



## **OPTIMAS OE SOLUTIONS, LLC TERMS AND CONDITIONS OF PURCHASE**

- 1.** Any order placed or purchase order issued by Optimas OE Solutions, LLC (“Buyer”) (an “Order”) for products and/or services described therein (collectively, the “Products”) is subject to these Terms and Conditions of Purchase (the “Agreement”), together with any additional or different terms agreed to in writing by Buyer. Buyer objects to and shall not be bound by any additional or different terms, whether printed or otherwise, in any quote, invoice or other communication from Seller to Buyer, unless specifically agreed to in a writing signed by the parties and only with respect to those Products intended to be covered by that executed document. This Agreement constitutes the entire, integrated agreement between the parties related to the subject matter of this Agreement and any all discussions, understandings, agreements, representations, courses of dealings, customs, and usages of trade heretofore made or engaged in by the parties with respect to the subject matter hereof are merged into this Agreement which alone fully and completely expresses the parties’ agreement. No amendments, modifications, waivers, or termination of this Agreement can be made through the parties’ course of dealings and no such change can be made except in a single writing signed by the parties hereto. Acceptance of an Order by Seller will occur upon the happening of any of the following: (i) receipt by Buyer from Seller of written acceptance of an Order or written notice that Seller will provide the Products; (ii) provision by Seller to Buyer of any Products; and (iii) any other conduct of Seller which recognizes the existence of a contract pertaining to the Products.
- 2.** Unless otherwise agreed to, Products will be paid for within ninety (90) days of shipment to Buyer.
- 3.** Buyer shall not be liable for any tax unless the amount of such tax is separately stated in the invoice. Seller shall not add any taxes to the price of Products which Buyer is entitled to purchase on an exempt basis, provided that Buyer provides Seller with such exemption certificates or similar documents as required by law to effect exempt purchases. Seller will provide Buyer with such documentation as Buyer requires in order to claim tax credits, refunds, rebates or similar relief for taxes charged to Buyer.
- 4.** Unless otherwise stated on an Order, price is FCA Supplier’s facility, Incoterms 2010 for all shipments. Seller shall comply with the Optimas Routing Guide ([www.optimas.com/routingguide](http://www.optimas.com/routingguide)). Non-compliance may result in additional freight costs and service fees at Seller’s expense. Title to the Products and risk of loss pass to Buyer upon receipt. The Products are to be suitably packed or otherwise prepared for shipment so as to secure the lowest transportation rates and to meet the carrier’s requirements. No charges will be allowed for such packing or preparation unless otherwise stated on an Order.
- 5.** If a delivery date specified on an Order cannot be met, Seller will advise Buyer within three (3) business days of receipt of such Order and, at Buyer’s option (i) Buyer may require that Seller utilize an expedited means of production or delivery at Seller’s sole cost; or (ii) a new delivery date will be agreed upon; or (iii) Buyer may cancel all or any part of an Order without any penalty or liability. If Seller fails to deliver at the time specified or otherwise breaches this Agreement, Buyer, in addition to any other remedies it may have under this contract or at law, may cancel all or part of an Order with respect to Products not delivered without liability for costs relating to the cancelled portion of an Order. In no event shall Buyer be liable for lost profits whether direct or indirect.
- 6.** Buyer may change an Order. Any claim by Seller for an adjustment in the purchase price or delivery date(s) due to such change must be asserted by Seller in writing to Buyer within ten (10) days after Seller’s receipt of Buyer’s change Order; otherwise Seller waives its right to such an adjustment. After receipt of Seller’s claim for an adjustment, Buyer may cancel all or part of an Order, without liability to Seller.
- 7.** Buyer may cancel all or any part of an Order with respect to Products not delivered without cause. If Buyer cancels all or part of an Order for Products that have already been shipped to Buyer, upon mutual agreement, Seller may be entitled to a restocking fee for that portion of the Order that has been cancelled. Any such restocking fee shall be Seller’s sole remedy for cancellation of shipped Products.
- 8.** Seller warrants that the Products will conform to the specifications, drawings, samples or other description furnished to Seller; will be of new manufacture and free from defects in material and workmanship; will be free and clear of all liens and encumbrances; and will comply with all other warranties implied in fact or by law. Such warranties shall run to Buyer and its customers and shall continue in full force and effect for a period of two (2) years following delivery to Buyer’s end user (“Warranty Period”) and Seller shall not be relieved of such warranties by Buyer’s inspection of or payment for the Products. Seller shall at its own cost promptly remedy (by repair, replacement or modification, at Buyer’s option), any defects or warranty issues in the Products as notified by Buyer, and which become apparent during the Warranty Period, including, but are not limited to: (a) defective workmanship; (b) faulty design (other than a design made or furnished or specified by Buyer); (c) Products not meeting specifications; or (d) any negligent act or omission by Seller or its personnel. Seller will obtain and assign to Buyer or Buyer’s customer the warranties provided by the manufacturers or suppliers of material or equipment incorporated into the Products, and will perform its responsibilities so that such warranties remain in full force and effect. Buyer and its customers may inspect the Products at Seller’s plant on request.
- 9.** Seller further warrants that each Product shall be manufactured, packaged, tagged and labeled in material compliance with, and all Product literature shall be complete, accurate and materially comply with, all applicable federal, state and local laws, regulations, ordinances, administrative rules and orders. In addition, Seller agrees to comply with Buyer’s Supplier Code of Conduct found at: <https://www.optimas.com/supplier-code-of-conduct> and:
  - (a) taxation, exchange controls, anti-trust, anti-money laundering, trade sanctions, financial sanctions and criminal matters which are applicable to Seller, its group, or to their respective parent companies, or to their respective affiliates;
  - (b) imports, exports, customs and environmental laws including without limitation, Regulation (EC) No 1907/2006 (“REACH”); EU Directive 2011/65/EC (RoHS 2 Directive); and EU Directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE Directive), as amended; EU Directive 94/62/EC of 20 December 1994 on Packaging and Packaging Waste, as amended (Packaging Regulations). In relation to the WEEE Directive and Packaging Regulations, Seller is registered in all EU countries as the “producer” and as such is responsible for reporting Products and paying the applicable fees according to the applicable local legislation. In relation to REACH, if Seller is resident outside EU, it shall appoint an EU agent, an Only



Representative, to fulfill all its obligations under REACH including its registration obligations, so that Buyer shall not be an importer of the Products;

(c) Anti-Bribery and anti-corruption including but not limited to the US Foreign Corrupt Practices Act 1977 and the UK Bribery Act 2010 and will not engage in any activity, practice or conduct which would constitute an offence under those Acts. In addition, Seller shall comply with Buyer's Anti Bribery Policy available on Buyer's website. Where Buyer suspects that Seller is in breach of this condition, Seller will permit Buyer or its professional advisors immediate access to Seller's books and records in order for Buyer or its professional advisors to audit and take copies of Seller's books and records to check compliance with this condition;

(d) Federal Acquisition Regulations (FARs) and Executive Orders, as applicable, including, without limitation, those contained at [www.Optimas.com/FAR](http://www.Optimas.com/FAR), as amended.

(e) within two (2) days after receipt of Buyer's purchase order, Seller shall provide Buyer with a written list of all hazardous or toxic substances (as those terms are defined by any applicable laws) contained in any products identified in the purchase order. At the time of delivery, Seller shall identify in an MSDS or other written statement all hazardous or toxic substances (as those terms are defined in any applicable laws) contained in any product, to the extent required by applicable laws. With the exception of such hazardous or toxic substances so identified, Seller warrants that at the time of delivery by Seller to Buyer each Product shall contain no hazardous or toxic substances;

(f) all material used in the production or manufacturing of product sold to Buyer must be "Conflict Free" material as defined by the U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act known as the "Conflict Minerals Rule". Mineral sources/smelters must be reported to Buyer upon request or in the event of a known conflict sources being used within the Seller's supply chain.

**10.** Seller will defend, indemnify and hold harmless Buyer, its directors, affiliates, employees, customers and agents from and against any and all claims alleging (i) infringement or interference with any intellectual property or proprietary rights, including but not limited to, infringement of any patent, trademark, copyright, or service mark; (ii) property damage, injuries or death to persons, or any other damage, loss cost or expense (including judgments paid and attorneys' fees and expenses reasonably incurred) arising out of the purchase, use or operation of any Products; or (iii) violation by any such Products, or their manufacture, possession, use or sale, of any law, statute or ordinance or any governmental administrative order, rule or regulation.

**11.** Seller will provide all test reports, drawings, start up service and other engineering service required by Buyer's customer, if Seller has been advised of or is otherwise aware of such requirements. If selling Products that require certification, certified test reports shall be maintained by Seller against Buyer's Order number for a period of five (5) years from date of shipment. Tests should be performed to the relevant governing specifications or variations as specified in the Order.

**12.** Seller shall obtain and maintain, at its expense, a policy or policies of Products Liability Insurance, with Broad Form Vendor's Endorsement, with policy limits of not less than \$1,000,000 and such other policies of insurance as Buyer reasonably requests, naming Buyer as an additional insured, in such amounts and in such companies and containing such other provisions which shall be satisfactory to Buyer, covering Products sold to Buyer hereunder. All such policies shall provide that the coverage thereunder shall not be terminated without at least thirty (30) days prior written notice to Buyer. Certificates of Insurance shall be provided to Buyer upon request.

**13.** Buyer's failure to enforce any right or remedy shall not be a waiver of such right or remedy or of Buyer's right thereafter to enforce every provision of this Agreement. Buyer's waiver of any breach shall not be a waiver of any other breach.

**14.** Seller shall not assign this Agreement or delegate its rights or obligations under this contract without Buyer's written consent.

**15.** Upon notice to Seller, Buyer may deduct damages for breach of warranty or of any other provision of this Agreement from amounts due Seller on any invoice, whether or not such invoice relates to the transaction occasioning the breach.

**16.** This Agreement shall be governed, interpreted and construed according to the substantive laws of the State of Illinois without regard to conflicts of laws principles thereof and shall not be governed by the U.N. Convention on the International Sale of Goods. If any dispute or controversy shall arise with respect to this contract, such dispute or controversy may only be brought for resolution in the state or federal courts located in Chicago, Illinois. Buyer and Seller hereby consent to the exclusive jurisdiction and venue of such courts, and agree that they shall not contest or challenge the jurisdiction or venue of such courts.

**17.** This Agreement is a matter of confidential information, and Seller will strictly protect the confidentiality hereof. Information on an Order is furnished by Buyer on the understanding that it may and will be used only for the purposes of satisfying such Order.

**18.** Seller will perform its obligations hereunder in compliance, in all material respects, with all applicable foreign, domestic, state and local laws and regulations of all applicable foreign and domestic jurisdictions. Seller shall provide U.S. (import and export) compliance information for all Product including but not limited to: the U.S. Department of Commerce's Bureau of Industry and Security's (BIS) Export Control Classification Number (ECCN); Harmonized Tariff System Number or Schedule B Number; North American Free Trade Agreement (NAFTA) blanket certificate of origin (if applicable) or country of origin information; and International Traffic in Arms (ITAR) designation, if applicable. Seller shall provide name and contact information of its export compliance subject matter expert. If shipment originates outside of the U.S., Seller shall follow the instructions in the Optimas Routing Guide which includes information on packaging, U.S. Importer Security Filing (ISF) requirements and commercial paperwork. All wood packaging (crates, pallets, etc.) must comply with the International Standards for Phytosanitary Measures (ISPM) No. 15.