

GENERAL PURCHASING TERMS AND CONDITIONS

10 September 2019

PREAMBLE

1. **Applicability.** These General Purchasing Terms (these "Terms") apply to goods, materials or equipment and associated documentation and services (the "Supplies and Services") provided to NKT Photonics A/S or its subsidiary companies ("NKTP") acting as the buyer.
2. **Modification of these Terms.** These Terms are only modified by the conditions explicitly stated in a purchase order issued by NKTP or in a written agreement signed by NKTP (the "Purchase Agreement"). No conduct of NKTP is deemed to constitute acceptance of any terms of sale put forward by the seller of the Supplies and Services (the "Supplier").
3. **Elements of the contract.** The elements of the contract are – in their order of priority in case of conflicts – separate Purchase Agreement, the purchase order, the specifications attached to it, these Terms and the generally recognized technical rules and regulations at the place of performance.
4. **Supplier terms excluded.** Any general terms and conditions from the Supplier are excluded, even if the Supplier makes reference to such terms.

PLACING OF ORDERS

5. **Form and validity.** Only written form or text from purchase orders are binding on NKTP. The purchase order is valid for acceptance by the Supplier for 2 business days.
6. **Deemed acceptance.** If the Supplier does not reject the written order within 5 business days of receipt it shall be deemed accepted by the Supplier.
7. **Cancellation.** NKTP may cancel or change the relevant purchase order free of charge before the commencement of the production of each product and up to 1 week ahead of the start of work for each Service. NKTP may also terminate a contract at its convenience in whole or in part by written notice to the Supplier. NKTP will thereupon only be liable to pay to the Supplier the price of the delivered Supplies and performed Services and the proven direct unavoidable costs reasonably incurred by the Supplier for the Supplies and

Services which were not delivered due to the termination.

PRICES, INVOICING, TITLE, INTELLECTUAL PROPERTY

8. **Prices.** Prices are fixed as stated in the purchase order and inclusive of:
 - a) all applicable duties, fees and taxes (excl. VAT);
 - b) packaging; and
 - c) delivery at the place of delivery designated by NKTP.
9. **Invoice particulars.** After correct delivery and completion of the Supplies and Services invoices may be issued to NKTP. The invoices must include an adequate description of the Supplies and Services and reference to NKTP's order and NKTP's product specification numbers.
10. **Payment deadline.** NKTP shall make payment no later than 65 days after the end of the month in which the correct invoice is received by NKTP.
11. **Transfer of title.** Transfer of title occurs at the earlier of: payment by NKTP or acceptance of Supplies and Services by NKTP.
12. **Intellectual Property.** The Supplier grants to NKTP a worldwide, irrevocable, transferable, non-exclusive, royalty-free license to use the intellectual property rights and know-how incorporated in the Supplies and Services for the purposes of the contract and for the fulfillment of NKTP's contracts towards its customers.

DELIVERY AND DELAY

13. **Place and time of delivery.** Time is of the essence in the performance by the Supplier. The Supplies and Services must be delivered on the date designated in the purchase order or as otherwise agreed by NKTP in writing. Delivery must be made DDP (Incoterms 2010) at the place of delivery designated by NKTP unless otherwise stated in the purchase order.
14. **Forwarding instructions.** Supplier must abide by the forwarding instructions issued by NKTP.
15. **Packaging and protection.** The Supplies must be suitably packaged and secured to ensure safe delivery. The packaging must identify the Supplies and must be accompanied by a packing list

describing the Supplies, including NKTP's order number, NKTP's material number (if applicable), gross and net weight and quantities. NKTP may reject Supplies that have not been properly packaged or were damaged. The site and result of the Services must be suitably protected and secured by the Supplier until acceptance by NKTP.

16. **Documentation.** The Supplies and Services must be accompanied by all shipping documents, quality documents, operating instructions in the language of the country of the NKTP entity entering into this contract, export and import certificates, licenses and other certificates and documentation required by NKTP. The Supplies and Services are not considered delivered until the documentation is provided to NKTP.
17. **Delay notification.** If the Supplier becomes aware that the agreed delivery date cannot be met, then the Supplier must immediately notify NKTP in writing, stating the cause of the delay and an estimated delivery date. The notification does not limit Supplier's liability for delay according to these Terms or applicable law.
18. **Fundamental breach.** NKTP is entitled to consider any delay in delivery as a fundamental breach of Supplier's obligations.

INSPECTION, QUALITY AND ACCEPTANCE

19. **Inspection upon use.** The Supplier accepts that NKTP will first inspect the Supplies and Services and associated documentation when the Supplies and Services are put to use or into operation by NKTP. NKTP is not obliged to inspect Supplies and Services upon delivery. If NKTP discovers a defect it will notify the Supplier within 1 month of discovery. Payment does not constitute an acknowledgement that the corresponding Supplies and Services were provided in accordance with the contract.
20. **Inspection does not influence NKTP's rights.** Any inspection of the Supplies and Services and associated documentation by NKTP do not relieve the Supplier of its obligations. NKTP may reject Supplies and Services that have been delivered in breach of the Supplier's obligations.
21. **Quality system.** Supplier shall maintain a quality system acceptable to NKTP and in compliance with ISO 9001 or equivalent. Supplier shall allow NKTP to audit the quality system from time to time upon written notice to Supplier.
22. **Transfer of risk.** For the Supplies and Services involving installation, commissioning or other

services the transfer of risk occurs on acceptance. For Supplies and Services not involving installation or commissioning the transfer of risk occurs according to the agreed Incoterm.

WARRANTY AND ASSURED CHARACTERISTICS

23. **Scope of warranty and assured characteristics.**
The Supplier warrants that:
 - a) the Supplies and Services are in full conformity with the contract and contain no deviation from the conditions last approved by NKTP (as the case may be via samples, inspection or documents);
 - b) they are new, state of the art, of a merchantable quality and fit for the purpose made known to the Supplier expressly or by implication by NKTP;
 - c) they are free from defects in material, construction, design, manufacture, workmanship and title; and
 - d) the Supplies and Services comply with all applicable statutory requirements and regulations at the time of delivery.
24. **Certification and substances.** The Supplier also certifies and warrants that it has assessed the Supplies and Services in relation to the requirements of each of the "RoHS Directive", the "WEEE Directive", the "REACH Regulation", and the "US Clean Diamond Trade Act", all as amended, and that they conform in full to the requirements thereof.
25. **Duration.** The duration of the warranty is 2 years. It commences upon NKTP putting the Supplies and Services to use or into operation or are sold on by NKTP, whichever occurs earlier. In any case the warranty starts at latest 1 year after transfer of risk. If the applicable law provides for a longer duration of the warranty, than that duration applies.
26. **Remedy.** If any defect manifests itself, the Supplier must – at the option of NKTP – repair or replace the Supplies and Services immediately at its own cost. A new warranty period begins for the replaced or repaired Supplies and Services. However, the warranty is extended in aggregate by maximum 24 months.
27. **Statutory warranty rights.** The above warranty obligations of the Supplier are in addition to the rights of NKTP and the obligations of the Supplier under applicable law: including the right for NKTP to terminate the contract, to replace and to repair

the Supplies and Services at the cost and risk of the Supplier.

28. **Serial defect.** If three identical Supplies or Services have a defect during the warranty period, or in NKTP's reasonable opinion the risk of a serial defect exists, then the Supplier is obliged to investigate the root cause of the defect and on request of NKTP must replace or re-perform all non-defective Supplies and Services of the same kind, except for which the Supplier can conclusively prove that these will not be affected by the defect.

PRODUCT CHANGES AND ASSIGNMENT

29. **Changes.** Supplier shall not change the Supplies and Services specifications, manufacturing processes and sites and Supplier shall not subcontract or assign this agreement, or any portion, without NKTP's prior written approval, except for the purchase by Supplier of standard commercial supplies or raw materials. Breach of the proceeding sentence shall entitle NKTP to terminate immediately the agreement in addition to pursuing other remedies.

INDEMNIFICATION, INSURANCE

30. **Indemnity.** The Supplier must indemnify and hold NKTP harmless from all actions, suits, claims, costs, damage and losses suffered or incurred by NKTP, including third party claims that relate to:
- Supplier's breach of its obligations under the contract;
 - negligent or willful acts or omissions causing damage by the Supplier, its agents or subcontractors, including freight carriers engaged by Supplier;
 - any product liability claim relating to the Supplies and Services; and
 - any infringement or alleged infringement of any intellectual or industrial property rights of a third party anywhere that relates to the Supplies and Services or the process of manufacturing the Supplies and Services.
31. **Insurances.** The Supplier must maintain business and product liability insurance that adequately covers the Supplier's liability.

CONFIDENTIALITY AND RIGHT OF USE

32. **Confidentiality.** All drawings, specifications, recipes and information (the "Information") provided by NKTP to the Supplier are the

confidential property of NKTP. The Supplier may not disclose the Information to any third party. The Information must be protected against unauthorized access. The Information must be returned to NKTP at the request of NKTP.

33. **Right of use.** The Supplier may only use the Information for the explicit purpose of performing the contract.
34. **Use of NKTP's name.** Supplier is not entitled without NKTP's written permission to use NKTP's name in public statements or materials.

COMPLIANCE

35. **Business Integrity.** Upholding high ethical standards, acting with integrity and in compliance with applicable laws and regulations is a fundamental obligation of the Supplier. The Supplier must also comply with the NKTP Code of Conduct in the current version at the time of entering into contract (available under www.nktphotonics.com).
36. **Anti-corruption.** The Supplier must comply with, and have in place adequate procedures designed to prevent an employee or an associated person in any way connected to this agreement from engaging in conduct which would infringe anti-bribery and anti-corruption provisions, including the UK Bribery Act 2010 and the United States Foreign Corrupt Practices Act.
37. **Anti-Slavery.** The Supplier must comply with, and have in place adequate procedures designed to ensure that an employee or an associated person in any way connected to this agreement complies with anti-slavery provisions, including the UK Modern Slavery Act.
38. **Foreign trade sanctions.** NKTP is not obliged to fulfill the contract if the fulfillment is prevented by any impediments arising out of national or international foreign trade or customs requirements, embargoes or other sanctions.
39. **Export control.** Supplier shall obtain all licenses, permits and approvals required by any applicable government and shall comply with all applicable laws, rules, policies and procedures of the applicable government and relevant authorities. Supplier shall provide country of origin, export control classification number (ECCN) and harmonized tax schedule (HTS) in their invoice and delivery note for Products from non-EU countries and upon request for Products from EU countries. At the request of NKTP, the Supplier must also complete a long-term supplier's declaration as per Council Regulation (EC) 2447/2015.

40. **Corrective Actions and Audit Rights.** Supplier must promptly take all appropriate steps to resolve and correct any identified non-conformity with this agreement. Upon request of NKTP, the Supplier will promptly provide detailed information on its level of compliance with this agreement. The Supplier will enable NKTP to satisfy itself of the compliance with all the obligations deriving from the contract at reasonable time intervals. Upon NKTP's request the Supplier must provide detailed information on the level of compliance with all of its contractual obligations and will grant at no cost to NKTP access to its premises and documentation during working hours after a prior agreement on the date.
41. **Data Protection.** Any personal data included in the contract and processed on behalf of NKTP must comply with the General Data Protection Regulation 2016/679 and any other applicable data protection legislation. The Supplier must adopt appropriate technical and organizational security measures to meet data protection requirements.
42. **Right to terminate.** A breach of this clause "Compliance" is a fundamental breach and entitles NKTP to terminate the agreement by written notice with immediate effect.

LAW AND DISPUTE RESOLUTION

43. **Applicable law.** The contract including these Terms is governed by the law of the country where the NKTP entity entering into this contract has its seat.
44. **Dispute resolution.** The Parties will seek to settle any dispute by amicable negotiations. All disputes arising out of or in connection with this contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with the said Rules. The arbitration proceedings shall be in English. The seat of arbitration is the capital city of the country where the NKTP entity entering into this contract has its seat.