

Purchasing General Terms and Conditions



1. Scope and Validity

1.1 These General Terms and Conditions ("GTC") provide for conclusion, content, performance, and termination of contracts for the sale of products and provision of services by OptaSensor GmbH ("OptaSensor").

1.2 These GTC shall be considered accepted if the purchaser ("Purchaser") of such products ("Products") and services ("Services") orders from OptaSensor and reference is made to them in an Offer, as defined herein, order confirmation, upon acceptance of the Products, or any other separate contractual agreement, whichever occurs first. All future orders related to any of the foregoing shall be subject to these GTC unless otherwise provided by OptaSensor. Any terms and conditions of the Purchaser are explicitly excluded.

1.3 These GTC, together with all relevant documentation such as proposals, offers, estimates or quotations (including referenced documents) (collectively an "Offer") from OptaSensor, and all accepted orders placed by the Purchaser for the Products and Services along with any other order specific OptaSensor terms and conditions constitute the contract ("Contract") between OptaSensor and the Purchaser (collectively, the "Parties" and each individually a "Party"). The application of these GTC may only be varied by agreement in writing between the Parties.

2. Offer and Order

2.1 Offers given by OptaSensor are, unless stated otherwise in such documents, subject to these GTC.

2.2 An Offer submitted by OptaSensor is valid during the period specified in the Offer. If there is no respective information, an Offer remains open for acceptance by the Purchaser by placing an order within ten (10) business days from the date of the Offer. The Offer may be subject to amendment or alteration at any time by OptaSensor prior to OptaSensor's acceptance of a Purchaser's order.

2.3 If a Purchaser's order deviates from the Offer or the order confirmation provided by OptaSensor, the Offer or order confirmation, respectively, applies, unless the Purchaser objects, in writing, to OptaSensor within two (2) business days of the Purchaser receiving the order confirmation.

2.4 Orders are binding only if they are placed in writing or subsequently confirmed in writing. Electronic orders and order confirmations are considered equivalent.

2.5 An order placed by the Purchaser will form part of the Contract only when it has been received and accepted by OptaSensor. OptaSensor's acceptance of any order lodged by the Purchaser may be in writing or by OptaSensor delivering the Products and/or providing the Services which are the subject of an order. However, any terms and conditions contained in any order or other document issued by the Purchaser will not form part of the Contract unless they are expressly signed and accepted by OptaSensor.

2.6 Once accepted by OptaSensor, orders may not be cancelled or varied by the Purchaser without the prior written consent of OptaSensor.

2.7 OptaSensor reserves the right to correct any errors or omissions in its Offers, order confirmations or invoices.

2.8 Purchaser shall bear all costs associated with the cancellation or modification of an order.

3. Sale of Products

3.1 Subject to these GTC, OptaSensor agrees to sell the Products to the Purchaser.

3.2 Any dates or other specifications, unless explicitly agreed to by OptaSensor are only estimates, and subject to change at any time.

3.3 Unless otherwise set forth in an Offer, OptaSensor will sell the Products in accordance to current policies and prices, available at the time.

3.4 From time to time and at its sole discretion, OptaSensor may amend the Products to, including but not limited improve their performance and stability, comply with amended security or other regulatory regulations or prevent infringement of any intellectual property rights.

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3.5 In case any amendment pursuant to Section 3.4 shall have a materially detrimental effect on specifications of the Products, OptaSensor shall provide written notice to the Purchaser within a reasonable time upon implementing the then relevant amendment.

4. Provision of Services

4.1 If requested by Purchaser, separately agreed to in writing by OptaSensor and subject to compliance of all obligations set forth under Section 5, OptaSensor will provide Services, including but not limited to support for and maintenance of the Products.

4.2 In case training and briefings are part of the purchase of Products, such Services are limited to one (1) session at one Purchaser workstation as specified in an Offer or order confirmation.

4.3 Unless otherwise agreed to in writing, the Services may be performed remotely via online conference during OptaSensor's regular business hours and provided Purchaser makes available all required technical equipment to OptaSensor free of charge.

4.4 By providing the Services, OptaSensor reserves the right to sub-contract the provision of Services or parts thereof to any other party or person or corporation as it may determine in its sole discretion. In such case, OptaSensor remains responsible to the Purchaser for the provision of Services by such third party.

4.5 In addition to any fees for the Services, Purchaser shall also pay for any and all expenses incurred by OptaSensor and/or its employees in connection with or arising out of Purchaser's wrongful acts or omissions.

4.6 If OptaSensor determines, at its sole discretion, that the sale of Products and provision of Services will have detrimental effects, OptaSensor may suspend any Contract. Should Purchaser fail to cure any of its concerns, OptaSensor may, in addition to any other remedies available, including but not limited to Section 13, terminate the Contract.

5. Purchaser Obligations

5.1 Shipment of Products and provision of Services is contingent upon OptaSensor's satisfaction of Purchaser's full OptaSensor GmbH General Terms and Conditions, General Terms and Conditions 2 / 6 compliance of all applicable obligations, including but not limited to installation of firmware and back up processes.

5.2 Purchaser shall respond promptly to any OptaSensor request to provide direction, information, including but not limited to data and specifications, approvals, authorizations or decisions that are reasonably necessary for OptaSensor to perform Services in accordance with the requirements of the Contract.

5.3 Purchaser shall provide such materials, equipment or information as OptaSensor may request to carry out the Services in a timely manner and ensure that materials or information are complete and accurate in all material respects.

5.4 Purchaser may only resell or otherwise dispose of the Products after providing written notice to OptaSensor.

5.5 In case Purchaser resells the Products, it assumes all liabilities and all warranties hereunder are null and void.

5.6 Purchaser shall take any and all necessary actions to provide a safe work environment for OptaSensor's employees.

5.7 Unless otherwise agreed to in writing and as part of its ongoing maintenance requirements, Purchaser shall timely install any updates of firmware. Prior to the provision of any maintenance services, Purchaser shall back up all data and any take any other requested or reasonably expected actions.

6. Purchaser's Acts or Omissions

If OptaSensor's performance under the Contract is prevented or delayed by any act or omission of Purchaser or its agents, subcontractors, consultants or employees, OptaSensor shall not be in breach of its obligations or otherwise liable for any costs, charges or losses sustained or incurred by Purchaser, in each case, to the extent arising directly or indirectly from such prevention or delay.

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7. Shipments; Delivery; Acceptance, Risk of Loss

7.1 Unless otherwise agreed to in writing and subject to Purchaser's compliance with all obligations under the Contract, OptaSensor will supply the Ex Works (EXW) Incoterms to a designated location, or at its then current standard shipping rates, which are subject to change at any time for each order.

7.2 In addition to any shipping costs under Section 7.1 and unless otherwise agreed to by OptaSensor, Purchaser shall be solely responsible for all other costs arising out of the delivery of the Products, including but not limited to packaging, governmental fees and insurance.

7.3 Unless otherwise set forth in writing, OptaSensor, at the sole cost of the Purchaser, will pack and mark relevant Products and include customary shipment documentation.

7.4 OptaSensor will use reasonable endeavors to meet any shipping and/or delivery dates but such date or time is a bona fide estimate only and is not to be construed as a fixed date or time unless specifically agreed to by OptaSensor in writing.

7.5 Upon receipt and unless coordinated directly by OptaSensor and Purchaser's premises, Purchaser shall immediately inspect the Products, but no later than ten (10) days and notify OptaSensor of any defects or errors, including substantial deviations in writing. Otherwise, OptaSensor will deem the Products to be accepted. If after acceptance of the Products, Purchaser discovers latent defects and provides written notice thereof within two (2) business days, OptaSensor may remedy such defects subject to the terms and conditions of the Contract.

7.6 Unless timely requested and separately agreed upon, OptaSensor will not provide insurance coverage or any other protection for the shipment or storage of Products.

7.7 Risk of loss or damage for all Products will pass to Purchaser upon OptaSensor making such Products available to a carrier regardless of the shipping method. In case of a delay at no fault of OptaSensor, risk of loss or damage for all Products will pass to Purchaser upon OptaSensor's readiness to ship.

7.8 From time to time and at its sole discretion, OptaSensor may make partial shipments of Products to the Purchaser.

8. Remuneration

8.1 Unless otherwise agreed to in writing or set forth in an order confirmation, the prices for the Products and Services are based on the then current OptaSensor standards, excluding sales tax or any other tax, duty, levy or the like which may be added to the remuneration owed by the Purchaser.

8.2 If Purchaser requests quantities of Products in excess of those set forth in an Offer or order confirmation, OptaSensor may cancel such requests or charge the additional Products at its then current prices.

8.3 In accordance with the provision in Section 2.2 of these GTC, OptaSensor explicitly reserves the right at any time prior to accepting an order to alter, with notice in writing to the Purchaser, the price of the Products and/or Services.

8.4 Unless otherwise agreed to in writing, Purchaser shall be solely responsible for all of OptaSensor's and/or its employee's cost arising out of or relating to the provision of Services, including but not limited to travel, meals and lodging. Without limiting the generality of the foregoing, travel time will generally be billed on an hourly basis and all costs are to be paid in one payment as set out in the corresponding Offer or order confirmation.

9. Taxes

The Purchaser shall be responsible for payment of all taxes, including sales and use tax, inventory tax, duties, fees or other taxes of any nature assessed by governmental authorities applicable to the sale of Products and provision of Services hereunder.

10. Terms of Payment

10.1 Unless otherwise agreed between the Parties, all payments are due in full, payable to OptaSensor within fourteen (14) days from the invoice date or the date when the Purchaser receives the invoices, whichever is earlier ("Due Date").

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10.2 All payments must be received by the Due Date in a form acceptable to OptaSensor, even if the delivery of Products and provision of Services is delayed for reasons for which OptaSensor is not responsible or slight corrections are necessary. Payment shall only be deemed received if the outstanding funds are disposable by OptaSensor.

10.3 Should the Purchaser fail to pay within the time frame specified in Section 10.1 of these GTC, OptaSensor may: a) impose a service charge on the unpaid balance at One Point Five Percent (1.5%) per month (i.e. 18 % per annum), or the maximum rate permitted by law, from the Due Date until the invoice and all service charges thereon have been paid in full. If allowed by applicable law, Purchaser shall also pay on demand any costs incurred by OptaSensor (including reasonable attorneys' fees and legal expenses) in connection with the collection of any amounts due from Purchaser to OptaSensor which are not paid as agreed herein; b) refuse to make any further deliveries under the Contract until the amount due has been fully paid; and/or OptaSensor GmbH General Terms and Conditions, General Terms and Conditions 3 / 5 c) treat the failure of the Purchaser to make payments as a repudiation of the Contract by the Purchaser if the amount due remains unpaid after providing seven (7) days notice to the Purchaser of such breach and an opportunity to rectify the breach. Such repudiation shall entitle OptaSensor to elect, without prejudice to any other rights of OptaSensor, to terminate the Contract in whole or in part (including any order or part thereof) and, in either case, to recover damages for the breach of the Contract.

10.4 The Purchaser is not entitled to withhold any payment as set off, counterclaim or retention unless the terms and conditions of such set off or retention are agreed to in writing by OptaSensor prior to the provision of the Services.

10.5 In case Purchaser has incurred any services charges, OptaSensor, in its sole discretion, may credit any future payments first towards such charges as well as any other outstanding amount(s).

10.6 In case Purchaser is, for the first time, making an order to OptaSensor, an upfront payment (in partial or in total amount) of ordered parts or services can be requested.

11. Force Majeure

11.1 OptaSensor shall not be held responsible for failure to perform or delay in performing any of its contractual obligations if such failure or delay is due to unforeseeable events beyond OptaSensor's reasonable control ("Force Majeure"), including but not limited to acts of God, war, insurrection, epidemics, sabotage, labor disputes, strikes, lock-outs, shortages of labor, interruption or delays in transportation, fire, explosion, equipment or machinery breakdown, failure or delays of OptaSensor's source of supply, shortage in material or energy, acts, orders or priorities of any government, embargo and any other cause whether arising from natural causes, human agency or anything beyond the reasonable control of OptaSensor.

11.2 OptaSensor shall notify the Purchaser in writing within one (1) week following the occurrence of any event of Force Majeure citing this Section 11 in said notice and shall supply all relevant information about its effects on the performance of the Contract.

11.3 Unless otherwise agreed in writing between the Parties, if OptaSensor is unable to perform the Contract because of Force Majeure, OptaSensor is temporarily excused from performance while the incident of Force Majeure is occurring and shall perform as soon as reasonably possible after the incident ends. The duration of the incident of Force Majeure shall be added to the time of performance granted to OptaSensor. OptaSensor shall not be subject to damage claims.

11.4 In case the duration of Force Majeure exceeds three (3) months, the Parties will have the right to terminate the Contract immediately. Contractual obligations performed up to such date of termination shall be remunerated. If the purchase price has been paid by the Purchaser in full, OptaSensor will refund the fees paid less the accrued cost and expenses of the contractual obligations.

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12. Place of performance

Unless otherwise agreed in writing between the Parties, OptaSensor's principal office is the place of performance.

13. Termination

13.1 In addition to any other remedies that OptaSensor may have in law, OptaSensor may terminate or suspend the Contract or any part thereof if the Purchaser: a) fails to pay any amount by the Due Date and such failure continues for fourteen (14) days after the Purchaser's receipt of a written notice demanding payment ("Notice of Demand") from OptaSensor; b) has not otherwise performed or complied with any of the terms and conditions of this Contract in whole or in part; and/or c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

13.2 If the Contract (or parts thereof) is terminated, as specified in Section 13.1 of these GTC: a) OptaSensor will have an immediate right to remove the Products from relevant premises; b) Purchaser shall return or destroy any and all information provided by OptaSensor; and c) all other outstanding amounts owed to OptaSensor by the Purchaser as well as any costs arising out of damages from the return or retrieval of the Products shall be due and payable by the Purchaser on demand by OptaSensor, per the terms of the Notice of Demand from OptaSensor.

13.3 OptaSensor, in addition to any other rights of termination it has under this Contract may, at any time and for any reason, terminate the performance of Services for convenience by written notification within thirty (30) days. Written notification must be provided to Purchaser, stating that this Contract, or a specified part of this Contract, is terminated without any further obligations from OptaSensor. Such termination shall explicitly not constitute default.

14. Limited Warranty

14.1 absent a separate warranty issued to Purchaser, OptaSensor warrants only to the Purchaser that the products will conform to any description contained in the relevant offer or order confirmation (if any) and with the standard specification for the products for a period of four (4) weeks from the date of delivery. Products shall be delivered free from defects in material, workmanship and title and services shall be performed in a competent and diligent manner in accordance with any mutually agreed specifications.

14.2 subject to limitations set forth under section 14.1, if the products supplied or services performed by OptaSensor do not satisfy the warranties specified in section 14.1 hereof, the purchaser shall promptly, but no later than three (3) days after such a defect should have been known notify OptaSensor in writing. Upon inspection of the products and determination that an applicable defect exists, OptaSensor shall, at no cost to the purchaser and at its option: a) repair such products; b) supply a replacement; or c) refund to the purchaser the portion of the contract price. If OptaSensor determines that no applicable defect exists, purchaser agrees to reimburse OptaSensor for any and all costs arising out of or relating to its warranty claim. This warranty does not extend to include OptaSensor's labor costs.

14.3 the warranty does not apply in respect of defects due to or arising from: a) incorrect or negligent handling by the purchaser or a third party, including any changes to allegedly defective products, disregard of instructions, accident, neglect, acts of god, causes beyond OptaSensor's General Terms and Conditions, General Terms and Conditions 4 / 6 control, and unauthorized usage of the products; b) normal wear and tear, including but not limited to pump diodes, or products subject to an expiration date; c) any actions which are in conflict with OptaSensor's instructions; d) any product change or modification out of the original condition in which it was provided, included the shipping package; e) manipulation out of the original form, shape or modification of any product parts or incorrect shipping material handle

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f) any failures related to Purchaser product manufacture where OptaSensor's products or components shall be manipulated, inserted or modified to fit into a different device or part of a device

14.4 in case OptaSensor discovers a defect in the products, purchaser shall grant OptaSensor all necessary access to the products to perform any repairs or replacements.

14.5 with regards to services, this express warranty only applies if: a) defects occur within thirty (30) days after the services have been performed; b) OptaSensor is notified in writing within five (5) business days of the alleged defect first coming to the notice of the purchaser; and c) the purchaser has fulfilled all of its contractual obligations under the contract.

14.6 in case the products contain any third party parts, OptaSensor warrants such parts only to the extent of such third party's warranty.

14.7 Notwithstanding anything to the contrary herein, any samples, drawings or other materials made available to purchaser are provided "as is" without any warranty.

14.8 the express warranties and express representations of OptaSensor set forth in these GTC are in lieu of, and OptaSensor disclaims, any and all other warranties, conditions or representations (express or implied, oral or written), with respect to the services hereunder, including any and all implied warranties or conditions of title, noninfringement, including for intellectual property rights of a third party, merchantability or fitness or suitability for any particular purpose, whether alleged to arise by law, by reason of custom or usage in the trade. OptaSensor hereby expressly disclaims any warranty or representation to any person other than purchaser.

15. Limitation of Liability

15.1 notwithstanding anything else contained in the contract to the contrary, OptaSensor shall not be liable (to the fullest extent permitted at law) whether by way of indemnity, guarantee, or by reason of any breach of contract, or of statutory duty or by reason of tort (including but not limited to negligence) or any other legal principle or doctrine for: a) any consequential, indirect or special damages; b) any loss of profits, loss of use, loss of revenue or loss of anticipated savings or for any financial or economic loss (whether direct or indirect) or for any consequential or indirect loss or damage whatsoever; or c) any other amount in aggregate with any other liability (being any past, present or future liability) to which this section applies, that exceeds the aggregate value of all payments of the amounts paid to OptaSensor for a relevant order.

15.2 the foregoing does not affect any warranties which cannot be excluded or limited under applicable law.

16. Indemnity

The Purchaser shall indemnify and keep OptaSensor harmless against all costs, claims, demands, expenses and liabilities of any nature, including, without prejudice to the generality of the foregoing, claims of death, personal injury, damage to property and consequential loss (including loss of profit), which may be made against OptaSensor or which OptaSensor may sustain, pay or incur as a result of or in connection with the sale of the Products and provision of the Services unless such costs, claims, demands, expenses or liabilities are directly and solely attributable to any willful misconduct or gross negligence of OptaSensor or its duly authorized employee or agent.

17. Insurance

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Purchaser shall, at its sole expense, maintain and carry all relevant insurance in full force and effect with insurance companies rated A- or better by a rating service. Insurance includes but is not limited to a comprehensive general liability insurance for a limit of One Million US Dollars (USD 1,000,000) for each occurrence and Two Million US Dollars (USD 2,000,000) in the aggregate. Upon OptaSensor's request, Purchaser shall provide OptaSensor with a certificate of insurance from Purchaser's insurer evidencing the insurance coverage specified in this Section 17. Purchaser shall provide OptaSensor with thirty (30) days' advance written notice in the event of a cancellation or material change in Purchaser's insurance policy. Except where prohibited by law, Purchaser shall require its insurer to waive all rights of subrogation against OptaSensor's insurers and OptaSensor.

18. Intellectual Property Rights/Retention of Title

18.1 Intellectual property rights in the Products, quotations, drawings, plans, proposals or any other property (copyrights, patent rights etc.) remain with OptaSensor or third parties. Purchaser shall not reverse-engineer, decompile, disassemble or any other way alter the Products without OptaSensor's prior written consent.

18.2 Purchaser is granted a non-exclusive and nontransferable right to use the intellectual property rights for the agreed purpose in the Contract.

18.3 Purchaser (a) agrees that title in the Products remains with OptaSensor until all amounts due have been paid in full, in each case in good, collected and indefeasible funds (the "Release Date"); and (b) acknowledges that, until the Release Date, Purchaser is in possession of the Products for and on behalf of OptaSensor as a bailee.

18.4 As security for all of Purchaser's obligations hereunder, Purchaser grants to OptaSensor a security interest in (a) all Products purchased in accordance with these GTC; (b) without in any way limiting any restrictions herein, any and all leases, chattel paper, instruments, accounts and security deposits relating in any way to such Products; and (c) in all proceeds thereof (the "Collateral"). Purchaser acknowledges that the security interest granted under these GTC is a purchase money security interest under the Uniform Commercial Code as enacted in the State of Delaware ("UCC"). OptaSensor GmbH General Terms and Conditions 2020-02-05, General Terms and Conditions 5 / 6

18.5 OptaSensor expressly authorizes, ratifies and confirms past or future filings of one or more UCC financing statements or other documents by OptaSensor or its designees to the extent deemed necessary or desirable by OptaSensor. Such financing statements or documents may describe the Collateral in the manner in which OptaSensor determines best protects OptaSensor's interests in the Collateral and facilitates the future sale of Products.

18.6 Purchaser shall not sell, pledge, transfer or assign the Products (for security or otherwise) until the Release Date without OptaSensor's written consent;

18.7 Until the Release Date, Purchaser shall (a) carefully maintain, and insure the Products; (b) protect such Products against any risks; and (c) take all reasonable measures in order that OptaSensor's rights and interests in such Products are neither compromised nor cancelled.

18.8 In the event of a breach, OptaSensor may utilize any remedies available to it at law or in equity. In all cases, Purchaser will be responsible for OptaSensor's costs and expenses in exercising its rights.

19. Confidentiality

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19.1 Both Parties shall treat in strict confidence all information which is neither generally known nor generally accessible, including but not limited to illustrations, drawings, calculations and other documents, and shall use it only for the purpose of fulfilling the Contract. The Parties shall ensure the confidential treatment of all information relating to the Contract by their personnel and consulted specialists. In case of doubt, all information is to be treated confidentially.

19.2 Confidential information of a Party does not include information which: a) was already known to the other Party, before it was made accessible by the disclosing Party; b) is or becomes generally known without the other Party's responsibility; c) was disclosed to the other Party by a third party without any transfer restriction; d) was developed by the other Party itself without using or referring to the confidential information of the protected Party; and/or e) has to be disclosed based on a legally binding decision of a court, administrative or other authority. In this case the Party under the obligation to disclose shall inform the other Party immediately about the decision and consider protective measures the other Party may want to implement.

19.3 This obligation of confidentiality already exists prior to the conclusion of the Contract and remains valid until such information is no longer of proprietary nature. Any information concerning a Party's trade secret shall be kept confidential as long as such a trade secret remains valid.

19.4 A Party must not disclose any confidential information to a third party without the prior written approval of the other Party to the Contract. If the approval is given, the obligations of confidentiality are to be transferred to the receiving third party.

19.5 Notwithstanding Section 19.4 of these GTC, OptaSensor may disclose confidential information to its affiliates and specialists (lawyers, auditors, experts).

20. Data Protection

20.1 The Parties agree to carry out such steps as may be necessary to reasonably ensure adequate data protection, corresponding with respective applicable law. In particular, they undertake to take economically, technically and organizationally reasonable measures to protect any data connected or relating to the Contract.

20.2 The Parties transfer the commitments specified in this Section 20 to their subcontractors, suppliers and other third parties enlisted for the fulfillment of the Contract.

21. Compliance

21.1 The Purchaser agrees to comply with any and all applicable laws, regulations, ordinances, legal standards, and industry practices.

21.2 Without limiting the obligations under Section 21.1 and in furtherance of Section 5.5, Purchaser shall ensure any third party purchaser of a resold Product shall comply with all applicable laws, regulations, ordinances, legal standards, and industry practices.

22. Miscellaneous

22.1 Assignment.

Purchaser shall not assign any of its rights under the Contract, except with the prior written consent of OptaSensor. The preceding sentence applies to all assignments of rights, whether they are voluntary or involuntary, by merger, consolidation, dissolution, operation of law or any other manner. Any change of control transaction is deemed an assignment hereunder. Any purported assignment of rights in violation of this Section 22.1 is null and void.

22.2 Notices. Unless notice specifically allows email as provided in such section, all communications or notices required or permitted by the Contract shall be in writing and shall be deemed to have been given (a) on the date of personal delivery to an officer of or personally to the other Party, or (b) the day following deposit when properly deposited for overnight delivery with a nationally recognized commercial overnight delivery service, prepaid, and addressed as provided in the Contract, unless and until either of such Parties notifies the other in accordance with this Section 22.2 of a change of address.

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22.3 Waiver. No waiver by OptaSensor of any of the provisions of the Contract is effective unless explicitly set forth in writing and signed by OptaSensor. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Contract operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

22.4 Survival. Provisions of the GTC, which by their nature should apply beyond their terms, will remain in force after any termination or expiration of the Contract, including but not limited to Sections 16, 19, 20, 21 and 22.

22.5 No-Third Party Beneficiaries. The Contract is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of the GTC and/or Contract.

22.6 Governing Law and Dispute Resolution. (a) Any claims, disputes or controversies arising between the Parties hereunder shall be governed by and construed in accordance with the internal laws of the State of Bayern, city of Nurnberg, without regard to conflicts of laws that would require the application of the laws of another jurisdiction. (b) The Parties shall attempt to resolve any dispute, controversy, or claim arising under or relating to the Contract, or to a material breach, including its interpretation, performance, or termination. If the Parties do not reach OptaSensor GmbH General Terms and Conditions, General Terms and Conditions 6 / 6 settlement within a period of twenty (20) days, the Parties hereto shall submit the dispute to mediation on the terms and at a location determined by the Parties. If the Parties are unable to resolve a dispute through the methods outlined herein, either Party may refer the dispute to arbitration. The arbitration shall be conducted in accordance with the Commercial code of Germany, which shall administer the arbitration and act as appointing authority. The arbitration, including the rendering of the decision and/or award, shall take place in Atlanta, Georgia or any other location determined by the Parties, and shall be the exclusive forum for resolving the dispute, controversy, or claim. The arbitrator shall make the final determination as to any discovery disputes between the Parties. The award or decision of the arbitrator shall state the reasons upon which the award or decision is based and shall be final and binding upon the Parties. The prevailing party shall be entitled to compensation for the expense of the arbitration, including, but not limited to, the award of reasonable attorneys' fees, at the discretion of the arbitrator. Both Parties waive their right to any appeal under any system of law. The award shall be enforceable before any court of competent jurisdiction upon the application to such court by either Party. The arbitrator shall have no authority to award any of the types of damages excluded by hereunder and shall be so instructed by the Parties. Notwithstanding anything to the contrary herein, any Party may seek injunctive relief against the other Party with any court of

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proper jurisdiction with respect to any and all preliminary injunctive or restraining procedures pertaining to this Agreement or the breach of any relevant obligations, including but not limited to Section 19.

22.7 Entire Agreement. The Contract contains the entire agreement between the Parties with respect to the sale of Products and provision of Services and supersedes all prior agreements and understandings between the Parties.

22.8 Independent Contractor. For the purpose of the Contract, OptaSensor is an independent contractor and nothing in herein shall be deemed to make OptaSensor an agent, employee, partner, or joint venturer of Purchaser. Neither Party shall have any authority to bind, commit, or otherwise obligate the other Party in any manner whatsoever.

22.9 Severability. Should any provision of the GTC and/or Contract be deemed incomplete, legally invalid or unenforceable, such provision may be severed from the GTC and/or Contract and be replaced by as closely an equivalent effective provision as possible. The remaining terms of the GTC and/or Contract shall remain in full force and effect.

22.10 Amendments. The GTC may only be amended or modified in a writing which specifically states that it amends this Agreement and is signed by an authorized representative of OptaSensor.

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