

# Terms and Conditions of Purchase

A merger of LightWorks Optical Systems & LightWorks Optics

In the terms and conditions below, II-VI \$ H U R V S D h a f b e referred to as "II-VI \$" the company supplying goods or services under this purchase order (the "Purchase Order") shall be referred to as the "Seller," and the goods and services described in and provided pursuant to this Purchase Order are referred to as "Goods" or "Services," as the case may be. If a formal written agreement exists between II-VI \$ and the Seller for the purchase of such Goods and Services, then the terms of such written agreement shall supersede any contrary terms contained in this Purchase Order.

## 1. ACKNOWLEDGEMENT AND ACCEPTANCE

Acceptance of this Purchase Order by Seller constitutes acceptance of all of the terms and conditions stated herein. To the extent that any quotation, order acceptance, confirmation, invoice or other document of Seller contains conflicting, differing or additional terms from these terms and conditions, these terms and conditions will control and all such conflicting, differing or additional terms are rejected by II-VI \$ and shall have no effect unless expressly agreed to in writing by II-VI \$ Seller's signed D F N Q R Z O H P u c h a s e O r d e r W S e l l e r s shipment of, or acceptance of payment for, Products or Services shall conclusively affirm Seller's assent to these terms and conditions. If this Purchase Order is not signed and returned to II-VI \$ either, by mail or fax, within ten (10) days from the date hereof, II-VI \$ , at its option, may cancel this Purchase Order.

## 2. FOB; DAMAGE DURING DELIVERY

Delivery of Goods under this Purchase Order shall be by FOB: II-VI \$ Murrieta, California, and, unless otherwise agreed and / or stated in this Purchase Order, the risk of loss or damage shall remain with the Seller until actual delivery at II-VI \$ . Seller shall be responsible for damages sustained during delivery. Any resulting claims against carriers shall be the responsibility of the Seller. Replacement of any damaged Goods shall be the sole responsibility of Seller.

## 3. TERMS

Terms of payment shall be as outlined in this Purchase Order. All invoices for payment shall include the Purchase Order number, and shall include a summary of the total Purchase Order value, total value of Goods provided or Services performed to date of the invoice, total value of invoicing to date and value of the current invoice. Invoices for payment not including such information will be returned to the Seller without payment.

## 4. PACKAGING

All packages, cases, crates, etc., are to be marked with the Seller's name and the applicable II-VI \$ Purchase Order number. A packing list must accompany each shipment of Goods. II-VI shall not be liable for any packaging charges, unless otherwise agreed to in advance.

## 5. DELIVERY

The delivery and performance requirements and specified dates of this Purchase Order shall be strictly adhered to and shall not be changed or modified without the prior written acceptance of II-VI \$ . In the event of failure to deliver or perform by the dates specified in a Purchase Order, II-VI \$ reserves the right to cancel such Purchase Order in total or any unexecuted part of such Purchase Order. Goods not shipped in time to meet the delivery requirements and dates under a Purchase Order, at II-VI \$ option, shall be delivered at the fastest means available, at the sole expense of the Seller.

## 6. DELAY IN SUPPLY

In the event of failure by the Seller to deliver any Goods or perform any Services contained in this Purchase Order, other than as a result of Acts of God, force majeure, civil commotions, fire, war, perils of the sea, delay in transit and other causes beyond the Seller's control, II-VI shall have the right to cancel all or any remaining part of this Purchase Order, without payment of compensation, and obtain delivery or performance from other sources. Any and all increased costs and expenses thereby incurred by II-VI in obtaining such delivery or performance shall be setoff against any moneys due or to become due to the Seller or shall be recoverable as damages hereunder.

## 7. PURCHASE ORDER

Purchase orders sent via fax serves as an official intent of purchase by II-VI. Only authorized personnel of II-VI will be able to issue purchase orders.

## 8. CHANGES

Except as otherwise provided herein, this Purchase Order may not be amended, modified, supplemented, cancelled or discharged, except in writing signed by II-VI and Seller.

## 9. INDEMNITY

Seller shall indemnify, defend and hold II-VI harmless from any claim, cause of action, or liability incurred by II-VI arising from third party claims for personal injury, death, or damage to tangible property to the extent caused by Seller's acts or negligence. Seller may not settle any indemnified claim without the written consent of II-VI. This indemnification shall survive delivery of the Products or Services to II-VI and any subsequent sale or other transfer of the Products or Services to a third party.

## 10. QUALITY REQUIREMENTS

The Seller shall provide and maintain an inspection system acceptable to II-VI covering the inspection of Goods provided under this Purchase Order, and Seller shall tender to II-VI for acceptance only such Goods that have been inspected in accordance with such inspection system and that have been determined by the Seller to conform with the Purchase Order requirements. However, all Goods provided under this Purchase Order are subject to final inspection and acceptance within a reasonable time after actual delivery and II-VI shall have the right to reject any defective or non-conforming Goods despite any prior inspection by the Seller.

## 11. RETURN OF DEFECTIVE GOODS

All Goods supplied under this Purchase Order that do not meet with the approval of II-VI's Quality Assurance Department, that are shipped contrary to Purchase Order instructions or that are in excess of the quantity or quantities ordered under this Purchase Order, will be returned to Seller or held pending a mutual agreement between II-VI and Seller regarding their disposition, subject to the Seller's risk of loss and sole expense.

## 12. TOOLING AND MATERIALS

Unless otherwise agreed to by II-VI, all special purpose tooling or materials used by Seller to fulfill this Purchase Order shall be the property of II-VI, shall be removable at any time without additional cost upon demand by II-VI, shall be used only in filling orders from II-VI, shall be kept separate from other tools and materials, and shall be clearly identified as the property of II-VI.

## 13. BANKRUPTCY

In the event of any proceedings, voluntary or involuntary, in bankruptcy by or against Seller, the inability of Seller to meet its debts as they become due, or in the event of the appointment, with or without Seller's consent, of an assignee for the benefit of creditors or of a receiver, then II-VI shall be entitled, at its sole option, to cancel any unfilled part of this Purchase Order without any liability whatsoever.

## 14. CHEMICALS & HAZARDOUS SUBSTANCES

A Material Safety Data Sheet (MSDS), as prescribed by II-VI ("Data Sheet"), addressed to the attention of the II-VI Hazard Communication Coordinator, shall accompany all chemicals & hazardous substances provided under a Purchase Order. The Sellers shall maintain a catalog of any and all applicable Data Sheets that are provided in connection with the Seller's performance of work under a Purchase Order at a II-VI site.

## 15. COUNTERFEIT PART PREVENTION

Seller shall only purchase products to be delivered or incorporated as work to II-VI directly from the original component manufacturer (OCM), original equipment manufacturer (OEM), or through an OCM/OEM authorized distributor chain. Work shall not be acquired from independent distributors or brokers unless approved in advance, in writing by II-VI.

A merger of LightWorks Optical Systems & LightWorks Optics

## 16. EQUAL EMPLOYMENT CLAUSE

Seller is on notice that II-VI may utilize Goods or Services purchased under this Purchase Order in the transaction of business with the United States Government. The Seller, therefore, represents and warrants that it shall comply with Executive Order 11246 and any amendments thereto, pertaining to non-discrimination in employment. Seller also represents and warrants to II-VI that the Seller is in compliance and shall comply with Section 503 of the Rehabilitation Act of 1973 and the Veterans Era Vietnam Readjustment Act of 1974. Upon request, the Seller shall supply II-VI with copies of compliance reports and any other information necessary to demonstrate compliance therewith.

## 17. WARRANTY, SPECIFICATIONS

The seller expressly warrants that any merchandise delivered pursuant to this order will be in exact accordance with this order, (or other description or specification set forth in writing by the Buyer.) will be free from defects in material and workmanship and shall be merchantable and fit for its intended use. Such warranty shall survive delivery and inspection, and shall not be deemed waived either by reason of Buyers acceptance of such merchandise or by payment for it. Any deviations from this order of specifications furnished hereunder, or any other exceptions or alterations must be approved in writing by the Buyer. Warranty period shall be a minimum of one year from the date the material is accepted by II-VI.

## 18. ASSIGNMENT

Seller shall not delegate any duties, nor assign any rights or claims under this Purchase Order, or for the breach hereof, without the prior written consent of II-VI, and any such attempted delegation or assignment shall be void.

## 19. SET-OFF AND COUNTERCLAIMS

All claims for moneys due or to become due from II-VI shall be subject to deduction by II-VI for any setoff or counterclaim arising out of this or any other of II-VI's purchase orders with Seller.

## 20. CALIFORNIA LAW

This Purchase Order and the acceptance of it shall be a contract made in the State of California and governed by the laws thereof, without giving effect to conflicts of law principles, and excluding the application of the United Nations Convention on Contracts for the International Sale of Goods.

## 21. INTELLECTUAL PROPERTY INFRINGEMENT

With respect to the Goods or Services provided under this Purchase Agreement, Seller shall defend, indemnify and hold harmless II-VI, its directors, officers, employees, agents and affiliates for and against any and all liabilities, claims, damages, expenses and costs (including legal fees and expenses) arising from or related in any way to a violation or infringement of any patent, copyright, trademark, trade dress, and trade secret, or any other contractual right, proprietary right or intellectual property right, of any third party.

## 22. RESALE CERTIFICATES

II-VI hereby certifies: That we hold valid California Seller's permit SREHB24133771 issued pursuant to the Sales & Use Tax Law. In those cases where articles described in this ORDER are exempt from state and local sales and use taxes, II-VI hereby certifies that all tangible personal property and/or services described on this purchase order are: (1) Purchased for purpose of resale as tangible property either in the same form as purchased or as an ingredient or constituent part of goods produced for resale within the meaning of the Sales or Use Tax Laws, or (2) purchased for exempt use as provided by the Sales and Use Tax destination of the tangible personal property, or (3) Purchased for Export outside the United States. Accordingly, the property described on this Purchase Order is not subject to sales or use taxes.

## 23. RIGHT OF ACCESS

Seller shall allow the right of access to II-VI, II-VI's representative or any of II-VI's customers or customer's representative to all applicable records to verify at the Seller's and or sub tier supplier's premises that subcontracted product conforms to specified requirements

## 24. ADVERTISING, ANNOUNCEMENTS, AND NEWS RELEASES

Seller shall not, at any time without first obtaining written consent of II-VI, in any manner advertise or publish or issue any news releases or make any public announcements or denial or confirmation of same concerning the fact that Seller has furnished or contracted to furnish to II-VI the articles herein mentioned or concerning work done by Seller hereunder. If Seller fails to observe this provision, II-VI shall have the right to cancel and/or terminate the order without obligation and to make payments for completed articles delivered prior to cancellation or termination.

## 25. CANCELLATION FOR II-VI CONVENIENCE

In addition to any other rights that II-VI may have, II-VI reserves the right to cancel this order or any part of it and II-VI's sole responsibility to Seller shall be to pay for any such services expended and/or reports as have been delivered as of the time such cancellation is effective, and to reimburse to Seller its actual costs of materials and direct labor expended by it (at the standard billing rate) in reasonable anticipation of its fulfillment of this order which are not recoverable by Seller, provided that no allowance shall be made to Seller for any anticipated effort not already expended. In no event shall the amount paid by II-VI to Seller exceed the total amount of Purchase Order.

## 26. CANCELLATION FOR CAUSE

II-VI may terminate this contract, or any part hereof, for cause in the event of any default by the Seller, or if the Seller fails to comply with any contract terms and conditions, or fails to provide II-VI, upon request, with adequate assurances of future performance. In the event of termination for cause, II-VI shall not be liable to the Seller for any amount for supplies or services not accepted, and the Seller shall be liable to II-VI for any and all rights and remedies provided by law.

## 27. CONFIDENTIAL OR PROPRIETARY INFORMATION AND PROPERTY

Seller shall keep confidential and otherwise protect from disclosure all information and property obtained from II-VI in connection with this Purchase Order and identified as confidential or proprietary. Unless otherwise expressly authorized herein or by II-VI, Seller shall use such information and property, and the features thereof, only in the performance and for the purpose of this Purchase Order. Upon II-VI request, and in any event upon the completion, termination or cancellation of this Purchase Order, Seller shall return all such information and property to II-VI or make such other disposition thereof as directed by II-VI. Seller shall not sell or dispose of as scrap otherwise any completed or partially completed or defective proprietary property before receiving written authorization from II-VI and before rendering such property unsuitable for use. In all subcontracts and Purchase Orders issued by Seller for performance of work related to this Purchase Order, Seller shall provide to II-VI the same rights and protection as contained in this clause.

## 28. FLOWDOWN

When noted, the Seller shall flow the requirements contained within this purchase order to their sub-tier suppliers. The flow down does not relieve the Seller of the responsibility for exercising those control measures necessary to ensure that the work performed by sub-tier sources is in accordance with the purchase order requirements.

## 29. EXPORT CONTROL

SELLER agrees to comply with all applicable U.S export control laws and regulations including, but not limited to, International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq. If Seller is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, SELLER represents that it is registered with the Office of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR.

A merger of LightWorks Optical Systems & LightWorks Optics

**30. CONFLICT MINERALS**

Seller shall deliver to Buyer under this Purchase Order only Products that have been determined to be DRC Conflict Free, as defined by and consistent with the U.S. Securities and Exchange Commission's final rule on Conflict Minerals, 17 C.F.R. Parts 240 and 249(b), promulgated pursuant to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Rule"). Seller hereby acknowledges that it has taken all steps as may be reasonably required under the Rule to ascertain the status of the Goods as DRC Conflict Free, and Seller hereby certifies and warrants that all Products that have been or will be delivered to Buyer by Seller under this Purchase Order are DRC Conflict Free. Seller agrees that it shall furnish to Buyer such information as may be reasonably requested by Buyer to support Seller's representations and obligations under this Section, including but not limited to written certification.