
Terms and Conditions

1. DEFINITIONS.

A. "Seller" means Edison Opto Corporation and its subsidiaries or affiliates.

B. "Buyer" means Customer as identified in the PI to which Seller is providing Products or Services under the Contract.

C. "Contract" means a purchase/sale agreement signed by both Seller and Buyer, and/or Seller's Proforma Invoice (hereinafter referred as "PI") incorporating these Terms and Conditions together with Buyer's acceptance of the PI, as evidenced by a Buyer signed PI and/or Buyer's order to purchase (hereinafter referred as "PO").

D. "Products" means the equipment, parts, materials, supplies, and other goods Seller has agreed to supply to Buyer under the Contract.

E. "Services" means the services Seller has agreed to perform for Buyer under the Contract.

F. "Terms and Conditions" means these "Terms and Conditions," together with any modifications or additional provisions specifically stated in Seller's PI or specifically agreed upon by Seller in writing.

2. APPLICABLE SALES AREA

This Terms and Conditions is applicable only to Edison branded Products sold in areas other than CHINA, HONG KONG, MACAU, TAIWAN.

3. CONTRACT FORMATION AND ACCEPTANCE.

Sale of any Products or Services is expressly conditioned on Buyer's assent to these Terms and Conditions. Buyer's acceptance of Seller's PI is expressly limited to acceptance of these Terms and Conditions and Seller expressly objects to any additional or different terms proposed by Buyer. Additional or differing terms or conditions proposed by Buyer or included in Buyer's PO or attachments thereto are hereby objected to by Seller and shall have no effect unless expressly accepted in writing by Seller. No Buyer form shall modify these Terms and Conditions, nor shall any course of performance, course of dealing, or usage of trade operate as a modification or waiver of these Terms and Conditions. Unless otherwise expressly stated in a written agreement by the Seller, in the event of any conflict, the Terms and Conditions shall not in any event be modified and shall take

precedence over other documents included in the Contract.

4. INVOICE AND PAYMENT TERMS.

A. Payment for all Products or Services shall be in accord to each individual PI.

B. If Buyer disputes any invoice or portion thereof, it shall notify Seller in writing within thirty (30) days of receipt of said invoice, detail the reason for the dispute, and pay all undisputed amounts. All charges not timely disputed in writing shall be deemed to be undisputed and shall be due and payable as set forth above.

C. Buyer shall pay delay interest on all late payments at the rate 0.5%, calculated daily, and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees and court costs.

5. DELIVERY AND TRANSFER OF TITLE.

A. Seller will use its best efforts to conform to the mutually agreed delivery date or dates for Products ordered pursuant to the Contract. Seller will notify Buyer as soon as possible of any circumstances that may cause a delay in delivery, and, Seller will avoid or minimize delay to the extent possible.

B. In the event of failure of delivery on the mutually agreed delivery date, Buyer will give Seller written notice of delinquency allowing Seller a reasonable time to cure. In no event will Seller be considered in default of its obligation under the Contract to deliver until thirty (30) days after the notice. In no event shall Buyer be entitled to liquidated damages as a remedy for any delay in delivery by Seller, nor shall Seller be liable for any consequential damage and incidental damage such as expected profit loss of the Buyer or its customers arising from late or non-delivery of Products. Any liability of Seller for non-delivery of the Products shall be limited to the amount of net sales between Buyer and Seller of the current year.

6. Intellectual Properties

A. Seller retains title and all associated rights to its intellectual property, including trademarks, trade names, copyrights, and patents. Any intellectual property may not be copied, removed, disguised, or changed in any form by Buyer. This intellectual property includes, at a

minimum, product packaging and associated markings, advertising or marketing materials, and manuals.

B. In the event that Buyer request any trademarks, including images, texts etc. to be applied to the Products or its labels, tags, manuals, packaging, containers or anything that is affixed to the product or included in the shipment, Buyer shall indemnify Seller from any damages arising from or in relation to using or applying such trademarks. In addition, Buyer shall offer necessary assistance to Seller for importation and exportation of the products, which shall include providing truthful and accurate documents to certify that Buy is either the rightful owner or lawfully authorized to use such trademarks. As a consequence, if the Products are withheld by customs or other authoritative institutes for reasons such as Buyer not being a legal authorized party to use the trademarks or Seller is provided with false documents, or in any other occasions that can be reasonably believed that Buyer cannot legally exercise its right to use the trademarks, Seller shall be exculpated from the blame of late delivery, inability to deliver of the products and Buyer is not excused from its contractual obligation to pay.

C. Buyer agrees not to (a) sue, or (b) bring, prosecute, assist or participate in any judicial, administrative or other proceedings of any kind against Seller for infringement of any Buyer Patents (as defined below) which occurs during the Immunity Period (as defined below) on account of the manufacture, use, sale, import or distribution of Seller products. "Buyer Patents" as used in this Section means all patents throughout the world owned or acquired by Buyer. The "Immunity Period" shall last till the last day of statute of limitation for patent infringement, of any of the Buyer Patents (in any jurisdiction). "

D. Buyer acknowledges and agrees warranty or license regarding to patents, trademarks, copyrights and other intellectual properties or derivative rights of the Products shall be agreed or authorized in a separate written contract and not by these Terms and Conditions.

7. INSPECTION, DELIVERY SHORTAGE, AND DAMAGE.

A. Final inspection and acceptance or rejection must be made by Buyer within seven (7) days

after receipt of Products, and failure of Buyer to reject any Products within seven (7) days after receipt constitutes acceptance. Should Buyer reject any Products for failure to conform to the requirements of an order, Buyer must notify Seller of the rejection, giving detailed reasons for the rejection. Seller then has the option to repair or replace the nonconforming Products within sixty (60) days at Buyer's or Seller's facility. Rejected items to be returned to Seller must be shipped at Buyer's expense. Should Seller fail to act to correct any nonconforming Products within sixty (60) days after notice by Buyer, then Buyer may, at Seller's risk and expense, return any nonconforming Products to Seller.

B. Buyer waives any claim for shortage of any Products delivered if the Buyer has not informed Seller in writing regarding the shortage of any Products within seven (7) days from the date of receipt of Products by the Buyer.

C. Seller is not responsible to the Buyer or any third parties claiming on the Buyer's behalf for any loss or damage to Products caused by any event of any kind by any person during the transportation of any Products. This term shall apply in full effect to Seller's liability to Buyer for any loss or damage to the Products during the transportation from Seller to Buyer regardless of the legal relationship between Seller and the person(s) who caused or contributed to the loss or damage.

8. WARRANTY.

A. Seller warrants to Buyer that all Products delivered pursuant to the Contract shall be free from defects in materials and workmanship (and to the extent the Products are manufactured pursuant to specifications furnished by Buyer, that all Products will conform to Buyer's specifications that have Seller's written acceptance and approval). Seller's warranty extends only to Buyer, as defined herein, who directly purchased the Products from the Seller pursuant to the Contract and does not extend to indirect purchasers or users of Seller's Products (e.g., third party purchasers of Seller's products from Buyer). The warranty shall survive the termination of the Contract and extend to the applicable warranty period specified in the Product's specification sheet.

B. If a defect or non-conformance in the Products is claimed by Buyer, Buyer must filled

the “8D correction report form” and return the claimed Products in as good condition as received, except for ordinary wear, to Seller. Buyer must immediately notify Seller of the return. After receiving the claimed Products, Seller will analyze and determine the class of defects in the Products. Seller may request Buyer render necessary assistance to Seller and furnish adequate means for operating and testing the Products. In which case, Buy shall comply with Seller’s relevant instructions. If the defects were determined as class FA, Seller shall provide Failure Analysis report within 3 working days to the Buyer; if the defects were determined as class CS, Failure Analysis report will be provided in 5 working days. Without any objection to the Analysis reports above in 7 days, Buyer agreed Seller furnish remedy and act accordingly to such reports. Buy must allow Seller a reasonable time to remedy the defect or non-conformance. Should the Products prove defective or non-conforming and the defect or non-conformance is not remedied, Seller may, at the option of Seller, either replace the returned Products or refund to Buyer any money, notes, or property paid or given for the returned Products, or Seller must credit the account of Buyer, in a like amount. After finishing the corrective actions including repairs, replacement, refund mentioned above, no further claim for the defect can be made against Seller.

C. If Buyer failed to offer necessary assistance to Seller or refuse to follow the aforesaid procedures of claiming defective and non-conforming Products, Buyer acknowledges that Seller may refuse such warranty claims. In which case, it is considered as Buyer waives any and all claims for the particular warranted products.

D. Except as otherwise agreed in writing by both parties, transportation costs of returning defective or non-conforming Products to Seller (including all applicable duties and taxes) must be borne by Buyer and, in the event the cause of non-conforming cannot be attributed to Seller. Otherwise, If Seller opts to replace the returned Products, transportation costs of shipping the replacement Products to Buyer (including all applicable duties and taxes) must be borne by Seller.

E. Buyer acknowledges that some Products, including but not limited to sub-assembly Products, may contain remanufactured parts

which will be equivalent to new parts in performance. Buyer acknowledges that Seller’s use of remanufactured parts that are equivalent to new parts in performance will not be considered in breach of Seller’s obligations under the Contract and that the Products containing remanufactured parts that are equivalent to new parts in performance will not be considered defective or non-conforming Products.

F. Any action on a breach of Seller’s obligations under this Section must be commenced within one year after the cause of action has accrued.

G. The warranty provided under this Contract does not apply to any of Seller’s Products that have been subjected to inadequate maintenance; unauthorized adjustments; improper use or operation outside of the specifications indicated within the Product’s specification sheet; use beyond the scope of the intended use of any Product, mishandling, carelessness, accidental, loss or damage in transit, unsuitable site preparation, or unauthorized maintenance or repair.

H. The warranty period provided for each Product exists as it was showed in the “Warranty Period Sheet” on Edison’s website.

I. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AGAINST INFRINGEMENT OR OF TECHNOLOGICAL VALUE.

9. LIMITATION OF LIABILITY.

A. Seller shall not be liable to Buyer, for any amounts representing the party’s loss of profits, loss of business, indirect, special, incidental, exemplary, consequential, or punitive damages, arising from the performance or nonperformance of the Contract or any acts or omissions associated therewith or related to the use of any Products or Services furnished hereunder, whether the basis of the liability is breach of contract, tort (including negligence and strict liability), statutes, or any other legal theory.

B. In no event shall Seller’s aggregate liability arising out of or related to this Contract, whether arising out of or related to breach of contract, tort (including negligence) or otherwise, exceed the total amount of the net sales between Seller and Buyer of the current year; as to Services, for

the amounts paid to Seller for Services performed of the current year.

10. FORCE MAJEURE.

Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Contract, for any failure or delay in fulfilling or performing any term of this Contract when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown, or power outage.

11. ENGINEERING CHANGES.

Unless otherwise agreed by Seller and Buyer in writing, as to any Product, Seller reserves the right at any time to make changes in: (a) its production process; (b) the materials, designs, specifications relating to its Products; and (c) its methods of packaging and shipping. Products supplied after such a change will continue to meet Seller's minimum and maximum warranty period, but may not be identical to the Products supplied as samples or supplied under previous POs. Buyer acknowledges that changes made under this Section will not render Products nonconforming or defective. However, Seller shall notice Buyer of changes that may affect the specification of Products. If no objection were raised and made aware to Seller within 3 days, it is considered as if it were agreed by Buyer

12. SELLER'S TERMINATION OF CONTRACT.

A. In addition to any remedies that may be provided under these Terms and Conditions, Seller may halt or suspend delivery or terminate this Contract with immediate effect upon written notice to Buyer, if Buyer: (a) fails to pay any amount when due under this Contract and such failure continues for thirty (30) days after Seller provides Buyer written notice of nonpayment; (b)

has not otherwise performed or complied with any of these Terms and Conditions, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

B. In the event Seller terminates this Contract pursuant to this Section, Buyer shall reimburse Seller for any and all losses, costs and expenses associated therewith, including, but not limited to fees owed for Products or Services provided prior to the effective date of such termination plus equitable termination charges based upon the status of work completed or in process, commitments made, and facilities allocated.

13. BUYER'S CANCELLATION OF ORDER.

A. Buyer may cancel a PO in whole or in part only with the prior written consent of Seller, which Seller may withhold in its sole discretion. To cancel an order, Buyer must provide Seller written notice that states the extent and effective date of the cancellation. On receipt of the notice, if Seller agrees to the cancellation, Seller must, to the extent directed by Buyer, stop shipping any additional Products to the Buyer under the canceled order.

B. When Seller approves Buyer's cancellation notice, for any order cancelled by Buyer, Buyer shall pay for the higher of the following two: (a) reimburse Seller for any and all losses, costs and expenses associated therewith, including, but not limited to fees owed for Products or Services provided prior to the effective date of such termination plus equitable termination charges based upon the status of work completed or in process, commitments made, and facilities allocated or (b) pay seventy five percent (75%) of the contract price for the Products under the cancelled order.

14. CONFIDENTIAL INFORMATION.

Each party must regard as highly confidential all information developed by or communicated to it in the course of or in connection with its performance under the Contract, and may not, without the other party's prior, express, and written approval, make any oral or written disclosure of the confidential information, except on a need-to-know basis to the party's employees and other authorized persons who

may be designated to work with the party in performing under the Contract. Upon disclosing party's request, the receiving party must return, permanently erase, or destroy any confidential information (and any derivative works) supplied by the disclosing party, including without limitation all documents, compilations, summaries, notes, and other materials in which the confidential information appears, in whatever form or medium they may be recorded or maintained.

15. NOTICES.

Any notice required or permitted to be given under the Contract shall be sufficient if in writing and if sent by email, registered or certified mail, postage prepaid, or courier addressed to the party at the address set forth on the face of the Contract. Any change to any physical address or email address shall be provided to the other party as soon as reasonably possible.

16. REMEDIES.

A. The remedies reserved in the Contract are cumulative and in addition to any other remedies provided in law or equity. No waiver of breach of any provision of the Contract constitutes a waiver of any other breach of the Contract. Any delay or failure by either party to enforce any provision of the Contract does not constitute a waiver of the provision or prejudice the right of either party to enforce the provision at any subsequent time.

B. If any legal action is necessary to enforce, collect or interpret the Contract, the prevailing party shall be entitled to all reasonable attorney's fees and costs, including attorney's fees and costs to enforce and collect a judgment, in addition to any other relief to which it may be entitled.

C. On default by Buyer, Seller has the sole discretion to refuse to perform further under this and any other existing Contract between the parties, and Seller may rescind any agreements between the parties and hold Buyer liable for all resulting damages and losses, or resell, at public or private sale, undelivered Products covered by this and any other existing Contract between the parties. Seller is not liable to Buyer for any actual or prospective profit on any resale of Products.

17. ASSIGNMENT.

No assignment by either party of any rights, including rights to moneys due or to become due under the Contract, or delegation of any duties under the Contract or under any orders subject to this Contract, is binding upon the other party until the party's written consent has been obtained.

18. PARTIAL INVALIDITY.

If any term or provision of the Contract is or becomes void or unenforceable by force or operation of law, the other terms or provisions remain valid and enforceable.

19. GOVERNING LAW.

A. All matters arising out of or relating to this Contract shall be governed by and construed in accordance with the laws of Taiwan (R.O.C) without reference to principles of conflict of laws.

B. Any legal action brought under or in connection with the subject matter of the Contract shall be brought only to the jurisdiction of Taiwan New Taipei District Court in New Taipei City, Taiwan. Both Seller and Buyer or successors of each party agree not to commence any legal action under or in connection with the subject matter of the Contract in any other court or forum.