

# Purchase and Order Conditions



## I. General

### 1. Order and Order Confirmation

- (1) For orders of OSRAM SpA (in the following referred to as "OSRAM"), the following purchase and order conditions apply unless there is an applicable agreement in place between the parties. Deviating general terms and conditions of the contractor are only binding for OSRAM insofar as they are consistent with OSRAM's conditions or the applicable agreement or OSRAM has confirmed its explicit agreement in writing.
- (2) Order acceptance has to be confirmed immediately - however, at the latest 3 days after receipt of OSRAM's order - by returning a duly signed copy of the order form. After expiration of the said time period, OSRAM shall no longer be bound to the respective order.
- (3) If the order confirmation differs from the order, OSRAM shall only be bound if it has agreed to such deviation in writing. Acceptance of goods or services or payment does not constitute such agreement.
- (4) All agreements made between OSRAM and the contractor upon contract conclusion are fully put down in writing. There are no oral side agreements. OSRAM's employees are not entitled to enter into deviating oral agreements.

### 2. Prices

- (1) The prices quoted by OSRAM and confirmed by the contractor shall be considered as fixed prices. Costs for packaging are included in the prices unless otherwise set forth in the order.
- (2) Any increase or reduction in the price as a result of changes affecting the execution of the works must be notified to OSRAM immediately and is subject to OSRAM's written approval prior to the shipment of the goods or the provision of the service.

### 3. Payment

- (1) Unless otherwise agreed separately, the payment term is 90 days end of month after receipt of the invoice indicating OSRAM's order number and the full receipt of the goods or full provision of the service.
- (2) Payment by OSRAM does not constitute acceptance of the goods delivered or services performed as compliant and free from defects per the agreement.
- (3) OSRAM shall be obliged to make payments to the contractor only. The assignment of a claim requires OSRAM's prior written approval.
- (4) OSRAM shall not be bound to make any payment or otherwise fulfill the obligations under the accepted order, as applicable, in the event of a conflict with national or international foreign trade law regulations, embargos or other sanctions.

### 4. Delivery and Service Delays

The contractor is obliged to inform OSRAM without delay about any hindrances or delays which will result in delay with the agreed delivery or performance date or period. OSRAM is entitled to raise any statutory default claims without limitation.

### 5. Secrecy/Data Protection

- (1) The order and any associated commercial or technical information provided by OSRAM to the contractor are confidential and may not be passed on to third parties without OSRAM's prior written approval, unless this is strictly necessary for the performance of the contract. In the event of a violation of this confidentiality obligation, OSRAM reserves the right to claim damages.
- (2) Insofar as the contractor handles personal data within the context of his contractual obligations, the contractor shall bind all its employees in writing to the data secrecy in accordance with § 5 BDSG (Federal Data Protection Act).

### 6. Advertising

No reference may be made to business relations with OSRAM for advertising purposes unless OSRAM has given its written approval.

### 7. Compliance

- (1) The contractor shall comply with all relevant statutory regulations as well as international standards for ethical behavior. Reference is made in particular to the adherence to antitrust law and the regulations on fighting corruption. Offering gifts to OSRAM's

employees is considered by OSRAM as a violation of contractual or pre-contractual obligations.

Within its organization, the contractor is obliged to respect the basic rights of its employees and to procure a safe work environment. The contractor shall observe the prohibition of child labor according to the Declaration of the International Labour Organization on basic labor principles.

(2) OSRAM may withdraw from or terminate the contract if the contractor does not fulfill its obligations as per Para 1. Other statutory or contractual rights of withdrawal and termination remain unaffected.

### 8. Applicable Law / Place of Performance / Jurisdiction

- (1) The law of the Italian Republic applies. Application of the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 is excluded.
- (2) The place of performance is the delivery or reception point specified by OSRAM.
- (3) The place of jurisdiction for all disputes arising from and in connection with the contract concluded with the contractor is Milan. However, OSRAM is also entitled to sue the contractor at its place of general jurisdiction.

### 9. Severability Clause

If individual provisions of these purchase and order conditions are invalid, this does not affect the validity of the remaining provisions. Statutory regulations apply and replace the invalid provision.

## II. Particular Regulations for Contracts on the Delivery of Goods

### 1. Delivery and Shipment

- (1) In case of air and sea freight, delivery shall be made "FOB to the loading (air)port indicated by OSRAM", as for the rest "FCA from the contractor's premises" (as per INCOTERMS 2010) unless otherwise agreed.
- (2) Meeting the delivery date requires that the goods were received at the reception point by the agreed delivery date.
- (3) Deliveries exceeding the contracted quantity or advance deliveries require OSRAM's prior approval. Any additional costs incurred shall be borne by the contractor.
- (4) If pricing is agreed ex works or ex contractor's sales depot or in case OSRAM pays for the freight, shipments are to be transported at the lowest costs available. If OSRAM has expressly instructed contractor to use a particular shipment method, carrier or a particular shipment route, the contractor has to ensure that the lowest possible costs incur for the stipulated shipment.
- (5) In the event that OSRAM pays for the freight, the contractor shall ensure that the forwarder is not concluding a cargo damage insurance.
- (6) Postal parcels and postal goods are to be sent prepaid. In the event of ex works pricing, the advance postal prepayments are to be included in the price for the goods.

### 2. Warranty

- (1) The contractor shall warrant its goods and services against defects according to the applicable laws. The warranty period for defects in material or workmanship or defects as to title is 36 months from delivery for the shipment of goods. For an item which was used for a building as per its standard use and caused the building's defectiveness, the warranty period is 5 years from delivery.
- (2) Defects which result in a refusal of acceptance as well as all defects determined upon transfer of risks or during the warranty period have to be remedied by the contractor at its own costs or contractor has to provide a replacement delivery without defects, at OSRAM's choice.
- (3) If the contractor does not remedy the defects or does not provide replacement delivery during an adequate period of time determined by OSRAM, OSRAM is entitled to
  - partially or fully withdraw from the contract,
  - request a price deduction,
  - remedy the defect or effect replacement delivery itself, or have it remedied, and/or
  - claim damages for a breach of contractual obligations.

The same applies if the contractor declares itself unable to remedy the defects or to provide replacement delivery within an adequate time frame. It is not necessary to set a

grace period before exercising the aforementioned rights if the contractor refuses performance, if supplementary performance is unacceptable for OSRAM or if there are particular circumstances which justify immediate exercising of the aforementioned rights after consideration of the parties' mutual interests.

(4) Notices of defects are considered in time if they are made within two weeks after delivery or performance with regard to defects which are noticeable in the course of proper and feasible examination during normal operations, and with regard to defects which become apparent later, within two weeks after they were observed.

(5) Any further statutory claims remain unaffected.

(6) The contractor bears the costs and risks for returning defective goods.

(7) The contractor is obliged to indemnify and hold harmless OSRAM from third party damage compensation claims arising from bodily injury and/or damage to property due to a defect in a good originating from the contractor's sphere of control and organization and for which the contractor is liable towards third parties. In this context, the contractor is also obliged to refund any expenses which arise from or in connection with a product recall undertaken by OSRAM. OSRAM will inform the contractor on the content and extent of the product recall measures insofar as possible and reasonable and will give contractor the opportunity to make a representation related to the recall.

### 3. Regulations on Export Control and Foreign Trade Data

(1) The contractor shall comply with all applicable export control, customs and foreign trade regulations ("Foreign Trade Law"). The latest two weeks after the order was submitted, the contractor shall provide OSRAM in writing with all information and data required by OSRAM in order to comply with Foreign Trade Law for export, import as well as re-export. In particular, the contractor shall provide the following:

- All applicable export list numbers including Export Control Classification Number (ECCN) as per U.S. Commerce Control List;
- The statistical commodity code according to the current commodity classification of the foreign trade statistics and the HS (Harmonized System) Code;
- Country of origin (non-preferential origin) and, upon request of OSRAM, supplier declarations on preferential origin as per EC-regulation 1207/2001 (for European suppliers) or preferential certificates (for non-European suppliers). If the goods do not have any origin characteristics, the annotation "No goods of origin" has to be included in the order confirmation and in the delivery invoice. In this case, OSRAM has the right to cancel the order.

(2) If the contractor is in breach of its obligations as per Para 1, it shall be liable for any costs and damages incurred by OSRAM in that respect, unless the contractor is not responsible for such breach.

### 4. Accident Prevention / Environmental Protection Regulations etc.

(1) The goods supplied and services performed as well as the production processes for supplied goods must comply with statutory regulations, in particular with the Italian law governing the labour security (D.Lgs. n. 81 9 April 2008), the Italian law on dangerous chemicals (D. Lgs. N. 52 3 February 1997 and D. Lgs. N. 65 14 March 2003) other relevant standards and other recognized practices and procedures. The requirements of the OSRAM Index List Environment have to be fulfilled. The regulations of any international associations specified in the order must also be observed. The same applies to environmental protection regulations.

(2) Any necessary protective equipment shall be provided by the contractor and shall be included in the price.

(3) Regulations governing the transport of dangerous goods must be observed. If the order indicates that the goods are to be forwarded by sea or air, the contractor shall also comply with all the regulations connected with these types of transport in respect of packaging and labeling.

(4) In the event OSRAM orders substances or preparations thereof for which a material safety data sheet exists, the contractor also has to provide such sheet free of charge and in the form of the REACH regulation (EC) no. 1907/2006. A copy thereof has to be sent to OSRAM's purchasing department.

### 5. RoHS and WEEE

The Contractor shall fulfill all legal requirements arising from directives ROHS 2011/65/EU and WEEE 2012/19/EU, as well as the associated national regulations.

### 6. Drawings, Samples and Tools

# Purchase and Order Conditions



Drawings, models, samples and/or tools made available to the contractor by OSRAM remain the property of OSRAM and shall be returned upon OSRAM's request at any time, but no later than upon full completion of the related contract. They shall be labeled as OSRAM's property and may be used only for the fulfillment of the contract in place between contractor and OSRAM. The Contractor shall preserve their confidentiality and must not allow them to be copied. Their loss must be reported to OSRAM immediately. OSRAM reserves the right to claim damages.

## 7. Provided Materials

(1) All materials provided by OSRAM remain property of OSRAM, and OSRAM is considered manufacturer of goods manufactured using the materials and retains or automatically acquires property rights to the goods produced through the processing of these materials. The materials and objects shall be labeled as OSRAM ownership and stored for OSRAM in a safe place and insured against risks such as fire and theft.

(2) Palettes and other transport materials supplied by OSRAM remain OSRAM's property and must be returned to OSRAM. OSRAM reserves the right to claim compensation for any unreturned transport materials provided.

## 8. Industrial Property Rights

(1) The contractor grants to OSRAM a non-exclusive, irrevocable, worldwide license to its intellectual and/or industrial property rights and/or all other rights required for possession, distribution and use of the supplied goods and products resulting thereof.

(2) The contractor has to deliver the goods free of third party intellectual and/or industrial property rights or any other third party rights. If third party intellectual and/or industrial property rights are infringed by the supplied goods or their use, the contractor has to make any effort in order to provide to OSRAM an unlimited right of use.

(3) The contractor is obliged to indemnify and hold harmless OSRAM from any third party claims raised on the basis of a violation of third party rights as stipulated in Para 2 and to reimburse OSRAM for all reasonable expenses incurred in relation with the claim. OSRAM will not accept any claims without the contractor's approval and will not enter into any settlement, unless contractor's approval is refused arbitrarily.

(4) If the contractor deems the third party claim unjustified and upon related request from OSRAM, contractor has to conduct the defense against such claim at its own expenses. If the contractor conducts the defense against the asserted claims in the name of OSRAM, the contractor is obliged to always safeguard OSRAM's commercial interests and to keep OSRAM informed about any significant steps. The contractor is not allowed to enter into a settlement which affects OSRAM's rights and/or interests without OSRAM's express written approval, whereas OSRAM will not refuse approval arbitrarily.

(5) The obligations in Paras 3 and 4 do not apply if contractor can prove that it is not responsible for the violation of the said rights.

(6) Further statutory claims following a defect of title of the goods supplied to OSRAM remain unaffected.

## III. Special Regulations for Service and Work Contracts

### 1. Performance and Obligation to Inform

(1) In order to provide the services, which may also comprise work services owed, the contractor has to employ skilled and competent personnel. The contractor is obliged to ensure that work permits which might be required are available.

(2) Services have to be provided according to the current state of the art.

(3) The contractor may decide on the allocation of working hours.

(4) The contractor shall inform OSRAM on the status and progress of the services which are carried out for OSRAM.

### 2. Subcontractors

The use of subcontractors by the contractor is only permitted with OSRAM's explicit written approval.

### 3. Changes in the Performance

OSRAM is entitled to request changes in the scope of services unless these are unacceptable for the contractor. If the change results in additional costs pursuant to Sec. I 2.

Para 2 the contractor has to inform OSRAM accordingly without delay and before the changes are implemented.

### 4. Duty to cooperate

(1) If the provision of information and/or documents is required for the performance of services, OSRAM will make these available to the contractor in due time before the service is performed.

(2) Insofar as services are required to be provided in OSRAM's offices or at OSRAM's premises, OSRAM will grant the contractor the access required.

### 5. Acceptance of Work Services

(1) Results of work services are subject to an acceptance test. Upon finalization of the acceptance test, OSRAM will declare acceptance insofar as the results provided are free from defects.

(2) In case services provided by the contractor are defective, the contractor will, at OSRAM's choice, remove these defects within an adequate time period at his own costs or will provide his services again free of defects. If the contractor does not remove the defects or provide services free of defects within a reasonable period of time set, OSRAM may withdraw from the contract or adequately reduce the price, or remove the defect or have it removed at the contractor's expense and claim damages. It is not necessary to set a reasonable grace period before exercising the aforementioned rights if the contractor refuses performance, the subsequent performance is unacceptable for OSRAM or if there are particular circumstances which justify that the aforementioned rights are immediately enforced under consideration of the parties' mutual interests.

### 6. Rights to Results

(1) The results of the services (in the following referred to as "results") become OSRAM's property upon their completion and in their respective state of processing. The contractor will properly store such results for OSRAM until they are physically provided to OSRAM. In the event that for legal reasons OSRAM cannot become the sole owner to all rights in the results as per the first sentence, OSRAM, upon their completion, is hereby granted the exclusive, transferable, sub-licensable, worldwide, unlimited right to use the results itself or have them used partly or fully by third parties in all known and unknown ways of use, to copy, change and make them publicly accessible, to publish or to use them, all in a modified or unmodified form.

(2) If inventions or protectable ideas/proposals are created during the provision of service for which statutory rights can be applied, contractor shall promptly inform OSRAM thereof in writing. OSRAM, at its sole discretion, may file for patents and other statutory protection in any country in its own name as it sees fit, and maintain or abandon those rights at any time. If required, contractor shall free of charge reasonably assist OSRAM with regard to the filing of patents and other statutory rights on such inventions or protectable ideas/proposals, in particular provide any information required without undue delay and take all measures reasonably required; contractor will refrain from any act that might interfere with OSRAM's application for said rights and efficient use thereof. In particular, the contractor must not apply for any such right in its own name or a third party's name and must not support a third party in applying for such rights. The intellectual property rights arising on the basis of any such registration shall belong to OSRAM. For any inventions or technical improvements made, the rules of Codice della Proprietà Industriale (d. Lgs. N. 30 10 february 2005) with reference to Inventions of Employees applies.

(3) Unless otherwise agreed in a given case, the contractor waives the right to be mentioned as author with regard to the results obtained.

(4) The contractor is obliged to ensure that the inventions or protectable ideas/proposals created during the provision of the services can be transferred to OSRAM without additional costs for OSRAM, for instance by way of respective agreements with the persons involved in the implementation of the results.

(5) In relation to its employees, freelancers or third parties insofar as they are involved in the provision of services in accordance with Sec. III 2., the contractor will ensure in written agreements with these employees, freelancers or third parties that the rights as per Sec. III 6 Para 1 and Para 2 are secured and will not be affected by the termination of the contracts between the contractor and the third parties. In case of breach, the contractor will reimburse OSRAM for all damages and expenses incurred in this respect, including the costs for reasonable legal defense, and will indemnify and hold harmless OSRAM from any third party claims, unless the contractor is not responsible in this regard.

(6) The granting of the aforementioned rights is covered by the contractually agreed

remuneration.

## 7. Liability

In the event of breach of contractual obligations of whichever kind, the contractor is fully liable as per the statutory regulations.