

Terms and Conditions - Luxexcel Group B.V.

These Terms and Conditions are filed with the Dutch Chamber of Commerce under number 20160719.

Art. 1 Applicability of these Terms and Conditions

- 1.1 These Terms and Conditions (hereafter "Terms and Conditions") apply to all offers and agreements with customers to which Luxexcel Group B.V. or any of her affiliates (hereafter "Luxexcel") delivers goods and/or provides services of any nature whatsoever and under whatever name to the customer (hereafter "Customer") notwithstanding any variations or additions contained in any order or other document submitted by the Customer.
- 1.2 Terms and conditions that deviate from these general Terms and Conditions shall only be valid if they are agreed between the parties in writing.
- 1.3 The applicability of any of the Customer's terms and conditions is specifically excluded. In the event a specific agreement between Luxexcel and the Customer is concluded to which these Terms and Conditions apply, the provisions of such specific agreement shall prevail in case of a conflict between the provisions of such specific agreement and the provisions of these Terms and Conditions.
- 1.4 If any provision of these Terms and Conditions is null and void or is voided, the other provisions of these Terms and Conditions shall remain fully in effect. Luxexcel and the Customer shall in this case consult each other for the purpose of agreeing new provisions to replace the null and void or voided provisions.

Art. 2 Offers and deliverables

- 2.1 All offers and other communications of Luxexcel are subject to confirmation unless Luxexcel has indicated otherwise in writing.
- 2.2 The Customer guarantees that the information that it has provided or that has been provided on its behalf to Luxexcel and on which Luxexcel has based its offer, is accurate and complete.
- 2.3 LUXEccel shall use reasonable endeavors to deliver the goods to the Customer as specified in the agreement in question, using reasonable skills and care.
- 2.4 Delivery of the goods shall be ex-works in accordance with INCOTERMS 2010. Luxexcel may at its sole and unfettered discretion select a reputable carrier and appropriate means of delivery. Unless agreed otherwise between parties, all risks during transport are borne by Customer.
- 2.5 Customer may provide certain input material (hereafter: "Input Material"), meaning any documents and any data or other specific information (including CAD files, photos and models) to assist Luxexcel in delivering the goods. For the avoidance of doubt, this includes providing Input Material for goods related to optics and non-optics design and additive manufacturing of optics and non-optics.
- 2.6 The goods shall be deemed accepted by Customer when a Customer notifies Luxexcel of their acceptance, or no notification from Customer is made within 5 (five) working days following the delivery of the goods. For the avoidance of doubt, Customer shall be obliged to accept the goods where they materially are in accordance with the specifications as set out under the agreement.

Art. 3 Price and payment

- 3.1 All prices are exclusive of turnover tax (VAT) and other levies imposed by the government. All prices stated by Luxexcel are in euros (EUR) and the Customer must make all payments in euros.
- 3.2 Payment by the Customer shall be made upfront. If the payment is not received by the due date, Luxexcel is entitled, without prejudice to any other rights and

remedies that Luxexcel may have and without any notice of default being required, to charge statutory interest over the outstanding amount(s) until full payment is received. In such case, Luxexcel shall also be entitled to request immediate payment of all invoices, regardless of whether these are due and to immediately suspend fulfillment of all of its obligation.

- 3.3 The Customer may not derive any rights or expectations from a cost estimate or budget issued by Luxexcel unless the parties have otherwise agreed in writing. If the Customer has informed Luxexcel of an available budget, that budget shall only be considered as a (fixed) price for the goods to be delivered by Luxexcel, if this has been expressly agreed in writing.
- 3.4 If, according to the agreement concluded between the parties, the Customer consists of several natural persons and/or legal entities, each of these natural persons and/or legal entities shall be jointly and severally liable.
- 3.5 Luxexcel's accounts are prima facie evidence of the matters to which they relate, without prejudice to the Customer's right to produce evidence to the contrary.
- 3.6 If a periodic payment obligation on the part of the Customer applies, Luxexcel shall be entitled to adjust, in writing and in accordance with the index or other standard included in the agreement, the applicable prices and rates to the term specified in the agreement. If the agreement does not expressly provide for the possibility on the part of Luxexcel to adjust the prices or rates, Luxexcel shall always be entitled to adjust, in writing and with due observance of a term of at least three months, the applicable prices and rates. If the Customer does not agree to the adjustment, the Customer shall be entitled to terminate the agreement in writing within thirty days following notice of the adjustment, which termination shall take effect on the date on which the new prices and/or rates would take effect.
- 3.7 The parties shall record the date or dates on which Luxexcel shall charge the Customer for the performance agreed in the agreement. Amounts owed must be paid by the Customer in accordance with the agreed payment terms or the payment terms stated on the invoice. The Customer may not suspend any payment and may also not set off any amounts owed.
- 3.8 If the Customer fails to pay amounts due or fails to do so on time, the Customer shall owe statutory interest for commercial agreements on the outstanding amount without a demand for payment or a notice of default being required. If the Customer fails to pay the amount due after a demand for payment or a notice of default has been issued, the Customer shall be liable for all judicial and extrajudicial costs, including all costs charged by external experts. The foregoing shall be without prejudice to Luxexcel's other legal and contractual rights.

Art. 4 Term of the agreement

- 4.1 If and insofar as the agreement concluded between the parties is a continuing performance agreement, the agreement shall be entered into for the term agreed between the parties. A term of one year shall apply if no term has been agreed.
- 4.2 The term of the agreement shall be tacitly extended, each time by the period of time originally agreed, unless the Customer or Luxexcel terminate the agreement in writing with due observance of a notice period of three months prior to the end of the current term.

Art. 5 Confidentiality

- 5.1 The Customer and Luxexcel must ensure that all information received from the other party that the receiving party knows or should reasonably know is confidential is kept secret. This duty of confidentiality shall not apply to Luxexcel if and insofar as Luxexcel

is required to provide the information concerned to a third party in accordance with a court decision or a statutory requirement, or if and insofar as doing so is necessary for the proper performance of the agreement by Luxexcel. The party that receives the confidential information may only use it for the purpose for which it was provided. Information shall in any case be deemed to be confidential if it has been qualified as such by one of the parties.

- 5.2 The Customer acknowledges that software originating from Luxexcel is always confidential in nature and that this software contains trade secrets of Luxexcel and its suppliers or the producer of the software.

Art. 6 Privacy and data processing

- 6.1 If necessary for the performance of the agreement, the Customer shall at the request of Luxexcel inform it in writing of the manner in which the Customer performs its legal obligations regarding the protection of personal data.
- 6.1 The Customer indemnifies Luxexcel against claims of persons whose personal data is recorded or processed in the context of a register of personal data that is maintained by the Customer or for which the Customer is otherwise responsible by law, unless the Customer proves that the facts on which a claim is based are attributable to Luxexcel.
- 6.2 The Customer is fully responsible for the data that it processes in the context of using a service of Luxexcel. The Customer guarantees vis-à-vis Luxexcel that the content, use and/or processing of the data are not unlawful and do not infringe any right of a third party. The Customer indemnifies Luxexcel against any claim of a third party instituted for whatever reason in connection with this data or the performance of the agreement.

Art. 7 Security

- 7.1 If Luxexcel is obliged to secure any information it receives from the Customer, this security shall meet the specifications agreed in writing between the parties. Luxexcel does not guarantee that the security provided is effective under all circumstances. If the agreement does not include an explicit defined security method, the security provided shall meet a standard that is not unreasonable in terms of the state of the art, the sensitivity of the information and the costs associated with the security measures taken.
- 7.2 The access or identification codes and certificates provided by or on behalf of Luxexcel are confidential and must be treated as such by the Customer, and may only be made known to authorized personnel in the Customer's own organization. Luxexcel is entitled to change the access or identification codes and certificates. The Customer must adequately secure its systems and infrastructure and have active antivirus software protection at all times.

Art. 8 Retention of title, reservation of rights and suspension

- 8.1 All goods delivered to the Customer shall remain the property of Luxexcel until all amounts owed by the Customer to Luxexcel under any and all agreements concluded between the parties have been paid in full. A Customer that acts as a reseller may sell and supply all items that are subject to Luxexcel's retention of title insofar as doing so is usual in the context of the Customer's ordinary course of business.
- 8.2 The property-law consequences of the retention of title with respect to an item destined for export shall be governed by the laws of the State of destination if those

laws contain provisions that are more favorable to Luxexcel.

- 8.3 As and when necessary, rights shall be granted or transferred to the Customer subject to the condition precedent that the Customer has paid all amounts owed under any and agreements with Luxexcel.
- 8.4 Luxexcel may retain all information, documents, software and/or data files received or created in the context of the agreement in spite of an existing obligation to hand over or transfer until the Customer has paid any and all amounts owed to Luxexcel.

Art. 9 Risk transfer

- 9.1 The risk of loss, theft, misappropriation or damage of items, information (including user names, codes and passwords), documents, software or data files that are created, supplied or used under or in connection with the agreement shall pass to the Customer at the time at which the Customer or an auxiliary person of the Customer comes into actual possession of the items and information referred to.

Art. 10 Intellectual Property

- 10.1 Customer retains all intellectual property rights related to the Input Materials, except for the rights and licenses specified in article 10 of these Terms and Conditions.
- 10.2 Customer hereby grants to Luxexcel a royalty-free, worldwide, irrevocable, perpetual non-exclusive license to use the Input Materials and the intellectual property hereto for Luxexcel to carry out its obligations under the agreement.
- 10.3 If Luxexcel is prepared to undertake to transfer an intellectual property right, such a commitment may only be undertaken expressly and in writing. If the parties agree in writing that an intellectual property right with respect to software, websites, data files, equipment or (other) Input Materials specifically developed for the Customer shall transfer to the Customer, the transfer shall be without prejudice to Luxexcel's right or option to use and/or operate, either for itself or for third parties and without any restriction, the parts, general principles, ideas, designs, algorithms, documentation, works, programming languages, protocols, standards and the like on which the developments referred to are based for other purposes. The transfer of an intellectual property right shall likewise be without prejudice to Luxexcel's right to complete developments, either for itself or for a third party, that are similar to or derived from developments that were or are being completed for the Customer.
- 10.4 All intellectual property rights to the software, websites, data files made by Luxexcel, equipment and training, testing and examination materials, as well as other materials as analyses, designs, documentation, reports and offers, including preparatory materials in this regard, developed or made available to the Customer except for the Input Materials under the agreement are held exclusively by Luxexcel, its licensors or its suppliers. The Customer shall have the rights of use expressly granted under these general Terms and Conditions, the agreement concluded in writing between the parties and the law. A right accorded to the Customer is non-exclusive and may not be transferred, pledged or sublicensed.
- 10.5 The Customer may not remove or change any indication concerning the confidential nature of or concerning the copyrights, brands, trade names or any other intellectual property right pertaining to the software, websites, data files, equipment or materials, or have any such indication removed or changed.
- 10.6 By submitting Input Material to Luxexcel, Customer confirms that it is the owner and/or licensee of the Input Materials and does not infringe any intellectual property rights of third parties. Customer warrants that the use by

Luxexcel of any Input Material and the Customers intellectual property hereto for the purpose set out in the agreement and these Terms and Conditions will not infringe the intellectual property rights of any third party and the Customer shall indemnify Luxexcel against any claims, damage expenses and costs from such infringement.

10.7 Even if not expressly provided for in the agreement, Luxexcel may always take technical measures to protect equipment, data files, websites, software made available, software to which the Customer is granted direct or indirect access, etc. in connection with an agreed limitation in terms of the content or duration of the right of use of these items.

The Customer may not remove or bypass such technical measures or have such technical measures removed or bypassed.

10.8 Luxexcel indemnifies the Customer against any claim of a third party based on the allegation that software, websites, data files, equipment or other materials developed by Luxexcel itself infringe an intellectual property right of that third party, subject to the condition that the Customer immediately informs Luxexcel in writing about the existence and content of the claim and leaves the settlement of the claim, including any arrangements made in this regard, entirely to Luxexcel. The Customer shall provide the powers of attorney and information required to Luxexcel and assist Luxexcel to defend itself against such claims. This obligation to indemnity shall not apply if the alleged infringement concerns (a) materials made available to Luxexcel by the Customer for use, modification, processing or maintenance or (b) changes made or commissioned by the Customer in the software, website, data files, equipment or other materials without Luxexcel's written permission. If it is irrevocably established in court that software, websites, data files, equipment or other materials developed by Luxexcel itself infringes any intellectual property right held by a third party, or if, in the opinion of Luxexcel, there is a good chance that such an infringement is occurring, Luxexcel shall, if possible, ensure that the Customer can continue to use, or use functional equivalents of, the software, websites, data files, equipment or materials supplied. Any other or further obligation to indemnify on the part of Luxexcel due to infringement of a third party's intellectual property right, is excluded.

10.9 The Customer guarantees that making equipment, software, material intended for websites, data files and/or other materials and/or designs available to Luxexcel for the purpose of use, maintenance, processing, installation or integration does not infringe any rights of third parties. The Customer indemnifies Luxexcel against any claim of a third party based on the allegation that such making available, use, maintenance, processing, installation or integration infringes a right of that third party.

10.10 Luxexcel is never obliged to perform data conversion unless doing so has been expressly agreed in writing with the Customer.

Art. 11 Obligations to cooperate

11.1 The parties acknowledge that the success of work in the field of information and communications technology depends on proper and timely cooperation between the parties.

The Customer shall always extend, in a timely manner, the cooperation reasonably required by Luxexcel.

11.2 The Customer bears the risk of providing the Input Materials selecting the items, goods and/or services to be provided by Luxexcel.

The Customer must always exercise the utmost care to guarantee that the requirements that Luxexcel's performance must meet are accurate and complete.

Measurements and particulars given in drawings, images, catalogues, websites, offers, advertising material, standardization sheets etc. are not binding for Luxexcel

unless expressly stated otherwise by Luxexcel.

11.3 If, in connection with Luxexcel's services and products, the Customer makes software, equipment or other resources available to Luxexcel, the Customer guarantees that all licenses or approvals that Luxexcel may require in relation to these resources shall be obtained.

11.4 The Customer is responsible for the management, including checking the settings, and use of the products supplied and/or services provided by Luxexcel, and the way in which the results of the products and services are used. The Customer is also responsible for appropriately instructing users and for the use made by users.

11.5 The Customer shall itself install, organize, parameterize and tune the software and support software required on its own equipment and, if necessary, modify the equipment, other software and support software and operating environment used in this regard, and effect the interoperability that it desires.

Art. 12 Obligations to provide information

12.1 To enable proper performance of the agreement by Luxexcel, the Customer shall always provide all information reasonably required by Luxexcel to it in a timely manner.

12.2 The Customer guarantees that the information, designs and specifications that it has provided to Luxexcel is or are accurate and complete.

12.3 In connection with continuity, the Customer shall designate a contact person or contact persons who shall act in that capacity for the duration of the agreement. The Customer's contact persons shall have the experience required, specific knowledge of the subject matter and a proper understanding of the objectives that the Customer wishes to achieve.

12.4 Luxexcel is only obliged to periodically provide information concerning the performance of the work to the Customer through the contact person designated by the Customer.

Art. 13 Terms

13.1 Luxexcel shall use all reasonable efforts to comply with any delivery periods and/or dates, that it has specified or that have been agreed between the parties. The delivery periods and/or dates specified by Luxexcel or agreed between the parties shall always be considered as target dates, shall not bind Luxexcel, be indicative, not of the essence and do not qualify as a fatal term in the meaning of clause 6:265 of the Dutch Civil Code.

13.2 Luxexcel shall start manufacturing of the goods upon receipt of payment thereof. Any delay in payment shall extend each and any term of delivery by the term of the delay.

13.3 If a term is likely to be exceeded, Luxexcel and Customer shall consult with each other about the consequences of the term being exceeded in relation to further planning.

13.4 In all cases, therefore also if the parties have agreed firm deadlines and delivery periods and/or dates, Luxexcel shall only be in default after the Customer has declared Luxexcel to be in default in writing and Luxexcel has been granted a reasonable term to comply with its obligations under the agreement. The notice of default must describe the breach as comprehensively and in as much detail as possible in order to give Luxexcel the opportunity to respond adequately.

13.5 If it has been agreed that the work under the agreement is to be performed in phases, Luxexcel shall be entitled to postpone the start of a phase until the Customer has approved the results of the preceding phase in writing.

13.6 Luxexcel shall not be bound by any date, term or delivery period, whether or not final, if the parties have agreed an amendment to the content or scope of the agreement (such as additional work, a change of specifications, etc.) or a change in approach with respect

to performance of the agreement, or if the Customer fails to fulfil its obligations arising from the agreement or fails to do so on time or in full. The need for or occurrence of additional work during performance of the agreement shall never constitute a reason for the Customer to give notice of termination or to rescind the agreement.

Art. 14 Termination and cancellation of the agreement

- 14.1 Each party shall only be authorized to rescind the agreement due to an attributable failure in the performance of the agreement if the other party, in all cases after a written notice of default that is as detailed as possible and that grants a reasonable term to remedy the breach has been issued, is culpably failing to fulfil essential obligations under the agreement. The Customer's payment obligations and all obligations of the Customer or a third party engaged by the Customer to cooperate and/or provide information apply in all cases as essential obligations under the agreement.
- 14.2 If, at the time of rescission, the Customer has already received goods or services in the performance of the agreement, these goods or services and the associated payment obligations shall not be undone unless the Customer proves that the Luxexcel is in default with respect to the essential part of such goods or services. With due regard to the stipulation of the preceding sentence, amounts invoiced by the Luxexcel prior to rescission in connection with what it already properly performed or delivered in the performance of the agreement shall remain payable in full and shall become immediately due and payable at the time of termination.
- 14.3 An agreement which has been entered into for an indefinite period of time, may be terminated by either of the parties in writing following consultation between the parties. Reasons for the termination must be stated. If a notice period has not been agreed between the parties, a period of three months shall be considered as reasonable. Luxexcel is never obliged to pay any compensation due to termination.
- 14.4 The Customer may not terminate an agreement intermediately that has been entered into for a definite period of time.
- 14.5 Either of the parties may terminate the agreement in writing, in whole or in part, without notice of default being required and with immediate effect, if the other party is granted a moratorium, whether or not provisional, a petition for bankruptcy is filed for the other party or the company of the other party is liquidated or dissolved other than for restructuring or a merger of companies. Luxexcel may also terminate the agreement, in whole or in part, without notice of default being required and with immediate effect, if a direct or indirect change occurs in the decisive control of the Customer's company. Luxexcel is never obligated to repay any amount already received or pay any amount of compensation due to termination as referred to in this paragraph. If the Customer is declared bankrupt, its right to use the software, websites etc. made available to it by or on behalf of Luxexcel shall terminate, as shall its right to access and/or use Luxexcel's services, without termination by Luxexcel being required.

Art. 15 Liability of Luxexcel

- 15.1 Any and all liability of Luxexcel whether or not under or in connection with the agreement (including, but not limited to, any warranty obligation), shall be limited to compensation for direct loss and up to a maximum of the price stipulated in the relevant agreement (excluding VAT). If the agreement is mainly a continuing performance agreement with a term of more than one year, the price stipulated for the agreement shall be set at the total amount of the payments (excluding VAT) stipulated for one year.

- Luxexcel's total liability shall never exceed EUR 500.000 (five hundred thousand euros).
- 15.2 Luxexcel's total liability for loss due to death or bodily injury or as a result of material damage to items shall never exceed EUR 1.250.000 (one million two hundred fifty thousand euros).
- 15.3 Luxexcel shall never be liable for indirect loss, consequential loss, loss of profits, lost savings, reduced goodwill, loss due to business interruption, loss as a result of claims of the customer's customers, loss arising from the use of items, materials or software of third parties prescribed by the customer to the Luxexcel and loss arising from the engagement of Luxexcels prescribed by the customer to Luxexcel. Luxexcel shall also never be liable for corruption, destruction or loss of data or documents.
- 15.4 The exclusions and limitations of Luxexcel's liability described in the previous paragraphs of this clause are entirely without prejudice to the other exclusions and limitations of Luxexcel's liability described in these Terms and Conditions.
- 15.5 The exclusions and limitations of liability shall not be applicable if it is a result of deliberate intent or recklessness on the part of the Luxexcel.
- 15.6 Unless performance by Luxexcel is permanently impossible, Luxexcel shall only be liable due to an attributable failure to comply with its obligations under or in connection with an agreement if the Customer declares Luxexcel to be in default in writing without delay and grants Luxexcel a reasonable term to remedy the breach, and the Luxexcel culpably fails to fulfil its obligations after this term has passed. The notice of default must describe the breach as comprehensively and in as much detail as possible in order to give Luxexcel the opportunity to respond adequately.
- 15.7 Should the Customer be entitled to compensation, it must always report the loss to Luxexcel in writing as soon as possible after the loss has occurred. Each claim for compensation against Luxexcel shall be barred by the mere expiry of a period of 24 months following the inception of the claim unless the Customer has instituted a legal action for damages prior to the expiry of this period.
- 15.8 The Customer indemnifies Luxexcel against any and all claims of third parties due to product liability as a result of a defect in a product or system that the Customer supplied to a third party and that consisted in part of equipment, software or other materials supplied by Luxexcel, unless and insofar the Customer is able to prove that the loss was caused by the equipment, software or other materials referred to.
- 15.9 The provisions of this article and all other limitations and exclusions of liability referred to in these Terms and Conditions shall also apply for the benefit of all natural persons and legal entities that Luxexcel engages in the performance of the agreement.

Art. 16 Force majeure

- 16.1 None of the parties shall be obliged to fulfil any obligation, including any statutory and/or agreed warranty obligation, if it is prevented from doing so by force majeure. Force majeure on the part of Luxexcel means, without limitation:
- (a) force majeure on the part of suppliers of Luxexcel;
 - (b) the failure to properly fulfil obligations on the part of suppliers that were prescribed to Luxexcel by the Customer;
 - (c) defects in items, equipment, software or materials of third parties the use of which was prescribed to Luxexcel by the Customer;
 - (d) government measures;
 - (e) power failures,
 - (f) Internet, data network or telecommunication facilities failures,
 - (g) general transport problems

- (h) strike or lock-out
 - (i) labour shortage
 - (j) shortage of raw materials or additives for the goods
 - (k) war and/or danger of war
- And other circumstances which are beyond Luxexcel's reasonable control.

16.2 Either of the parties shall have the right to rescind the agreement in writing if a situation of force majeure persists for more than 60 days.

In such an event, the part of the agreement which was already performed shall be paid for on a proportional basis without the parties owing each other anything else.

Art. 17 Changes and additional work

17.1 If, at the request or prior consent of the Customer, Luxexcel has performed work or supplied goods or services that is or are outside the scope of the agreed work and/or provision of goods or services, the Customer shall pay for this work or provision of goods or services in accordance with the agreed rates or, if no rates have been agreed between the parties, in accordance with Luxexcel's usual rates.

Luxexcel is not obliged to honor such a request and may require that a separate agreement be concluded in writing.

17.2 Insofar as a fixed price has been agreed for the provision of services, Luxexcel shall at the request of the Customer inform it in writing of the financial consequences of any additional work or additional provision of goods or services as referred to in this article.

Art. 18 Transfer of rights and obligations

18.1 The Customer may not sell, transfer or pledge its rights and obligations under any agreement to a third party.

18.2 Luxexcel is entitled to sell, transfer or pledge its claims on the Customer to a third party.

Art. 19 Applicable law

19.1 Agreements between Luxexcel and the Customer are governed by Dutch law.

The United Nations Convention on Agreements for the International Sale of Goods (CISG) does not apply.

19.2 Disputes that arise by reason of the agreement concluded between the parties (or the existence thereof) and/or by reason of any further agreements deriving from it and any issues of non-contractual liability shall be resolved by the competent court in Breda, the Netherlands.

These Terms and Conditions can be found at www.Luxexcel.com Luxexcel march 2015