

General terms and conditions of **Photon Mission bv** established and having its registered office at Ratelwacht 3, 6641 EN, Beuningen, The Netherlands.

Deposited with the Chamber of Commerce for Photon Mission B.V. located in Beuningen on 26 April, 2022 under number 76990745.

### **Article 1 Definitions**

- 1.1 *General Terms and Conditions*: the General Terms and Conditions of Sale and Delivery that apply to all Agreements between the Seller and the Buyer.
- 1.2 *Seller*: the private limited liability company Photon Mission bv, hereinafter referred to as "Photon Mission"
- 1.3 *Buyer*: the other party of Photon Mission, not being a consumer
- 1.4 *Agreement*: any agreement for the purchase and sale of Products.
  - 1.5 *Delivery*: delivery of the agreed Products.
  - 1.6 *Products*: all products of a material nature sold and delivered by Photon Mission.
  - 1.7 *Services*: the services and/or activities provided and/or performed by Photon Mission.
  - 1.8 *Ex works location*: the products are ready for collection at the indicated location; all further costs for delivery to the Buyer are for the account of the Buyer.

### **Article 2 General**

- 2.1 These General Terms and Conditions apply to all offers, quotations and Agreements with Photon Mission regarding the sale and delivery of Products/ Services by Photon Mission or one of its group companies.
- 2.2 The Buyer's general terms and conditions are expressly rejected.
- 2.3 Deviations from and/or additions to these General Terms and Conditions are only binding if and insofar as Photon Mission has agreed to this in writing.
- 2.4 If there is uncertainty regarding the interpretation of one or more provisions of these General Terms and Conditions, the explanation must take place 'in the spirit' of these provisions.
- 2.5 If a (part of a) provision of these General Terms and Conditions may not be applicable or is declared null and void, the rest will remain in full force and effect. In addition, the annulled provisions will be replaced by an alternative reasonably determined.
- 2.6 If a situation arises between the parties that is not regulated in these General Terms and Conditions, this situation must be assessed 'in the spirit' of these provisions.

### **Article 3 Offer**

- 3.1 Every offer and every quotation from Photon Mission, both made orally and in writing, is effective during the period stated therein. If the offer or quotation does not contain a validity period, the offer is without obligation.
- 3.2 In the case of a non-binding offer or a non-binding quotation, Photon Mission has the right to revoke this offer or quotation within two working days after receipt of the acceptance.
- 3.3 An offer or quotation expires if the product to which the quotation or offer relates is no longer available in the meantime.
- 3.4 If the acceptance (also on minor points) deviates from the offer included in the offer, Photon Mission is not bound by it. The Agreement will then not be concluded in accordance with this deviating acceptance, unless Photon Mission agrees to this in writing.
- 3.5 Photon Mission reserves the right to increase the quotation price due to changed circumstances as a result of which it is no longer reasonable to keep the initial quotation price, such as (but not limited to) an increase in the relevant exchange rate of more than 2% on the initial purchase prices of Photon Mission.

#### **Article 4 Conclusion of the Agreement**

4.1 The Agreement is concluded by acceptance of the offer by the Buyer.

4.2 Photon Mission is only bound to:

- a. an assignment or order without prior offer by the Buyer;
- b. verbal agreements;
- c. additions to or changes to these General Terms and Conditions or Agreement;

after written confirmation of this to the Buyer or as soon as Photon Mission - without any protest Buyer - has started with the execution of the assignment, work or agreements.

#### **Article 5 Prices**

5.1 The prices in the offer and quotations are exclusive of VAT and other government levies, as well as any costs to be incurred in the context of the Agreement, including shipping and administration costs, unless otherwise indicated.

5.2 Photon Mission is entitled to implement price increases if these price increases

- a. are implemented by its suppliers after Photon Mission has issued an offer to the Buyer and/or
- b. in the case of composite products, a change in the composition takes place by the Buyer, as a result of which the total price of the Product(s) has increased (the so-called build change fee).
- c. caused by documents, which have been contractually or legally agreed or are mandatory and entail additional costs for Photon Mission.

5.3 A previously agreed or issued price does not automatically apply to repeat orders and does not automatically apply proportionally in the case of a partial order.

5.4 Photon Mission has the right to adjust the prices if the exchange rate deviates by more than 4% from the quotation price at the time the necessary goods have been purchased or delivered. The foregoing applies to non-binding quotations and to non-binding quotations if this is included.

#### **Article 6 Execution of the Agreement**

6.1 The execution of the assignment or order will not be started until after the Buyer has provided Photon Mission with all necessary data, samples, specifications, permits or other Products. If there is a delay, the agreed period within which the Delivery must be made will be extended accordingly. Additional costs as a result of the delay in the execution of the Agreement will be borne by the Buyer.

6.2 The Delivery always takes place subject to correct and timely delivery (s) by the suppliers, as well as subject to timely arrival and unloading of the Products in accordance with the information provided by our suppliers and / or shippers. Photon Mission is never liable for any late delivery of the Products by the suppliers and/or shippers.

6.3 If the Buyer is unable to receive the Delivery at the agreed time for whatever reason, Photon Mission has the choice – as far as possible – to keep the Products at the expense and risk of the Buyer until the actual delivery, whereby Photon Mission will ensure adequate security and will take all (other) reasonable measures. Photon Mission is also entitled to dissolve the Agreement and/or to sell the Products at the expense and risk of the Buyer. For the additional costs incurred, Photon Mission will send the Buyer an invoice, which must be paid in accordance with these general terms and conditions, in particular Article 12.

6.4 Photon Mission has the right to have the Agreement executed in whole or in part by third parties.

### **Article 7 Delivery and delivery periods**

- 7.1 Unless the parties agree otherwise in writing, the delivery ex works will take place in accordance with the Incoterms 2020 at the location agreed in the order (confirmation).
- 7.2 Specified periods within which the Products must have been delivered can never be regarded as a deadline, unless the parties have expressly agreed otherwise in writing.
- 7.3 If Photon Mission is unable to deliver within the agreed delivery period, the Buyer will be informed of this expeditiously, stating the expected delivery date/delivery dates. The Buyer cannot derive any right of compensation in any form whatsoever or to dissolve the Agreement.
- 7.4 Photon Mission is entitled to Delivery in parts, whereby each partial delivery can be invoiced separately.
- 7.5 Each partial delivery is considered a separate Delivery.
- 7.6 The risk of loss, damage, loss or depreciation of the products to be delivered shall pass to the Buyer at the time of Delivery. This is understood to mean the moment at which the Products come into the possession of the Buyer in accordance with Article 7.1.
- 7.7 Incursion of full payment before delivery of the Products in accordance with art. 7.1, the ownership of the Products to be delivered will pass to the Buyer at the time of delivery of the Products. If full payment has not been made at that time, there is retention of title on the Products, which are in the possession of the Buyer, until the moment of full payment of all amounts including the costs to Photon Mission.

### **Article 8 Packaging and shipping/transport**

- 8.1 Photon Mission will package and/or secure the Products in such a way that these Products reach the place of destination in good condition during normal transport and can be delivered. Other special requirements for the packaging and/or security will, provided that these have been made known by the Buyer in a timely and written manner, be carefully observed by Photon Mission.
- 8.2 All data, information and documents that are required or important for, among other things, the further transport, export, import, delivery or storage of Products, including health certificates, customs documents, analysis reports and certificates of origin, are at the expense and risk of the Buyer.
- 8.3 Shipment or transport of Products takes place at the expense and risk of the Buyer and in a manner to be determined by Photon Mission. Photon Mission is not liable for damage of any kind whatsoever - whether or not to the Products themselves - that is related to the shipment or transport.

### **Article 9 Complaints**

- 9.1 The Buyer must check the Products immediately upon receipt for deviations in numbers as stated on the consignment note or delivery note. The Buyer must also check the Products for visible defects and damage.
- 9.2 The Purchaser may submit a complaint in writing within 2 working days after receipt of the Products/ Services about visible defects, damages, deviations in numbers and shortcomings. Complaints afterwards will not be processed.
- 9.3 In the absence of a timely complaint, the Products / Services are deemed to comply with the Agreement.
- 9.4 Other (not visible) complaints must be reported to Photon Mission in writing immediately after discovery - but at the latest within the agreed warranty period. All consequences of not reporting immediately are at the risk of the Buyer. If no explicit warranty period has been

- agreed, a period of 6 months after delivery applies. Photon Mission has a complaints procedure and handles the complaint in accordance with this complaints procedure.
- 9.5 If a complaint has not been reported to the Photon Mission within the periods stated in the preceding paragraphs, no appeal to an agreed guarantee is possible.
  - 9.6 Complaints about minor deviation(s) in quality, sizes, color, condition, quantity, etc. and mutual color differences between the Products of the Delivery are not possible, as long as these deviations fall within the usual or accepted margins for the industry.
  - 9.7 Photon Mission must be given the opportunity to investigate the complaint. The Buyer will provide all relevant information for this investigation immediately at the request of Photon Mission.
  - 9.8 Return shipments are at the expense and risk of the Buyer. If the complaint turns out to be well-founded afterwards, the transport costs will be reimbursed by Photon Mission.
  - 9.9 Return shipments will take place in the manner to be determined by Photon Mission.
  - 9.10 In the event of a well-founded complaint, Photon Mission will replace or repair the delivered Products as soon as possible. Reimbursement of (part of) the purchase price is also possible instead of replacement or repair of the delivered Products, at the discretion of Photon Mission.
  - 9.11 In the event of repair or replacement of spare parts, Photon Mission is not obliged to keep spare parts in stock. Ordering the spare parts follows the same process as the initial order.

#### **Article 10 Guarantees**

- 10.1 Photon Mission guarantees that the Products comply with the Agreement, the specifications stated in the offer, the reasonable requirements of soundness and usability that may be imposed on these Products in accordance with the standards applicable in the industry and the legal provisions existing on the date of the conclusion of the agreement.
- 10.2 During the shelf life or warranty period, Photon Mission guarantees the sound quality of the delivered Products.
- 10.3 If the Buyer purchases products from a Photon Mission supplier, the warranty periods and the warranty conditions of this supplier apply. Before the purchase, Photon Mission will inform the Buyer of the warranty periods and the warranty conditions of this supplier.
- 10.4 An appeal to guarantees is only possible if the Buyer has fulfilled his payment obligation.
- 10.5 An appeal to guarantees takes place by reporting a complaint in writing and in a timely manner within the periods referred to in Article 9 above.
- 10.6 Photon Mission cannot be held to deliver (spare) parts after expiry of the agreed warranty period.
- 10.7 If Photon Mission places or delivers a spare part to repair a defect, the initial warranty period will not start again. The initial guarantee for the original delivery of the products remains unchanged.

#### **Article 11 Retention of title**

- 11.1 Photon Mission retains ownership of all Products delivered and to be delivered under the Agreement until the time at which the Buyer has fulfilled all his payment obligations to Photon Mission.
- 11.2 The payment obligations referred to in the previous paragraph consist of paying the purchase price of the Products, plus claims for work performed that are related to the delivery and claims due to the attributable failure of the Buyer to comply with his obligations, such as claims for the payment of compensation, extrajudicial collection costs, interest and any fines.
- 11.3 If third parties seize the Products delivered under retention of title, or wish to establish or assert rights thereon, the Buyer is obliged to inform Photon Mission of this immediately.

- 11.4 The Purchaser undertakes to insure the Products delivered under retention of title and to keep them insured against fire, explosion and water damage, as well as against theft and to make the policy of this insurance available for inspection on first request.
- 11.5 In the event that Photon Mission wishes to exercise its property rights referred to in this article, the Buyer already gives unconditional and irrevocable permission to Photon Mission or a third party to be designated by it to enter all those places where the property of Photon Mission is located and to take back those Products.

#### **Article 12 Payment**

- 12.1 Unless otherwise stipulated in the Agreement, payment of the agreed price, including VAT and additional costs, will take place within 30 days after receipt of the invoice. Payment shall be made in the currency as defined in the Agreement.
- 12.2 Photon Mission is always entitled to demand an advance payment. Where applicable, Photon Mission will only start its work after the advance has been paid to it in full and unconditionally.
- 12.3 The payment term is an expiry period. If an invoice has not been paid in full after the expiry of the payment term or no direct debit has been able to take place, the Buyer owes Photon Mission directly - without any reminder or notice of default being required - a default interest of 1% per month, to be calculated cumulatively on the principal sum, from the date on which payment should have been made until the date of actual payment. Parts of a month are counted as a full month.
- 12.4 In the event of failure to pay the invoice in whole or in part, the Purchaser also owes the extrajudicial collection costs. The extrajudicial collection costs amount to at least 15% of the principal sum or the unpaid part thereof, with a minimum of € 150 per invoice.
- 12.5 Payments are intended first of all to reduce the costs, then to reduce the interest due and finally to reduce the principal and the current interest.
- 12.6 In the event of liquidation, bankruptcy, seizure or suspension of payment of the Buyer, the claims of Photon Mission against the Buyer are immediately due and payable.
- 12.7 Buyer is not authorized to set off any (alleged) claim against the invoice.

#### **Article 13 Non-compliance with the Agreement and suspension**

- 13.1 If one of the parties fails to fulfil an obligation under the Agreement, the other party may suspend the fulfilment of the corresponding obligation. In the event of partial or improper performance, suspension is only permitted insofar as the shortcoming justifies this.
- 13.2 If one of the parties does not comply with the Agreement, the other party can only dissolve the Agreement after it has given the other party written notice of default, whereby a reasonable period is given to still be able to comply. An exception to this is the shortcoming which, given its minor importance, does not justify the dissolution.
- 13.3 In the event that there is good reason to fear that the Buyer will only partially or improperly comply, the suspension is only permitted insofar as the shortcoming justifies it.

#### **Article 14 Performance of Services**

- 14.1 In addition to the other articles in these General Terms and Conditions, the following provisions apply with regard to the performance of Services by Photon Mission.
- 14.2 Photon Mission performs the Service to the best of its knowledge and ability and as stipulated in the agreement with its Buyer.
- 14.3 Delivery of the Service takes place in the agreed manner digitally and/or in another form.

- 14.4 Photon Mission will perform the Service within the normal working days and hours for Photon Mission. Insofar as Photon Mission must perform the Service under above-average time pressure or outside office hours, Photon Mission will pass on the additional fees that apply to this to its Client.
- 14.5 Photon Mission will inform its Buyer as soon as possible of one of the circumstances as referred to in art. 14.3.
- 14.6 Services that fall outside the scope of the Agreement between Photon Mission and the Buyer can be performed at the request of the Buyer. These Services will be charged separately according to the applicable (hourly) rate of Photon Mission as well as the costs incurred by it.

#### **Article 15 Liability**

- 15.1 The Purchaser must hold Photon Mission liable for this within 6 months after he has become aware of or could have been aware of the damage suffered by him. The claim of liability must be clear, in Dutch or English as well as with clear proof of the defects and / or damage.
- 15.2 Apart from the explicitly agreed or guaranteed results or guaranteed results by Photon Mission, Photon Mission does not accept any liability.
- 15.3 If Photon Mission should be liable, the liability is limited to what is regulated in these General Terms and Conditions.
- 15.4 Photon Mission is only liable for direct damage. Liability for any form of consequential damage is expressly excluded.
- 15.5 If Photon Mission is liable for damage suffered by the Buyer, Photon Mission's obligation to pay compensation is always limited to a maximum of the amount paid out by its insurer in the appropriate case. If the insurer does not pay out or the damage is not covered by the insurance taken out, the obligation to pay compensation is limited to a maximum of the invoice amount of the order in which the damage occurred.
- 15.6 Photon Mission is never liable for damages towards third parties.
- 15.7 Buyer must take all those measures that are necessary to prevent or limit the damage.
- 15.8 If Photon Mission has to make its deliveries on the basis of documents provided by or on behalf of the Buyer, Photon Mission is not responsible for the content, correctness and completeness of these documents.
- 15.9 Photon Mission is not liable and Buyer cannot invoke the applicable warranty if the damage has occurred:
  - a) by improper use, improper use or use of the product contrary to its intended purpose;
  - b) by using the product in violation of or on behalf of Photon Mission or the manufacturer and / or importer, provided instructions, advice, instructions for use, package leaflets, etc.;
  - c) due to improper storage (storage) or incorrect/defective maintenance of the Products;
  - d) because repairs or other work or operations have been carried out on the product by or on behalf of the Buyer, without the express prior consent of Photon Mission.
- 15.10 In the cases listed in the previous paragraph, the Buyer is fully liable for all resulting damage and expressly indemnifies Photon Mission against all claims by third parties for compensation of this damage.
- 15.11 The limitations of liability included in this article do not apply if the damage is due to intent and / or deliberate recklessness of Photon Mission or the managerial staff.
- 15.12 Ideas, proposals about setup, advice, etc. are not binding and can never lead to liability.

#### **Article 16 Intellectual property**

- 16.1 Photon Mission is and remains the owner of all intellectual property rights that rest on, arise from, relate to and/or belong to the Products delivered by Photon Mission in the context of



the Agreement, unless the parties have agreed otherwise in writing. The exercise of these rights is exclusively reserved to Photon Mission, both during and after the expiry of the Agreement.

- 16.2 All documents provided by Photon Mission, such as advice, reports, designs, sketches, notes, manuals, software, (electronic) files, etc., are exclusively intended to be used by the Buyer within the context of the Agreement and may not be reproduced, made public, brought to the knowledge of third parties, counterfeited or modified by him without the prior permission of Photon Mission.
- 16.3 Buyer guarantees that the documents and files provided by him do not infringe the copyright or any other intellectual property right of third parties. Any damage caused by such infringements will be at the expense of the Buyer and the Buyer indemnifies Photon Mission against claims from these third parties.

### **Article 17 Force majeure**

- 17.1 If compliance with the Agreement is not possible and this is due to a non-attributable shortcoming on the part of Photon Mission and/or on the part of the third parties or suppliers engaged for the execution of the Agreement, or in the event that another important reason occurs on the part of Photon Mission, then Photon Mission is entitled to suspend performance for a period to be determined by it without being obliged to pay any compensation.
- 17.2 As circumstances in which there will be non-attributable non-compliance will be understood to include: the failure of networks for telecommunications and/or electricity, war, riots, trade embargo, mobilization, domestic and foreign riots, epidemics, government measures, strike and lockout by workers or threat of these and the like circumstances; disruption of the currency relationships existing at the time of entering into the Agreement, weather conditions, operational disruptions due to fire, accident or other incidents and natural phenomena, regardless of whether the non-performance or late performance takes place at Photon Mission, its suppliers or third parties engaged by it for the execution of the obligation.

### **Article 18 Privacy**

- 18.1 Photon Mission only collects the personal data for which it has a basis for the processing and processes the personal data of the Buyer in accordance with the General Data Protection Regulation (GDPR).
- 18.2 Photon Mission ensures sufficient organizational and technical security measures for an adequate level of security of the personal data made available to it.
- 18.3 Without permission, no personal data will be shared with companies outside the EEA, unless the sharing is necessary for the execution of the agreement with the Buyer or Photon Mission is legally obliged to do so or the Buyer has provided explicit permission for the sharing of the personal data outside the EEA.
- 18.4 Photon Mission will take appropriate safeguards if it is forced to share the Personal Data of the Buyer with parties outside the EEA.
- 18.5 Insofar as loss of personal data occurs despite the organizational and technical security measures taken, Photon Mission will inform the Buyer about this immediately after becoming aware of such a loss.

- 18.6 Photon Mission will also make every effort to minimize and, as far as possible, undo damage resulting from loss of personal data.
- 18.7 Photon Mission will not store personal data longer than necessary, unless it must comply with a legal obligation or with the explicit permission of the Buyer.

**Article 19 Applicable law and disputes**

- 19.1 All Agreements concluded between the Buyer and Photon Mission are exclusively governed by Dutch law.
- 19.1 The Dutch version of these General Terms and Conditions is leading in the event of a difference in translation with the English version.
- 19.3 Disputes are submitted to the competent court in the place where Photon Mission is located.