

GENERAL CONDITIONS LUMICKS B.V.

APPLICABLE FROM 1 JUNE 2014

1. INTRODUCTION

- 1.1 Introduction. This document contains the general conditions of LUMICKS B.V. (“**LUMICKS**”).
- 1.2 Activities. LUMICKS manufactures Correlative Optical Tweezers Fluorescence Microcopy, Acoustic Force Spectroscopy and Microfluidics systems and components, installs them and provides training, support and maintenance in relation thereto.

2. APPLICABILITY OF GENERAL CONDITIONS

- 2.1 Scope. These general conditions are applicable to all offers and agreements of LUMICKS, including any subsequent assignment and services. They are also applicable, if the counterparty is already accepting services from LUMICKS, before having accepted an offer.
- 2.2 Beneficiaries. These general conditions are stipulated for the benefit of LUMICKS, its affiliated companies, its directors and employees, as well as third parties hired by LUMICKS.
- 2.3 No other general conditions. The general conditions of customers, suppliers, (sub)contractors and other third parties shall not be applicable.

3. OFFER, ACCEPTANCE & CANCELLATION

- 3.1 30 Day acceptance window. An offer is open for acceptance for 30 calendar days (from its date of issuance), unless specified otherwise.
- 3.2 Price increase. During the acceptance period, LUMICKS may adjust the price to account for increases in its costs.
- 3.3 No deviating acceptance. A counterparty may only accept an offer in its entirety. A deviating acceptance is deemed to be a new offer from the counterparty and the rejection of the original offer, to which LUMICKS can no longer be held.
- 3.4 Multi-part offer. LUMICKS may propose an offer that consists of multiple parts. If the counterparty would like to accept only one or several (but not all parts), LUMICKS shall have the right to adjust the price per part.
- 3.5 Subsequent assignments. An offer does not automatically apply to any future order or assignment.

4. SHIPPING, INSTALLATION, TRAINING & TIMELINES

- 4.1 Shipping. LUMICKS shall arrange shipping (and the cost shall be borne by the customer, unless specified otherwise).
- 4.2 Timelines. Timelines are indicative, unless specifically agreed otherwise. Each party shall immediately notify the other party once he becomes aware of a circumstance that will or may lead to a delay.

5. TRANSFER OF TITLE & RISK

- 5.1 Transfer. Title and risk shall pass to the customer in accordance with the applicable INCOTERMS.
- 5.2 Security interest. If LUMICKS has not yet received full payment of the product immediately before the transfer of title, it shall transfer the product subject to a security interest (a right *in rem*, such as a

pledge (*pandrecht*) or mortgage (*hypotheek*). If such an encumbered transfer is not possible under applicable law, the customer shall immediately after the transfer grant LUMICKS such a security right. In either case, the security right will automatically lapse, if and when LUMICKS has received full payment of any amount payable by the customer to LUMICKS. The customer shall, at LUMICKS' first request, perform all such actions (including but not limited to) the execution of additional documents, to perfect such security interest and hereby provides LUMICKS an unconditional and irrevocable power of attorney to do so on its behalf.

6. INVOICES AND PAYMENT

- 6.1 Fees. The fees (or the way in which the fees will be calculated) will be stipulated in the agreement.
- 6.2 Tax, transportation, insurance and other charges. Amounts listed shall exclude applicable tax (including customs duties), transportation, insurance and other charges. LUMICKS shall specify any such amount due on any invoice (as applicable). The customer shall pay these amounts (as applicable).
- 6.3 Currency; bank account. The customer shall pay the amount due in euros on the bank account specified by LUMICKS on the invoice.
- 6.4 No set-off. The customer is not allowed to set-off any debt to LUMICKS with a claim against LUMICKS.
- 6.5 (Extra)judicial cost of collection. The customer shall reimburse cost of (extra)judicial collection. These costs shall be calculated in accordance with the applicable version of the Decree on the collection of extrajudicial costs.

7. WARRANTY

- 7.1 Warranty. LUMICKS warrants to the original Buyer of the Products that the Products will be free from material defects for a period of twelve (12) months from the date of acceptance or fourteen (14) months from the date of delivery if installation is delayed through no fault of LUMICKS, whichever occurs first ("Warranty Period"). For consumables, the warranty period is limited to their ordinary useful life. If a product is repaired or replaced, the warranty shall remain valid for the remainder of the original Warranty Period for such product.
- 7.2 Remedies. LUMICKS shall, at its discretion, repair, replace or remove the affected goods. In case of removal, LUMICKS shall refund the purchase price.
- 7.3 No responsibility for third party items. LUMICKS shall have no responsibility or liability for any third party items (for which the customer may rely on any warranty provided by the vendor thereof).
- 7.4 Lapse of warranty. The warranty shall lapse automatically and be of no force and effect if:
- a. Buyer uses, modifies, maintains or repairs Product with other than LUMICKS-supplied parts or products designated Works with LUMICKS or by LUMICKS authorized personnel.
 - b. a defect is caused in whole or in part by accident, vandalism, abuse, wrongful act, neglect, failure to use proper operational and safety procedures, improper integration, installation, application or maintenance or the use of Works with LUMICKS products outside of the LUMICKS approved parameters.
- 7.5 Sole warranty. THE WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE PRODUCT. NO WARRANTIES SHALL ARISE UNDER THIS AGREEMENT FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. SELLER EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR ANY PARTICULAR PURPOSE.

8. LIABILITY

- 8.1 Limitation. Other than pursuant to the warranty set forth above, the liability of LUMICKS shall be excluded to the maximum amount permitted by law. In particular, LUMICKS shall never be liable for:
- a. any damage caused by or on behalf the customer (including, but not limited to, improper use or failure to follow LUMICKS' instructions) or any damages caused by a third party; nor
 - b. any special, indirect, incidental or consequential damages or losses.
- 8.2 Limitation of amount. The liability of LUMICKS shall never exceed the purchase price paid by the customer. The buyer acknowledges that LUMICKS would never enter into this agreement with this pricing without this limitation of liability and allocation of risk.
- 8.3 Loss of claim. A claim for damages must be submitted forthwith and will lapse one year after the earlier of (a) the occurrence of the event that caused the damages or (b) the termination of the assignment.
- 8.4 No personal liability. Assignments will only be accepted and carried out by LUMICKS, even if the assignment is granted with the objective that it will be carried out by one or more specific persons. Section 7:404 and 407 para 2 of the Dutch Civil Code are excluded.

9. FORCE MAJEURE

- 9.1 Suspension. In case of force majeure (*overmacht*), LUMICKS may suspend its services. Force majeure shall not relieve the customer of any payment obligation.
- 9.2 Termination in case of prolonged force majeure. If force majeure continues for more than three months, the parties will discuss whether and how the agreement can be continued.
- 9.3 Duty to inform. Each party shall inform the other party (or parties) immediately, if an event of force majeure occurs.

10. CONFIDENTIALITY

- 10.1 Secrecy. The customer shall refrain from any communication about the existence and substance of the agreement to any third part, nor shall it disclose any information from LUMICKS to any third party, except to the extent such would be (a) necessary for the execution of the agreement or (b) required under applicable regulations, stock exchange rules or a court order.
- 10.2 Marketing purposes. Notwithstanding the above, LUMICKS shall – once the assignment has been completed - have the right to use the transaction or assignment as a reference for marketing purposes, unless parties agree otherwise.
- 10.3 Injunctive relief. In case of a breach or threatened breach of this provision, LUMICKS shall be entitled to seek injunctive relief (in addition to any other remedy allowed to it by law).

11. INTELLECTUAL PROPERTY

- 11.1 No transfer. LUMICKS shall remain the owner of all intellectual property rights (models, techniques and instruments) that it has developed or used for the execution of its obligations under the agreement and shall become the owner of intellectual property rights developed for the execution of its services under the assignment.
- 11.2 Limited use. The customer shall be granted a limited right of use to such intellectual property rights, to the extent required for the execution of the assignment. The customer may not imitate, reproduce or copy the intellectual property rights.

12. DURATION AND TERMINATION

12.1 Duration. An assignment shall, in principle, apply for the duration of a project or the achievement of a certain target, unless parties agree otherwise. An assignment will terminate upon its completion.

12.2 Early termination. Neither party can terminate the assignment early, except:

- a. in case the other party structurally fails to perform its duties under the agreement, also not after having been given notice of default and having been granted a reasonable period to perform;
- b. if an application is filed for the bankruptcy or suspension of payment (or a comparable measure under foreign jurisdiction) in respect of the other party; or
- c. if the relationship between the parties has deteriorated to the extent that continuation thereof can no longer be required.

13. EXPORT CONTROLS

13.1 The customer will not export or re-export, either directly or indirectly, any Product or system incorporating such Product without first obtaining any required license or other approval from the appropriate host government, other applicable authorities, including but not limited to the U.S. Department of Commerce (or any other agency or department of the U.S. Government with appropriate authority), the Dutch Ministry of Foreign Affairs (*Ministerie van Buitenlandse Zaken*) and/or from LUMICKS when applicable. If the delivery of products, services and/or documentation becomes (1) subject to export license, (2) restricted or even prohibited due to (changed) regulations, the LUMICKS may suspend its obligations and even terminate the relevant order in all cases without incurring any liability towards the customer.

14. MISCELLANEOUS

14.1 Entire agreement. The offer and these general conditions constitute the entire agreement between the parties with respect to its subject matter. All other agreements (whether written or oral) hereby lapse.

14.2 Revision or amendment. These general conditions may be revised or amended by LUMICKS. In such case, LUMICKS will send the customer a set of the revised general conditions.

14.3 Consent for assignment. Neither party can transfer any of its rights or obligations under an offer, an agreement or under these general conditions without the prior written consent of the other party. The customer hereby grants its irrevocable and unconditional consent for the transfer by LUMICKS of all its rights and obligations under an agreement (including these general conditions) as part of an integral transfer of its activities to a third party.

14.4 Conversion. If a provision under this agreement of these general conditions shall not or no longer be valid or enforceable, such provision shall be deemed to have been replaced by a valid and enforceable provision that is closest to the original provision in terms of purpose and scope.

14.5 Interpretation. If the text of a provision in the agreement or in these general conditions is not sufficiently clear, the purpose of these general conditions (protection of the legal position of LUMICKS) shall prevail in the interpretation of such provision. The *contra preferentem* rule shall not apply.

14.6 Supplement. If the agreement or these general conditions do not contain a full arrangement for a certain situation, the purpose of these general conditions shall prevail.

14.7 No waiver. If LUMICKS should not always strictly enforce a right under the agreement or these general conditions, this shall not imply that LUMICKS would waive such right.

14.8 Timing of notices. All notices required to be sent hereunder shall be in writing and a notice shall be deemed to have been given upon (i) the date sent by confirmed facsimile, (ii) on the date it was delivered by recognized express courier or by hand delivery, or (iii) if by certified mail return receipt requested, on the date received.

15. DISPUTES

15.1 Applicable law. Dutch law is applicable. The United Nations Convention of Contracts for the International Sale of Goods shall not apply.

15.2 Choice of forum. Any disputes will be submitted to the courts in Amsterdam.