

## **General Terms of Sale and Delivery of Unisense A/S**

The following terms shall apply to all sales and deliveries made by Unisense A/S, Tueager 1, DK-8200 Aarhus N, Denmark (hereinafter "Unisense") to you ("Customer") unless otherwise agreed in writing.

### **1 Equipment, Price and Payment**

1.1 The Customer purchases from Unisense the equipment specified in Unisense's quotation ("the Equipment") at the price stated in the quotation (the "Purchase Price"). Where no price is quoted, the Purchase Price shall be the price listed in Unisense's most recent published price list and in force at the date of acceptance of the order. The Purchase Price is exclusive of customs duty, service, sales and use and other taxes, unless such duty and taxes are expressly specified in the order confirmation. Customs duty and service, sales and use taxes, pallets and containers, if applicable, are payable by the Customer. Unless otherwise stated in the quotation, terms of payment are 30 days from date of invoice. In case of late payment interest shall accrue at a rate of 1.5% per month commenced.

1.2 Unless otherwise stated in the quotation, all prices and other terms and conditions quoted are valid for 60 days only, after which time they may be altered by Unisense without giving notice to the Customer.

1.3 Title in the Equipment shall remain vested in Unisense until the Customer makes payment in full of the Purchase Price, whereupon title shall pass to the Customer. If payment is not made in full, Unisense is entitled to exercise its rights and remedies under Danish law, including, but not limited to, repossession of the Equipment. The Customer must insure the Equipment to its full replacement value from the time of receipt to the time title has passed to the Customer, and to the extent possible keep the Equipment separate from other goods.

1.4 The Equipment is described in detail in the manuals which are published on [www.unisense.com](http://www.unisense.com) and/or [www.imecsensor.com](http://www.imecsensor.com). Such manuals and information herein are an integrated part of the agreement between Unisense and Customer.

### **2 Delivery**

2.1 Unless otherwise stated in the quotation the delivery term shall be CIP (INCOTERMS 2010) to the Customer's address.

2.2 If stated in the quotation that delivery is exclusive of freight the delivery term shall be ex works (INCOTERMS 2010) Unisense's warehouse, Aarhus, Denmark.

2.3 Dispatch from Unisense will take place on or before a date to be agreed in writing by Unisense and the Customer (the "Delivery Date").

### **3 Delay**

3.1 If Unisense anticipates that it will not accomplish the dispatch of the Equipment by the Delivery Date, Unisense must notify the Customer of the delay and, if possible, the estimated time of dispatch.

3.2 For delays in the Delivery Date of 90 days or less, Customer agrees that it may not cancel or terminate this Agreement and that Unisense is not liable for any costs or damages associated with the delay. For delays in the Delivery Date of more than 90 days not due to events of force majeure as stated in Section 8, the Customer may in writing demand dispatch within a final reasonable period which shall not be less than 20 days (the "Final Period"). If Unisense does not dispatch the Equipment within the Final Period, the Customer may cancel the purchase of the Equipment by written notice to Unisense. In that case the Customer's sole remedy is limited to a refund of any amounts paid to Unisense for the Equipment.

## **4 Warranty on Sensors and other consumables**

4.1 Unisense extends the following limited sensor warranty for sensors and other consumables.

4.2 Sensors are consumable items and Unisense warrants to the Customer that the sensors will perform according to specifications for limited time periods as specified for the individual sensor product on [www.unisense.com](http://www.unisense.com) and/or [www.imecsensor.com](http://www.imecsensor.com) (the "Warranty Period").

4.3 THE LIMITED SENSOR WARRANTY SHALL UNDER NO CIRCUMSTANCES INCLUDE PHYSICAL DAMAGE TO THE TIP OF THE SENSOR.

4.4 The sensors are not intended to be the sole control mechanism in any setup and the intended use of sensors is recommended to be in combination with other supplementary control mechanisms and systems. Unisense is not liable for any losses and claims as a result of the Customer not using sufficient and supplementary control mechanisms and systems cf. 6.5

4.5 Except for IMEC™ sensors, the limited sensor warranty will terminate immediately if the sensors are not examined and tested immediately upon receipt. If the sensor type has a seal and/or a protective tube, DO NOT REMOVE THE SEAL AND PROTECTIVE TUBE BEFORE THE TEST PROCEDURE IS SUCCESSFULLY COMPLETED.

4.6 The Customer shall notify Unisense of any defect that occurs during the Warranty Period no later than five (5) business days after discovery of the defect or after the defect should have been discovered by the Customer. The limited sensor warranty does not apply to defects that are discovered after the Warranty Period or that are not reported to Unisense within five (5) business days of being or should have been discovered.

4.7 If a defect arises and the Customer submits a valid claim to Unisense in accordance with Section 4.6, Unisense will replace the sensor free of charge or refund to the Customer any amounts paid to Unisense for the sensor. The replacement of the sensor or the refund of amounts shall be the Customer's sole remedy in case of a defect in a sensor.

4.8 For replacement of a defective sensor the Customer must contact Unisense for a return authorization and thereafter return the sensor to Unisense for inspection in the original sensor box packed in accordance with the packaging instructions. Further instructions are to be found on [www.unisense.com](http://www.unisense.com) and/or [www.imecsensor.com](http://www.imecsensor.com)

## **5 Warranty on all other Equipment than sensors**

5.1 Unisense extends the following limited warranty for all other Equipment than the sensors (the "Limited Warranty").

5.2 Unisense warrants to the Customer that the Equipment will be free from defects in materials and workmanship for a period of one (1) year from the date of dispatch (the "Warranty Period"), subject to the exclusions set forth herein.

5.3 The Customer shall notify Unisense of any defect that occurs during the Warranty Period no later than five (5) business days after discovery of the defect or after the defect should have been discovered by the Customer. The Limited Warranty does not apply to defects that are discovered after the Warranty Period or that are not reported to Unisense within five (5) business days of being or should have been discovered.

5.4 This Limited Warranty applies only to defects which appear under usual conditions of operation and under proper use of the Equipment in accordance with the operating manual. This Limited Warranty does not apply to damage that is caused: (a) by accident, abuse, misuse, or misapplication of the Equipment; (b) by use and operation that does not comply with instructions provided in the operating manual; (c) by use in conjunction with equipment, parts, or systems not manufactured by, or not approved in writing by Unisense; (d) where Unisense's warranty/quality stickers, product serial numbers, identification plates, or serial numbers have been removed, altered, or rendered illegible, or (e) by materials provided by, or a design stipulated or specified by the Customer. This Limited Warranty will terminate immediately if maintenance, repair or attempt to repair, replace or modify the Equipment, including without limitation, the software installed in the Equipment, is carried out by other than Unisense's authorized personnel.

5.5 If a defect arises and the Customer submits a valid claim to Unisense in accordance with Section 5.3 of these terms, Unisense, at its option, will either (i) repair the Equipment at Unisense at no charge to the Customer, (ii) replace the Equipment with equipment that is new, or (iii) refund the Customer the Purchase Price less a reasonable amount for usage. The remedies referenced herein are the exclusive remedies available to the Customer.

5.6 The remedy of a defect by the repair or replacement of defective parts does not extend the warranty period for the Equipment.

## **6 General limitations of liability**

6.1 The following limitations of Unisense's liability shall apply to all Equipment including sensors and other consumables sold by Unisense.

**6.2 EXCEPT FOR THE EXPRESSLY LIMITED WARRANTIES UNISENSE HAS PROVIDED ABOVE, THE CUSTOMER TAKES THE EQUIPMENT "AS IS." UNISENSE MAKES NO OTHER WARRANTY OR REPRESENTATION CONCERNING THE EQUIPMENT, AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, OF WHATEVER KIND OR NATURE, INCLUDING BUT NOT LIMITED TO ANY AND ALL IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IF UNISENSE CANNOT LAWFULLY DISCLAIM OR EXCLUDE IMPLIED WARRANTIES UNDER APPLICABLE LAW, THEN TO THE MAXIMUM EXTENT POSSIBLE, THE DURATION OF SUCH IMPLIED WARRANTIES SHALL EXPIRE ON EXPIRATION OF THE WARRANTY PERIOD.**

**6.3 THE REMEDIES SET OUT IN SECTIONS 4.7 AND 5.5 ARE THE CUSTOMER'S EXCLUSIVE REMEDIES, AND UNISENSE SHALL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND, INCLUDING (i) INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL, AND SIMILAR DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PRODUCTION, LOSS OF PROFIT, LOSS OF DATA, LOSS OF GOODWILL, LOSS OF CONTRACTS, OR BUSINESS INTERRUPTION AND (ii) DAMAGE ARISING FROM ANY TORT (INCLUDING**

**NEGLIGENCE OR GROSS NEGLIGENCE) OR FAULT COMMITTED BY UNISENSE, ITS AGENTS OR EMPLOYEES.**

6.4 Unisense's total liability whether in contract, tort (including negligence), or otherwise shall never exceed an amount corresponding to the Purchase Price paid by the Customer.

6.5 The Limited Warranty and any other warranties expressly or implied in the agreement does not include any loss incurred by the Customer as a result of not using sufficient control mechanisms and systems cf. 4.3. other than the sensors purchased from Unisense. As stated above, the sensors are consumable items and therefore not intended to be the sole control mechanism in any setup.

## **7 Product Liability**

7.1 Unisense's liability for damage to property or death or injury to any person arising from defects in the Equipment shall never exceed the maximum coverage of Unisense's product liability insurance which is DKK 25,000,000 per occurrence and per year.

7.2 UNISENSE'S LIABILITY FOR DAMAGE TO PROPERTY IN THE EVENT THAT THE CUSTOMER HAS INSTALLED NO OTHER SUFFICIENT CONTROL MECHANISMS AND SYSTEMS CF. 6.5 ARE SPECIFICALLY EXCLUDED.FOR THE AVOIDANCE OF DOUBT, THE CUSTOMER SHALL INDEMNIFY, REIMBURSE, HOLD HARMLESS, AND DEFEND UNISENSE FOR ALL COSTS, EXPENSES (INCLUDING ATTORNEYS' FEES AND COSTS), DAMAGES AND LOSSES IN CONNECTION WITH ANY AND ALL CLAIMS BROUGHT BY A THIRD PARTY ARISING FROM ANY USE, MISUSE OR MALFUNCTION OF THE EQUIPMENT.

## **8 Force Majeure**

8.1 Neither party shall be responsible for delays or other failures in performance resulting from events or circumstances beyond that party's reasonable control. Such events shall include without limitation fire, electric surges, lightning, flooding, accidents, embargo, labor disputes, strikes or lockouts, war, terrorism, riots, or other Acts of God.

8.2 The obligations and rights of the party so excused shall be extended on a day-to-day basis for the time period equal to the period such events or circumstances last whereupon the parties' respective obligations shall automatically resume.

## **9 Disputes and Governing Law**

9.1 This Agreement and any dispute arising from or in relation to this Agreement or the services shall be governed by and construed in accordance with the laws of Denmark exclusive of its choice of law provisions. The exclusive venue for any such dispute shall be the Danish courts, provided, however, that Unisense shall be entitled to initiate legal proceedings against the Customer before any court with jurisdiction located in a country where the customer has a place of business or is incorporated or organized.

November 2018