

OPTICS11 BV
TERMS & CONDITIONS OF SALE

1. GENERAL.

In these terms and conditions, "Seller" means Optics11 (De Boelelaan 1081, 1081 HV, Amsterdam, The Netherlands); "Buyer" means the person(s), firm or company who purchases Goods from Seller; "Goods" means any goods agreed in the Contract to be supplied by Seller to Buyer and "Contract" means any contract between Seller and Buyer for the sale and purchase of Goods, incorporating these terms and conditions.

Orders are accepted by Seller subject to these terms and conditions. In case of a conflict, inconsistency or addition not expressly accepted in writing by Seller, these terms and conditions shall be considered as superseding the conflicting, inconsistent or additional terms stated in Buyer's purchase order, order form, contract or otherwise.

The acceptance of an order by Seller (either by issuing a written acknowledgement of order or (if earlier) commencing processing the order) will supersede all prior communications and constitute a complete and binding contract between Buyer and Seller which cannot be modified or cancelled without the written agreement of both parties. All Goods are subject to availability and may be withdrawn at any time. Seller reserves the right to refuse an order.

2. TITLE AND DELIVERY.

Unless otherwise agreed in writing by Seller, delivery of the Goods shall take place once the Goods have been offloaded at Buyer's place of business. Any dates specified by Seller for delivery of the Goods are intended to be an estimate only. If no dates are so specified, delivery will be within a reasonable time. The risk in the Goods passes to Buyer upon delivery but property in the Goods remains vested in Seller and shall not pass from Seller to Buyer until Seller has received in full all sums due to it in respect of the Goods and all other sums which are or which become due to Seller from Buyer on whatsoever account or grounds.

Payment of all freight, duties, cartage and handling are as defined in the Optics11 Quotation which is referenced on the Purchase Order supplied by the Buyer.

Goods shall be considered accepted 30 days following (a) installation, if Seller performs installation, or (b) delivery; unless written notice of rejection is provided to Seller within such 30 day period. If for any reason Buyer is not prepared to accept delivery of Goods, Seller may store the Goods at Buyer's expense and risk in the name of Buyer, and such storage shall constitute delivery to Buyer and acceptance.

Seller reserves the right to allow or prorate deliveries against all orders whenever, in its judgment, an oversold condition exists as to any particular Goods manufactured or sold by it. In the event of a default by Buyer, Seller may decline to make further delivery without waiving any of its rights under such order. If, despite such default, Seller elects to continue to make deliveries, its action shall not constitute a waiver regarding or otherwise diminish Seller's legal remedies with respect to such default or any future default.

3. PRICES.

Irrespective of any prices quoted by Seller or listed on Buyer's order, an order is accepted only at the prices shown on the written quotation.

Installation of utilities required for Goods is not included in the specified price. Buyer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

4. PAYMENT TERMS.

Unless otherwise agreed in writing by Seller the price shall be due upon delivery of the Goods, save that for sales of expendable items and other consumables, the price shall be due in full and in advance.

All invoices, together with VAT, if applicable, are due within 30 days of the invoice date. Time for payment shall be of the essence.

Any exchange charges, any charges for nonpar clearance of checks or collection charges (including reasonable legal fees) will be paid by Buyer.

Interest is payable on outstanding sums due (before and after judgment) at the rate of 1% per month or 5% above 1 month Euribor if that is higher, time to time from the due date until payment and Seller may suspend any of its obligations under the Contract for so long as payment of invoices and interest is due.

Terms of payment are subject to change by Seller. If, in the judgment of Seller, the financial condition of Buyer does not justify continuation of production or delivery on the terms of payment originally specified, Seller may require full or partial payment in advance.

5. CUSTOMER ACCEPTANCE (CA).

If Seller's quotation references CA provisions, then Buyer agrees to accept the Goods in accordance with such CA provisions. The parties agree to give priority to achieving CA and Buyer agrees that the Goods shall not be used for

material production, for development of new processes or for any purposes other than achieving CA, prior to successful completion or waiver of the CA provisions. Any such use of the Goods prior to successful completion of the CA provisions shall be deemed to constitute CA. The parties agree that, if CA procedures have not been commenced within 60 days after delivery (through no fault of Seller), then the Goods shall be deemed to have achieved CA.

6. FORCE MAJEURE.

Seller reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by Buyer (without liability to Buyer) if it is prevented from or delayed in the carrying on of its business due to strikes, lockouts, labour difficulties, riots, inability or difficulty in obtaining or procuring supplies, labour or transportation, fires, storms, floods, earthquakes, explosions, accidents, acts of God, interference by civil or military authorities, whether legal or de facto, acts of the public enemy, war, rebellion, terrorism, insurrection, sabotage, embargoes, orders given priority by any public authority. or any other cause beyond the reasonable control of Seller.

7. INTELLECTUAL PROPERTY.

Seller warrants that to the best of its knowledge (and without having carried out patent searches or made any other special enquiry) the use by Buyer of Goods will not result in the infringement of the copyright or other intellectual property rights of any third party. If such use infringes any such rights then Seller shall as soon as reasonably practicable at its option and Buyer's cost endeavour to alter such Goods without materially reducing its functionality and/or to obtain such licence as may be necessary so that such use of such Goods by Buyer shall thereafter to the best of Seller's knowledge as above not infringe the copyright or other intellectual property rights of any third party. If Seller complies with this paragraph 7 it shall have no further liability for a breach of the warranty contained herein.

Seller shall not be liable for any claim arising from or in connection with (i) anything Buyer provides which is incorporated into Goods, (ii) Buyer's modification of Goods or use thereof other than in its specified operating environment, or (iii) the combination, operation or use of Goods with products provided by other manufacturers or other products not provided by Seller as a system and Buyer shall indemnify Seller against all costs, claims, liabilities and expenses incurred by Seller arising therefrom.

For the avoidance of doubt, all intellectual property rights in Goods shall remain the property of Seller and nothing in these terms and conditions shall confer on Buyer any licence relating to (a) the structure of any devices to which the Goods may be applied or (b) a process or machine in connection with which they may be used.

8. ASSIGNMENT.

Buyer shall not assign the Contract or any part thereof without the prior written consent of Seller. Seller may assign the Contract and/or engage sub-contractors, agents and others in the performance of the Contract without restriction.

9. WARRANTY.

Seller warrants that new Goods will be free of material defects in material and workmanship for a period of one year commencing (x) on acceptance in accordance with paragraph 2 above or (y) 90 days from shipping, whichever occurs first. This warranty covers the cost of parts and labour (including, where applicable, field service labour and travel required to restore the Goods to normal operation).

Seller warrants to the original Buyer that replacement Goods will be new or of equal functional quality and warranted for the remaining portion of the original warranty or 90 days, whichever is longer.

Seller warrants to the original Buyer that software will perform in substantial compliance with the written materials accompanying the software. Seller does not warrant uninterrupted, virus free or error-free operation.

Seller's obligation under these warranties is limited to repairing or replacing at Seller's option defective non-expendable Goods. These services will be performed, at Seller's option, at either Seller's facility or Buyer's business location. For repairs performed at Seller's facility, Buyer must contact Seller in advance for authorization to return Goods and must follow Seller's delivery instructions. Seller will return the defective Goods to Buyer at Seller's expense.

The warranty obligation of Seller shall not extend to defects that do not impair service or to provide warranty service beyond normal business hours, Monday through Friday (excluding public and Seller holidays). No claim will be allowed for any defect unless Seller shall have received notice of the defect within thirty days following its discovery by Buyer. Also, no claim will be allowed for Goods damaged in shipment sold under standard terms of F.O.B. factory. Within thirty days of Buyer's receipt of Goods, Seller must receive notice of any defect which Buyer could have discovered by prompt inspection.

Expendable items are specifically excluded from the foregoing warranties and are not warranted.

Seller assumes no liability under the above warranties for defects or failures resulting from (1) abuse, misuse, modification or mishandling; (2) damage due to forces external to the machine including, but not limited to, acts of God, flooding, power surges, power failures, defective electrical work, transportation, foreign equipment/attachments or

Buyer-supplied replacement parts or utilities or services such as gas; (3) improper operation or maintenance or (4) failure to perform preventive maintenance in accordance with Seller's recommendations (including keeping an accurate log of preventive maintenance). In addition, this warranty does not apply if any Goods or parts thereof have been modified without the written permission of Seller or if any Seller serial number has been removed or defaced. No one is authorized to extend or alter these warranties on Seller's behalf without the written authorization of Seller.

10. LIABILITY.

Nothing in these terms and conditions excludes or limits the liability of Seller for death or personal injury caused by its negligence or fraudulent misrepresentation and all provisions of the Contract shall be subject to this paragraph. Seller's total liability under the Contract (whether in contract, tort, misrepresentation or otherwise) for all claims arising out of or in connection with the Contract, shall be limited to one time the amount of the contract.

Seller shall not be liable in contract in tort or otherwise, for consequential damages, for anticipated or lost profits, business, revenue, goodwill or anticipated savings, administrative costs, losses under current or future contracts, incidental, indirect, special or punitive damages, loss of time, loss of use, or other losses, even if advised of the possibility of such damages, incurred by Buyer or any third party in connection with the Contract.

11. MISCELLANEOUS.

If Buyer breaches any of the terms of the Contract or if Buyer adopts a resolution for it to be wound up or if a petition is presented for the appointment of an administrator or a receiver or an administrative receiver is appointed in respect of any part of Buyer's undertaking then Seller may terminate the Contract forthwith by notice in writing to Buyer; and/or stop or divert any deliveries in transit and/or apply cancellation charges. Termination of the Contract, for whatever cause, shall be without prejudice to the rights of either party accrued prior thereto, including without limitation any right to payment of any sum and any right to sue in respect of any antecedent breach of the Contract, and termination shall not affect any provision of the Contract which, in order to give full effect to its meaning, needs to survive such termination (and all such provisions shall survive such termination to the extent necessary to give full effect to their meanings).

Buyer agrees not to solicit the employment of any key employee or officer of Seller who has come into contact with Buyer in connection with the Contract.

If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid or unenforceable it shall to the extent of such illegality, invalidity or unenforceability be deemed severable and the remaining provisions of the Contract shall continue in full force and effect.

12. APPLICABLE LAW.

The Contract between Customer and Optics11 made under the Agreement is governed by, and shall be construed solely in accordance with, the internal laws of the Netherlands. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Agreement or any Purchase Order issued under the Agreement. Customer waives any defense to the validity or enforceability of the Agreement arising from any electronic submission of it to Customer. Customer acknowledges and agrees that it has the ability to access each URL referenced in any Quote.

13. REGISTRATION

The terms and conditions are registered and can be requested from the Chambre of Commerce (KvK) in Amsterdam.

