

## General Terms & Conditions of Sale LUMINAID B.V. Version 28 November 2017

### Article 1 Definitions

In these general terms and conditions, the following terms have the meaning set out after them, unless explicitly stated otherwise:

“Seller”: Luminaid B.V., having its registered office at Belder 45, 4704 RK in Roosendaal and registered with the Chamber of Commerce under number 55532403, the user of the General Terms & Conditions of Sale, contractor, party accepting the assignment;

“Counter Party”: the Counter Party of Seller, principal, purchaser;

“Assignment”, “Order”, “Agreement”: the agreement entered into by Seller and Counter Party.

### Article 2 General

2.1 These terms and conditions apply to each Assignment, offer and Agreement between Seller and Counter Party insofar as no express deviation was made therefrom by parties in writing;

2.2 These terms and conditions also apply to all agreements made with Seller, for the execution of which Seller uses the service of thirds;

2.3 The applicability of any terms and conditions of the Counter Party is expressly rejected;

2.4 If Seller enters into an agreement with Counter Party more than once, then these terms and conditions will apply each time, irrespective of whether it has been explicitly stated whether they apply or not;

2.5 If one or more of the provisions in these terms and conditions are void or nullified, then the other provisions in these terms and conditions will continue to apply.

### Article 3 Offers, Orders and Agreements

3.1 All offers, in whatever form, are free of obligation, unless an acceptance term is set out in the offer;

3.2 Agreements to which Seller is party, will be deemed as concluded:

- a) After both parties have signed an agreement drawn up for this purpose;
- b) After receipt of a statement of approval of the written acceptance by Counter Party of an offer made by Seller;
- c) When lacking, by delivery to and taking receipt of the items by Counter Party;

3.3 In case of oral agreements the invoice is deemed to correctly and fully reflect the agreement, with the exception of objections made within 30 days of the invoice date;

3.4 If, during the performance of the work, Seller receives an oral order for additional work from the Counter Party or from an employee or agent of the Counter Party present on location, and Counter Party has accepted this additional work or has not protested against the additional work, then after performance of this additional work, Seller can assume that the additional work has been carried out after the express request of Counter Party against the prices and rates applied by Seller;

3.5 If a natural person enters into an agreement on behalf or at the account of another natural person, he states – by signing the Agreement – that he is authorized in this respect. In addition to the other natural person, this person is jointly and severally liable for all the obligations following from the agreement;

3.6 Seller retains the right to refuse an assignment/order without stating reasons;

3.7 If the acceptance by Counter Party deviates from the offer set out in the quotation, the Seller will not be bound to this. The agreement will then not be concluded in accordance with this deviant acceptance, unless Seller indicates otherwise;

3.8 The prices set out in the offers are in euro's and exclusive of VAT, disposal contribution and other charges imposed by the government, taxes, and also exclusive of installation costs and costs for commissioning, storage, packaging, shipment and any transport, repair, travel costs, unless parties have expressly agreed otherwise;

3.9 In case of cash on delivery the Seller will each time charge the Counter Party for the costs for cash on delivery;

3.10 Seller is entitled to invoice administrative charges for small orders;

3.11 Seller is entitled to invoice the order price in parts;

3.12 A composite quotation does not oblige the Seller to perform a part of the order against a corresponding portion of the indicated price;

3.13 Offers or quotes do not apply to subsequent orders.

### Article 4 Models/pictures

4.1 If the Counter Party is shown a model, demo or picture, this is deemed only as indication, unless it is expressly agreed that the item to be delivered will be fully identical;

4.2 The models, pictures, numbers, sizes, weights or descriptions included in the catalogues/offers/ advertisements/price list are only shown as indication.

### Article 5 Execution of the Agreement/Installation

5.1 Seller perform the agreement to the best of its knowledge and ability and according to the requirements of professional practice. This on the basis of the state of the arts in the Netherlands at that time;

5.2 Seller determines the manner of execution of the agreement, insofar as otherwise has not expressly been agreed between parties in writing;

5.3 Seller is not liable for loss, of whatever nature, caused by the Seller using incorrect and/or incomplete data provided by the Counter Party, unless the Seller should have been aware of this incorrectness or incompleteness;

5.4 Seller has the right to let work being performed by thirds if and insofar as a proper performance requires such;

5.5 If the Counter Party has retained right to delivery of specific components and/or the work, Counter Party is liable for non-timely delivery or non-timely performance thereof;

5.6 Counter Party will ensure that all details and permissions of which the Seller indicates that these are necessary or in respect of which the Counter Party should reasonably understand that these are necessary for the performance of the Agreement, will be timely provided to the Seller. If the details and permissions required for the performance of the agreement have not been provided to the Seller in time, Seller has the right to suspend performance of the Agreement and/or charge the extra costs following therefrom to the Counter Party according to the usual rates;

5.7 If it is agreed that the agreement will be carried out in phases, Seller can suspend those components of a following phase, until the Counter Party has de approved the results of the preceding phase in writing;

5.8 If the start or the progress of the work is delayed due to factors for which the Counter Party is responsible, then the loss and costs following therefrom for the Seller must be reimbursed by the Counter Party;

5.9 If, in the framework of the assignment, Seller or thirds engaged by Seller perform work at the location of the Counter Party or at a location indicated by the Counter Party, Counter Party will bear the costs for facilities reasonably desired by the employees;

5.10 Counter Party ensures that the following will be made available to the Seller in due time:

- The building in which any work is to be performed, with hardened floors, freely available for rolling climbing equipment or tower wagons;
- Sufficient opportunity for supply and discharge of materials and resources over surfaced roads;
- connection options for equipment;
- facility for storage of luminaires and/or light lines in installation area.

5.11 Installation only means the installation of luminaires and/or light lines. This does not include the connection of the luminaires and/or light lines to the power source or making further connections;

5.12 Slightly technical calculations are without obligation and given by approximation. Counter Party must still take a plus or minus tolerance in account caused by unknown factors, such as lamp and reflection tolerances;

5.13 Counter Party indemnifies Seller with regard to any claims of thirds, which suffer loss in connection with the performance of the agreement and which loss is attributable to Counter Party.

*Article 6 Changes to the agreement*

- 6.1 If it appears during the performance of the agreement that for a proper performance of the agreement it is necessary to change and/or supplement the work, then parties will adjust the agreement accordingly in time and in mutual consultation;
- 6.2 If parties change and/or add to the Agreement, this may influence the completion time of the performance. Seller will inform Counter Party thereof as soon as possible;
- 6.3 If the change and/or addition to the agreement has financial and/or qualitative consequences, Seller will inform Counter Party thereof as soon as possible;
- 6.4 If Seller is required to make new drawings, calculations, models and such as a result of a change in the agreement, Seller will charge the Counter Party extra for the costs related thereto;
- 6.5 If a fixed price was agreed, Seller will indicate into which extent the fixed price is exceeded as a result of the change in or addition to the Agreement. Any exceeding of the price will be regarded as additional work;
- 6.6 A set-off of less or additional work takes place:
- a) in the event of changes in the agreement or in the performance conditions;
  - b) in the event of deviating provisional sums;
  - c) in the event of deviating amounts for set-off;
- 6.7 Provisional sums are the amounts set out in the agreement, which are included in the contract price and which are intended for:
- a) the purchase of materials, or;
  - b) the purchase of materials and the processing thereof, or;
  - c) the performance of work, which was not determined in sufficient detail on the day of the agreement and which must be further detailed by Counter Party.
- The Agreement sets out to which each provisional sum relates.

*Article 7 Delivery*

- 7.1 Delivery of goods will be *Ex Works* Belder 45 Roosendaal, incoterms 2010, unless agreed otherwise;
- 7.2 If Seller delivers items, these will be delivered each time at the last known delivery address indicated by Counter Party and known to Seller;
- 7.3 The goods to be delivered will be delivered at the ground floor of the project, provided the place for unloading or installation can be easily accessed by paved roads;
- 7.4 The Counter Party must provide assistance for the unloading of the goods to be supplied;
- 7.5 Counter Party must take over or take receipt of goods immediately after completion. If the goods are available for Counter Party or are offered for delivery at Counter Party, but are not taken over due to whatever reason, delivery will be effected by written notification from Seller;
- 7.6 If Counter Party refuses to provide or is negligent with regard to the provision of information or instructions necessary for delivery, Seller is entitled to store the goods at the account and risk of Counter Party. If the Counter Party does not take receipt of the goods within 2 weeks, Seller is entitled to sell the goods to another. If this cannot be done, Seller is entitled to destroy the goods. The loss suffered by Seller in case of sale to another or destruction will be at the account of Counter Party;
- 7.7 If Seller requires details from Counter Party in the framework of the performance of the agreement, the time for delivery starts after Counter Party has provided these details to Seller;
- 7.8 If Seller has set out a term for delivery, this is indicative only. Therefore, an indicated delivery time is never a fatal term. If a term is exceeded Counter Party must give Seller written notice of default;
- 7.9 Seller is entitled to charge an advance payment. Delivery to Counter Party or performance will take place after payment of the advance amount, unless parties agree otherwise.

*Article 8 Delivery, inspection, complaints*

- 8.1 Counter Party is in obliged to inspect the sold or the performed assignment at the moment of delivery or to have someone else do this on its behalf. Complaints in respect of the delivered must be directly reported by telephone to Seller within 2 days. A written confirmation of the complaint reported by telephone must be received by Seller within 5 days after delivery. The notice of default must include a description of the shortcoming, which is as detailed as possible, so that Seller will be able to respond adequately;

8.2 Damage to the packaging material/item must be set out on the packing slip/consignment note and reported to Seller in writing;

8.3 The following situations can never give cause to any claim:

- deviations in slightly technical calculations;
- printing, writing or typing errors in the catalogue/internet site/ offer/price list;

8.4 Seller will deal with the complaint immediately after it is reported;

8.5 If a complaint is filed in time, Counter Party still has the obligation to purchase and pay for the items bought. Should Counter Party wish to return faulty items, then this will be done only with the Seller's prior written consent. Returned shipments must be sent postage paid in undamaged condition and in the original package;

8.6 If a complaint is founded, Seller will replace the delivered good, unless this has meanwhile become demonstrably useless for Counter Party. If this is the case, this must be made known by Counter Party in writing. However, in any event user is only liable within the limits of the provisions in articles "Guarantee" and "Liability".

*Article 9 Risk transfer*

9.1 If Counter Party refuses to take receipt of the goods, the claims of the Seller, including transport and storage costs, are immediately due and payable by the Counter Party;

9.2 The risk of loss or damage to the goods which are subject-matter of the Agreement, will be transferred to Counter Party at the moment on which these goods are juridically and/or factually delivered and are therewith brought in the power of Counter Party or a third to be indicated by Counter Party, or at the moment the goods are lying ready for delivery, this after Counter Party has received written notification thereof;

9.3 If Seller ensures the transport of the goods which are subject-matter of the Agreement, this is entirely at the account and risk of Counter Party. Counter Party itself must take out proper insurance.

*Article 10 Force Majeure*

10.1 Parties are not bound to perform any obligation if they are hindered in this respect as a result of a circumstance which is not attributable to gross fault or intent on the side of the party invoking force majeure, and if parties cannot be held accountable by law or legal act or generally accepted standards;

10.2 In addition to what is set out by law and jurisprudence in connection with force majeure, in these conditions force majeure also includes all external causes, foreseen and unforeseen, which the Seller cannot influence, but due to which Seller is not able to perform the obligations. Strikes in the company of Seller, computer and power failures, traffic jams, bad weather conditions, export barriers, theft, fire and delay in delivery of parts from suppliers are included;

10.3 Parties can suspend the performance of the obligations from the Agreement during the period that the force majeure continues. If this period continues longer than two months, then each of the parties is entitled to dissolve the agreement without the obligation to pay compensation to the other party;

10.4 Insofar as, at the time of the start of force majeure, Seller had already performed a part of his obligations from the agreement or will be able to perform them, and the part performed or to still be performed has a separate value, Seller is entitled to separately invoice the part already performed or still to be performed

*Article 11 Suspension and Termination*

11.1 User is entitled to suspend performance of the obligations or to terminate the agreement if:

- Counter Party does not, not fully or not timely perform the obligations under the agreement;
- After the conclusion of the agreement, circumstances have become known to the Seller which constitute a serious reason to fear that Counter Party will not perform its obligations, will not perform its obligations in time or will not fully perform its obligations. If there is good ground to fear that Counter Party will not perform only partially perform, the suspension is only allowed insofar it is justified by the shortcoming;
- When entering into the agreement, Counter Party is asked to provide security for the performance of his obligations under the agreement, and this security is not forthcoming or is insufficient;

11.2 Subsequently Seller is authorised to terminate the agreement or have it terminated by someone else, if circumstances arise which are of such nature that performance of the agreement is impossible or can no longer be demanded according to standards of reasonableness or fairness, or if circumstances arise which are of such nature that unchanged continuation of the agreement cannot reasonably be expected;

11.3 If the Agreement is terminated, the claims of Seller on Counter Party will be immediately due and payable. If Seller suspends the performance of the obligations, it retains its claims by law and the agreement;

11.4 User each time retains the right to claim compensation.

#### *Article 12 Cancellation*

12.1 If Counter Party wishes to cancel an agreement after it was concluded and before the performance of the agreement was started, 20% of the order price (exclusive of BTW) will be charged as cancellation costs, without prejudice to the Seller's right to full compensation inclusive of lost profit;

12.2 If, in case of cancellation Counter Party refuses to take delivery of goods already purchased and/or produced especially for Counter Party, modified and/or processed or not, Counter Party is also obliged to pay all the costs incurred in this respect to Seller;

12.3 If an item is (temporarily) not available, Counter Party will receive a notification in this respect from Seller no later than one month after receipt of the order. In that event Counter Party can cancel the order free of charge.

If Counter Party has already paid Seller for this item, this amount will be repaid to Counter Party or it will be part of a set-off;

12.4 Cancellation must be effected by registered mail.

#### *Article 13 Prices and Costs*

13.1 Seller can charge on price increases after 3 months, if delivery price changes of more than 5% have occurred relating to e.g. social charges, turnover tax, exchange rates, wages, raw materials, semi-manufactured products or packaging material between the moment of the offer and the execution of the agreement;

13.2 The prices of Seller will be adjusted by an inflation adjustment of minimally 1.5% on an annual basis.

#### *Article 14 Payment*

14.1 Payment must be effected prior to delivery, unless otherwise was offered agreed in advance in writing, e.g. in the offer;

14.2 Objections against the amounts set out in the invoices do not suspend the payment obligation;

14.3 If Counter Party is in default with regard to payment within the agreed term, Counter Party is in default by operation of law. Counter Party then also owes an interest of 2.5% per month or part thereof, unless the statutory interest or commercial interest is higher, in which case the highest interest rate applies. The interest over the due and payable amount will be calculated as of the moment Counter Party is in default up to the moment the entire amount is paid;

14.4 In the event of liquidation, bankruptcy (application), a guardianship order, subjection of Counter Party to a debt management scheme under the heading of the Wet Schuldsanering Natuurlijke Personen, attachment or (provisional) moratorium on payments applicable to Counter Party, the claims of Seller on Counter Party will be immediately due and payable;

14.5 Payments first serve a deduction of costs, then the due interest and after that, payments will be deducted from the principal sum and the current interest;

14.6 Counter Party is not allowed to appeal to set-off, unless Seller has unconditionally acknowledged the counter claim.

#### *Article 15 Collection costs*

15.1 If Counter Party is in default with regard to the (timely) performance of his obligations, then all reasonable costs incurred in order to obtain compliance out of court will be at the expense of the Counter Party. In the event of a monetary claim Counter Party will in any case have to pay the collection costs. The collection costs are calculated in accordance with the collection tariff as advised by the Nederlandse Orde van Advocaten in collection issues, with a minimum amount of € 450.00;

15.2 If Seller has incurred more costs, which were reasonably necessary, then these are also eligible for reimbursement. Court

costs and execution costs are also at the account of Counter Party.

#### *Article 16 Retention of title/property*

16.1 All materials and other items delivered by Seller, processed or not, remain the property of Seller until Counter Party has performed all the obligations from all agreements concluded with Seller;

16.2 Counter Party is not entitled to sell items falling under the retention of title, nor is he entitled to pledge or encumber those items in any other manner;

16.3 Counter Party must take out insurance at new-for-old value for all items falling under the retention of title. The compensation for damages paid out by the insurer will first replace the aforementioned items and accrue to Seller;

16.4 If Seller wants to exercise its ownership rights referred to in this article, Counter Party, now for in the future, grants an unconditional and irrevocable permission to the Seller or a third to be indicated by it, to have access to all locations where the items owned by Seller are located and to take these items back.

16.5 Seller has a right of retention as long as:

- The Counter Party has not or not fully paid the costs of the work
- The Counter Party has not or not fully paid the costs of previous work;
- The Counter Party has not or not fully paid other claims;

Seller will proceed to delivery as soon as Counter Party has paid all claims to Seller or after Counter Party has provided sufficient security.

#### *Article 17 Guarantee*

1. The limited guarantee conditions of Seller apply to the Assignment/Order/agreement. In these conditions, Seller guarantees that during a guarantee period of five years after delivery date, these products marked with the brand name LUMINAID are free of manufacturing and material defects if used in accordance with their intended use. This manufacturer warranty only applies in the member states of the European Union and the European Free Trade Association (EFTA) and exclusively with regard to that Counter Party which first purchased the product in a member state of EU or EFTA and has taken this product into use. This guarantee is only valid subject to the condition that:

1. The products are used in accordance with the indicated product and user specifications (in particular the information sheet, product brochure, product label and such);
2. The products are installed and commissioned professionally (amongst others, in accordance with the installation manual enclosed with the product);
3. Maintenance and repair work for the products is carried out exclusively by LUMINAID;
4. Services such as software updates or functionality extensions are exclusively performed by the manufacturer or a third indicated by it;
5. The permitted limits for temperatures and voltage according to relevant technical standards specifically indicated for this product are not exceeded;
6. The product is not exposed to mechanical and/or chemical burdens which do not comply with the prescriptions.

The guarantee only relates to production failure caused by demonstrated material, construction or manufacturing defects. Counter Party has no right of claim if the guarantee incident is not reported to Seller in writing within 14 days, to be counted as of the determination of the defect. If after inspection of the product it appears that it concerns a case of guarantee, it will be left to the Seller to decide whether to repair the defect product, to replace it by a similar product free of charge or to offer a price discount. This guarantee does not apply to product damage which was already solved by replacement, repair or a price discount. The guarantee period will not be renewed upon a performance.

2. All replacement products or components can contain new or re-used materials which are, with regard to capacity and reliability, equivalent to the new products or components. The dimensions and design of the replacement product can slightly deviate from the original product. "Re-used materials" are components of products which have been revised and are not new. Even though such components or products are not new, after revision or repair the condition will be as new whereas

capacity and reliability are concerned. The functionality of all replacement products or components is equivalent to the functionality of the product or component to be replaced. The replacement products or components will not show any material defects or manufacturer defaults during the remaining period of the guarantee period which applies to the product that is replaced or in which it is built in.

3. The guarantee does not relate to:

- a) All ancillary costs relating to the repair of arisen defects (such as e.g. for installation and removal, transport of the defect and the repaired or new product, disposal, call-out costs, hauling provisions, scaffolding). These costs are at the account of Counter Party;
- b) Plastic components from e.g. polycarbonate which can discolour or become brittle due to its natural ageing process;
- c) Electronic components, products and parts sold as merchandise by Seller; and also lamps from other manufacturers;
- d) Settings or parameter settings for installations which can change due to tear and wear, exhaustion or contaminations;
- e) Production errors which can be traced back to software errors, bugs, viruses and such; and
- f) Any necessary services such as new commissioning, software updates etc.

4. The guarantee lapses immediately if Counter Party applies changes, performs repairs or services or corrects malfunctions without the prior permission of Seller.

#### *Article 18 Liability and Indemnification*

18.1 Should Seller be liable, then this liability is limited to that which is set out in this provision;

18.2 Seller is never liable for:

- Deviations, damage, errors and defects which have remained unnoticed in items approved by Counter Party;
- Deviations, damage, errors and defects resulting from faulty installation or use by a Counter Party or a third;
- Indirect damage, including consequential damage lost profit, missed savings and loss caused by business interruption;
- Damage resulting from rejected raw materials, due to a change in environmental legislation after the conclusion of the Agreement;
- Damage resulting from illegal, in appropriate or unprofessional use of the delivered by Counter Party or a third or non-compliance with the user instructions;

18.3 If Seller is liable for damage, this liability is limited to the amount paid out by the insurer of Seller, that is, no more than the claimed amount, being the part of the amount to which the liability relates;

18.4 Seller is never liable for damage following from advice. Advice is given each time on the basis of facts and circumstances and in mutual consultation, whereby Seller bases itself each time on the intention of the Counter Party;

18.5 Any claims for compensation of damage must be submitted in writing to the Seller immediately after this damage has been created;

18.6 The limited liability included in these general conditions does not apply if the damage is attributable to intent or gross fault on the side of the Seller or his subordinates.

#### *Article 19 Intellectual Property and Copy rights*

19.1 Without prejudice to the provisions in these general conditions, the Seller retains the rights and authorities which accrue to him on the basis of intellectual property law and the Copy Right Act;

19.2 All the items, provided (light) designs, sketches, drawings, files and brochures sold and/or produced by Seller are intended only for the use by Counter Party and are not to be multiplied, resold, processed, altered, copied, reproduced, made public or brought to the knowledge of thirds by him without the Seller's prior consent, unless otherwise follows from the character of sold or provided items.

#### *Article 20 Packaging*

20.1 If Seller uses sustainable packaging, Counter Party must, at its own expense, return the packaging material empty, cleaned and undamaged within 30 days after delivery;

20.2 All repair, replacement and cleaning costs are fully charged to the Counter Party;

20.3 The Seller will invoice an amount of € 50.00 to the Counter Party for each month the return of the packaging material by Counter Party is overdue.

#### *Article 21 Export*

21.1 Unless otherwise is agreed in writing, payment for export transactions must be made by means of an irrevocable letter of credit issued and confirmed by a Dutch bank. On the basis of this letter of credit, partial shipments or trans-shipments will be possible. The letter of credit can be transferred by Seller;

21.2 Counter Party guarantees that, if an import certificate or permit is required for import into the country of destination, such an import certificate or such an import permit is acquired or will be acquired for each shipment, whereas the Counter Party is liable for any loss suffered due to the lack thereof.

#### *Article 22 Translations of these terms & conditions*

Only the Dutch version of these conditions is authentic. If a translation deviates therefrom in any manner, then the Dutch text prevails.

#### *Article 23 Disputes*

All disputes furthering to the agreement entered into by parties will firstly be adjudicated by the competent court in the district of Seller's registered office. Nevertheless, Seller has the right to submit the dispute to the court which is competent by operation of law or to an arbitration panel.

#### *Article 24 Applicable law*

Every agreement between Seller and Counter Party is governed by Dutch Law.