



OCEAN OPTICS

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

Article 1 **Definitions**

- 1.1. The terms starting with capital letters are deemed to mean the following for the purposes of this Agreement.

Agreement	a (purchase) agreement between Ocean Optics and Client concerning the procurement or sale and delivery of one or more Products or Services;
Article	an article in these Terms and Conditions;
Client	a party to or with which or whom Ocean Optics presents an offer (quotation) and/or enters into an Agreement;
In Writing/Written	a notice by letter or mail;
Intellectual Property Rights	all worldwide intellectual property and similar or related rights in the broadest sense of the term, especially including – but not confined to – copyrights, design rights, trademark rights, trade name rights, patents, database rights, domain names, trade secrets and know-how (or any entitlement thereto), including any future intellectual property rights, which is deemed to refer to all entitlements which relevant national or international legislation accords or may accord them;
Ocean Optics	Ocean Optics B.V., which is registered with the Dutch Chamber of Commerce under number 09112807;
Parties	Ocean Optics and Client jointly;
Party	Ocean Optics or Client separately;
Products	the products in which Ocean Optics trades, which includes advanced electro-optical sensors and related products;

Services	the services to be provided by Ocean Optics, such as repair and calibration services, as well as specific development projects;
Supplier	the party from which Ocean Optics acquires the Products it offers, either wholly or partially;
Terms and Conditions	These general terms and conditions.

Article 2 Applicability

- 2.1. These Terms and Conditions shall govern all (future) orders, notices confirming an order, offers, procurements, sales, deliveries and/or any Agreement(s) presented or issued by or entered into with Ocean Optics with regard to Products and Services, as well as any legal act or other action performed for the purpose, as a result or in the context thereof, to the exclusion of any general terms and conditions employed by Client.
- 2.2. Any natural person or legal entity that is directly or indirectly associated with Ocean Optics and that is in any way involved in the execution of an Agreement may rely on these Terms and Conditions. This clause shall constitute an irrevocable third-party clause for the benefit of any (legal) person associated with Ocean Optics.
- 2.3. By accepting these Terms and Conditions and by entering into an Agreement with Ocean Optics, Client expressly agrees to comply with Ocean Optics' code of conduct (as published on [Code of Conduct – Halma plc](#)). Client further represents and warrants that its entire business, including all related business activities, are and will remain in full compliance with the provisions set out in the code of conduct.

Article 3 Orders, Changes, Cancellations and Returns

- 3.1. Client shall place an order for the type and number of Products which it requires each time. Client shall carefully verify its order for accuracy. Changes requested after 24 hours may incur build change fees.
- 3.2. Ocean Optics shall issue a notice In Writing confirming an order provided that it is able to deliver the requisite type and number of Products, which shall constitute an Agreement. A separate Agreement shall be concluded between Parties by virtue of and each time that a notice In Writing confirming an order is issued.
- 3.3. Should Ocean Optics present an offer to Client, it may only be accepted as is. Even where Client's notice of acceptance derogates from the relevant offer in respect of subordinate aspects, it shall be deemed to constitute a rejection of the relevant offer and shall not be binding on Ocean Optics. The situation shall only be otherwise, provided that Client has requested a change In Writing and Ocean Optics consents to an amended notice of acceptance In Writing.
- 3.4. Client may return Products subject to the following conditions:

- (i) Products may not be returned without the prior Written authorisation from Ocean Optics. Client may use a Support / RMA Request Form as available via the Ocean Optics website for this purpose.
- (ii) standard Ocean Optics manufactured products may be returned at Client's own expense within 30 days of delivery for a refund or credit, whereby Client shall incur a 25% restocking fee, calculated on the price of the relevant product as mentioned on the offer of Ocean Optics. For light source returns, Client shall incur a charge for bulb replacement at the standard list price for the specific bulb and the 25% restocking fee. All light source replacement bulb sales are final.
- (iii) custom configured products or resold items may be returned at Client's own expense within 30 days of delivery for a refund or credit, whereby Client shall incur a 50% restocking fee.
- (iv) All software sales are final and may not be returned.

Article 4 **Prices and Payment**

- 4.1. Ocean Optics shall be entitled to determine and amend the prices for its Products as it sees fit. All prices are subject to change without notice. Ocean Optics shall not be bound by any prices mentioned in a previous price list or Agreement.
- 4.2. Where an Ocean Optics offer or price list contains a print or other error or an ambiguity, such as a price which Client knew or should have known was not realistic, Ocean Optics shall be entitled to revoke its offer or to cancel the relevant Agreement without having a duty to provide compensation for any costs or damage. This clause shall also apply in the event that Client has accepted the relevant offer.
- 4.3. Unless stated otherwise, prices which Ocean Optics mentions (such as those in price lists, quotations and notices of confirmation) shall be stated in US dollars (\$) for the Americas, Asia and Australia, and in euros (€) currency for Europe, Middle East and Africa.
- 4.4. Unless stated otherwise, prices shall be exclusive of taxes (such as VAT, turnover tax, or any other government levy), duties, transport and other applicable costs. Such taxes, duties and applicable costs vary by location and shall be calculated per individual based on the applicable location.
- 4.5. Client shall be required to pay Ocean Optics within thirty (30) days after the relevant invoice date, unless the invoice stipulates a different term of payment or the Parties have made other arrangements for payment In Writing. For payment by credit card, Ocean Optics only accepts Visa or MasterCard. Oceans Optics may apply an additional fee for credit card payments.
- 4.6. Client shall not be entitled to setoff, suspension or compensation for any debt.
- 4.7. Should Client fail to pay Ocean Optics punctually, it shall be in default by operation of the law. In that case Client shall be liable for default interest amounting to 1.5% of the unpaid sum each month during which it is in default, where part of a month shall be treated as an entire month, all subject to Ocean Optics' entitlement to demand immediate payment of the outstanding amount in full and subject to any other rights held by Ocean Optics.

- 4.8. Ocean Optics shall be entitled to use any payments made by Client to reduce expenses in the first case, then any interest that is due and finally the principal sum and any current interest.
- 4.9. Should Client be in default with regard to compliance with one (1) or more of its obligations to pay any pecuniary sum, they shall be liable for all reasonable (legal) expenses incurred for the purposes of securing payment judicially and extrajudicially. Compensation for such costs shall amount to no less than 15% of the entire outstanding sum subject to a minimum of €650.00 (six hundred fifty euros) in all cases.
- 4.10. Ocean Optics shall be entitled to suspend the supply of Products for as long as Client fails to comply with its financial obligations (for any reason whatsoever) or in the event that Ocean Optics has grounds to assume that Client will be unable to comply with its financial obligations without Ocean Optics having a duty to provide compensation for any costs or damage.

Article 5 **Delivery and Delivery Period**

- 5.1. Unless agreed otherwise, delivery shall be effected FCA ("Free Carrier") in accordance with the latest applicable version of the ICC's Incoterms. FCA means that Ocean Optics delivers the Products to the carrier or another person nominated by the Client at Ocean Optics' premises or another named place. Delivery is completed when the Products have been handed over and cleared for export where applicable.
- 5.2. All risks pertaining to the Products (which are deemed to include risks pertaining to fire and water damage, theft and (other) damage) shall pass to Client at such time as delivery occurs. Client shall have a duty to accept delivery (or to arrange for the collection of the Products) within 5 (five) days after Ocean Optics has notified Client that the Products are ready for delivery.
- 5.3. Should Ocean Optics mention a (delivery) date in the relevant order confirmation notice, it shall always be indicative and never material, unless otherwise stipulated In Writing in the relevant Agreement.
- 5.4. Also in the case of an agreed deadline for delivery, Ocean Optics shall only be in default after Client notifies it that it is in default In Writing and has afforded it a reasonable time for compliance.
- 5.5. Ocean Optics shall be entitled to deliver and invoice in parts.
- 5.6. Ocean Optics may decide at any point in time to refrain from delivering any Products (and to cancel or rescind all or part of an Agreement), for example, in the event that the relevant Client fails to comply with any obligation towards Ocean Optics, is granted a moratorium on payments, files for bankruptcy, is declared bankrupt or shuts down their business (or a significant part of it). Should Ocean Optics proceed with this, it shall not have a duty to pay for any costs incurred or damage suffered by the relevant Client.

Article 6 **Services and maintenance**

- 6.1. Minor maintenance tasks are the responsibility of Client. Ocean Optics will determine whether minor maintenance is required based on its experience with the Products.

- 6.2. Ocean Optics may enter into a service contract with Client. In that case, the Services to be provided, the duration, and the costs will be specified in the quotation or agreement.
- 6.3. If there is a problem with the Product, Client must report this as soon as possible to Ocean Optics. The report must be accompanied by a clear description of the problem, and, if applicable, relevant photos and/or videos, so that Ocean Optics can properly determine the nature of the problem. Client shall also provide information that enables Ocean Optics to trace the agreement in question, including the order number. The consequences of an incorrect, unclear, or incomplete service request (such as delays or additional costs) shall be at the expense and risk of Client.
- 6.4. Insofar as Ocean Optics considers it necessary for the performance of the Services that it has access to the Products or the premises where they are located, Client shall grant such access without undue delay. Client shall also be responsible for ensuring that the location is accessible, that any necessary assistance is present, and that all facilities required for the proper performance of the Services (such as electricity and other essential utilities) are available. Any consequences resulting from Client's failure to cooperate in this regard in a timely manner, shall be at the expense and risk of Client.
- 6.5. In instances where the Services are not covered by the warranty as outlined in Article 8 of these Terms and Conditions, and no service contract was established, Ocean Optics will provide a cost estimate based on the service request received. Ocean Optics will only continue processing the request after receiving Client's written agreement to this estimate. Upon receipt of this agreement, Ocean Optics will send the corresponding invoice to Client. The service appointment will be scheduled upon receipt of full payment of the invoice, unless otherwise agreed in writing.
- 6.6. There is no obligation for Ocean Optics to perform Services that are not explicitly mentioned in the service request or cost estimate. Should additional Services or parts be required during the performance, Ocean Optics reserves the right to invoice Client accordingly or to request a separate service request in accordance with Article 6.3.
- 6.7. The Services to be provided by Ocean Optics are of a best-efforts nature, unless it has been explicitly agreed in writing that they are of a result-oriented nature and the intended result has been described with sufficient certainty.

Article 7 **Retention of Title**

- 7.1. Products shall be supplied subject to retention of title, with the result that any items supplied shall remain the property of Ocean Optics until Client complies with all of their financial obligations (which are deemed to include payment of the price of the Products concerned, any other costs, interest and extrajudicial expenses) pursuant to the Agreement in question and any other Agreements.
- 7.2. Client shall be required to store any Products delivered subject to retention of title as the recognisable property of Ocean Optics and to insure them against the customary risks, including those of fire and water damage, theft and (other) damage.

- 7.3. In the event that a third party arranges for any Products subject to Ocean Optics' retention of title to be attached, Client shall have a duty to notify Ocean Optics of this as soon as possible but by no later than within two (2) days after the time when they learn of the attachment. Client shall be required to notify the bailiff of Ocean Optics' retention of title when the attachment occurs.
- 7.4. At any point in time Ocean Optics may decide for reasons of its own to collect any Products that are subject to its retention of title from Client or to arrange for this to be done. Client shall have a duty to notify Ocean Optics of the location of its Products and to grant it or any other party engaged by it (such as a bailiff) access to such location.

Article 8 **Warranty, Complaints and Claims**

- 8.1. Unless stated otherwise, standard Products carry a 3 (three) year warranty and non-standard Products carry a 1 (one) year warranty from defects in materials and workmanship, commencing on the date of purchase and subject to the provisions of this article. Unless stated otherwise, all OEM products carry a 1 (one) year warranty. All light source replacements are final. Ocean Optics shall not provide a Client with a warranty for (parts of) Products sourced from other parties (its suppliers, amongst others) which extends further than that granted to it by the relevant supplier.
- 8.2. The 3-year warranty covers Ocean Optics miniature fiber optic spectrometers, spectral sensors, light sources and sampling accessories – regardless of the application – from defects in materials and workmanship from the date of purchase. Ocean Optics fibers and probes, LTMS control unit and fluid handling parts are covered under a 1 (one) year warranty. LTMS consumable parts are covered under a 90 (ninety) day warranty. All light source replacement bulbs are final.
- 8.3. The warranty covers parts and labour needed to repair manufacturing defects that occur during the warranty period. In addition, Ocean Optics will cover the costs of shipping warranty-related repairs from Client to Ocean Optics and vice versa. Repairs and upgrades are covered for manufacturing defects for 6 (six) months from the date of purchase from Ocean Optics.
- 8.4. Normal use, scratching and cosmetic damage not affecting the performance, bulbs, batteries, consumables and vendor items are not covered by Ocean Optics limited warranty.
- 8.5. Furthermore, the following causes are not covered by this warranty: damage caused by accident, improper use or misuse – such as using an incorrect power supply or power current – abuse, product modification, neglect or (other) use contrary to any instructions, the relevant user manual or purposes for which the relevant Product or component is not intended; damage occurring during shipment; damage resulting from the performance of repairs by someone not authorized by Ocean Optics; damage caused by installation of parts that do not conform to Ocean Optics specifications; defects which occur as a result of the application of any government regulation concerning the nature or quality of the materials used for the Product; defects which occur as a result of the use of the relevant products, materials, goods, works and/or structures as employed or applied at the request or on the instructions of Client; any claims made based on misrepresentations of the seller and costs associated with installation of the Product; and claims made after Client makes further use of the Product after discovering the relevant breach of warranty.

- 8.6. The warranty set out in this Article is made solely to Client and is not transferrable to any other person or entity. The warranty is strictly limited to its terms and is in lieu of all other warranties, guarantees, express or implied, arising by operation of law, course of dealing, usage of trade or otherwise, specifically excluding any implied warranties of merchantability or fitness for a purpose.
- 8.7. Immediately after receiving them, Client shall check whether the Products supplied are in good condition and/or comply with the Agreement in question.
- 8.8. Immediately following their receipt, Client shall immediately lodge a claim concerning any apparent aspects of the Products which are deficient or any error on the delivery slip and the like. In the event that a claim is not filed in writing by no later than five (5) days after their receipt or delivery stating the invoice number, such aspects shall be deemed to have been found to be appropriate and any claim against Ocean Optics in respect of such deficiencies shall lapse.
- 8.9. Regarding fibers and probes, Client must report breakage within two weeks of receipt of the fibers or probes, otherwise Ocean Optics cannot honour claims. Ocean Optics recommends inspecting all fiber products immediately upon receipt.
- 8.10. A claim concerning a non-external visible defect must be filed in writing along with appropriate grounds as soon as possible but by no later than fourteen (14) days after delivery and any claim against Ocean Optics with regard to such deficiencies shall lapse in the event of a failure to meet that deadline.
- 8.11. In the event that Client files a complaint, it shall always provide a detailed description along with photographs. Furthermore, Client shall provide information with the aid of which Ocean Optics is able to trace the relevant Product, which is deemed to include the order number concerned.
- 8.12. A claim concerning a specific delivery shall not excuse Client from its financial obligations in respect of that or any other delivery.
- 8.13. Client shall provide every assistance to Ocean Optics for the purposes of investigating whether a complaint is well-founded on pain of all claims lapsing. Such assistance may take the form of – but shall not be confined to – the provision of information and/or additional evidence. A Client shall not be at liberty to return any Product before Ocean Optics has consented to this In Writing.
- 8.14. In the case of a claim on the grounds of a defect and/or a failure to comply with any obligations pursuant to the relevant Agreement, Ocean Optics shall only be liable provided that Client has complied with all of its obligations stipulated in this Article. Client shall be required to afford Ocean Optics a reasonable period of time to ensure proper compliance with its obligations pursuant to the relevant Agreement.
- 8.15. Where it is established at Ocean Optics' discretion that a claim is well-founded, Ocean Optics shall be entitled to repair or replace the relevant Product, to arrange for it to be delivered again or to refrain from any further delivery and to credit the Client concerned for the purchase price of the relevant Product, such at Ocean Optics' discretion.

- 8.16. Client shall pay any shipping costs also in the case of a well-founded complaint and/or reliance on the warranty.
- 8.17. In the event that a complaint fails to comply with the provisions of this Article **8Error! Reference source not found.**, any entitlement to file a claim and any liability on the part of Ocean Optics shall cease to apply.

Article 9 **Recalls**

- 9.1. Should Client have any indication that the quality of one or more Products is compromised or that a Product constitutes a risk to (consumer) health and safety to such an extent that a product recall or notice concerning product safety may be required, Client shall have a duty to notify Ocean Optics of this In Writing first. Client shall provide Ocean Optics with every assistance required for the purposes of an appropriate, effective procedure and to supply all relevant documents and other information. Client shall not proceed with a product recall or notification without consulting Ocean Optics In Writing beforehand. Only Ocean Optics shall hold final decision-making powers with regard to a product recall and it shall determine the content of any warning, press release and/or other publicity in connection with the relevant products.
- 9.2. In the event that Ocean Optics proceeds with a product recall, when first requested to do so by Ocean Optics, Client shall have a duty to sell all of the products which are the subject of such recall and which the Client has in stock back to Ocean Optics in return for payment of the price charged to the Client and to deliver them to it.
- 9.3. In so far as Client has already sold (or resold) and supplied any products which are subject to a recall, Client shall provide Ocean Optics with every assistance and any information which in Ocean Optics's opinion is required to inform the end customers and users of the recall.
- 9.4. Under no circumstances shall Ocean Optics have a duty to compensate Client for any loss suffered and/or expenses incurred in connection with a product recall, unless Client can show that the recall was necessary because of a culpable failure on the part of Ocean Optics to comply with its obligations pursuant to the relevant Agreement, in which case Article 10 shall apply in full in respect of (any) liability on the part of Ocean Optics.

Article 10 **Liability and indemnification**

- 10.1. Only the legal entity of Ocean Optics may be liable to Client. Ocean Optics only accepts legal and contractual obligations to compensate for damages as provided below.
- 10.2. Any liability of Ocean Optics shall in all cases only arise if Client gives Ocean Optics proper notice of default In Writing as soon as possible, whereby Ocean Optics is granted a reasonable period of time for rectification of the alleged shortcoming, and Ocean Optics continues to fail in the performance of the Agreement after such period of time. The notice of default must contain an as complete and detailed description as possible.
- 10.3. Ocean Optics shall only be liable for any damages which occur directly as a result of foreseeable and avoidable non-compliance for which it may be held culpable and which is directly related to an Agreement (or its execution).

- 10.4. Any duty on the part of Ocean Optics to provide compensation to a Client on any grounds whatsoever shall at all times be confined to payment of no more than the direct loss (as set out in Article 10.7) subject to a maximum equal to the amount which Ocean Optics' insurance pays out in the relevant case.
- 10.5. If an event results in damage to more than one client or injured party, then the liability will be apportioned proportionally among those affected, taking into account the liability exclusions and limitations included in these Terms and Conditions.
- 10.6. In the event that and in so far as Ocean Optics' liability insurance does not proceed with a payout, any liability on the part of Ocean Optics for the provision of compensation shall be confined to no more than the amount which it has received pursuant to the relevant Agreement (exclusive of VAT). Under no circumstances shall such compensation to be provided by Ocean Optics to Client amount to more than €25,000.00 (twenty five thousand euros) per year.
- 10.7. For the purpose of these Terms and Conditions 'direct loss' shall only be deemed to refer to:
- a. the reasonable costs which Client needs to incur to ensure that Ocean Optics' performance complies with the relevant Agreement;
 - b. any reasonable expenses which Client has incurred for the purposes of determining the cause and extent of any loss in so far as such determination pertains to a direct loss within the meaning of these Terms and Conditions; and
 - c. reasonable costs which Client has incurred for the purposes of avoiding or limiting any damage in so far as Client can show that such expenses have led to a limitation of any direct loss within the meaning of these Terms and Conditions.
- 10.8. Under no circumstances shall Ocean Optics be liable for any indirect loss. For the purposes of these Terms and Conditions, amongst other things, 'indirect loss' is deemed to refer to (but is not confined to) consequential damage, loss of turnover and/or earnings, forgone savings, investments, any damage due to the disruption or stoppage of business, damage resulting from claims by customers of Client, damage due to mutilation or loss of data, damage related to the use of goods or materials prescribed by Client to Ocean Optics, damage relating to the use of suppliers prescribed by Client to Ocean Optics and/or any expenses incurred for the purposes of preventing, determining or limiting any indirect damage, and/or liability for the same, and any costs incurred for the purposes of securing extrajudicial compensation for such indirect damage.
- 10.9. Client shall promptly inform Ocean Optics if it is aware of any product liability claim from third parties arising from or related to any defect in the Products. The Parties shall cooperate in good faith to avoid and minimize customer claims.
- 10.10. Ocean Optics' liability for damage due to death or bodily injury shall under no circumstances amount to more than €1,250,000.00 (one million two hundred fifty thousand euros).
- 10.11. Any claim for compensation by Ocean Optics shall cease to apply by virtue of the mere expiry of five (5) months after the relevant damage-inflicting event has occurred.

- 10.12. Client shall be required to maintain adequate liability insurance coverage appropriate to the nature and scope of its obligations under the relevant Agreement, at its own expense. Upon first request, the Client shall provide Ocean Optics with a copy of the insurance policy. Client shall promptly inform Ocean Optics in Writing of any changes to or termination of its liability insurance.
- 10.13. Client shall be required to do all in their power to limit costs and damage, irrespective of their cause. Under no circumstances shall Ocean Optics have a duty to proceed with the provision of compensation for costs or damage that could reasonably have been avoided or which the relevant Client could reasonably have insured.
- 10.14. The exclusions and limitations of liability included in this Article 10 apply to any legal obligation of Ocean Optics to pay damages, including – but not limited to – those arising from shortcomings in the performance of the agreement, unlawful action, rescission, and indemnification.
- 10.15. The limitation of liability provided in this Article 10 shall not apply in the event that and in so far as the relevant damage is caused by a deliberate act or omission or wilful recklessness by Ocean Optics, such to be proven by Client, unless otherwise follows from the legally mandatory allocation of the burden of proof.
- 10.16. If more than one limitation applies to Ocean Optics' liability, the limitation leading to the lowest sum of liability shall always apply.
- 10.17. Client shall fully indemnify and hold Ocean Optics harmless against any claims, proceedings, penalties, costs and other claims by (or on the part of) Ocean Optics and/or third parties, arising from any breach or non-performance by Client of the Agreement, these Terms and Conditions and/or applicable laws and regulations. This obligation of Client applies without limitations, regardless of what is – implicitly or explicitly – stated about this in the Agreement, general or other terms and conditions and without prejudice to Client's (own) liability.
- 10.18. Client shall also fully indemnify and hold Ocean Optics harmless against claims from third parties due to product liability as a result of a defect in a product supplied by Client to a third party that consisted partly of Products supplied by Ocean Optics, unless Client proves that the damage was caused by those Products.

Article 11 **Force majeure**

- 11.1. Ocean Optics shall not have a duty to comply with any duty towards Client nor to provide compensation for any costs or damage in the case of force majeure. Amongst other things, force majeure shall be deemed to apply in relation to Ocean Optics in the case of, amongst others things, war (or the danger of war), insurrection, an act of war, fire, flooding, water damage, an industrial strike, a staff shortage, a business sit-in, (measures adopted as a result of) a pandemic or epidemic, the availability of raw materials and parts, a computer, software, energy, network or internet malfunction, cybercrime (such as hacking and cyberattacks), whether this occurs within Ocean Optics' business or amongst any other party that is relevant for the purposes of executing an Agreement (such as a Supplier), as well as delays or failures in performance caused by force majeure events affecting Ocean Optics' Suppliers, subcontractors, or any third party upon whom Ocean Optics depends for the fulfilment of its obligations. This may include, without limitation, disruptions in supply

chains, manufacturing delays, transport delays, or any other event preventing timely delivery or performance. Furthermore, force majeure shall be deemed to apply in the case of all other causes which occur beyond Ocean Optics control or risks.

Article 12 **Intellectual Property**

- 12.1. All Intellectual Property Rights to the Products, their packaging and labels, as well as any advertising materials, documentation, reports, quotations and preparatory materials for same shall be vested solely in Ocean Optics and its licensors. Client shall only be entitled to the (non-exclusive) use of such Intellectual Property Rights, provided that this is necessary for normal advertising purposes and/or the sale of the Products. No Intellectual Property Rights shall be transferred from Ocean Optics to Client.
- 12.2. Client shall not be permitted to register any trademarks, trading names, domain names, Google AdWords or similar keywords or social media pages of which the trademark or trading name 'Ocean Optics' constitutes part.
- 12.3. Client shall warrant that it will not do or fail to do anything that infringes the Intellectual Property Rights of Ocean Optics or any other party from whom Ocean Optics has acquired a licence, renders such rights invalid or impairs the rightsholder's ownership of and/or Ocean Optics' licence to these Intellectual Property Rights.
- 12.4. Under no circumstances shall Client be permitted to remove any designation of Ocean Optics' Intellectual Property Rights from a Product or any other item referred to in Article 12.1. Neither shall Client be permitted to sell any Products under a different brand or trademark.
- 12.5. Ocean Optics shall be entitled to mention Client's trademark or trading name and to use their logo for the purposes of promoting the Products and Ocean Optics' business, including on its website and social media pages, unless otherwise agreed or specified in existing non-disclosure agreements between Parties.

Article 13 **Miscellaneous**

- 13.1. The nullity or ineffectiveness of the provisions in these Terms and Conditions does not affect the validity of the remaining provisions. In the event that one or more provisions are or appear to be void, voidable or ineffective, they are deemed to have been converted into provisions that are valid and which as regards content and purpose most closely approach the void or ineffective provision(s).
- 13.2. Should these Terms and Conditions apply in multiple languages and there is a conflict between the various linguistic versions, what is stipulated in the English version shall prevail.
- 13.3. All of the agreements between the Parties (which are deemed to include any Agreement) shall only apply between the Parties. No third party shall become party to any agreement between the Parties. As such, Article 6:254 of the Civil Code shall not apply.
- 13.4. The Client cannot transfer or pledge the rights or obligations pursuant to any article in these Terms and Conditions or the underlying agreement(s) except with the prior written permission from Ocean Optics. This clause also has effect under property law.

- 13.5. Ocean Optics shall be entitled to assign or transfer any of its rights or obligations under the Agreement, in whole or in part, to any third party, without requiring the prior consent of Client. Client hereby gives its unconditional consent to any such assignment or transfer in advance.
- 13.6. Ocean Optics shall be entitled to amend these Terms and Conditions unilaterally and any such amendment shall apply in respect of any existing Agreement. Client shall consent to reasonable amendments. An amendment shall come into effect on the preannounced effective date or, where no date is announced, at such time as a Written notice is issued.

Article 14 **Choice of law and forum**

- 14.1. These Terms and Conditions, and any quotation or Agreement shall be solely governed by Dutch law. The Vienna Sales Convention (CISG) does not apply, and neither does any other international treaty whose exclusion is permitted.
- 14.2. All disputes in respect of, arising from or relating to an agreement entered into by Ocean Optics to which these Terms and Conditions apply wholly or in part, are exclusively submitted for settlement to the competent court in Amsterdam, the Netherlands.
