

## The Terms & Conditions of Trading of the Optoelectronics Company Ltd

1. These terms and conditions of trade are effective from February 15 2010 and supersede any and all previously issued terms & conditions.
2. References to "The Company" shall mean The Optoelectronics Company Ltd. References to "The Customer" shall mean the purchaser of any goods or services produced or provided by The Company.
3. Acceptance of an order shall be subject to the terms and conditions as laid out below. These terms and conditions shall prevail over any conditions of contract which The Customer may seek to impose and no variation or addition to these terms shall be valid unless accepted in writing by The Company.
4. Contracts and orders are subject to The Company receiving any necessary third party license or permission to use materials, intellectual property, or the like, and being able to obtain aforementioned articles. If any articles are discontinued or unavailable The Company will do its best to find suitable replacements but shall not be liable if it is unable to do so.
5. Where contracts refer to technical specifications and definitions, these specifications and definitions shall be those set down by The National Physical Laboratory or National Bureau of Standards (as amended from time to time). No variation of any technical specification or definition will be accepted under any circumstances except deemed necessary by the Company to fulfil the contract. The Company gives no warranty as to fitness for purpose in connection with any technical specification or definition.
6. The Customer shall indemnify The Company against all damages, penalties, costs, and expenses to which The Company may become liable as a result of work done in accordance with The Customer's specifications which involves the infringement of any intellectual property right of a third party.
7. Any time or date named by The Company for delivery is an estimate only and The Company shall not be liable for the consequences of any delay. Failure of The Company to make delivery on an estimated date shall not entitle The Customer to cancel the order or contract. Annotated comment noted but be aware that without an end date for delivery the contract risks failing for uncertainty – it is a principle of law that a contract must have certainty in order to be enforceable
8. Where specifications are to be supplied by The Customer, The Customer shall provide such information to The Company to enable it to make delivery within the period named
9. Where The Company arranges for delivery of the goods to The Customer it does so only as the agent of The Customer who shall bear the cost of such an arrangement. Packing materials where required are charged extra and are non returnable. Delivery shall take place upon collection of the goods from the Company's premises by the Customer or the carrier responsible for transporting the goods to a destination specified by The Customer. Such transport shall be at the Customer's risk.
10. The Customer shall examine the goods forthwith upon receipt and shall, within three days of such receipt, report in writing to the Company any damage in transport or shortfall to enable a claim to be made to the carrier where appropriate. In case of any breakages, the Customer must retain the damaged goods and packing material for inspection. The Customer shall report in writing to the Company in the case of non-delivery within three days of dispatch. The Company acts as the Customers agent in arranging carriage and cannot be responsible for any act, omissions or defaults on the part of the carrier.
11. Unless otherwise explicitly stated all quotations provided by The Company for goods or services are valid for a period of thirty days from date of quotation.
12. The Company warrants that goods supplied will be free from material defect and be satisfactory quality. Accordingly, and without prejudice to the provisions of clause 13, The Company will replace or repair at its own expense any of the goods which prove to be defective or faulty, (provided that the goods have not been tampered with or subject to improper treatment by The Customer), if The Customer gives written notice of the faults and defects within 12 months of the date of invoice, save in the case of semiconductor devices where such notification must be given within 90 days of the date of invoice. In addition, where relevant, The Company warrants that any installation or other service to be supplied by it will be provided with reasonable skill and care. To that end, The Company will arrange for any defects in installation to be rectified at its own expense if The Customer gives written notice within 30 days of installation. Save as provided in this clause, The Company shall not be liable to compensate or indemnify The Customer for any loss or damage whatsoever, (whether direct, indirect, consequential or otherwise), suffered or sustained by it as a result of the goods and/or services supplied or any defects in them (or as a result of the negligence of The Company or of its servants agents or sub-contractors) and all conditions and warranties about the goods which might otherwise be implied by reason of statute or common law are hereby excluded (save for the condition implied by section 12 (1) of The Sale of Goods Act (UK) 1979) and the Company's total liability in any event shall be limited to the amount paid under the contract by the Customer
13. Notwithstanding the above, The Company is not seeking to exclude or restrict its potential liability for damage in the nature of death or personal injury caused by its negligence. For the avoidance of doubt, The Company shall not be liable for any damages to or defects in goods supplied caused by improper storage, transport, neglect or maintenance. The Customer will be responsible for costs of transporting away defective goods and returning any such goods once they have been repaired or replaced.
14. The Customer will be deemed to have accepted the goods supplied by the Company as complete and fit for purpose unless the Company is notified of any discrepancy or non-conformance in writing, such notice to be given within fourteen days from the date of shipping as stated on the goods delivery note, or where applicable the waybill.

## The Terms & Conditions of Trading of the Optoelectronics Company Ltd

15. Payment for goods and services is due within thirty days from date of invoice. The Company reserves the right, without prejudice to any other rights which it may have, to charge interest at the rate of 3% over the base rate for Barclays Bank PLC per annum from time to time in force on overdue accounts such interest to run from day to day and accrue after as well as before any judgement.
16. Goods supplied by The Company shall remain the property of The Company until The Company has received payment in full of all sums invoiced under each and every current contract between The Company and The Customer together with any interest accrued thereon and other charges. In the meantime The Company shall retain the full legal and beneficial title to the goods and the Customer shall hold the goods in a fiduciary capacity as The Company's bailee, free from charge, lien, or other encumbrance, shall store the goods separately and shall keep them fully insured with a reputable insurer. In this period The Company shall be entitled to recover possession of the goods ( or any part of them) at any time and shall be entitled without restriction to lawfully enter upon the premises of The Customer for the purpose of removing the goods.
17. The Company shall not be liable in respect of any breach of contract, nor The Customer have any right to rescind any contract or order if such failure is caused directly or indirectly beyond the reasonable control of The Company, including strikes, lockouts or other form of industrial action or non action of government, government departments or other competent authority, war, whether declared or not, or any action of any third parties for whom The Company is not responsible. The Company may terminate the contract immediately without notice in the event the Customer becomes insolvent, has its goods or assets seized or ceases to trade.
18. Goods supplied to The Customer by The Company shall be at risk as soon as they are delivered to The Customer or otherwise to the order of The Customer or to vehicles for transmission to The Customer and The Customer shall arrange all insurances with respect to such goods and shall arrange all insurances until The Company has been paid the price of the goods in full.
19. In the event of loss or damage to goods at the risk of The Customer, The Customer shall immediately make all proper claims of the insurers. Monies paid to The Customer in respect of goods owned by The Company shall be held in trust by The Customer and paid to The Company within seven days of receipt. Such payments shall to that extent discharge the obligation of The Customer to pay the price of goods lost or damaged.
20. In its normal trading operations the Company issues purchase orders, quotations, delivery notes, invoices and the like, all of which are numbered and may carry further security marks. In the event of a breakdown or interruption in this system it is Company policy to cancel the issued paper and re-issue fresh. Duplicates of missing items will not be issued under any circumstances. Furthermore, the Company may, at its discretion, refuse to accept incoming documents or stationery where the lack of any obvious reference mark may render the authenticity of such an item open to doubt.
  - a. No cancellations or amendment of any order will be accepted unless received by The Company in writing at least 60 days before the delivery date notified by The Company to The Customer.
  - b. Notwithstanding the position of 20(a) above, no cancellation or amendment of an order will be accepted where goods have been ordered or purchased by The Company to meet The Customer's requirements or where a special price has been negotiated with The Customer.
  - c. Except under the warranty contained in Clause 11, no returns are permitted without The Company's previous consent in writing. If The Company agreed to accept returns other than under the warranty contained in Clause 11, they must be returned at The Customer's expense in the original condition within thirty (30) days of the original delivery date and must be accompanied by the Company's original packing note together with the full reason for returning the goods.
  - d. The charge for returns under 20 (c) is twenty five percent (25%) of invoice value of the goods returned with a minimum charge of £50.00 together with VAT thereon if applicable.
21. Defects in quality or quantity in any part delivery shall not be a reason for cancellation of the remainder of the order or contract.
22. The Company does not undertake to install, [commission] or otherwise get operational any equipment at the premises of The Customer unless specifically stated within the terms of any contract.
23. These terms and conditions shall be subject to and construed in accordance with English Law and the parties submit to the non-exclusive jurisdiction of the English Courts.
24. All amounts are exclusive of VAT unless otherwise stated.