

GENERAL DELIVERY AND PAYMENT CONDITIONS OF MORPHOTONICS

MORPHOTONICS B.V., hereafter called MORPHOTONICS, is registered with the NL Chamber of Commerce under number 60781246

1 General

- 1.1 These General Conditions apply to all offers made and contracts entered into by MORPHOTONICS, including the related contracts, insofar as there has been no explicit written deviation thereof. The other party accepts the applicability of these General Conditions by the mere granting of its assignment, even if these General Conditions are contrary to the conditions of the other party. Any applicability of general conditions of the other party is explicitly rejected.
- 1.2 Provisions whereby there is deviation from these General Conditions only apply insofar as MORPHOTONICS has confirmed them in writing. Any deviations from these General Conditions which MORPHOTONICS applies or tolerates at any time in favor of the other party never gives the latter the right to invoke such, or claim the application of such deviation as being established on behalf of the other party.
- 1.3 Specific provisions in contracts in which there is deviation from these General Conditions prevail over the provisions of these General Conditions.
- 1.4 The cancellation or nullity of any provision of these General Conditions is without prejudice to the validity of the other provisions of these General Conditions. In the event of cancellation or nullity of any provision of these General Conditions, the provision whose scope corresponds the most with the void provision will be deemed valid.

2 Offers and Agreements

- 2.1 All quotes and offers of MORPHOTONICS are without commitment unless otherwise agreed. MORPHOTONICS is only bound to an agreement after it has accepted an assignment. There will be acceptance on the part of MORPHOTONICS if such has been effected in writing or if MORPHOTONICS has already started the performance of the assignment. MORPHOTONICS is entitled not to accept assignments, in which case it will give the other party written notice thereof within 14 days. If MORPHOTONICS sends a written notice of acceptance of the assignment that notice is deemed to correctly and completely reflect the agreement between parties.
For work for which no offer or notice of acceptance is sent based on their nature and scale, the invoice and/or delivery slip is likewise considered to be an order confirmation, which is also deemed to correctly and completely reflect the agreement.
If MORPHOTONICS has provided a written notice of acceptance, the contents of which deviate from that requested by the other party or the delivery period for which deviates from the delivery period desired by the other party, MORPHOTONICS shall explicitly point out these deviations in the notice of acceptance or by separate letter. If the other party does not respond to this within eight days, the other party is deemed to have agreed to said deviations.
- 2.2 Illustrations, catalogues, drawings and advice which have been made available are not binding and remain MORPHOTONICS's property. The recipient is responsible for ensuring that they are not

copied and/or handed over to third parties or made available for inspection. MORPHOTONICS is not obliged to furnish detailed drawings and technical calculations.

- 2.3 Weights, dimensions, capacities, prices, returns and other data included in catalogues, prospectuses, circulars, advertisements, illustrations and price lists and other textual descriptions only have the nature of indications and are therefore not binding on MORPHOTONICS.
- 2.4 If MORPHOTONICS has demonstrated or furnished samples for the making of the contract, they will be deemed to have only been demonstrated or furnished by way of indication.
- 2.5 The described constructions correspond with the form of performance on the date of the offer. MORPHOTONICS reserves the right to alter the construction and performance of its products if in its opinion this will not have a negative effect on quality and function.
- 2.6 Based on mutual consultation, the parties may amend the content of a concluded agreement. An amendment of the agreement is only binding for MORPHOTONICS once it has agreed to the amendment in writing.

3 Prices and price adjustments

- 3.1 Unless otherwise agreed, the prices are based on delivery "Ex Workplace" at MORPHOTONICS. Any delivery and/or handling costs will be charged separately. All prices are net and are in Euros, exclusive of turnover tax.
- 3.2 If after the acceptance of an assignment a change occurs in the prices of materials or raw materials, payment means, delivery rates, import and export duties, taxes or other price-forming factors for MORPHOTONICS or the suppliers of MORPHOTONICS so that the cost price for MORPHOTONICS becomes higher than at the time of accepting the assignment, MORPHOTONICS is entitled to pass on this price increase to the other party even if this increase was already foreseen but could not be precisely determined at the time this contract was made.
- 3.3 In the event of changes in an assignment accepted by MORPHOTONICS, which have been implemented on the request of the other party, MORPHOTONICS is entitled to charge the other party the additional costs caused by such change.
- 3.4 If it has been agreed that MORPHOTONICS, before the other party has definitely granted the assignment, must design and build a prototype and the other party subsequently does not grant a definite assignment or cancels an existing order, MORPHOTONICS is entitled to charge all costs which MORPHOTONICS has had to make in this respect to the other party. Regardless of the above provisions MORPHOTONICS is entitled, in the event the other party withdraws or cancels the assignment, to charge the other party for all costs already made and any consequential costs which may appear.

4 Execution and delivery

- 4.1 MORPHOTONICS develops, constructs, optimizes and sells roll-to-plate (R2P) nano-imprinting equipment, modules, components, consumables, and integrated processes for large area surface texturizing applications. MORPHOTONICS supplies buyers with various goods and services within the context of those business activities. MORPHOTONICS distinguishes between commissions from buyers pertaining to the development and optimization of a system and/or module, commissions pertaining to the industrialization, manufacture and/or assembly of a system and/or module that has

already been developed and commissions pertaining to consumables, such as, inter alia, primer, lacquer, and/or flex stamp.

- 4.2 A commission to develop or optimize a system and/or module is performed by MORPHOTONICS in phases. Each phase is concluded with the delivery of a predetermined product, comprising technical product documentation (TPD), and/or a FEAMO, and/or a FUMO, and/or a PROTO, a pilot run, a Factory Acceptance Test (FAT), and a Site Acceptance Test (SAT). The various phases will be defined by MORPHOTONICS in advance in a project plan that is issued to the buyer.
- 4.3 A commission to manufacture or assemble a module or component made in series is performed in a single phase, unless the parties agree to performance in multiple phases. The performance ends with the delivery of the predetermined product.
- 4.4 A commission to optimize and/or deliver consumables is performed in a single delivery phase, unless the parties agree to performance in multiple phases. The performance ends with the delivery of the predetermined consumable.
- 4.5 The buyer must supply MORPHOTONICS with all information needed to enable MORPHOTONICS to correctly perform the agreement, including the desired specifications, such that this information is understandable and complete. The buyer shall consult with MORPHOTONICS as frequently as necessary regarding the progress of the activities. The buyer shall provide MORPHOTONICS with feedback on MORPHOTONICS' performance to date, and thus shares responsibility for the final results delivered by MORPHOTONICS.
- 4.6 An Agreement between the buyer and MORPHOTONICS pertaining to the development or optimization of a system or module creates a best-efforts obligation for MORPHOTONICS, and not an obligation as to results, unless such is explicitly agreed. Despite the fact that MORPHOTONICS will devote every effort as a skilled professional to fulfill the buyer's desires, MORPHOTONICS cannot guarantee that it will succeed in doing so.
- 4.7 An Agreement between a buyer and MORPHOTONICS regarding the construction of a specifically described system, module or component does create an obligation as to results for MORPHOTONICS, to wit the obligation to construct the system, the module or the component in accordance with the specifications agreed with the Buyer.
- 4.8 An Agreement between a buyer and MORPHOTONICS regarding the delivery of consumables does create an obligation as to results for MORPHOTONICS, to wit the obligation to deliver such consumable in accordance with the specifications agreed with the Buyer.
- 4.9 If MORPHOTONICS first develops a system, module or consumable for the buyer so that the buyer can subsequently put that which was developed by MORPHOTONICS into production, the above also applies. In that case as well, MORPHOTONICS only has a best-efforts obligation with regard to the development commission, and an obligation as to results with regard to the production of the Product developed that has been approved by the buyer.
- 4.10 The goods are delivered "Ex Workplace" and will be furnished with packing insofar as necessary in connection with the method of transport to the destination. Part deliveries are permitted. Return shipment of packing materials and packing by the other party to MORPHOTONICS will be effected at the expense and risk of the other party.
- 4.11 The delivery time starts on the date when MORPHOTONICS has accepted the assignment in writing or has started the execution thereof. Time is not of the essence with regard to the agreed

delivery time; in the event of late delivery the other party must give MORPHOTONICS written notice of default.

- 4.12 MORPHOTONICS will have performed its delivery obligation, and the goods will therefore have been delivered, when it offers the goods to the other party at the agreed time. MORPHOTONICS's offering of the goods to the other party will be deemed the notice to the other party that the goods are ready to be picked up.
- 4.13 The following circumstances suspend the delivery time:
 - a. late performance of any payment obligation by the other party;
 - b. late provision of the details necessary for the start and execution of the work by the other party;
 - c. all cases of force majeure as referred to in Article 20.
- 4.14 Subject to gross negligence or intent on the part of MORPHOTONICS, exceeding of the delivery time does not give the other party any right to whole or partial dissolution of the contract.
- 4.15 In the event late delivery is made subject to a contractual penalty, such penalty will be deemed to take the place of any right of the other party to compensation. Such penalty is never owed if the exceeding of the delivery time is the result of force majeure.
- 4.16 The other party is obliged to take the goods at the time they are delivered to the other party or at the time that they are made available to the other party in accordance with the contract. If the other party refuses to take receipt of the goods and/or fails to furnish information or instructions necessary for the delivery, the costs of the return shipment, storage and other costs will be at the expense of the other party. In such case MORPHOTONICS will store the goods for a period of a maximum of 30 days after offering them and give the other party written notice that it can pick up the goods for cash payment. After the course of this term MORPHOTONICS will be entitled to dispose of the goods as it sees fit. MORPHOTONICS is entitled, inter alia, to sell the goods for and on behalf of the other party and to deduct the proceeds thereof from the relevant (part) invoices (still) outstanding in the name of the other party. Nevertheless the other party will remain obliged to pay the (remaining) invoice amount relating to those goods to MORPHOTONICS (in full).
- 4.17 Either party can suspend the performance of its obligations if after the making of the contract the economic and/or financial status of the other party is of such nature that there is a valid fear that it will not perform an essential part of its obligations.
- 4.18 If MORPHOTONICS has already shipped the goods before the situation referred to in the preceding paragraph occurred at the other party, MORPHOTONICS can object to the goods being issued to the other party, even if the other party already has possession of a document which gives it the right to obtain the goods.

5 Acceptance of the goods

- 5.1 The delivered goods will be deemed to have been approved and accepted by the other party if:
 - a. no written complaint has been lodged with MORPHOTONICS within 8 days after delivery of the goods or after the time when a defect in the goods could reasonably have been detected. After six months have passed MORPHOTONICS will no longer take any complaint into consideration;
 - b. the other party has commissioned the goods;

- c. an acceptance test has been agreed and the test has not been executed within a term of one month after MORPHOTONICS has informed the other party that the test can take place, due to causes beyond MORPHOTONICS' control;
 - d. assembly, service or commissioning activities have been executed in the manner stipulated in Article 17.7.
- 5.2 Minor defects which can be repaired within 30 days after delivery/completion, do not stand in the way of approval or acceptance of the goods and do not suspend the other party's payment obligation.

6 Industrial and intellectual property rights

- 6.1 Unless explicitly otherwise agreed in writing, MORPHOTONICS reserves the copyright and all other industrial and intellectual property rights in the designs, sketches, illustrations, drawings, models, software and offers furnished by MORPHOTONICS. These documents will remain MORPHOTONICS's property and without MORPHOTONICS's explicit approval, may not be copied, disclosed to third parties or used and/or made public in some other way and/or reproduced. The other party is bound to return these goods on MORPHOTONICS's first request; failure to do so is subject to a (contractual) penalty of € 9000,00 per day that the other party fails to comply with such request.
- 6.2 The other party will not remove any distinguishing marks of MORPHOTONICS from the delivered goods, cover such marks or otherwise make them unreadable or unrecognizable; actions in breach of this stipulation are subject to a (contractual) penalty of € 9000,00 per day that such breach continues.

7 Software; right of use and title

- 7.1 If the delivery encompasses software, including computer and operating software, which has in any way been recorded in a form which is readable for the computer or operating unit and the related documentation, all including any new versions to be furnished, MORPHOTONICS grants the other party a nonexclusive, non-transferrable right of use in respect of this software.
- 7.2 Title to and all rights of industrial and intellectual property in the software remain at all times with MORPHOTONICS or the supplier which has granted MORPHOTONICS the right to make the software available to the other party. Any specifications of copyright will not be removed by the other party. The other party is aware that the software contains confidential information and trade secrets of MORPHOTONICS or the supplier and will see to it that the software is kept confidential and is not disclosed to third parties. MORPHOTONICS is free to take technical measures to protect the software.
- 7.3 The other party is not permitted to alienate the software, transfer it as security, alter it, allow third parties the use thereof or to use it on behalf of third parties.
- 7.4 The software source code will not be made available to the other party.
- 7.5 The right of use starts on the date of installation and ends at the time that the equipment is alienated or definitely decommissioned.

8 IP Rights Background¹

8.1 All rights owned or obtained by the Buyer with regard to its Background remain vested in the Buyer. All rights owned or obtained by MORPHOTONICS with regard to its Background will remain vested in MORPHOTONICS.

Determinant for the scope of the Buyer's Background is the written documentation provided to MORPHOTONICS by the Buyer prior to the Commission and with regard to which MORPHOTONICS has acknowledged in writing that said Background was not yet part of its Background.

8.2 The Buyer shall indemnify MORPHOTONICS in the event that a third party charges MORPHOTONICS with liability due to infringement of third-party IP rights as a result of the performance of the Commission from the Buyer.

9 To whom rights with regard to Foreground will accrue²

9.1 All rights with regard to Foreground accrue to MORPHOTONICS, unless provided otherwise in the General Terms and Conditions or explicitly agreed otherwise with the Buyer in writing. In the latter case, the specific terms and conditions under which said rights will be transferred to Buyer will also be laid down in that provision. MORPHOTONICS reserves the right to use the know-how obtained by MORPHOTONICS in its business operations and in the performance of future commissions from the Buyer or third parties at all times, therefore even after the transfer of IP rights.

9.2 The IP Rights, or the exclusive right to establish such rights, with regard to roll-to-plate (R2P) nano-imprinting equipment, modules, components, prototypes, consumables, and integrated processes developed by MORPHOTONICS; production processes and other processes, working methods, know-how and/or computer software, whether or not directly intended by the commission, accrue in full to MORPHOTONICS, unless provided otherwise by Agreement (which will also lay down the specific terms and conditions under which the right will transfer to the Buyer). MORPHOTONICS reserves the right to use the know-how obtained by MORPHOTONICS in its business operations and in the performance of future commissions from the Buyer or third parties at all times, therefore even after the transfer of IP rights.

9.3 Supplementary to the provisions of Article 9.1, the copyrights with regard to an explanation of a product, technical information and drawings needed by the Buyer for use and maintenance of the product always accrue in full to MORPHOTONICS. MORPHOTONICS is not obliged to provide production drawings of the product or of spare parts.

10 How the Foreground may be protected

10.1 If the Buyer or MORPHOTONICS suspects that the Foreground or parts of it can be protected by performing an additional action, for example patenting, the Buyer and MORPHOTONICS shall inform one another in that regard.

¹ The word "rights" in Articles 8 and 9 is understood to mean: the right of ownership with regard to goods, and the fullest right possible with regard to proprietary rights (such as IP rights). This, as opposed to any rights of use that might ensue from Articles 10 and 11.

² See footnote 1.

In that event, MORPHOTONICS has the excluding and exclusive right to protect that Foreground by means of an additional action, for example patenting. In the event of protection of the Foreground or parts of it, the Buyer shall provide MORPHOTONICS with all cooperation reasonably required to establish the right by performing an additional action, for example patenting.

10.2 If the Buyer becomes aware of an infringement of IP rights with regard to the Foreground belonging to MORPHOTONICS, the Buyer shall inform MORPHOTONICS accordingly as quickly as possible.

11 How the Background may be used

11.1 MORPHOTONICS does not acquire the right to use the Buyer's Background other than and only in so far as necessary to perform the Commission. Determinant for the scope of the Background is the written documentation provided to MORPHOTONICS by the Buyer prior to the Commission and with regard to which MORPHOTONICS has acknowledged in writing that said Background was not yet part of its knowledge.

11.2 The Buyer does not acquire the right to use MORPHOTONICS' Background. Use of MORPHOTONICS' Background – even if it is part of the outcome of the Commission - requires explicit, prior and written consent. Said consent will not be given as long as the Buyer has not met all of its payment obligations as described in Article 15 of these General Terms and Conditions. Such consent may be subject to conditions.

12 How the Foreground may be used

12.1 The Buyer acquires the right to use the Foreground accruing to MORPHOTONICS ensuing as a result of the Commission and embodied in the product with the exception of the restrictions laid down in Article 12.2.

MORPHOTONICS will be permitted at all times to continue to use the Foreground and Background for the benefit of third parties or have such third parties use it.

12.2 The Buyer acquires the right referred to at 12.1 to use the Foreground accruing to MORPHOTONICS only to the extent that said Foreground ensued as a result of the Commission and to the extent that said Foreground is embodied in the Product and use of the Foreground is also necessary for genuine use of the Product for the purpose described in the Commission and also limited to the specific sector described in the Commission. The Buyer is prohibited from further developing MORPHOTONICS' Foreground referred to in this article or to procure such, with due observance of the restrictions.

12.3 MORPHOTONICS will not investigate the existence of third-party IP Rights to the Foreground unless explicitly stated otherwise in the offer. In addition to the rights referred to in Articles 9, 10 and 11, MORPHOTONICS acquires the right to always make free use of the knowledge and experience gained by MORPHOTONICS in the performance of the Commission on its own behalf, for the benefit of third parties, or have third parties do so.

13 Title

13.1 The title to the goods only passes to the other party as soon the other party has performed all of the following obligations under all contracts made with MORPHOTONICS:

- a. the counter-performance with regard to the goods delivered or to be delivered;
 - b. the counter-performance with regard to the services provided or to be provided by MORPHOTONICS;
 - c. any claims for non-performance of an agreement.
- 13.2 The other party is not entitled to alienate, encumber, grant a charge on the goods in whatever form or place the goods in the control of third parties as long as title to the goods has not yet passed to the other party.
- 13.3 Where relevant MORPHOTONICS will be entitled to unhindered access to the goods. The other party will provide MORPHOTONICS with all cooperation in order to give MORPHOTONICS the opportunity to exercise the retention of title set out in Paragraph a by taking back the goods, including any necessary dismantling.
- 13.4 If third parties wish to claim or enforce any right in respect of the goods delivered subject to retention of title, the other party is obliged to inform MORPHOTONICS thereof as soon as may be reasonably expected.
- 13.5 The other party undertakes on MORPHOTONICS's first request:
- a. to insure the goods delivered subject to retention of title and keep them insured against all common forms of damage/loss and against theft and to make this insurance policy available for inspection by MORPHOTONICS upon MORPHOTONICS's first request;
 - b. to pledge all claims of the other party on insurers with regard to the goods delivered subject to retention of title to MORPHOTONICS in the manner prescribed by Article 3:239 of the Dutch Civil Code;
 - c. pledge to MORPHOTONICS the claims which the other party obtains on its customers when reselling goods delivered by MORPHOTONICS subject to retention of title in the manner prescribed in Article 3:239 of the Dutch Civil Code;
 - d. to mark the goods delivered subject to retention of title as the property of MORPHOTONICS;
 - e. to cooperate in all other ways with all reasonable measures which MORPHOTONICS wishes to take to protect its titles with regard to the goods and which do not unreasonably hinder the other party in the normal running of its business.

14 Transfer of risk

- 14.1 As of the time that the goods are ready for transport at MORPHOTONICS or its sub-contractors and the other party has been given written notice thereof, the goods are at the expense and risk of the other party. The insurance risk is at all times at the expense of the other party.
- 14.2 Storage and other costs caused because the other party does not promptly take the goods are at the other party's expense.

15 Payment

- 15.1 Unless otherwise agreed, 40% (forty percent) of the total system purchase price of a commission referred to in article 4.2 to develop or optimize a system and/or module must be paid upon assignment, an additional 30% (thirty percent) of the total system purchase price after End of Design Phase and Start of the Assembly Phase, paid upon Design Ready, an additional 25%

- (twenty-five percent) of the total system purchase price after Factory Acceptance Test (FAT), and the final 5% (five percent) of the total purchase price after Site Acceptance Test (SAT).
- 15.2 Unless otherwise agreed, 30% (thirty percent) of the purchase price of a commission referred to in article 4.3 to manufacture or assemble a module or component made in series and/or a commission referred to in article 4.4 to optimize and/or deliver consumables, must be paid upon assignment, and the final 70% (seventy percent) after delivery.
- 15.3 All payments must, unless otherwise agreed, be made within 30 days after the invoice date and without any deduction or set-off on a bank account specified by MORPHOTONICS on the invoice
- 15.4 All costs which MORPHOTONICS charges to the other party with regard to service, assembly, commissioning activities and training or education of personnel of the other party will be charged separately and are, unless otherwise agreed, payable within 30 days after the invoice date.
- 15.5 Payments made by the other party will always be allocated in the first place to pay all interest and costs owing and in the second place to outstanding invoices which have been outstanding the longest, even if the other party states that the payment relates to a later invoice.
- 15.6 The other party will owe interest over an outstanding (remaining) amount, without the need for any notice of default, as of the due date of the invoice, which interest is 10% per month or part thereof as well as the judicial and extrajudicial collection costs relating to collection, which latter are fixed at 15% of the relevant amount with a minimum of € 1000,00.
- 15.7 If the other party does not perform its payment obligations, does not perform its payment obligations properly or in time and in the event of bankruptcy, moratorium on payment, cessation or liquidation of its business, MORPHOTONICS has the right to immediately demand all amounts still owing and MORPHOTONICS is entitled to suspend the further performance of the contract or to dissolve the contract, without prejudice to its right to compensation.
- 15.8 If when making the contract MORPHOTONICS has requested the other party to make a down payment or give security for performance and such down payment or security is not given or is insufficient, MORPHOTONICS's claims will be immediately due and MORPHOTONICS is entitled to suspend the further performance of the contract or to dissolve the contract, without prejudice to its right to demand compensation.
- 15.9 All complaints relating to an invoice must be presented in writing within eight days after the invoice date; in the event of failure to do so the other party is deemed to have agreed to the invoice.
- 15.10 Complaints of whatever nature do not suspend the other party's payment obligations and the obligation to take the orders made.

16 Complaints and guarantee

- 16.1 Subject to the provisions hereafter, MORPHOTONICS guarantees to the other party the good quality of the goods delivered by MORPHOTONICS, in such sense that all defects in these goods of which the other party informs MORPHOTONICS in writing within six months after delivery but at latest 8 months after giving notice that the shipment is ready and for which the other party proves that these arose within the same period as a result of an unsound construction designed by MORPHOTONICS or as a result of poor execution by MORPHOTONICS of that construction or of poor quality materials delivered by MORPHOTONICS, will be repaired by MORPHOTONICS free of charge –

at MORPHOTONICS' election - by repair or by replacement of the faulty parts. Complaints relating to defects must be lodged as soon as possible but at latest 8 days after the expiry of the guarantee term; in the event a complaint is lodged after this time period, any claim against MORPHOTONICS relating to the defects will lapse.

- 16.2 If repair on site is the most appropriate rectification method, the other party will give MORPHOTONICS the opportunity to do so and furthermore in due time and at the right location provide all necessary and usual personnel, machines, auxiliary and operating materials (including fuels, oils, fats, cleaning and other small material, gas, water, electricity, steam, compressed air, heating, lighting, etc.) without charging MORPHOTONICS therefore. Costs arising for MORPHOTONICS because the foregoing has not been satisfied or has not been satisfied in time, are at the expense of the other party. Unless otherwise stipulated in the contract, travel and accommodation costs are at the expense of the other party.
- 16.3 If MORPHOTONICS opts for repair of the faulty parts in its workplace, the transport to and from its workplace will be at the expense and risk of the other party.
- 16.4 If MORPHOTONICS opts for replacement of the faulty parts, transport of the parts to be replaced and the replacements parts will be at the expense and risk of the other party. Costs of the dismantling and assembly of obstacles necessary for the rectification of the faulty parts is always at the expense and risk of the other party.
- 16.5 If MORPHOTONICS replaces goods or parts to perform its guarantee obligation, the replaced goods or parts will be MORPHOTONICS's property.
- 16.6 If the delivery encompasses computer software, the provisions of Article 7 apply. During the abovementioned guarantee period MORPHOTONICS will, to the best of its ability, rectify all errors in the software whereby such errors are defined as reproducible deviations with regard to the software specifications provided by MORPHOTONICS. MORPHOTONICS does not guarantee that the software will function without interruption or defects, nor that all errors will be rectified. MORPHOTONICS can charge the costs of rectification in the event of errors in use of the other party or of other causes not attributable to MORPHOTONICS. The above guarantee does not apply with regard to computer viruses unless the other party demonstrates that the virus was already present in the software at the time MORPHOTONICS makes the relevant software available.
- 16.7 If the other party does not perform any obligations ensuing from the contract it has made with MORPHOTONICS, or has not performed such properly or in time, MORPHOTONICS is not bound to effect any guarantee whatsoever. If the other party, without MORPHOTONICS' prior written approval, dismantles, repairs or carries out other work with regard to the goods, any claim under the heading of guarantee will lapse.
- 16.8 Legal claims relating to the guarantee must be filed within 1 year after the lodging of a timely complaint; failure to do so will result in loss of the right to bring a claim.
- 16.9 No guarantee is given with regard to inspections executed, advice given and services provided by MORPHOTONICS.

17 Service, Assembly & Commissioning, Training

- 17.1 Assembly activities are all activities outside of the factories and workplaces of MORPHOTONICS (including all preparations and inspections at the site of the assembly) regarding the assembly of a new machine and/or installation at the place indicated by the principal, until the SAT.
- 17.2 Commissioning activities include all activities as of the start of the test run of a new machine until the SAT. Service activities are all activities outside of the MORPHOTONICS factories and workplaces, not belonging to assembly or commissioning activities. If agreed, MORPHOTONICS will train and educate the personnel of the other party with regard to the use of the delivered goods.
- 17.3 Unless otherwise agreed, the following costs will be charged for this work: costs in accordance with the rates on the day of execution, travel costs in the broadest sense of the word including visa and insurance costs connected with travelling, costs of materials to be used insofar as these are not parts of machines and/or installations which have already been ordered separately at the principal's expense and risk, costs of telephone calls on site connected with the work and the costs of telefax, telegrams, telex messages, e-mails and postal costs.
- 17.4 In the event of delay of this work due to force majeure as referred to in Article 15 and other circumstances which cannot reasonably be attributed to MORPHOTONICS, the costs such as work and waiting hours, extra travel and accommodation costs arising as a result of this force majeure and/or aforementioned circumstances are at the principal's expense.
- 17.5 The principal will make the following facilities available in due time, in consultation with MORPHOTONICS and without any costs being connected therewith for MORPHOTONICS:
- a. a suitable workplace and a dry and lockable room to store machine parts, materials, tools, etc. in the direct environment of the place of the work;
 - b. staff to help with the assembly, the number of which, vocational training and skill of which will be determined by MORPHOTONICS;
 - c. the buildings must be prepared for assembly, including all facilities and tools required for assembly, to be assessed by MORPHOTONICS;
 - d. the machines and installations to be assembled which must be present at the assembly site and must be in good condition;
 - e. a suitable, heated room with lighting and washing facilities, First Aid and all necessary measures to protect people and objects at the place of work, which is secured against theft, for the employees of MORPHOTONICS;
 - f. the safety regulations required by law, insofar as relevant to the work, and the informing of the employees of MORPHOTONICS of these regulations;
 - g. a work permit and other permits required by law such as overtime permits if applicable;
 - h. information on local taxes regarding the work which MORPHOTONICS is to carry out for the principal;
 - i. the best available nursing in the event of illness of or an accident involving MORPHOTONICS personnel;
- 17.6 If the principal fails to provide the above-mentioned facilities in time, the principal is liable for all costs and loss ensuing thereof for MORPHOTONICS.
- 17.7 The assembly work will first have been terminated if MORPHOTONICS has informed the principal thereof. The commissioning of a machine or installation will first have been terminated if

MORPHOTONICS has informed the principal thereof. The principal will make the raw materials and products necessary for the test run available to MORPHOTONICS free of charge.

17.8 MORPHOTONICS is bound to give the principal timely notice when a SAT will take place in order to give the principal the opportunity to attend, or to be represented by personnel members or third parties specially authorized in this respect. In accordance with MORPHOTONICS' instructions the agreed characteristics of the delivered goods will be tested in the SAT. If the principal or his authorized representative is not present during the final test, MORPHOTONICS will inform him of the SAT report, the accuracy of which the principal cannot dispute. In any event performance will be deemed accepted by the principal if the agreed work has been carried out and completed or the SAT as referred to above has been successfully completed or if the goods for which the principal is carrying out work have been taken into use by the principal.

17.9 MORPHOTONICS is entitled to have the work carried out by sub-contractors.

17.10 In the event work must be carried out by other equipment than equipment supplied by MORPHOTONICS, this work must be separately agreed in writing.

17.11 The principal is liable for all damage to and loss of materials, machines and equipment which MORPHOTONICS has brought to the place where the work is carried out.

18 Liability

18.1 MORPHOTONICS is only liable for loss suffered by the other party which is the direct and exclusive consequence of a shortcoming which is attributable to MORPHOTONICS, on the understanding that MORPHOTONICS' liability is limited to a maximum of the guarantee obligations. Irrespective of the grounds for this liability, MORPHOTONICS' liability is limited at all times to the net invoice value of the delivered product. If the net invoice value is more than the amount that will be paid out to MORPHOTONICS by the liability insurance, MORPHOTONICS's liability is furthermore limited to the coverage offered to MORPHOTONICS by the liability insurance.

18.2 MORPHOTONICS accepts no liability whatsoever for loss of any nature whatsoever which is the result of:

- a. normal wear and tear and/or incorrect and/or inadequate maintenance;
- b. incorrect use of the goods and/or use of the goods in contravention of the application for which such goods are intended;
- c. use in contravention of and/or use under other circumstances than set out in the user manual and/or operating and maintenance regulations supplied with the goods;
- d. the making and/or implementing of changes in the goods and/or its operating program;
- e. the ignoring of warnings and/or regulations as set out on the goods and/or in the user manual and/or operating and maintenance regulations supplied with the goods;
- f. defects arising as a result of instructions of the other party to third parties, including its employees;
- g. the following of government regulations and/or instructions of persons and/or institutions which are authorized to give the instructions in question.

18.3 MORPHOTONICS accepts no liability for errors or defects in whatever sense if no consideration is owed for its work or goods.

- 18.4 MORPHOTONICS is not liable for advice, instructions, inspections and all other professional services it has provided in the framework of service visits, on the understanding that MORPHOTONICS is bound to rectify the defects therein due to errors or omissions by providing the service in question again.
- 18.5 If MORPHOTONICS delivers computer equipment in the framework of the contract, it is not liable for damage resulting from the loss of electronic data and information.
- 18.6 If the other party demands dissolution of the contract, in whole or in part, and insofar as the other party in addition suffers demonstrable loss due to default on the part of MORPHOTONICS, MORPHOTONICS will compensate the additional value of the replacement performance up to a maximum of the value of the not-properly performed or the dissolved part of the contract.

19 Indemnity

- 19.1 The other party indemnifies MORPHOTONICS against every claim by an employee or representative of the other party or by third parties for damage, of whatever nature, which is directly or indirectly the result of the circumstances mentioned in the previous article.
- 19.2 The other party indemnifies MORPHOTONICS against claims of third parties for loss, of whatever nature, which such third parties suffer by application of designs, advice, studies or other services provided by MORPHOTONICS or its personnel to the other party.

20 Force majeure

- 20.1 MORPHOTONICS has the right to claim force majeure, which includes circumstances which impede performance of the contract and which are not attributable to MORPHOTONICS. Force majeure includes, inter alia: strikes in companies other than MORPHOTONICS, wild strikes or political strikes in MORPHOTONICS, a general lack of the requisite raw materials and other goods or services necessary for the effecting of the agreed performance, unforeseen stagnation at suppliers or other third parties on which MORPHOTONICS is dependent and general transport problems.
- 20.2 The delivery and other obligations of MORPHOTONICS are suspended during force majeure. If the force majeure period lasts longer than 6 months, both parties are entitled to dissolve the contract without in such case an obligation to pay compensation arising.
- 20.3 If MORPHOTONICS has already effected part performance, either by manufacture or by part delivery, it is entitled to compensation of the costs of that performance which it has made until the time the force majeure occurred.
- 20.4 Subject to MORPHOTONICS' explicit, written consent, the principal will not copy or instruct the copying of, present to third parties, allow third parties to inspect or otherwise disclose or publish any data, of whatever nature, relating to the services provided and/or products supplied by MORPHOTONICS, the manufacturing and/or construction methods and working principles used by MORPHOTONICS as well as all illustrations, drawings and advice furnished by MORPHOTONICS.
- 20.5 If the principal delivers or sells the services and/or products of MORPHOTONICS on to a third party, the principal will impose the same duty of confidentiality on such third party.
- 20.6 Upon breach of the provisions mentioned above the principal will forfeit an immediately due (contractual) penalty of € 100,000 without prejudice to MORPHOTONICS's right to full compensation.

21 Confidentiality

21.1 The Buyer shall treat the information made available to it as confidential and keep it secret, and consequently shall not make it known or available to third parties without the consent from the other Party, to the extent that this does not involve any Background accruing to the Buyer.

21.2 MORPHOTONICS shall treat Background accruing to the Buyer (determinant for the scope of the Buyer's Background is the written documentation provided to MORPHOTONICS by the Buyer prior to the Commission with regard to the Commission and which MORPHOTONICS has acknowledged in writing that said Background was not yet part of its knowledge) as confidential and keep it secret and consequently shall not make it known or available to third parties without the other Party's consent.

22 Applicable law and disputes

22.1 This contract and the contracts ensuing hereof are exclusively governed by Dutch law. The applicability of the Vienna Sales Convention is expressly excluded.

22.2 All disputes – including those which only one party deems a dispute – which might arise in connection with this contract or with other contracts which are related to this contract will only be adjudicated by the competent court in the district of Oost-Brabant, the Netherlands.

23 Validity

These conditions of this contract retain their validity after termination or dissolution of the contract in whole or in part if they have, by their nature and purport post-contractual effect.

24 Translations

If there are translations of these Terms and Conditions, only the Dutch version is determinant for the interpretation and/or explanation of these Terms and Conditions.

25 Incoterms

The most recent version of the Incoterms compiled by the International Chamber of Commerce applies to the explanation of international commercial terms.

26 Filing

After their adoption, these General Delivery and Payment Terms were filed with the Chamber of Commerce and Industry for Brabant in Eindhoven, The Netherlands.

Veldhoven, February, 2015