.
- 12.10 Expenses incurred by Qioptiq for actions such as checks and measurements related to a defect attributable to the Supplier must be reimbursed by the Supplier.
- 12.11 Further, the Supplier shall be liable for defects according to the statutory rules.

13 Liability and insurance

- 13.1 The Supplier shall be liable according to the statutory rules.
- 13.2 The Supplier shall take out adequate liability insurance at its own expense in respect of losses caused by the Supplier itself, its authorized representatives, executive officers or other vicarious agents in connection with contractual processing.

14 Product liability

- 14.1 With regard to a loss arising from product liability, the statutory rules shall apply. The Supplier shall be under a duty to indemnify Qioptiq against damages claims of third parties upon first demand in so far as the Supplier or its downstream Supplier are responsible for the product error triggering liability.
- 14.2 The Supplier shall take out adequate product liability insurance in respect of claims which may be asserted against the Supplier regarding a product error for which the Supplier or its downstream Suppliers is responsible.
- 14.3 Within this framework, the Supplier shall in addition be under a duty to reimburse to Qioptiq any documented necessary expenses arising from or in connection with a recall campaign conducted by Qioptiq on the basis of a defect of the Supplier, in so far as such recall campaign was necessary due to statutory provisions or such circumstances as would cause a prudent businessman to conduct a recall campaign in order to avert imminent losses. Qioptiq shall - in so far as possible and reasonable - inform the Supplier of the content and scope of the recall measures to be conducted and give the Supplier the opportunity to respond. If Qioptiq holds further statutory claims, these shall remain unaffected.

15 Intellectual property rights

- 15.1 The Supplier warrants and vouches that no rights of third parties shall be infringed in connection with the goods supplied.
- 15.2 If, in this context, a claim is asserted against Qioptiq by a third party, the Supplier shall indemnify Qioptiq upon first written request in respect of all judicial disputes, losses, claims and liabilities arising from the actual or alleged infringement of intellectual property rights.
- 15.3 This shall also be the case if standard software is supplied.
- 15.4 Qioptiq shall be entitled, at the cost of the Supplier, to obtain approval for use of the relevant goods delivered and services rendered from the beneficiary in question.

16 Granting of rights

- 16.1 In so far as the Supplier produces the item to be supplied according to the requirements and/or specification of Qioptiq and thereby acquires intellectual property rights in the item supplied, it shall automatically assign the same upon accrual to Qioptiq. In so far as national statutory rules do not permit transfer of the intellectual property rights (e.g. copyright), the Supplier shall grant to Qioptiq an exclusive, worldwide, indefinite, transferable and irrevocable right of use without restriction in terms of content in respect of the intellectual property rights. Such right of use shall in particular, but not exclusively, encompass the right to market and sell the item supplied, to lease, improve or further develop the item or to adapt the item in any other manner.
- 16.2 Qioptiq shall be at liberty and shall be entitled to register all intellectual property rights under clause 16.1 above in its own name. The Supplier shall provide Qioptiq as necessary with the requisite information and documentation. The Supplier undertakes not to pursue any measures which could impair the registration or continued existence of the intellectual property rights.

17 Assignment

- 17.1 Without the prior written consent of Qioptiq, the Supplier shall not be entitled to assign rights or duties under this contract either wholly or in part or to conclude any subcontracts in this regard.

18 Export control

- 18.1 Products, technologies and software to be supplied may be subject to international and national export control laws and regulations. The Supplier shall be responsible for compliance with the relevant laws and regulations and shall ensure that they are observed.
- 18.2 The Supplier shall provide Qioptiq with all requisite information regarding export control. This shall take place through completion of the product classification form (PCF) further to a request by Qioptiq. This shall be provided to the Supplier by Qioptiq. In particular, the goods to be supplied must be classified under the lists of goods according to German, EU and US export control law and an indication must be given on the extent of any proportion of the goods of US origin. The Supplier shall provide Qioptiq with existing export, re-export and import licences.
- 18.3 The Supplier declares that it shall indemnify Qioptiq and hold Qioptiq harmless in respect of any failure to fulfil the requirements of this clause 18.

19 Place of performance, place of jurisdiction, applicable law

- 19.1 Any amendments and additions to these General Terms and Conditions of Purchase must be made in writing. This shall also apply with regard to amendment to this written-form clause.
- 19.2 These General Terms and Conditions of Purchase as well as the interpretation and generation thereof shall be subject exclusively to German law. The provisions of the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG) are excluded.
- 19.3 Unless otherwise stated in the order, place of performance shall be the business headquarters of Qioptiq.
- 19.4 The contractual language shall be English.
- 19.5 Exclusive place of jurisdiction with regard to all claims against merchants and public corporations shall be Göttingen, Germany, with regard to all types of proceeding. Qioptiq shall additionally be entitled to take proceedings against the Supplier at its general place of jurisdiction. In such event, the Supplier shall be under a duty to reimburse our costs of legal prosecution and enforcement including the costs and fees of the lawyers engaged even if, under the provisions of the local law, these are not owed.
- 19.6 In the event that any term of these General Terms and Conditions of Purchase should be or become wholly or partially invalid, this shall not affect the validity of the remaining provisions hereof. Any invalid provisions shall be replaced by such term as is legally possible and which comes as close as possible in terms of content to the invalid term which it replaces and also corresponds as closely as possible to the evident economic interests of the parties in the invalid provision. The same shall apply by way of analogy with regard to any omissions.
- 19.7 In the event of conflicts or inconsistencies between this English translation of our General Terms and Conditions of Purchase and the original German version, the German version shall take precedence.

General Terms and Conditions of Purchase in the version dated 03/2014