



## OCULUS Optikgeräte GmbH General Terms and Conditions of Purchase, including fixed sum for late delivery

### Section 1 General, Scope

(1) These General Terms and Conditions of Purchase (Ts&Cs) apply to all business relationships with our business partners and suppliers (hereinafter referred to as: "Seller"). These Ts&Cs only apply, if the Seller is a businessman (Section 14 German Civil Code [BGB]), a legal person under public law or a special fund under public law.

(2) These Ts&Cs apply, in particular, to agreements for the sale and/or delivery of movable goods (hereinafter also referred to as: Goods), irrespective of if the Seller produces the Goods or procures the Goods for upstream suppliers (Sections 433, 451 German Civil Code [BGB]). These Ts&Cs, as amended, also apply as the framework agreement to future agreements for the sale and/or delivery of movable goods with the same Seller, without reference to these Ts&Cs being required in each individual case; if our Ts&Cs have been amended in the meantime, we will promptly inform the Seller of such modifications.

(3) These Ts&Cs apply exclusively. Diverging, conflicting or supplementing general terms and conditions of the Seller only become a component of the agreement, if and to the extent we provided our consent to the applicability of such terms. This requirement to provide consent applies in any case, e.g. also in the case OCULUS has knowledge of the Seller's general terms and conditions and accepts the Seller's deliveries without expressly objecting to the Seller's general terms and conditions.

(4) Individual agreements with the Seller take precedence over these Ts&Cs in any case (including side agreements, supplements and amendments). These agreements require the written form or our written confirmation to be effective.

(5) Statements and notifications of legal relevance that the Seller is obligated to provide OCULUS after the conclusion of the agreement (e.g. setting of deadlines, reminders, notice of withdrawal from agreement), require the written form to be effective.

(6) References to the applicability of statutory provisions are purely for clarification purposes. In general, statutory provisions and regulations apply without such clarification, unless these Ts&Cs directly modify applicable statutory provisions or expressly exclude the applicability of statutory provisions.

### Section 2 Conclusion of the Agreement

(1) OCULUS purchase orders must be placed or confirmed in writing to be effective. Prior to order acceptance, the Seller is obligated to make OCULUS aware of any obvious mistakes (e.g. typos or calculation errors) and incompleteness of the order, including associated order documents, so that OCULUS can correct or complete such mistakes or incompleteness; failing to do so renders the agreement void.

(2) OCULUS expects the Seller's written order confirmation within a period of five (5) working days or fulfillment of the order without any reservations or in particular through the shipment of the ordered goods (Acceptance).

Late order acceptance is deemed to be a new offer and requires acceptance by OCULUS.

### Section 3 Delivery Period and Default in Delivery

(1) Delivery periods indicated on OCULUS orders are binding. The delivery period for ordered goods is two (2) weeks from the conclusion of the agreement, if the delivery period is not specified on the order or agreed otherwise. The Seller is obligated to promptly notify OCULUS in writing, if the Seller will most likely not be able to meet the agreed delivery period / deadline for any reasons whatsoever.

(2) If the Seller fails to perform or fails to deliver within the agreed delivery period or the Seller is in default, OCULUS' rights arising therefrom - in particular the right to withdraw from the agreement and the claim to damages - are based on the statutory provisions. The provisions in Section 3 remain unaffected.

(3) If the Seller is in default, OCULUS may - in addition to other statutory claims - demand payment of

a lump sum compensation for damage caused by default at a rate of 1% of the net purchase price for each full calendar week the default continues, however, the compensation may not exceed 5% of the delayed delivered goods' net purchase price. OCULUS reserves the right to furnish proof that OCULUS suffered greater damage. The Seller may, however, furnish proof that OCULUS suffered no damage at all or only significantly lesser damage from the default.

### Section 4 Performance, Delivery, Passing of the Risk, Default in Acceptance

(1) The Seller may not transfer the performance of its contractual obligations to a third party (e.g. subcontractors), without OCULUS's written consent. The Seller bears the procurement risk for its services, unless agreed otherwise in individual cases (e.g. sale of goods in stock).

(2) Within Germany, delivery is free to the delivery site stated on the purchase order. Delivery is to be made to the OCULUS place of business in Wetzlar - Dutenhofen, if a delivery location is not provided on the purchase order and the parties did not agree otherwise. Place of delivery is also place of performance (obligation to be performed at the creditor's place of business).

(3) Deliveries must be accompanied by a delivery note indicating the date (issue and shipment date), goods shipped (item number and quantity), as well as our order reference (date and order number). OCULUS is not responsible for processing or payment delays resulting from missing or incomplete delivery notes.

The Seller is obligated to send OCULUS an advanced shipment notice with the same content separate from the delivery note.

(4) The risk of accidental loss or accidental deterioration of the goods passes to OCULUS upon delivery at the place of performance. If acceptance is agreed, acceptance is decisive for the passing of the risk to OCULUS. Otherwise, the statutory provisions on contracts for work and services also apply to acceptance. In the event OCULUS is in default of acceptance, transfer of goods (delivery) is treated the same manner as acceptance.

(5) The statutory provisions apply to OCULUS default in acceptance. The Seller is obligated to expressly offer OCULUS its services even in the case if a certain or schedulable calendar date is agreed for an act or cooperation on the part of OCULUS (e.g. provision of material). In the event OCULUS is in default in acceptance, the Seller may demand compensation for its additional expenses (Section 304 German Civil Code [BGB]). If the Seller is obligated to create a custom-built, non-fungible good (individual production) under an agreement, the Seller is only entitled to additional rights, if OCULUS undertook to cooperate and OCULUS is responsible for the failure to cooperate.

(6) If delivery is performed from preferential countries, the supplier is obligated to provide proof of preference with the delivery. In the same manner the Seller is obligated to submit OCULUS the relevant long-term or single supplier's declaration regarding the preferential origin (in the case of EU countries) or preference certificates (in the case of Non-EU countries) without being asked and at the latest two (2) weeks after OCULUS' request.

(7) All palletized goods must be exclusively delivered on Euro-pallets that are secured for transport and as good as new to ensure trouble-free storage in our fully automated high bay warehouse. The Euro-pallet dimensions must be 120 x 80 cm and height may not exceed 200 cm (including palette).

### Section 5 Pricing and Payment Terms

(1) Prices indicated on the purchase order are binding. All prices include statutory VAT, unless VAT is shown separately.

(2) Unless agreed otherwise in individual cases, the price includes all services and ancillary services of the Seller (e.g. assembly, installation), as well as all incidental expenses (proper packaging, transport cost,

including transport or third party liability insurances, if any). The Seller is obligated to accept return of packaging materials at our request.

(3) The agreed price is due within thirty (30) days from complete delivery of goods and provision of services (including acceptance, if agreed), as well as receipt of proper invoice. The Seller will grant OCULUS a 2% cash discount, if OCULUS pays the invoice within fourteen (14) calendar days. In the case of bank transfer, payment is effected in due time, if the bank receives our transfer order prior to the payment deadline; OCULUS is not responsible for delays caused by the banks involved with the payment transaction.

(4) OCULUS is not obligated to pay interest on payments in arrears [Fälligkeitsszinsen] according to Section 353 German Commercial Code, [HGB]. The default interest rate is 5 percentage points p.a. above the base interest rate. The statutory provisions apply to delay in payment. In derogation from the statutory provisions, the Seller is, however, required to remind OCULUS in writing in any case.

(5) OCULUS is entitled to the statutory offsetting and withholding rights, as well as to the defense of non-performance. OCULUS is, in particular, authorized to retain payments when due, as long as OCULUS has any claims against the Seller arising from incomplete or defective deliveries or services.

(6) The Seller may only exercise a right to offset or a right of retention in the case of uncontested counterclaims or counterclaims recognized by declaratory judgment.

### Section 6 Secrecy and Retention of Title

(1) OCULUS reserves all property rights and copyrights to illustrations, plans, drawings, calculations, execution instructions, product descriptions and other documents. Such documents are to be used exclusively in the performance of the agreement and are to be returned to OCULUS upon completion of the agreement. These documents are to be kept secret from third parties. This provision survives the termination of the agreement. The duty to observe secrecy only terminates, if and to the extent the knowledge contained in the provided documents has become common knowledge.

(2) The above provision applies accordingly to substances and materials (for example software, finished and semi-finished products), as well as tools, models, samples and other items OCULUS provides the Seller for the manufacture of products. The Seller is obligated to keep these items separately and insure these items adequately at the Seller's expense against destruction or loss, as long as such items are not processed.

(3) Processing, mixture or combination (any processing) of provided items by the Seller is performed on behalf of OCULUS. The same applies in the case OCULUS processes delivered goods, so that OCULUS is considered to be the manufacturer of the processed good and acquires, at the latest, ownership to the created product based on the processing according to the statutory provisions.

(4) Transfer of ownership to the goods must be unconditional and without regard to the payment of the purchase price. In the event OCULUS accepts, in individual cases, the Seller's offer, where the transfer of ownership is subject to the payment of the purchase price, the Seller's reservation of title terminates upon the payment of the purchase price for the goods, at the latest. OCULUS is authorized to resell the goods within the ordinary course of business prior to the payment of the purchase price by way of assignment of future claim arising from such resale (alternatively under application of simple reservation of title extended to the resale). According to the above provision, any other form of retention of title is hereby excluded, in particular, extended and continued retention of title, as well as prolonged retention of title applicable to processed goods.

### Section 7 Defective Delivery

(1) The statutory provisions apply to OCULUS' rights in the event of defects as to quality or defects of title



(including shipping errors and under-delivery, as well as improper assembly, faulty assembly, operation or operating instructions) and other breach of duty by the Seller, unless provided otherwise below.

(2) According to the statutory provisions the Supplier is, in particular, liable for the goods to be of the agreed quality at the point in time of the passing of risk. "Agreed quality" includes, in any case, such product descriptions that are - in particular if quoted or referenced in our purchase order - a component of the respective agreement or that are incorporated in an agreement in the same manner as these Ts&Cs. In this regard, it makes no difference, if the product description was prepared by OCULUS, the Seller or the manufacturer.

(3) Notwithstanding Section 442 Para. 1 Sentence 2 German Civil Code [BGB], OCULUS is entitled to claims for defects without any limitation, even if OCULUS did not discover the defect on the conclusion of the agreement due to gross negligence.

(4) The statutory provisions (Sections 377, 381 German Commercial Code [HGB]) apply to the commercial duty to inspect and to give notice of defects as follows: OCULUS' duty to inspect is limited to defects, which are apparent by visual inspection, including shipping documents, as well as OCULUS's quality control by way of random sample tests (e.g. transport damages, shipping errors and under-delivery). The duty to inspect does not apply, if acceptance of the delivered goods is agreed. Otherwise, the extent to which an inspection is feasible and possible must be taken into account according to the proper course of business and under consideration of the individual circumstances.

OCULUS' duty to give notice of defects that are discovered at a later point in time remains unaffected. A complaint (notice of defects) is deemed to be made immediately and in due time, if the complaint is received by the Seller within ten (10) business days.

(5) Costs (including removal and installation costs) incurred by the Seller are borne by the Seller, even if a defect could not be identified. OCULUS' liability for damages remains unaffected regarding unjustified demand for the remedy of defects; in the case OCULUS' demand for the remedy of defects is not justified, OCULUS is only liable, if OCULUS knew or did not know that a defect did not exist due to gross negligence".

(6) If the Seller fails to meet its duty to provide subsequent performance - at the option of OCULUS by remedy of defect (rectification of defects) or by delivery of goods free from defects (substitute delivery) - within a reasonably set period, OCULUS is authorized to remedy the defect and to demand compensation from the Seller for the required expenses, including adequate advance payment. Setting a deadline is not required, if subsequent performance by the Seller has failed or is unreasonable for OCULUS (for example due to particular urgency, endangering of operational safety or imminent occurrence of disproportionately high damages); OCULUS will notify the Seller if such circumstances occur and if feasible in advance.

(7) In the event of defects as to quality or defects of title, OCULUS has the right to reduce the purchase price or to withdraw from this agreement according to the statutory provisions. Furthermore, OCULUS has a claim to damages and reimbursement of expenses according to the statutory provisions.

## Section 8 Recourse against Suppliers

(1) OCULUS is entitled to the statutory rights of recourse within the supply chain (recourse against suppliers according to Sections 478, 479 German Civil Code [BGB]) in addition to the claims for defects and without any limitation. OCULUS may, in particular, request that the Seller executes exactly the kind of subsequent performance (rectification of defects or substitute delivery), OCULUS is obligated to provide for its customer in the individual case. The above provision does not restrict OCULUS' options under the law (Section 439 Para 1 German Civil Code [BGB]).

(2) Prior to recognizing or meeting a claim for defects of one of our customers (including compensation of expenses according to Sections 478 Para 3, 439 Para 2 German Civil Code [BGB]), OCULUS will notify the Seller and ask for the Seller's opinion based on a brief

description of the facts and circumstances. If the Seller does not provide its opinion within a reasonable period and an amicable solution is not reached, the Seller is obligated to compensate OCULUS for the claim for defects OCULUS actually grants its customer; in this case, the Seller is responsible for furnishing proof to the contrary.

(3) OCULUS claims arising from recourse against suppliers also apply, if OCULUS or a customer of OCULUS processed the goods, e.g. through integration into another product, prior to the resale to a consumer.

## Section 9 Product Liability

(1) If the Seller is responsible for damages caused by products, the Seller is obligated to indemnify OCULUS from any third party claims to the extent the cause for these damages is founded within the Seller's sphere of control and organization and the Seller is liable to third parties.

(2) Within the scope of the Seller's obligation to indemnify, the Seller is obligated to compensate expenses according to Sections 683, 670 German Civil Code [BGB] that arise from or in connection with the involvement of third parties, including product recalls conducted by OCULUS. OCULUS will notify the Seller - if feasible and reasonable - regarding scope and content of the product recall measures and give the Seller the opportunity to provide its opinion. Additional statutory claims remain unaffected.

(3) The Seller is obligated to take out and maintain product liability insurance policy with global coverage amounting to at least EUR 5 million per personal injury/property damage.

## Section 10 Limitation Period

(1) Mutual claims of the parties to this agreement become time-barred according to the statutory provisions, unless provided otherwise below.

(2) Notwithstanding Section 438 Para 1 No. 3 German Civil Code [BGB], the general limitation period is three (3) years from the passing of risk. If acceptance is agreed, the limitation period begins upon acceptance. The limitation period of three (3) years applies accordingly to claims arising from defects of title, whereby the statutory limitation period for third parties' rights in rem to the return of property (Section 438 Para 1 No. 1 German Civil Code [BGB]) remains unaffected; furthermore, claims arising from defects of title do not become time-barred in any case, as long as the third party is in a position to enforce such right - in particular because such claim is not time-barred - against OCULUS.

(3) The limitation periods under the German law on sales, including the above extension, apply - according to the law - to all contractual claims for defects. The general statutory limitation periods (Sections 195, 199 German Civil Code [BGB]) apply to OCULUS' non-contractual damage claims, unless the application of the limitation periods under the German law on sales provides for a longer limitation period.

## Section 11 Quality

The Seller is obligated to comply with quality assurance agreements agreed between the parties in any case.

## Section 12 Workers' Rights

The Seller undertakes:

(1) to comply with the basic worker's rights contained in the international UN Conventions, the International Labor Organization, the Organization for Economic Co-operation and Development (OECD), as well as the UN Global Compact.

(2) to meet the obligations arising from the German Minimum Wage Act (MiLoG) and the German Posting of Workers Act (AEntG) and the collective wage scale provisions according to these acts that are applicable to the contractor's business. If the Seller's services are subject to an act requiring compliance with collective agreements and minimum wages (Tariftreue- und/oder Mindestlohngesetz) or another act requiring that the contractor pays minimum wages for the provision of awarded services, the Seller undertakes to pay the

workers the respective minimum wage for the performance of the services and to comply with the contracting entity's information and audit rights stipulated in aforementioned acts. Furthermore, the Seller is obligated to bind sub-contractors to comply with the aforementioned regulations regarding their employees.

In the event the Seller violates one or several obligations according to Section 12, the contracting entity is, subject to additional rights the contracting entity may have, authorized to set a reasonable grace period to comply with the respective obligations for the Seller.

## Section 13 Choice of Law and Place of Jurisdiction

(1) These General Terms and Conditions and all legal relationships between OCULUS and the Seller are governed by the laws of the Federal Republic of Germany under exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods. Requirements and effects of retention of title are subject to the laws applicable at the respective location of the thing (goods), if the choice of law according to this agreement in favor of German Law is not permitted or ineffective according to the respective local laws.

(2) If the Seller is a businessman in terms of the German Commercial Code [HGB], a legal person under public law or a special fund under public law, the exclusive - also international - place of jurisdiction for all disputes arising from this contractual relationship is the seat of OCULUS in Wetzlar. OCULUS is, however, also entitled to sue at the place of performance at which the delivery has been made.