

1. Definitions

“**Goods**” mean all items, products, parts, raw materials, equipment, provided by the Supplier under the Order.

“**Intellectual Property**” means all registered and unregistered rights of intellectual property, including but not limited to patents, patent applications, trademarks, copyrights, design rights, trade secrets, know-how, and all other similar rights, including applications, renewals, and extensions, worldwide.

“**Order**” means mutual agreement of the Supplier and Optotune as to the delivery of Goods and/or Services.

“**Services**” mean all services provided by the Supplier under the Order.

“**Supplier**” means the party accepting the Order and agreeing to deliver the Goods or Services to Optotune.

“**Terms**” mean these general Purchasing Terms & Conditions.

2. Applicability

Unless expressly agreed otherwise in writing, these Terms govern all Orders between the Supplier and Optotune and override any terms from the Supplier. By accepting the Order, the Supplier agrees to be bound by these Terms.

The Order and these Terms together constitute the entire agreement, superseding all prior communications.

Amendments must be made in writing and signed by both parties.

In the event of discrepancies between the Order and these Terms, the Order prevails.

3. Ordering process

Supplier’s order confirmation delivered to Optotune in response to Optotune’s purchase order constitutes an Order. Supplier must send the written order confirmation to Optotune within 5 business days of the receipt of Optotune’s purchase order.

Order is binding on both parties. Supplier can modify the Order only with Optotune’s written consent. Optotune can make changes to the Order and any underlying drawings, data, designs and/or specifications by a written notice; if changes affect cost or delivery, the Supplier must claim adjustment within 10 days of notification. Supplier must notify Optotune in advance of any changes to manufacturing processes, components, materials, testing methods, equipment, production sites, suppliers or service providers and require his contractors to do the same.

4. Prices and Payment Terms

Prices include VAT and all taxes the Supplier is required by law to collect from Optotune, import duties and government levies. Prices include all packaging and packing costs.

If requested in the RFQ, the Supplier will provide scaled pricing for the quoted Goods.

Prices in the Order are not subject to increase.

Invoices must be sent as specified in the Order. Invoices will be paid net 60 days from the later of receipt of the Goods and/or Services or correct invoice.

5. Delivery

Goods will be delivered in accordance with the DDP INCOTERMS 2020, unless otherwise agreed by the Supplier and Optotune.

5.1. Delayed delivery

In the event delivery may be delayed, the Supplier must promptly notify Optotune in writing and specify anticipated length of the delay. Upon Optotune’s request, the Supplier must expedite Goods by the fastest available method at its own costs. Delayed delivery notice does not relieve the Supplier of its obligation to comply with the delivery terms set forth in the Order. In the event of a delay of more than 7 (seven) days

attributable to the Supplier, Optotune may impose a contractual penalty in the amount of 0.5% (half percent) of the total Order value for each day of the delay, up to a maximum of 10% (ten percent) of the Order value. Statutory rights and remedies of Optotune remain unaffected.

5.2. *Incomplete delivery*

Optotune may cancel the Order in whole or in part in the event delivery is not completed in the exact quantities and time specified in the Order.

5.3. *Partial and over delivery*

Partial or over deliveries are prohibited unless expressly authorized in writing by Optotune.

6. **Acceptance**

Optotune will inspect the Goods and Services within 60 days from delivery.

If Optotune determines any portion of the Goods and Services are non-conforming, it will, at its sole discretion:

- (a) reject, and if applicable return to the Supplier at the Supplier's expense, the non-conforming Goods and Services; in which case the Supplier will reimburse Optotune for the full purchase price and any costs incurred, including the transportation costs; or
- (b) accept the non-conforming items and either:
 - (i) remedy the defects at the Supplier's expense; or
 - (ii) apply a reasonable price reduction.

Payment does not constitute acceptance. Acceptance after inspection does not waive warranties or preclude revocation for latent defects or fraud.

7. **Warranties**

Supplier warrants that the Goods and Services are new, state of the art, merchantable for the intended purpose, conform to specifications and other descriptions in and related to the Order, and free from defects in title, design, material, and workmanship.

Warranty period is twenty-four (24) months from the date of acceptance by Optotune.

If the same or similar defect occurs within three (3) subsequent deliveries, all Goods and Services delivered by the Supplier, whether the defect has already occurred or not, will be deemed defective.

If any defect occurs during the warranty period, Optotune may, at its sole discretion and without prejudice to any other rights or remedies:

- (a) require the Supplier to promptly repair or replace the defective Goods or re-perform the defective Services fully at the Supplier's expense, including all sorting, transportation and installation costs; or
- (b) remedy the defect itself or through a third party at the Supplier's expense, if the Supplier fails to act within a reasonable time; or
- (c) return the defective Goods or reject the defective Services and obtain a full refund of the purchase price and any costs incurred.

8. **Liability**

Supplier is liable for all direct losses and expenses incurred by Optotune as a result of the Supplier's breach of Order or these Terms. Supplier will indemnify Optotune from any third-party claims, demands, actions, or proceedings arising out of:

- (a) the Supplier's breach of the Order or these Terms; or
- (b) the Supplier's infringement of any intellectual property rights, provided that such indemnity shall be limited to direct damages incurred by Optotune as a result of such claims.

9. Compliance

9.1. Product compliance

Supplier must comply with all applicable product compliance laws and regulations and Optotune's policies and furnish the certificates and declarations of such compliance to Optotune upon request (eg. RoHS, REACH, CMRT, EMRT, PFAS, TSCA). Without limiting the generality of the foregoing, Supplier expressly represents that:

- (a) it complies with the European Union requirements of the Restriction of Hazardous Substances ("**RoHS**");
- (b) complies with Registration, Evaluation, Authorisation and Restriction of Chemicals ("**REACH**") and declares that all substances contained in the Goods are either registered with the European Chemicals Agency (ECHA) or exempt from such registration; and
- (c) undertakes to immediately notify Optotune of any changes in the presence of SVHCs or other REACH-related obligations.

9.2. Trade compliance

Supplier confirms that:

- (a) it complies with applicable trade compliance rules and regulations;
- (b) is not a person or entity subject to any economic or trade sanctions or similar restrictions ("**Sanctioned Person**") imposed by the European Union, United Kingdom, United States, United Nations, or any jurisdiction in which the Supplier or any party with an interest in this agreement is domiciled ("**Sanctions**");
- (c) no Sanctioned Person has any direct or indirect interest in, participation in, or control over the agreement. Supplier shall not source, directly or indirectly, any goods supplied under or in connection with this agreement from the Russian Federation that fall under Article 12g of Council Regulation (EU) No 833/2014. Supplier shall use reasonable efforts to ensure that no third parties further down the supply chain source such goods from the Russian Federation. Supplier shall not source, directly or indirectly, any goods supplied under or in connection with this agreement from the Republic of Belarus that fall under Article 8g of Council Regulation (EU) No 765/2006. Supplier shall use reasonable efforts to ensure that no third parties further down the supply chain source such goods from the Republic of Belarus.

In the event of breach or potential violations, Supplier must immediately inform Optotune and provide all relevant information. In the event of breach of the foregoing representations, Optotune may at its sole discretion, in addition to any other remedy available at law or equity, immediately suspend or terminate any cooperation with Supplier without any liability and Supplier must indemnify and hold harmless Optotune from all costs and damages arising from or relating to such breach.

9.3. Cybersecurity compliance

Supplier must comply with all applicable cybersecurity regulations and highest industry standards of protection against cybersecurity incidents. Upon request, Supplier will provide evidence of its cybersecurity program. In the event of a cybersecurity incident, Supplier must notify Optotune at it@optotune.com within 72 hours. And subsequently inform Optotune of its resolution and preventive actions taken to avoid recurrence. Supplier will be liable for all damages caused to Optotune by cybersecurity incidents.

10. Confidential Information

Optotune and the Supplier must keep the received information confidential and use it only for the purpose of fulfilling the Order. Confidentiality obligations survive the termination of the Order.

11. Intellectual Property

All Intellectual property rights in Goods and Services, except pre-existing Supplier's rights, are owned by Optotune.

Optotune retains title to all drawings, specifications, samples, designs, and data it provides. All tooling, equipment, and materials furnished or paid for by Optotune remain its exclusive property. Supplier must label such property as Optotune's, use it solely for Order performance and maintain it in good condition.

Supplier shall return such property immediately upon request.

Supplier warrants that Goods and Services do not infringe third-party intellectual property rights. Supplier will indemnify, defend and hold harmless Optotune and its customers against any such claims.

12. Long-Term Supply and Last Time Buy

12.1. Long-Term Supply

Supplier must provide the Goods and Services, spare parts, repair services, and technical support for at least 3 (three) years after the last Order. Major spare parts must be kept in stock and ready for immediate dispatch.

12.2. Last Time Buy

Supplier must notify Optotune in writing at least 12 (twelve) months prior to discontinuing any Goods or Services. Optotune may place a final purchase order. The Supplier must provide all related documentation free of charge to enable continued production. Optotune may acquire the Supplier-owned tools and equipment for a reasonable fee. If the Supplier fails to meet the notification deadline, the Supplier will bear all costs incurred by Optotune to develop a replacement.

13. Final provisions

13.1. Marketing

Supplier cannot advertise or disclose its relationship with Optotune without Optotune's prior written consent.

13.2. Transfer

Supplier is not entitled to transfer rights and obligations arising from the Order and these Terms to third parties in any way without the written consent of Optotune.

13.3. Waiver

Failure of Optotune to insist on performance of any of the terms, conditions or requirements of the Order does not constitute a waiver of such terms, conditions or requirements.

13.4. Rights and Remedies

All rights and remedies of Optotune set forth in the Order shall be cumulative and in addition to any other or further rights and remedies provided at law or in equity.

13.5. Force Majeure

Force majeure includes all circumstances beyond the parties' control that hinder performance. The affected party must notify the other within 7 (seven) days. During force majeure, obligations are suspended. If it lasts more than 3 (three) months, either party may dissolve the Order for unfulfilled obligations.

13.6. Severability

If any provision is found invalid or unenforceable, the remaining provisions remain in effect to the maximum extent allowed by law.

13.7. Choice of Law and Jurisdiction

The agreement is governed by Swiss law. Any disputes are subject to the exclusive jurisdiction of courts in the canton of Zurich, Switzerland.