

## PURCHASING TERMS AND CONDITIONS

F74000 Rev A

1. Acknowledgement and Acceptance. Acceptance of this Purchase Order is expressly limited to the terms of this Purchase Order. If any of Seller's terms of sale are in conflict with the terms of this Purchase Order, the terms hereof shall govern unless Seller's terms are accepted in writing by Buyer. No oral agreement or other understanding shall in any way modify this Order, or the terms or conditions hereof. Seller's action in (a) accepting this order, (b) delivering materials, or (c) performing services called for hereunder shall constitute an unqualified acceptance of the terms and conditions hereof.
2. Price. This order shall not be filled at prices higher than those shown on this order unless such increased prices have been authorized by the buyer.
3. Shipping Instructions. All goods must be shipped in accordance with the shipping instructions stated and at the advantageous rates. Any extra expense in effecting delivery of goods not so shipped will be charged to the seller.
4. Packing. Seller shall be responsible for the safe packing, which must conform to the requirements of the carrier's tariffs. Seller shall separately number all cases, packages, etc. showing the corresponding number on the invoices. An itemized packing slip, bearing Buyer's order number, must be placed in each container. No extra charge will be made for packaging or packing materials unless authority is expressly incorporated in this order.
5. Delivery. Time and rate of deliveries are of the essence of the Order. Buyer reserves the right to cancel this Order and reject the goods upon default by Seller in time, rate or manner of delivery. Buyer also reserves the right to refuse shipments made in advance of the schedule of deliveries appearing on the face of this Order.
6. Invoices. Invoices shall (a) be rendered separately, in triplicate, for each delivery, with bill of lading attached, (b) cover more than one order, (c) be rendered with order number noted thereon. If invoice is subject to cash discount, the discount period will be calculated from the date the invoice is received by Buyer.
7. Terms. Unless otherwise agreed in writing, cash discount terms apply the 10th of the month following Buyer's receipt of invoice and all shipping papers.
8. Warranty. The Seller warrants that all material or services delivered hereunder conform to the design and specifications and to drawing, samples or other descriptions referred to in this order, will conform strictly to the requirements of this order and will be free from defects in material and workmanship. Such warrants shall survive acceptance and payment and shall run to Buyer its successors, assigns, customer and the user of its damages recoverable by Buyer arising out of breach of warranty.

9. Inspection. All articles are subject to inspection and test at place of manufacture or at destination, or at both places, by Buyer's representatives, and in case of orders to be supplied to, or for the use of, the Government, subject to inspection and test by representatives, of the Government. Any rejected material will be held subject to Seller's order and risk, or at Buyer's option, will be returned to Seller at Seller's expense. Any inbound transportation charges applicable to the rejected portion will also be charged to the Seller's account.

10. Independent Contractor. The Seller shall perform hereunder as an independent contractor and not as an employee or agent of the Buyer.

11. Indemnity Against Damages and Liens. In case the Seller performs work hereunder on the Buyer's land and premises the Seller shall indemnify and save the Buyer harmless from and against any and all damages for injuries caused to persons or property by reason of the Seller's operations hereunder other than for such damages caused by the negligence of the Buyer or his agents and further the Seller shall indemnify and save the Buyer harmless from and against any and all liens upon such land and premises, including without limitations, liens for labor performed and materials furnished, attaching as a result of any act or omission to act by the Seller or his subcontractors, and the Seller shall also procure at Seller's expense the discharge, release or satisfaction of any and all notices of intention or other evidence of such liens or claims thereto.

12. Insurance. In accepting this order you agree that you obtained or will obtain Public Liability Property Damage and Workmen's Compensation insurance covering your activities in performance under this order and of character and amount satisfactory to use and you agree to furnish us with a certificate before you engage in such performance.

13. Changes-Specification. Buyer shall have the right by written order to make changes from time to time in the work to be performed or the materials to be furnished by Seller hereunder. If such changes cause an increase or decrease in the amount due under this Order or in the time required for its performance, an equitable adjustment shall be made and the order shall be modified in writing accordingly. Any claim for adjustment must be asserted in writing within fifteen days from the date change is ordered. Nothing contained in the clause shall, relieve Seller from proceeding without delay in the performance of this order as changed.

14. Contingencies. Neither party hereto shall be liable to the other for default or delay in delivering or accepting goods hereunder if caused by fire, strike, riot, war, act of God, delay of carriers, governmental order or regulation, complete or partial shutdown of plant by reason of inability to obtain sufficient raw materials or power and/or any other similar or different contingencies beyond the reasonable control of the respective parties.

15. Default-Bankruptcy-Cancellation. Buyer may cancel this order in whole or in part any time by written or telegraphic notice whenever Seller shall default in performance or shall so fail to make progress in the work as to endanger performance, except that this Purchase Order shall not be terminated for such default where the default is due to causes beyond, control of the Seller, and without its default or negligence.

16. Tools and materials. Buyer shall retain title to any designs, sketches, drawing, blueprints, patterns, dies, models, molds, tools, plates, cuts, special appliances and materials furnished by or paid for by Buyer in connection with this Order. They shall be recorded and identified as property of Buyer and retained by Seller on consignment, subject to examination by Buyer. They shall be at Seller's risk and shall be replaced by Seller on consignment, subject to examination by Buyer. They shall be at Seller's risk shall be replaced by Seller if lost, damaged or destroyed. They shall be maintained in good condition At Seller's expense and kept insured by Seller with loss payable to Buyer. Such facilities shall be used exclusively in the production for Buyer of articles required by the Order and shall not be used for production of larger quantities than those specified herein, or in the production, manufacture, or design of any article for any other person without consent of Buyer. Such facilities shall be subject to disposition by Buyer at any and all time; and upon demand, they shall be returned to Buyer, including any unused materials furnished by Buyer and all spoiled or defective materials or products which contain any secret or patented device, unless Buyer shall otherwise direct. Nothing in this paragraph shall be construed as imposing any obligation on Buyer to furnish any such facilities.

17. Taxes: Except as may be otherwise provided in this order, the contract price shall include all applicable Federal, State and Local taxes of any kind in effect on the contract date.

18. Patient Indemnity: Seller agrees to defend, indemnity and save harmless the Buyer, its successors, assigns, and/or its customers in any and all suits brought for infringement of Letters Patent by reason of the use of equipment of materials furnished hereunder by the Seller except where such equipment or materials is furnished upon drawings or designs furnished by Buyer.

19. Confidential Relationship: Seller agrees to treat as strictly secret and confidential all specifications, drawings, blueprints, nomenclature, samples, models and other information supplied by Buyer. Unless the written consent of Buyer is first obtained. Seller shall not in any manner advertise or publish or release for publication any statement mentioning Buyer or the fact that Seller has furnished to Buyer articles required by this Order, or quote the opinion of any employees of Buyer. Seller shall not disclose any information relating to this. Order to any person not entitled to receive it.

20. Notice of Labor Disputes: Wherever an actual or potential labor dispute is delaying or threatening to delay the performance of this Order. Seller shall immediately give notice thereof to Buyer.

21. . Waiver: No waiver of any of the provisions contained in this Order shall be valid unless made in writing and executed by both parties. No charges beyond the contract price herein specified will be allowed except with Buyer's written consent. Failure of Buyer to insist upon strict performance shall not constitute a waiver of any of the provisions of the order or waiver of any other default.

22. Affirmative Action Employer: COMPLIANCE WITH LAWS AND REGULATIONS. Both Buyer and Seller shall comply with all Federal, State and Local laws and regulations applicable to their actions in connection with this Purchase Order, including i) all rules and regulations (including those of the Secretary of Labor) and Executive Orders (including Nos. 11246, 11375, 11625, 11701, 11758) applicable to this Purchase Order regarding nondiscrimination because of race, creed, color, sex, age, national origin, and physical or mental handicap, and ii) the affirmative action commitments for veterans and individuals set forth in 41 CFR 60 et seq. (including 41 CFR 60 – 1.4, 41 CFR 60 -300.5(a) which are incorporated herein by reference) and related regulations. By accepting this Purchase Order, Seller certifies that it complies with the authorities cited above, and that it does not maintain or perform services at segregated facilities

23. Compliance with Laws: Seller shall comply with all Federal, State and Local Laws applicable to this order.

#### **U.S. GOVERNMENT CONTRACTS**

24. In the event seller is furnished Government-Owned property for use in connection with this Order. Seller shall establish property control procedures in accordance with the provisions of the "Manual for Control of Government Property I Possession of Contractors" dated 3 January 1955 has amended (Section XIII, Appendix 'B' to Armed Services Procurement Regulation).

25. Termination: The termination clause set forth in Section B-706 of the Armed Services Procurement Regulations as in effect on the date of this Order. Is hereby incorporated herein by reference, except that if there is no Government contract number referred to on the face of the Order, the term 'the Government' and its immediately preceding words "and", "or", "by", wherever appearing in said clause shall be deemed deleted. The provisions of this clause shall not limit or affect the rights or remedies of Buyer stated in other clauses of this Order or provided by law in the event of default or breach by Seller.

26. Employment of aliens: No aliens employed by Seller shall be permitted to have access to the plans or specifications or the work under production, or to participate in the contract trials without the prior written consent of the secretary of the military department concerned.

27. Security: To the extent that this Order involves access to security information classified “Top Secret”, “secret”, or “Confidential”, the Seller shall safeguard all classified elements of this Order and shall provide and maintain a system of security controls within its own organization in accordance with the requirements of the Department of Defense Industrial Security manual for Safeguarding Classified Security Information as amended from time to time and the government shall have the right to inspect at reasonable intervals the procedures, methods and the facilities utilized by Seller in complying with these requirements. Seller agrees to insert in all subcontracts hereunder which involve access to classified security information provisions conforming substantially to the language of the clause.

28. . Buy American: Seller agrees that there will be delivered under this Order only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured supplies as have been manufactured in the United States substantially all from supplies mined, produced, or manufactured, as the case may be, in the United States, except that the foregoing shall not apply to supplies exempted pursuant to the provisions of the Buy American Act (41 U.S.C.a. Sec. 110a-d). Seller shall insert the provisions of the clause in the subcontracts.

29. . Renegotiation: This Order shall be subject to any Act of the Congress, whether heretofore or hereafter enacted and to the extent indicated therein, providing for the renegotiation thereof and shall be deemed to contain all the provisions required by such Act without subsequent amendment of this Order specifically incorporating such provisions. Seller shall insert the provisions of this clause in all subcontracts under this Order.

30. Licenses: If this Order is for \$3,000 or more and involves experimental, development of research work, the provisions of the current patent rights clause (9-107.2) of Armed Services Regulations are herein incorporated.

31. Uniform Subcontract Termination Article: In the event of termination of this Order except for default of Seller, settlement shall be made by negotiation substantially in accordance with the procedure and formula set forth in the Termination Article of the prime contract under which this Order is issued (a copy of such applicable Termination Article will be made available by Buyer to Seller upon request).

32. . Records: The Comptroller General of the United States or the Department of the Air Force or any of his duty authorized representatives shall until the expiration of three years after final payment hereunder, except that the three year period should be changed to read six years for any subcontract which is on a cost, CPFF, time and material, or labor hour basis, have access to and the right to examine any directly pertinent books, documents, papers and records of Seller involving transactions related to this Order.

33. Compliance with other laws: Seller will comply with all Federal, State and municipal laws, rules and regulations that may be applicable to this Order and at the request of the Government or Buyer, will furnish certificates to the effect that it has complied with the same certificates to the effect that it has complied with the same.

**The following are requirements for all AS9100 Purchase Orders**

34. The Seller is required to notify the buyer of all non-conforming products, and make arrangement for the organization approval of Seller's nonconforming material.
35. The Seller is required to notify the organization of changes in product and/or process, changes of suppliers, changes of manufacturing facility location and, where required, obtain organization approval.
36. The Seller will grant right of access to the buyer, their customer, and regulatory authorities to all facilities involved in the order and to all applicable records, this includes sub tier suppliers
37. The Seller is required to flow down to sub-tier suppliers the applicable requirements in the purchasing documents, including key characteristics where required.
38. Seller requires supplier and sub-tier suppliers to keep process records on critical process for seven (7) years. Records shall be made available upon request within 48 hours. Record disposition and disposal shall be carried out in a manner that eliminates the possibility of fraud or stolen property.
39. Supplier shall prevent and mitigate the use of counterfeit parts. Supplier shall comply with the requirements of AS5553 for electronic components and AS6174 for non-electronic product as applicable.
40. All personnel performing work under the control of the supplier shall be made aware of their contribution to product and service conformity, product safety, and the importance of ethical behavior.

**APPLICABILITY**

The quality assurance requirements are applicable to the Organization purchase Orders [PO's] when incorporated by reference to the applicable clause or clauses by code numbers in such PO's. Acceptance of the articles or material specified on this PO will be withheld pending receipt of all required data and documentation.

**SIGNIFICANCE**

The requirements and execution thereof, shall be in addition to and not in derogation of other PO requirements.

**REFERENCED DOCUMENTS**

Unless specifically stated, all standards referenced herein shall be the issue in effect on the date of quotation for this PO, unless prior approval has been granted by OSI Optoelectronics.

**100 QUALITY REQUIREMENTS**

- 101 The Seller shall maintain a quality system that is compliant to ISO9000:2008/AS9100. Manufacturing records shall be maintained for a period of seven years and available for review if so requested.
- 102 Refer to Clause 101
- 102A The supplier agrees to allow the access of their facility for the purpose of review/inspection by Customer, OSI Optoelectronics or government/regulatory personnel during the course of contract or PO.
- 103 The supplier shall maintain an inspection system applicable and adequate for the material or service being supplied.
- 104 The supplier shall control all test equipment used for acceptance of items deliverable under this PO, in accordance with any of the following standards. ANZI/NCSL Z540, ISO/IEC 17025, ISO 10012-1, FDA/CGMP/GLP, 10CFR50 Appendix B." The supplier's calibration system is subject to review and approval by the Quality Assurance Department at all times during the performance of this PO.
- 105 The supplier shall have and maintain a calibration system which effectively controls the accuracy of all measurement and test equipment used for acceptance of items deliverable under this PO. The supplier's calibration system is subject to review and approval by the purchaser's Quality Assurance department at all times during the performance of this order.
- 106 The Organization reserves the right to perform source inspection at the supplier's facilities or where designated in the PO prior to shipment. Inspection and test of the articles defined in the contract shall be performed by the supplier, and shall be subject to witness.
- 107 The Organization reserves the right to perform in-process inspection at the supplier's facilities. Supplier shall submit their inspection plan or traveler designating in-process source inspection points. Approval is required for in-process source inspection points prior to supplier commencing manufacturing or test operations. Supplier shall notify the cognizant buyer 48 hours prior to the time in-process inspection is required.
- 108 Inspection and acceptance of the first article manufactured against this PO is required prior to start of fabrication. The supplier shall submit a First Article Report demonstrating compliance with the requirements of the PO and referenced documents. This report shall be submitted with the first article for inspection and acceptance.
- 109 Government source inspection is required prior to shipment from supplier's plant. Upon receipt of this PO, promptly furnish a copy of the purchase order and notify the Government representative who normally services suppliers plant so that appropriate planning for government inspection can be accomplished. In the event the representative or office cannot be located notify the cognizant buyer immediately.
- 110 "Deleted"
- 111 Prior to or during supplier performance, any deviations or proposed changes in design from the supplied drawings or specifications must be reported to our Buyer immediately. No deviation will be considered approved without written confirmation of that fact from the Buyer. Under no circumstances are repairs to be undertaken without prior written approval from the Buyer.

112 The Supplier shall maintain a system which meets all requirements of ANSI Z540-1 & ISO/IEC 17025-2005. "General requirements for the competence of Testing and Calibration Laboratories" as applies to the testing and calibration of the Companies test and inspection equipment. The supplier's calibration system is subject to review and approval by the Quality Assurance Department at all times during the performance of this PO.

**200 TEST AND WORKMANSHIP**

- 201 Prior to shipment all materials shall be cleaned so as to be free of all foreign substances or residue from processing or handling. shipment.
- 203 Refer to clause 111.
- 204 Drawing Requirements – Drawings and specifications sufficient to inspect and/or test the articles being delivered shall accompany first shipment of this PO.
- 205 Functional Test Data – Functional test data referencing PO numbers, supplier's name and address, part number, part name, serial numbers, data and run time of units if applicable, including actual test data, must accompany each shipment. These reports shall be validated by an authorized representative of the supplier's quality department.
- 206 Components shall be solderability tested per the requirements of J-STD-001.
- 207 The Seller shall comply with the requirements of the latest revision (and all cumulative change notices) of ANSI/IPC-A-610, "Acceptability of Electronic Assemblies."
- 208 The Seller shall comply with the requirements of the latest revision (and all cumulative change notices) of ANSI/J-STD-001, "Requirements for Soldered Electrical and Electronic Assemblies."

**300 CERTIFICATION, INSPECTION DATA AND TRACEABILITY**

- 301 The Seller shall submit a Certificate of Compliance signed by an authorized representative with each shipment which states that the product supplied is in full compliance with the PO and/or applicable specification. The Buyer's Order Number shall be referenced on all certification documents.
- 302 The Seller shall submit a manufacturers' inspection/test report that states the material type and shows the physical and chemical properties by reference to melt, cast, heat, etc., and signed by its authorized representative (or by the agency performing the tests) with each shipment. Non-metallic material shall only require a chemical properties inspection/test report.
- 303 Inspect Test Data – Inspection data referencing purchase order numbers, supplier's name and address, part number, part name, serial numbers and quality characteristic data must accompany each shipment. These reports shall be validated by an authorized representative of the supplier quality department and must relate to each shipment. If statistical sampling is used as the basis of accept ion then the procedures shall be in accordance with industry accepted sampling plans.
- 304 The Buyer shall assign permanent, individual serial numbers to all items shipped under the Purchase Order or Sub-contract. If the Buyer elects to delegate this responsibility to the Seller, it will be stated in the Procurement Document. The manner of affixing the serial numbers will also be specified in the notes of a Buyer furnished drawing. Traceability of each serialized item to the raw materials employed in its fabrication will be maintained by the Seller. Material certifications, analyses, test bars, samples, etc. and all pertinent inspection data, and inspector identity and maintained to provide traceability for each parts and assembly serialized.
- 305 The Buyer shall assign a common lot control number to all items in a particular manufactured lot (defined for this purpose as a quantity that has been manufactured during an uninterrupted period of time, following a standard process and using the same equipment/facility). Traceability shall be the same as that specified in NOTE 304, but on a lot number rather than on an individual serial number basis.
- 306 The supplier shall inform the Buyer in writing of all proposed

202 The supplier shall notify the buyer of any proposed change in part number or nomenclature that differs from PO information prior to

changes in design, materials, processes or fabrication methods involving parts furnished to this specification and shall obtain Buyer's written approval before effecting such changes on deliverables against this Purchase Order. Notification to the Buyer is required if the location of the manufacturing facility is to change (current work) or has been changed.

307 Material Data Safety Sheet, required with shipment.

**400 MATERIAL IDENTIFICATION AND PACKAGING**

401 The supplier shall identify materials and articles having definite characteristics of quality degradation or drift with age and/or environment. This identification shall indicate the date and/or cycle that the critical life was initiated and the date and/or cycle

factor in determining useful life, identification shall also include the storage temperature, humidity, etc., required to achieve the stated useful life. In no case shall material or articles be supplied with less than 70% of the useful life cycles remaining.

402 All materials which are volatile, toxic or emit fumes which are harmful to human health shall be properly contained in accordance with applicable health and safety requirements. The containers will be plainly marked as to contents with appropriate warnings, precautions, instructions and storage conditions.

403 All materials shall be identified by a part number, permanently and legibly affixed directly to the surface of each article. In the event this is not possible due to physical size or nature of material, an identification tag will be securely affixed to each article, or if articles are supplied in individual or multi-unit containers the container must reveal the appropriate identification.

404 Materials considered ESD sensitive per MIL-STD-1686A shall be packaged/shipped in accordance with Buyer requirements. In the absence of these requirements, packing shall meet or exceed MIL-B-81705D and Industry Standard EIA IS-5-A. Labeling, per MIL-STD-129, for intermediate and external packages is required. Alternate labeling symbol, JEDEC RS-471, may be used on packages/cartons.

405 The supplier shall incorporate good commercial practices for preservation and packaging of all articles applying to this PO and shall identify each package permanently and legibly with PO number, manufacturer's name, date shipped and packing sheet number.

406 Vendor is required to provide certification per form FO265, that all goods or services are "Mercury Free" per the Mercury Contamination requirements of form FO264. (Note: form FO264 and FO265 are to be provided to vendor in addition to QAP's if this quality provision is a requirement.

407 N2 or dessicator storage required to maintain a dry (0 humidity) environment.

408 N2 packaging required. Parts to be packaged in glove box using N2 (0 humidity required within sealed package).

409 Medical device manufacture: the provisions of document GMP are in effect on Purchase Order, during all stages of manufacture.

410 The Seller shall insure that all printed wiring boards are preservation packaged per MIL-P-55110G Level B, sub-method IC-I of MIL-P-116 or as specified on the Purchase Order, drawing or specification.

411 If Seller uses special processes, customer approval is required. Special process certification: The seller shall furnish a certificate of compliance which states the product conforms to applicable specifications required by purchase order, drawing or specification signed by an authorized representative of the agency performing the special process (plating, welding, heat treating, anodizing, painting, non-destructive testing, etc.) with each shipment. When applicable, batch lot, heat number, x-ray, heat treat chart, etc., for the special processes performed shall accompany shipment

412 If the seller is supplying specialty metals as part of the order then contractor must follow the requirements of DFARS 252-225-7014 Preference for Domestic Specialty Metals. Specialty metals are defined as:

1. Steel:
  - a) With a maximum alloy content exceeding one or more of the following limits: manganese, 1.65%. Silicon, 0.60%: or copper, 0.60% or
  - b) Containing more than 0.25% if any of the following elements: aluminum; chromium, cobalt, molybdenum, nickel, titanium, tungsten, or vanadium.
2. Metal Alloys:
 

Consisting of nickel, iron-nickel, and cobalt base alloys containing a total of other alloying metals (except iron) in excess of 10%.
3. Titanium and Titanium alloys.
4. Zirconium and zirconium base alloys.

501 Documentation supplied as part of this contract constitutes technical data within the definitions of the U.S. International Traffic in Arms regulations (ITAR) and is subject to the Export Control Laws of the U.S. government. Transfer of this technical data by any means to a foreign person, foreign entity or otherwise restricted entity or individual whether in the United States or abroad, without a prior export license or other approval from the U.S. Department of State, is prohibited.

**600 KEY CHARACTERISTICS**

601 When key characteristics are designated on the procuring documentation, the Supplier shall provide certificate of compliance indicating full compliance to the Key Characteristics.

**700 PROHIBITED MATERIALS:**

701 Supplier hereby represents and warrants that all products delivered by Supplier shall be in compliance with Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 (as may be amended or updated from time to time) on the restriction of the use of certain hazardous substances ("RoHS"). Supplier shall provide a statement certifying compliance with RoHS with each shipment.

702 Supplier hereby represents and warrants that all products delivered by Supplier shall be in compliance with Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 (as may be amended or updated from time to time) concerning the Registration, Evaluation, Authorization and Restriction of Chemicals ("REACH"). Supplier shall provide a statement certifying compliance with REACH with each shipment.

703 Pursuant to Section 1502 of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and the rules and regulations of the SEC thereunder ("Dodd-Frank"), Supplier hereby represents and warrants that no Conflict Minerals, including columbite-tantalite (coltan), cassiterite, gold, wolframite, and their derivatives (which derivatives are currently limited to tantalum, tin, and tungsten) will be contained in or necessary to the functionality or production of any of the products or materials delivered by Supplier. Supplier or Manufacturer shall be able to provide Certification or Declaration of Compliance upon request.