

# **Shin-Etsu Quartz Products Co., Ltd. General Terms and Conditions for Purchase**

## **1. General Matters**

All purchase orders (hereinafter referred to as “Purchase Orders”) issued by Shin-Etsu Quartz Products Co., Ltd. East Tower 9F, Gate City Osaki, 1-11-2 Osaki, Shinagawa-ku, Tokyo, 141-0032, Japan (hereinafter referred to as “Shin-Etsu Quartz Products”) shall be subject to the following General Terms and Conditions for purchase transactions (hereinafter Purchase Orders and these Terms and Conditions shall collectively be referred to as “Purchase Agreement”) concerning delivery of products and the provision of services (hereinafter referred to as “Transactions”) by the seller (hereinafter referred to as the “Seller”). Conflicting Transactions contain matters that inconsistent with terms and conditions presented by the Seller, the Transactions will be considered proposals that go into effect only to the extent accepted in writing by Shin-Etsu Quartz Products. Under this Purchase Agreement, Seller agrees to sell and Shin-Etsu Quartz Products agrees to purchase certain goods, products, or services (hereinafter referred to as the “Products”) as described in Purchase Orders pursuant to Purchase Agreement.

## **2. Order and Order Acceptance**

Purchase Orders shall be deemed accepted by the Seller upon the earlier of Seller’s (a) indicated date in the acceptance of a Purchase Order, (b) the date of shipment of the Goods. by the Seller, or (c) the time when Seller fails to give notice of acceptance of an order in writing to Shin-Etsu Quartz Products within five (5) business days after Shin-Etsu Quartz Products issues a Purchase Order or instructions. Shin-Etsu Quartz Products may cancel or modify a Purchase Order during the period until accepted by Seller.

## **3. Quality, Packaging and Documentation**

**3.1** Quality: The Seller agrees, represents and warrants that all Products. provided under Purchase Agreement shall be manufactured in strict accordance with the applicable Shin-Etsu Quartz Products specifications and requirements.

**3.2** Packaging: The Products shall be securely packaged and a document stating the exact quantity and a description of the Products shall be included in the packaging.

## **4. Shipping and Delivery**

Products shall be delivered on the date stated in Purchase Orders to ensure efficient operations, and the Seller shall inform Shin-Etsu Quartz Products in advance if any delay of shipping or delivery . Notwithstanding this, Shin-Etsu Quartz Products reserve the right to terminate Purchase Orders, in

whole or in part, if the Seller fails to make delivery in accordance with Purchase Agreements.

## **5. Inspections**

Shin-Etsu Quartz Products shall inspect delivered products and reserves the right to reject products. Shin-Etsu Quartz Products may retain defective or non-conforming products, or may return products according to the Seller’s instructions. In this case, the Seller shall bear retention and return costs. Besides this, payment for any products prior to inspection does not constitute acceptance. Payment ,if made, is without prejudice t any and all Shin-Etsu Quartz Products against the Seller.

## **6. Changes to Manufacturing Processes**

The Seller shall notify Shin-Etsu Quartz Products in writing in advance of (i) changes to materials, raw materials, manufacturing processes or manufacturing locations that may materially affect the conformity, form or function of the Productsand (ii) of any plans to discontinue of production of any products; subject to Shin-Etsu Quartz Products right, however, to make a “final purchase” of such Products for up to one year before the Seller discontinues production.

## **7. Cancellation**

**7.1**Notwithstanding the provisions of Article 4 of this General Terms and Conditions for Purchase Agreement , Shin-Etsu Quartz Products may cancel purchase orders or terminate purchase agreements by giving notice in writing to the Seller:

- (1) if Seller has breached, or or Shin-Etsu Quartz Products reasonably believes that Seller has breached, any provison hereunder;
- (2) if the Seller dissolves
- (3) the insolvency, filing of a voluntary or involuntary petition under bankruptcy or insolvency under the any related laws
- (4) appointment by a court a temporary or permanent receiver, trustee, or administrator for the Seller’s business
- (5) an assignment of Seller’s assets for the benefit of creditors
- (6) ifSellersells its business to a third party either through a stock or equity ownership transferor through a sale of substantially all of the Seller’s assets

**7.2** If the Purchase Agreement is cancelled in accordance with the item (1) of the preceding paragraph, Shin-Etsu Quartz Products may claim compensation for loss or damage incurred as a result from the Seller.

## **8. Product Warranty**

- 8.1 Warranty:** Seller expressly warrants that all products shall (a) conform to descriptions or specifications provided by Shin-Etsu Quartz Products, (b) be free from materials, design and workmanship defects, and (c) be of saleable quality for 365 days after delivery to Shin-Etsu Quartz Products.
- 8.2 Liability for Non-Conformity:** If Seller delivers Shin-Etsu Quartz Product defective or non-conforming products, Shin-Etsu Quartz Products may (a) accept the defective or non-conforming products in whole or in part and claim compensation from the Seller in relation thereto, (b) reject the products, in whole or in part, or (c) may, at Shin-Etsu Quartz Products' discretion, demand that the Seller promptly repair or replace the Products.
- 8.3 Returns:** If Seller is unable to repair or replace products within 14 days of Shin-Etsu Quartz Products' demand pursuant to 8.2, Shin-Etsu Quartz Products may, following consultation with the Seller, return the relevant Products to the Seller, and the Seller shall refund the full amount paid by Shin-Etsu Quartz Products without delay.
- 8.4 Non-infringement:** Seller warrants that the Products do not infringe or misappropriate the patent rights, utility model rights, trademarks, design rights, copyrights, trade secrets and any other intellectual property rights of any third party..
- 8.5 Infringement Warranty:** Seller warrants with respect to products purchased pursuant to Purchase Agreements, that no intellectual property right infringements allegations or lawsuits concerning third party rights, or claims for demands, losses, damages, liability or expenses arising from lawsuits shall be made against Shin-Etsu Quartz Products and its subsidiaries, affiliated companies, officers, directors, employees and agents.
- 8.6 Product Liability Indemnification:** Seller warrants that no allegations or lawsuits asserting personal injury or property damage, or claims for demands, losses, damages, liability or expenses arising from lawsuits, as a result of defects in Products. purchased pursuant to Purchase Agreements shall be made against Shin-Etsu Quartz Products and its subsidiaries, affiliated companies, officers, directors, employees and agents; provided, however, that the Seller shall indemnify for such damage if any damage is caused to Shin-Etsu Quartz Products or a third party as a result of a defect in the Products.

## **9. Confidential Information and Intellectual Property Rights**

- 9.1 Confidential Information:** Specific information that Shin-Etsu Quartz Products deems confidential (including information disclosed in writing, orally, by telecommunication circuits or by other methods), intellectual property, supplies, drawings, software, specifications, tools, equipment, molds, fixtures and other property (hereinafter referred to as "Confidential Information") disclosed or provided in order to fulfill the Purchase Agreement shall belong to Shin-Etsu Quartz Products, and the Seller shall maintain such Confidential Information as confidential and handle it with due care. The Seller must not, without the prior written consent of Shin-Etsu Quartz Products, (a) disclose Confidential Information, including the terms and conditions in Purchase Agreements, except to employees necessary for the Seller to fulfill its obligations pursuant to Purchase Agreements (hereinafter referred to as "Related Parties,"), or (b) use Confidential Information for any purpose other than those the purpose set forth in this Agreement, except as necessary in order for the Seller to fulfill its obligations pursuant to Purchase Agreements, or (c) must not disclose or provide Confidential Information to any third party.
- 9.2 Restitution:** Upon completion of a Transactions pursuant to Purchase Agreement, the Seller shall destroy or return Confidential Information or copies thereof in accordance with instructions in writing from Shin-Etsu Quartz Products. The Seller shall bear responsibility for any loss, damage or misuse of Confidential Information. The Seller may execute a more extensive confidentiality agreement with Shin-Etsu Quartz Products to protect Confidential Information based on a reasonable request from Shin-Etsu Quartz Products.
- 9.3 No License:** Shin-Etsu Quartz Products shall not grant the Seller a license for Confidential Information except as provided for in Purchase Agreement.
- 9.4 Ownership:** Shin-Etsu Quartz Products shall constantly own and retain all rights, titles and interests to all Confidential Information, other property generated during Shin-Etsu Quartz Products' manufacturing activities, and improvements to products made by Shin-Etsu Quartz Products during the manufacturing process. Ownership of products that have been improved or added to by Shin-Etsu Quartz Products shall belong to Shin-Etsu Quartz Products.

## **10. Elimination of Anti-social Forces**

Shin-Etsu Quartz may terminate Purchase Agreements without giving any notice to the other party:

- (1) If officers or employees of the Seller are a member of an anti-social force such as an organized crime group, a company closely related to an organized crime group, or a corporate racketeer. (hereinafter referred to as an “Anti-social Force”).
- (2) If members of an Anti-social Force are substantially involved in the management of the Seller.
- (3) If Seller is cooperating or involved in operating an Anti-social Force such as providing funds or providing favors. to an Anti-social Force.
- (4) If Seller is engaged in any conduct that could generally be viewed as being an Anti-social Force.
- (5) Any other conditions and situations similar to the listed in each of the above items.

## **11. Compliance with Laws and Regulations**

- 11.1 Compliance with Laws and Regulations:** Fulfilling Purchase Orders, the Seller shall comply with not only all applicable Japanese laws but also all applicable domestic and foreign laws, regulations and any other rules related to Purchase Agreement, including, but not limited to, the following, as well as laws and regulations connected to all of the following matters: (a) the manufacture, sale, and delivery of Products, (b) occupational health and safety(c) protection of body and property from death, injury, or damage(d) protection of personal information(e) labor and employment, including equal employment opportunities(f) taxes(g) export controls(h) environmental and toxic or hazardous substance usage, handling, storage, labeling, and disposal(i) money laundering, bribery, anti-terrorism, trade embargoes, and economic sanctions
- 11.2 Laws and Regulations Compliance Warranty:** Seller warrants that it shall bear responsibility for all assertions, allegations, lawsuits and claims, losses, damages, liabilities and expenses arising from lawsuits arising out of the Seller’s breach of these provisions and that no claims shall be made against Shin-Etsu Quartz Products and its affiliated companies, officers, directors, employees and agents.

## **12. Governing Law**

- 12.1 Governing Law:** This General Terms and Conditions for Purchase and Purchase Agreement shall be exclusively governed by and construed in accordance with the laws of Japan regardless of any conflicts of laws.
- 12.2 Jurisdiction:** Shin-Etsu Quartz Products and the Seller shall endeavor to resolve through consultation in good faith any disputes arising out of or in connection to Purchase Agreement. If a dispute cannot be resolved through consultation in good faith within a reasonable period of time, the Tokyo District Court shall be the

court with jurisdiction.

## **13. Miscellaneous**

- 13.1 Entire Agreement:** Documents that can be referenced from Purchase Agreement and specifications constitute the entire understanding and agreement between Shin-Etsu Quartz Products and the Seller and supersede all prior oral or written negotiations and agreements concerning the details in Purchase Agreements; provided, however, that this does not apply if an individual contract or basic agreement between Shin-Etsu Quartz Products and the Seller prior to this Purchase Agreement is concluded. Any other conflicts of this General terms and conditions shall be resolved by modification or amendment through the mutual consultation. No modifications change and amendments of the Purchase Agreement will be valid unless made in writing and signed by a duly authorized officer or representative on behalf of an authorized person by Shin-Etsu Quartz Products and the Seller.
- 13.2 Severability:** If any provisions of Purchase Agreement are prohibited by law or judged by a court with jurisdiction to be illegal, invalid or unenforceable, the other provisions shall remain in full force and effect.
- 13.3 Waivers:** No failure by Shin-Etsu Quartz Products or Seller to enforce any of the provisions of Purchase Agreement shall not constitute a waiver of rights.
- 13.4 Prohibition of Assignment:** Neither Shin-Etsu Quartz Products nor Seller may assign, lend, or use as collateral their positions in Purchase Agreement or rights and obligations, in whole or in part, to any third party without the prior written consent of the other party. In addition, if prior written consent has been obtained, assets may be sold, merged or assigned by other means to (a) Related Parties or (b) third parties that acquire or substantially all of the assets of a contracting party. In this case, the obligation to perform the terms and conditions provided in Purchase Agreement shall survive.
- 13.5 Notices:** Unless otherwise specified, all notices or communications pursuant to Purchase Agreement shall be sent to the address or location (hereinafter referred to as “Address”) designated by Shin-Etsu Quartz Products or to contacts on on the Purchase Orders. In addition, the Seller shall also notify Shin-Etsu Quartz Products without delay in case of any change of address or any other contact information.

## **14. Consultation**

Matters not provided for in this General Terms and Conditions for Purchase and any ambiguities in the

interpretation of Purchase Agreement shall be determined through the mutual consultation.