



## Anexo 3 Términos y Condiciones (Bienes y Servicios) OCV México S. de R.L. de C.V.

Número de Control	COMP00015	Revisión :	1	19/Ene/22	Fecha Creación 18/07/2005	Página 1 de 6
Elaborador:	Ernesto Sanchez	Revisor:	Jorge Rosas		Aprobador:	Laura Montiel

### PURCHASE AGREEMENT TERMS AND CONDITIONS (GOODS AND/OR SERVICES)

**1. ACCEPTANCE.** Seller has read and understands this agreement and agrees that Seller's written acceptance or commencement of any work or service under this agreement shall constitute Seller's acceptance of these terms and conditions. All terms and conditions proposed by Seller which are different from, or in addition to this agreement, are unacceptable to OCV Mexico, S. de R.L. de C.V. ("Buyer"), are expressly rejected and shall not become a part of this agreement. Any modifications to this agreement shall be made in accordance with Section 29.

**2. PRICES, SHIPPING AND BILLING.** Seller shall sell to Buyer the goods ("Goods") or services ("Services") shown on the face of Buyer's Purchase Order ("Purchase Order") at the prices specified. Except as otherwise provided in the Purchase Order, such prices are exclusive of applicable freight charges, taxes and duties.

Seller agrees (a) to properly pack, mark and ship Goods in accordance with the requirements of Buyer and involve carriers in a manner to secure lowest transportation cost; (b) to route shipments in accordance with instructions from Buyer; (c) to make no charge for handling, packaging, storage, transportation or drayage of Goods unless otherwise stated in the Purchase Order; (d) provide with each shipment packing slips with Buyer's agreement number marked thereon;

(e) to properly mark each package with the Purchase Order number, the factory, plant and dock number and where multiple packages comprise a single shipment, to consecutively number each package; and (f) to promptly forward the original bill of lading or other shipping receipt for each shipment in accordance with Buyer's instructions. Seller will include on bills of lading or other shipping receipts correct classification and identification of the Goods shipped in accordance with applicable governmental rules and regulations, including but not limited to those of Department of Transportation regulations, Buyer's instructions and carrier's requirements. The marks on each package and identification of the Goods on packing slips, bills of lading and invoices shall be sufficient to enable Buyer to easily identify the Goods purchased. Seller further agrees (a) to promptly render, after delivery of Goods or performance of Services, correct and complete invoices to Buyer; and (b) to accept payment by check or, at Buyer's discretion, other cash equivalent (including electronic transfer of funds). The payment date and terms is set forth on the face side of the Purchase Order, or if not stated, shall be 2% 30 days or net 75 days following Buyer's receipt of a proper invoice. Time for payment shall not begin until correct and complete invoices are received, and any cash discount privileges to Buyer shall be extended until such time as payment is due.

**3. DELIVERY SCHEDULE.** Deliveries shall be made both in quantities and at times specified in Buyer's Purchase Order. Timely performance is of the essence. Buyer shall not be required to make payment for Goods delivered to Buyer which are in excess of quantities specified in Buyer's Purchase Order. Buyer may change rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which shall entitle Seller to a modification of the price of Goods covered by the Purchase Order. Where quantities and/or delivery schedules are not specified, Seller shall deliver Goods in such quantities and times as Buyer may direct in subsequent releases or within a reasonable period.

1 The term Seller includes Suppliers, Vendors, Contractors, or Consultants.

**4. PREMIUM SHIPMENT.** If Seller's acts or omissions result in Seller's failure to meet Buyer's delivery requirements and Buyer requires a more expeditious method of transportation for the Goods than the transportation method originally specified by Buyer, Seller shall, at Buyer's option (i) promptly reimburse Buyer the difference in cost between the more expeditious method and the original method, (ii) allow Buyer to reduce its payment of Seller's invoices by such difference, or (iii) ship the Goods as expeditiously as possible at Seller's expense and invoice Buyer for the amount which Buyer would have paid for normal shipment. (a) Buyer may without charge change or cancel any portion of the Purchase Order if Buyer gives Seller notice (i) for custom Goods (i.e. supplied exclusively in accordance with Buyer's designs or specification), at least sixty (60) calendar days prior to the delivery date, and (ii) for standard Goods or Services (i.e. all Goods or Services other than custom), at least fifteen (15) calendar days prior to the delivery date.

(b) If Buyer changes or cancels any portion of the Purchase Order after the time periods specified in Section 5(a) above, Buyer shall be responsible for actual costs incurred by Seller as a direct result of such change or cancellation which are not recoverable by either (i) the shipment of Goods or provision of the Services affected to other parties within a reasonable time, or (ii) the exercise by Seller, in a commercially reasonable manner, of other mitigation measures.

(c) Buyer may, effective upon notice to Seller, change Buyer's designs or specifications at any time prior to shipment of corresponding Goods or receipt of corresponding Services. If any such change directly affects the prices or delivery schedules of Goods or Services, an equitable adjustment shall be made provided that Seller makes a written claim for an adjustment prior to shipment of the Goods or provision of the Services. Any claim by Seller for adjustment due to changes/cancellation must be asserted within thirty (30) days from the date of receipt of notification of the change. If the parties are unable to agree upon the amount of the adjustment, acting reasonably and in good faith, Buyer may without any liability terminate the Purchase Order as to all Goods and Services affected.

(d) Seller shall not, without the prior written consent of Buyer, make any process or design changes affecting the Goods.

(e) Any forecasts provided by Buyer are only an accommodation to Seller, and shall not constitute a commitment of any type by Buyer.

#### 5. CHANGES.

Any changes to the Purchase Order shall be made in accordance with Section 29.

**6. INSPECTION.** Subject to Seller's reasonable confidentiality requirements, Seller agrees that Buyer shall have the right to enter Seller's facility at reasonable times to inspect the facility, Goods, materials and any property of Buyer covered by the Purchase Order. Buyer's inspection of the Goods, whether during manufacture, prior to delivery or within a reasonable time after delivery, shall not constitute acceptance of any work-in-process or finished Goods.

**7. NON-CONFORMING PRODUCTS.** To the extent Buyer rejects Goods as non-conforming, the quantities under the Purchase Order will automatically be reduced unless Buyer otherwise notifies Seller. Seller will not replace quantities so reduced without a new agreement or schedule from Buyer. Non-conforming Goods will be held by Buyer for disposition in accordance with Seller's instructions and at Seller's risk. Seller's failure to provide written



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instructions within ten (10) days, or such shorter period as may be commercially reasonable under the circumstances, after notice of nonconformity shall entitle Buyer, at Buyer's option, to charge Seller for storage and handling, or to dispose of the Goods, without liability to Seller. Payment for nonconforming Goods shall not constitute an acceptance thereof, limit or impair Buyer's rights to assert any legal or equitable remedy, or relieve Seller's responsibility for latent defects.

**8. USE OF PREMISES:** Seller shall perform all work in such manner as not to interfere with use of premises by Buyer, its employees, invitees, lessees, agents and contractors. Seller shall not cause or require any interruption of Buyer's manufacturing operations. Seller shall not use any hazardous, dangerous or prohibited materials in connection with the work and shall not bring any such materials onto Buyer's premises without prior notice to Buyer and obtaining Buyer's prior written consent thereto. Seller shall take all necessary precautions (including those required by Buyer's safety and environmental regulations) to protect the premises and all persons and property thereon from damage or injury and shall assume responsibility for the taking of such precautions by Seller's and any sub-contractor's employees, agents, licensees, and permittees and sub-contractors. Upon completion of the work Seller shall leave the premises clean and free of all tools, equipment, waste material and rubbish. Seller shall immediately notify Buyer if any person is injured or claims injury in connection with the work on Buyer's premises.

**9. WARRANTY.** Seller warrants that the Goods and Services shall be free from liens and defects in design, material, workmanship, and title, and shall conform in all respects to the terms of the Purchase Order and to the applicable drawings issued for manufacture, and shall be new and of the best quality, if no quality is specified. Unless the warranty period is otherwise extended, the conditions of which are provided elsewhere in the Purchase Order, the following warranty shall apply: If, any time prior to (a) one (1) year from the date of Buyer's commercial use of the Goods, or (b) eighteen (18) months from the date of delivery, whichever occurs first, it appears that the Goods, or any part thereof, do not conform to these warranties or to the specifications, and Buyer so notifies Seller within a reasonable time after its discovery, Seller shall promptly correct such nonconformity to the satisfaction of the Buyer, at Seller's sole expense; failing which Buyer may reject or revoke acceptance, and cover by making any reasonable purchase of goods in substitution for those rejected and the Seller will be liable to the Buyer for any excess costs for such similar goods or services; or Buyer may proceed to correct Seller's nonconforming work by the most expeditious means available, the costs of which shall be for Seller's account; or Buyer may retain the nonconforming Goods and an equitable adjustment reducing the order price to reflect the diminished value of such nonconforming Goods will be made. Seller's liability hereunder shall extend to all damages proximately caused by the breach of any of the foregoing warranties, including incidental damages, such as removal, inspection, costs of return or warehousing. Seller shall not be liable for consequential damages such as loss of profits, loss of use or production, and costs of capital. NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE SHALL APPLY.

**10. DISCLOSURES.** If requested by Buyer, Seller shall promptly furnish to Buyer in such form and detail as Buyer may direct: (a) a list of all component materials in the Goods purchased hereunder; (b) the amount of one or more component materials; and (c) information concerning any changes in or additions to such component materials. Prior to and with the shipment of the Goods purchased hereunder, Seller agrees to furnish to Buyer, in all cases, sufficient warning and notice in writing (including appropriate labels on Goods, containers and packing) of any hazardous material which is an ingredient or a part of any of any of the Goods, together with such special handling instructions as may be necessary to advise carriers, Buyer, and their respective employees and agents of how to exercise that measure of care and precaution which will best prevent bodily injury or property damage in the

(a) Seller shall (i) comply with all federal, state, local, and foreign statutes, ordinances, rules and regulations applicable to its obligations under the Purchase Order, and (ii) furnish to Buyer any information required to enable Buyer to comply with such laws, rules, and regulations in its use of the Goods and Services.

(b) If Goods and Services are incorporated by Buyer into products and services sold under a federal contract or subcontract, those applicable procurement regulations that are required by federal statute or regulation to be inserted into contracts or subcontracts shall be deemed to apply to the Purchase Order.

(c) Without limiting the generality of this Section, Seller warrants that (i) each chemical substance contained in Goods is on the inventory of chemical substances compiled and published by the Environmental Protection Agency pursuant to the Toxic Substances Control Act, and (ii) all Material Safety Data Sheets required to be provided by Seller for Goods shall be provided to Buyer prior to shipment of the Goods and shall be complete and accurate.

(d) Seller hereby warrants, certifies and represents and agrees that neither the Goods nor any component of the Goods, (as defined in this Purchase Agreement): a) contains any "class I substance", as that term is defined in 42 USC Section 7671 (3) as now in existence or hereafter amended, or

handling, transportation, processing, use, or disposal of the Goods, containers and packing shipped to Buyer.

**11. GOVERNMENTAL COMPLIANCE.**

b) has been "manufactured with a process that uses" any "class I substance" within the meaning of 42 USC Section 7671j (d) (2) as now in existence or hereafter amended.

**12. SELLER'S INSOLVENCY.** Buyer may immediately cancel the Purchase Order without liability to Seller in the event of the happening of any of the following or any other comparable event: (a) insolvency of the Seller; (b) filing of a voluntary petition in bankruptcy by Seller; (c) filing of any involuntary petition in bankruptcy against Seller; (d) appointment of a receiver or trustee for Seller; (e) or execution of an assignment for the benefit of creditors by Seller, provided that such petition, appointment or assignment is not vacated or nullified within fifteen (15) days of such event.

**13. TERMINATION FOR CONVENIENCE.** Seller's performance of work under the Purchase Order may be terminated by the Buyer in accordance with this clause in whole, or, from time to time in part whenever the Buyer shall elect. Any such termination shall be effected by delivery to the Seller of a Notice of Termination specifying the extent to which performance of work under the agreement is terminated, and the date upon which such termination becomes effective. Upon receipt of any such notice, Seller shall, unless the notice requires otherwise: (1) immediately discontinue work on the date and to the extent specified in the notice; (2) place no further orders for materials other than as may be necessarily required for completion of such portion of the work that is not terminated; (3) promptly make every reasonable effort to either obtain cancellation on terms satisfactory to Buyer of all orders to sub-suppliers or assign those orders to Buyer; and (4) assist Buyer upon request in the maintenance, protection, and disposition of property acquired by Buyer under the Purchase Order.



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If claimed in writing within thirty (30) days after Notice of Termination, the Buyer will pay to Seller an equitable adjustment to include: (1) all amounts due and not previously paid to Seller for the Goods completed in accordance with the Purchase Order prior to such Notice, and for work thereafter completed as specified in such Notice; (2) a reasonable amount for any Goods and materials then in production; provided that no such adjustment be made in favor of Seller with respect to any Goods which are Seller's standard stock; (3) costs of settling and paying claims arising out of the canceled orders; and (4) a reasonable profit for costs incurred in the performance of the work terminated. Provided, however, that if it appears that the Seller would have sustained a loss on the entire Agreement had it been completed, no profit shall be included.

The total sum to be paid to the Seller under this clause, exclusive of settlement costs, shall not exceed the total order price as reduced by the amount of payments otherwise made and as further reduced by the order price of work not terminated, and will not include any consideration for loss of anticipated profits on the terminated work, all claims for which the Seller agrees to waive.

**14. TERMINATION FOR DEFAULT.** The Buyer may terminate the whole or any part of the Seller's performance of work under the Purchase Order in any one of the following circumstances: (1) if the Seller fails to make delivery of the Goods or to perform within the time specified herein or any extension thereof; or (2) if the Seller delivers nonconforming Goods; or (3) if the Seller fails to perform any of the other provisions of the Purchase Order in accordance with its terms or so fails to make progress as to endanger performance of the Purchase Order. In the event of any such failure, Buyer will provide Seller with written notice of the nature of the failure and Buyer's intention to terminate for default. In the event Seller does not cure such failure within 10 days of such notice, Buyer will provide Seller with a written Notice of Termination for Default. In the event the Buyer terminates the Purchase Order in whole or in part as provided in this clause, the Buyer may procure, upon such terms and in such manner as the Buyer may deem appropriate, supplies or services similar to those so terminated and the Seller shall be liable to the Buyer for any excess costs for such similar supplies or services, provided, that the Seller shall continue the performance of the Purchase Order to the extent not terminated under the provisions of this clause. If, after the Notice of Termination is delivered to Seller, it is determined for any reason that the Seller was not in default, the rights, obligations and liabilities of the parties shall be the same as if this Agreement had been terminated by Buyer for convenience under Section 13 above. (a) Seller shall defend, indemnify, and hold harmless Buyer and its affiliates, subsidiaries, assigns, subcontractors, and customers from and against all claims, losses, demands, fees, damages, liabilities, costs, expenses, obligations, causes of actions, suits or injuries of any kind or nature, arising from (i) any actual or claimed infringement of patents, trademarks, service marks, trade secrets, mask work rights, or copyrights with respect to Goods and/or Services, except to the extent that the infringement arises solely and directly out of compliance with Buyer's written specification, or (b) Without limiting the generality of Section 15(a) above, if the use by Buyer or its affiliates, subsidiaries, assigns, subcontractors, or customers of any Good or Service is enjoined ("Infringing Product"), Seller shall at its expense use its best efforts to procure the right to continue using the Infringing Product. If Seller is unable to do so, Seller shall at its expense (i) replace the Infringing Product with a non-infringing product, (ii) modify the Infringing Product to be non-infringing, or (iii) if unable to replace or modify the Infringing Product, refund in full all costs paid by Buyer for the Infringing Product. (c) Seller shall remove from all Goods rejected, returned, or not purchased by Buyer, Buyer's name and any of Buyer's trademarks, tradenames, insignia, part numbers, symbols or decorative designs, prior to any other sale, use, or disposition of such Goods by Seller. (d) Notwithstanding any proprietary legends or copyright notices to the contrary, Buyer may copy or (e) Except as required by the Purchase Order, Seller shall not use or disclose any Confidential Information as defined below, of Buyer which is obtained from Buyer or otherwise prepared or discovered. "Confidential Information" includes, without limitation, all information designated by Buyer as confidential, all information or data concerning Buyer's products (including the discovery, invention, research, improvement, development, manufacture or sale thereof) or general business operations (including costs, forecasts, profits, pricing methods and processes), information obtained through access to any Information Systems ("Systems") (e.g. computers, networks, voice mail, etc.) and any information which, if not otherwise described above, is of such a nature that a reasonable person would believe it to be confidential.

**15. INTELLECTUAL PROPERTY.** (ii) Seller's failure to comply with the requirements of Section 15(c) below, reproduce documents and information furnished by Seller in connection with Seller's proposal and with the Purchase Order and distribute such copies or reproductions to others for the limited purposes of designing, constructing, operating, maintaining or licensing Buyer's project. Seller is responsible for obtaining necessary permission and releases from any third parties placing proprietary rights or copyrights on such documents or information and shall, at its own expense, hold harmless and defend Buyer against any and all claims, suits or proceedings based upon a claim whether rightful or otherwise that a proprietary right or copyright has been infringed by copying, reproduction, distribution or use by Buyer.

In consideration for access to Confidential Information, it is understood and agreed by Seller and Buyer that all Confidential Information acquired by Seller during the course of the Purchase Order from any source whatsoever, including the patentable or unpatentable work product developed by Seller, is the property of Buyer, which shall be held by Seller, its subcontractors, if any, and their respective employees and agents in strict confidentiality, to the extent that it is not legitimately in the public domain. The Confidential Information shall be used by Seller, its subcontractors, if any, and their respective employees and agents for the sole purpose of providing Good and/or Services hereunder and shall not be otherwise used by Seller, its subcontractors, if any, and their respective employees and agents or disclosed by them to third parties. Seller agrees to return all such Confidential Information and copies thereof to Buyer upon request, and assist Buyer in the protecting and perfecting of Buyer's rights in such Confidential Information. The duty of confidentiality imposed upon Seller, its subcontractors, if any, and their respective employees and agents by this Section 15 shall expressly survive termination of the Purchase Order. Title to all Confidential Information, including but not limited to, any drawings, prints, reports, manuals, calculations, photographs, devices or other work product or materials which may be furnished by Buyer or learned by Seller, its subcontractors, if any, and their respective employees and agents in connection with the Purchase Order shall at all times remain with Buyer. Should the work performed by Seller for Buyer result in any patentable process, apparatus, product, compositions of matter, computer software or other proprietary items relating to the business of Buyer, Seller will assign to Buyer all rights to said process, apparatus, product, composition of matter, computer software, or other proprietary items and to any patents of proprietary coverage which Seller may obtain thereon and will assist Buyer in the completion and signing of all documents necessary to obtain such patents or proprietary coverage at the expense of Buyer; provided, that if the work performed by Seller includes producing or providing copyrightable subject matter, including but not limited to software, Seller will, at its own expense, obtain assignment to Buyer of the entire right, title, and interest in copyrights to such subject matter or software, including licenses to the underlying software, in all jurisdictions.

The parties realize that the Confidential Information is valuable to Buyer, and there is no adequate

(f) Access is limited to those specific information systems, time periods, and personnel authorized by Buyer and is subject to Buyer's information protection policies. Use of any other systems or during other time periods or by unauthorized individuals is expressly prohibited, even if a system which Seller is authorized to access serves as a gateway to other systems outside the scope of Seller's authorization. Seller warrants that it will comply with



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these obligations and that access granted hereunder will not impair the integrity and availability of Buyer's systems. Buyer may audit Seller to verify compliance. Seller warrants that each employee, agent or subcontractor who performs work under the Purchase Order has been informed of the obligations contained herein and has agreed to be bound by them.

(g) Seller agrees not to assert any claim (other than a claim for patent infringement) with respect to any technical information which Seller shall have disclosed or may hereafter disclose to Buyer in connection with the Goods or Services covered by the Purchase Order.

remedy at law for a breach of these terms, and Buyer will be entitled to an injunction to prevent and restrain the use of Confidential Information other than as authorized herein in addition to any other remedies Buyer may have at law or equity. Seller shall include in any subcontract executed to provide Goods or perform Services under the Purchase Order provisions imposing upon its subcontractors substantially the same duties as are imposed by this Paragraph 15. Such provisions shall expressly inure to the benefit of Buyer.

**16. INDEMNIFICATION.** If Seller performs any work on Buyer's premises or utilizes the property of Buyer, whether on or off Buyer's premises, Seller shall indemnify and hold Buyer harmless from and against any costs, liability, claims, demands or expenses (including reasonable attorney and expert fees) for damages to the property of or injuries (including death) to Buyer, its employees or any other person arising from or in connection with Seller's performance of work or use of Buyer's property except if such liability, claim, or demand arises out of the sole negligence of Buyer. To the extent permitted by law, the Seller hereby knowingly, intentionally and voluntarily agrees to waive any immunity from suit which it may enjoy under applicable worker's compensation laws or constitution of any state or otherwise, to the extent necessary to permit Buyer to be fully indemnified and held harmless hereunder. The Seller further agrees that Buyer shall not be liable for and hereby knowingly, intentionally and voluntarily releases Buyer from all liability to the Seller's insurance carrier or carriers or to anyone claiming under or through the Seller by reason of subrogation or otherwise. This Section 16 shall survive termination of the Purchase Order for any reason whatsoever.

**17. INSURANCE.** Seller shall maintain insurance coverage in amounts not less than the following: (a) Worker's Compensation - Statutory Limits for the state or states in which the Purchase Order is to be performed (or evidence of authority to self-insure); (b) Employer's Liability - [\$500,000]; (c) Comprehensive General Liability (including Products/Completed Operations and Blanket Contractual Liability) - [\$2,000,000] per person, [\$2,000,000] per occurrence for Personal Injury, and [\$2,000,000] per occurrence Property Damage, or [\$2,000,000] per occurrence Personal Injury and Property Damage combined single limit, and (d) Automobile Liability (including owned, non-owned and hired vehicles) - [\$1,000,000] per person, [\$1,000,000] per occurrence Personal Injury and [\$1,000,000] per occurrence Property Damage, or [\$1,000,000] per occurrence Personal Injury and Property Damage combined single limit. At Buyer's request, Seller shall furnish to Buyer certificates of insurance naming Buyer as an additional insured and setting forth the amount(s) of coverage, policy number(s) and date(s) of expiration for insurance maintained by Seller and, if further requested by Buyer, such certificates will provide that Buyer shall receive thirty (30) days prior written notification from the insurer of any cancellation or reduction in the amount or scope

of coverages. Seller's purchase of appropriate insurance coverage or the furnishing of certificates of insurance shall not release Seller of its obligations or liabilities under the Purchase Order. In the event of Seller's breach of this provision, Buyer shall have the right to cancel the undelivered portion of any Goods or Services covered by the Purchase Order and shall not be required to make further payments except for conforming Goods delivered or Services rendered prior to cancellation.

**18. REMEDIES.** The rights and remedies reserved to Buyer in this agreement shall be cumulative, and additional to all other rights and remedies provided in law or equity.

**19. DUTY DRAWBACK RIGHTS.** This agreement includes all related customers duty and import drawback rights, if any, (including rights developed by substitution and rights which may be acquired from Seller's suppliers) which Seller can transfer to Buyer. Seller agrees to inform Buyer of the existence of any such rights and upon request to supply such documents as may be required to obtain such drawback.

**20. ADVERTISING.** Seller shall not, without first obtaining the written consent of Buyer, in any manner advertise or publish the fact that Seller has contracted to furnish Buyer the Goods or Services herein ordered, or use any trademarks or tradenames of Buyer in Seller's advertising or promotional materials. In the event of Seller's breach of this provision Buyer shall have the right among others to cancel the undelivered portion of any Goods or Services covered by the Purchase Order and shall not be required to make further payments except for conforming Goods delivered or Services rendered prior to cancellation.

**21. LIENS:** Only Seller may exercise statutory lien rights. Seller hereby agrees to include in each subcontract a provision that subcontractors', laborers', mechanics' and materialmen's liens are not permitted. To the fullest extent permitted by law, Seller shall defend, indemnify and save harmless Buyer from laborer's, mechanics' and materialsmen's liens upon materials, equipment, work in progress or the premises on which the work is to be performed under the Purchase Order. Buyer may at any time withhold payments due to Seller until Seller submits signed lien waivers and from all persons entitled to assert any such lien, and Buyer may withhold from such payments such amounts as Buyer may consider sufficient to establish a reasonable reserve to cover any liens not so waived.

**22. FORCE MAJEURE.** Any delay or failure of either party to perform its obligations hereunder shall be excused if, and to the extent that it is caused by an unforeseeable event or occurrence beyond the reasonable control of the party and without its fault or negligence, such as, by way of example and not by way of limitation, acts of God, action by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, labor problems (including lockouts, strikes and slowdowns), inability to obtain power, material, labor, equipment or transportation, or court injunction or agreement; provided that written notice of such delay (including the anticipated duration of the delay) shall be given by the affected party to the other party within ten (10) days. During the period of such delay or failure to perform by Seller, Buyer, at its option, may purchase Goods or Services from other sources and reduce its schedules to Seller by such quantities, without liability to Seller, or have Seller provide the Goods or Services from other sources in quantities and at times requested by Buyer and at the price set forth in the Purchase Order. If requested by the Buyer, Seller shall, within ten (10) days of such request, provide adequate assurances that the delay shall not exceed thirty (30) days. Within seven days of the cessation of the event causing delay, Seller shall provide Buyer with written notice of actual delay incurred, upon receipt of which the date of promised delivery shall be extended for the time actually lost by reason of an excusable delay. If the delay lasts more than thirty (30) days or Seller does not provide adequate assurance that the delay will cease within thirty (30) days, Buyer may immediately cancel the agreement without liability.

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**23. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION.** This agreement incorporates by reference: (a) all provisions of 42 C.F.R. 60-14, as amended, pertaining to the equal opportunity clause in government contracts; (b) all provisions of 41 C.F.R. 60-250, as amended, pertaining to affirmative action for disabled veterans of the Vietnam Era; and

(c) all provisions of 42 C.F.R. 60-741, as amended, pertaining to affirmative action for handicapped workers. Seller certifies that it is in compliance with all applicable provisions of 42 C.F.R., 60-1, including but not limited to: (a) developing and presently having in full force and effect a written affirmative action compliance program for each of its establishments as required by 41 C.F.R. 60-140, as amended; (b) filing EEO-1 Reports as required by 41 C.F.R. 60-1.7, as amended; and (c) neither maintaining segregated facilities nor permitting its employees to perform services at segregated facilities as prohibited by 41 C.F.R. 60-1.8, as amended. Buyer requests that Seller adopt and implement a policy to extend employment opportunities to qualified applicants and employees on an equal basis regardless of an individual's age, race, color, sex, religion or national origin.

**24. NON-WAIVER.** Failure by Buyer to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any rights or remedies provided herein or by law, or to properly notify Seller in the event of breach, or the acceptance of or payment for any Goods or Services hereunder, or review of design, shall not release Seller from any of the warranties or obligations of the Purchase Order and shall not be deemed a waiver of any right of Buyer to insist upon strict performance hereof or any of its rights or remedies as to any such Goods or Services regardless when shipped, received, accepted or performed, or as to any prior or subsequent default hereunder, nor shall any termination of the Purchase Order by Buyer operate as a waiver of any of the terms hereof. A requirement that a Seller furnished document is to be submitted for or subject to "Authorization to Proceed," "Approval," "Acceptance," "Review," "Comment," or any combinations of such words or words of like import shall mean unless the Agreement clearly indicates otherwise, that the Seller shall, before implementing the information in the document, submit the document, obtain resolution of any comments and authorization to proceed. Such review shall not mean that a complete check will be performed. Authorization to proceed shall not constitute acceptance or approval of design details, calculations, analyses, tests, or construction methods or materials developed or selected by Seller and shall not relieve Seller from full compliance with requirements of the Purchase Order.

**25. NON-ASSIGNMENT.** Seller may not assign its rights or delegate its obligations or subcontract in whole or in part any of the work to be performed under the Purchase Order without Buyer's prior written consent.

**26. RELATIONSHIP OF PARTIES.** Seller and Buyer are independent contracting parties and nothing in this agreement or the Purchase Order shall make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

**27. GOVERNING LAW.** This agreement is to be construed according to the laws of the state from which the Purchase Order issues as shown by the address of Buyer on the face side of the Purchase Order.

**28. SEVERABILITY.** If any term of this agreement or the Purchase Order is invalid or unenforceable under any statute, regulation, ordinance, executive agreement or other rule of law, such term shall be deemed reformed or deleted, but

only to the extent necessary to comply with such statute, regulation, ordinance, agreement or rule, and the remaining provisions of this agreement and the Purchase Order shall remain in full force and effect.

**29. ENTIRE AGREEMENT.** This agreement, together with the terms found on the face of the Purchase Order, attachments, exhibits, or supplements, specifically referenced in the Purchase Order, constitutes the entire agreement between Seller and Buyer with respect to the matter contained herein, and supersedes all prior oral or written representations, proposals, correspondence, discussions, negotiations and agreements. This agreement and the Purchase Order may only be modified, amended or changed by a purchase agreement amendment/alteration issued by Buyer and signed by both Buyer and Seller.

**30. PRIORITY.** In the event of any inconsistency among the referenced documents, attachments, drawings, specifications or other provisions of this agreement, the following agreement of precedence shall apply: (a) special terms and conditions contained on the face of the Purchase Order; (b) terms and conditions herein; (c) specifications; (d) drawings; and (e) all other attachments or documents incorporated herein by reference.

**31. SUPPLIER CODE OF CONDUCT; SUSTAINABILITY.** Buyer has adopted a Supplier Code of Conduct ("Code"), the full text of which can be found on Owens Corning's Sustainability portion of its website which can be found at [www.owenscorning.com](http://www.owenscorning.com). It is the intention of Buyer to create and maintain relationships with suppliers and vendors who embrace and adhere to the same or higher principles as embodied in the Code.

#### **ETHICAL BUSINESS COMPLAINTS**

OCV Mexico S. de R.L. de C.V. is committed to conducting its operations in accordance with ethical business practices. If we fail, we want to know about it. Accordingly, if you have any complaints about our compliance with ethical business practices (including, but not limited to, accounting, internal accounting controls, or auditing irregularities), please report them to us via e-mail by visiting [www.owenscorning.com](http://www.owenscorning.com) and clicking on "Contact Us".



**Anexo 3 Términos y Condiciones (Bienes y Servicios)**  
**OCV México S. de R.L. de C.V.**

Número de Control	COMP000015	Revisión :	1	19/Ene/22	Fecha Creación 18/07/2005	Página 6 de 6
Elaborador:	Ernesto Sanchez	Revisor:	Jorge Rosas		Aprobador:	Laura Montiel