

**General Terms and Conditions for the commercial supply of Products
by Philips Photonics
("General Terms and Conditions")
Version December 2016**

1. Offer, confirmation and Agreement

- 1.1 These General Terms and Conditions shall govern the business relations between Customer and Philips, also for the future, and shall apply to and form an integral part of all Offers to Customer, all orders, acceptances or acknowledgements of Customer to Philips, all Confirmations by Philips, and any Agreement, all as relating to the commercial sale and supply of Products by Philips to Customer.
- 1.2 Philips' Offers are not binding. A binding agreement shall only be formed upon written Confirmation by Philips. Any Agreement is limited to these General Terms and Conditions as provided by Philips. Philips does not agree to any proposed amendment, alteration or addition by Customer. Any Agreement can be varied only in writing signed by Philips.
- 1.3 Philips is not bound by and hereby expressly rejects Customer's general conditions and any additional or different terms or provisions that may appear on any document used by Customer. Course of performance, course of dealing and usage of trade shall not be applied to modify these General Terms and Conditions.
- 1.4 For purposes of these General Terms and Conditions all capitalized terms shall have the meanings as set forth in Article 21 below.
- 1.5 Offers are open for acceptance within the period stated by Philips in the Offer or, when no period is stated, within thirty (30) business days from the date of the Offer, but any Offer may be withdrawn or revoked by Philips at any time prior to the receipt by Philips of Customer's acceptance related thereto.

2. Prices, Invoicing and Payment

- 2.1 All prices in any Agreement (a) are in Euros or in the currency set forth in any Agreement, (b) do not include any applicable Taxes now or hereafter enacted and (c) are based on delivery "FCA" (Incoterms 2010), unless explicitly agreed otherwise in the Agreement. Philips will add Taxes to the price where Philips is required by law to pay or collect them and will be paid by Customer together with the price.
- 2.2 Customer will pay Philips the price plus all additional costs and expenses, as specified in the Agreement.
- 2.3 Invoices shall be submitted upon delivery, unless otherwise agreed in the Agreement.
- 2.4 Customer will pay all invoices in accordance with the Agreement or, if not specified, within thirty (30) calendar days as from the date of the invoice. All payments shall be made to the designated Philips' account. If deliveries are made in installments, each installment may be separately invoiced and shall be paid for when due.
- 2.5 Without any notification being required therefor, interest will accrue on all late payments, at the applicable statutory rate, to the extent permitted by applicable law and payable on a monthly basis from the due date until payment in full. Furthermore, Customer agrees to pay any costs, fees and expenses incurred by Philips in connection with the collection of the debt together with the applicable interest.
- 2.6 If, in Philips' sole judgment, Customer's financial condition at any time does not justify supply of the Products on the agreed payment terms, Philips may require full or partial payment in advance or other payment terms. If Parties fail to reach agreement on new payment terms, Philips may terminate the applicable Agreement or suspend or, delay its performance until agreement has been reached.
- 2.7 In the event of any default by Customer in the payment of any fees, prices or costs due, or any other default by Customer, Philips is entitled to refuse the supply of any Products under any Agreement immediately and Philips may suspend, delay or cancel any credit, or supply of Products by Philips, until such payments are brought current or such other defaults are remedied. Such right shall be in addition to, and not in lieu of, any other rights and remedies available under the Agreement or at law or in equity.

- 2.8 Customer shall not withhold or reduce any payment due by Customer to Philips. Customer hereby waives any and all rights to offset existing and future claims against any payment due under the Agreement or under any other agreement with Philips and agrees to pay the amounts under the Agreement regardless of any claimed offset which may be asserted by Customer or on its behalf, unless and to the extent a claim of Customer is undisputed by Philips or has been established through a non-appealable judgment.
- 2.9 Philips and any of its Affiliates shall at all times have the right to set-off any amounts that any Philips Affiliate owes to Customer under this Agreement with any amounts that Customer owes to Philips under the Agreement or any Affiliate under any other agreement. Customer unconditionally accepts all payments by way of setting off amounts between Customer and any Affiliate.

3. Title and Retention of Title

- 3.1 Products shall remain Philips' property until the payment of all claims in respect of the business relationship with the Customer, including any future claims. The retention of title shall also extend to any Products delivered by way of exchange.
- 3.2 If the Products under retention of title should be processed, mixed or combined with other items that do not belong to Philips, Philips shall have a right to co-ownership of the new item in the same ratio as that between the value of the Products under retention of title, including Taxes, and the value of the other items processed or combined at the time of processing or combination. Customer shall store the item on behalf of Philips free of charge.
- 3.3 Until further notice Customer is authorized to dispose of the Products under retention of title within the framework of its ordinary business operations.
- 3.4 Customer must immediately notify Philips in writing if any third parties should seize the Products under retention of title or take possession of the claims assigned to Philips and must give Philips every possible support in the intervention.
- 3.5 The costs for complying with the said duty to co-operate in enforcing all rights in respect of the retention of title and for all arrangements made for the maintenance and storage of the Products shall be borne by Customer.
- 3.6 In case of insolvency proceedings over Customer's property Philips is entitled to withdraw from the contract provided the Products under retention of title have not been fully paid.

4. Delivery and Acceptance

- 4.1 Philips shall use its commercially reasonable efforts to meet the Delivery Date set forth in the Agreement. Should Philips anticipate at any time its impossibility to meet the Delivery Date, Philips shall promptly notify the Customer by written notice. Such written notice shall contain the current state of the Products, the reasons for the foreseeable delay and the new reasonable period of time, to be agreed with Customer, with a minimum of thirty (30) business days, within which Philips shall use such commercially reasonable efforts to supply the Products ("New Delivery Date").
- 4.2 If in spite of Philips using its commercially reasonable efforts, the New Delivery Date is not met, Customer may terminate the part of the Products not supplied on the New Delivery Date. Any claims for damages with respect to the breach of its delivery obligations shall be governed by clause 8.
- 4.3 In case any specific acceptance procedure in the Agreement has been agreed for the Products, Customer agrees to execute such acceptance procedure with respect to such relevant Products within the period agreed. In case no specific acceptance procedure in the Agreement has been agreed for the Products, such Products will be deemed

accepted and approved on the Delivery Date unless rejected in writing within a period of ten (10) business days after delivery. Should acceptance be rejected for non-conformity of the Products with the agreed acceptance criteria, the obligations of Philips described in clause 5 are Philips's only obligations and Customer's sole and exclusive remedy for non-conformities of the Products.

- 4.4 With regard to Custom Products Philips shall not be required to start production prior to Customer having made available all information and specification requirements relating to the Custom Products. Furthermore, for bare die products Philips may deliver a quantity which is a maximum amount of twenty percent (20%) more or less than the ordered quantity of any order line item. Such delivered quantity will be accepted and paid for – against an amount being the actual delivered quantity times the unit price - in full satisfaction of each party's obligation under the Agreement for the quantity ordered.

5. Non-conformity and disclaimer

- 5.1 Products shall, at the time of delivery to Customer and for a period of twelve (12) months thereafter (or such other period as may be agreed upon in writing between Philips and Customer), be free from defects in material or workmanship and shall substantially conform to Specifications for such Product.
- 5.2 In case of defects or non-conforming Products, Customer shall give written notice thereof to Philips within a maximum of ten (10) business days from delivery. Philips shall within a reasonable timeframe with a minimum of thirty (30) business days, at Philips' sole option, either (a) replace or repair the affected defective or non-conforming Product, at no costs to Customer unless the costs exceed the maximum amount as specified under clause 8.5, or (b) credit an appropriate part of the purchase price thereof.
- 5.3 With regard to (a) any software that is either (1) licensed under Open License Terms, (2) provided by a third party, Customer or any of its designees to Philips, (3) modified by Customer or any third party, other than at Philips' request or (4) that is not embedded in a Product; (b) prototypes, risk production units, experimental Products, beta testing Products and samples of newly developed Products, Philips solely warrants that it will use its commercially reasonable efforts to supply the Products. Customer acknowledges that the Products to be supplied are experimental in nature and therefore uncertain and cannot be warranted by Philips. Any of the Products mentioned under this Clause 5.3 shall be AS IS, WITHOUT WARRANTY.
- 5.4 If any Product is, or in Philips' opinion is likely to become, the subject of a claim of infringement of third party intellectual property rights including but not limited to patents, copyrights or know-how, Philips shall have the right, at its sole option, to: (i) procure for Customer the right to continue to use or sell the Product; (ii) provide replacement, or (iii) modify the Product in such a way as to make the modified Product non-infringing; (iv) terminate any Agreement to the extent related to such; or (v) defend any legal proceeding brought by a third party against Customer at Philips' sole expense, to the extent that the proceeding includes a claim that any Product as furnished by Philips under an Agreement directly infringes the claimant's patent, copyright, trademark, or trade secret; and hold Customer harmless against damages, and costs awarded by final judgment in such proceeding to the extent directly and solely attributable to such infringement.
- 5.5 Subject to the liability of Philips and its limitations set forth in clause 8 of the Terms and Conditions, the foregoing states Philips' entire liability and obligation to Customer and Customer's sole remedy with respect to any actual or alleged infringement of any intellectual property rights or any other proprietary rights of any kind.
- 5.6 Philips will not, and therefore it is Customer's sole responsibility to assess whether Customer's product into which the Product is incorporated infringe third party Intellectual Property and the Customer explicitly accepts that Philips will have no liability in this respect, even if Philips is advised of the possibility of such infringement.
- 5.7 EXCEPT AS EXPRESSLY SET FORTH IN THE AGREEMENT, AND TO THE FULLEST EXTENT PERMITTED BY LAW, NOTHING IN THE AGREEMENT SHALL BE CONSTRUED AS AND PHILIPS EXPRESSLY DISCLAIMS ALL CONDITIONS, OBLIGATIONS, REPRESENTATIONS OR WARRANTIES, WHETHER STATUTORY OR IMPLIED, INCLUDING, BUT NOT LIMITED TO,

(A) ANY WARRANTY RELATED TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING, USE OF TRADE, ABSENCE OF ERRORS OR BUGS, UNINTERRUPTED OPERATION, ACCURACY OR COMPLETENESS OF RESULTS ARISING FROM THE SUPPLY OR USE OF THE PRODUCTS OR ANYTHING ELSE PROVIDED BY PHILIPS UNDER THE AGREEMENT, AND

(B) ANY WARRANTY OR REPRESENTATION AS TO THE VALIDITY OR SCOPE OF ANY APPLICABLE INTELLECTUAL PROPERTY RIGHT, AND

(C) ANY WARRANTY OR REPRESENTATION THAT ANYTHING MADE, USED, SOLD, OR OTHERWISE DISPOSED OF UNDER ANY LICENSE GRANTED IN THE AGREEMENT OR ANYTHING PROVIDED BY PHILIPS UNDER THE AGREEMENT IS OR WILL BE FREE FROM INFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHT, AND

(D) ANY OBLIGATION TO FILE PATENT APPLICATIONS, REGISTER COPYRIGHTS OR TO BRING OR PROSECUTE ACTIONS OR SUITS AGAINST THIRD PARTIES FOR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, AND

(E) ANY WARRANTY THAT THE PRODUCTS WILL BE COMPATIBLE WITH OR PERFORM IN ANY OTHER EQUIPMENT. PHILIPS DOES NOT WARRANT THAT THE MEDIA USED ON THE DESIGNATED HARDWARE WILL BE COMPATIBLE WITH OR PERFORM ON ANY OTHER HARDWARE COMPONENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY PHILIPS, ITS AFFILIATES, DISTRIBUTORS, DEALERS, AGENTS OR ITS OR THEIR EMPLOYEES, SHALL CREATE ANY WARRANTY. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THESE GENERAL TERMS AND CONDITIONS AND THE AGREEMENT.

- 5.8 SUBJECT TO THE EXCLUSIONS AND LIMITATIONS SET FORTH IN CLAUSE 8 OF THESE GENERAL TERMS AND CONDITIONS, THE FOREGOING STATES PHILIPS' ENTIRE LIABILITY AND OBLIGATION TO CUSTOMER AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY NON-CONFORMITY AND DEFECTS.

6. Ownership

- 6.1 To the extent Products do not comprise software, ownership of Products shall vest in Customer.
- 6.2 To the extent Products comprise software, ownership of Products, including without limitation object code and source code, shall remain with Philips.
- 6.3 To the extent that documentation is embedded in or delivered with Products, the sale of such Products shall not constitute the transfer of ownership rights or title in such documentation to Customer, but, subject to the provisions set forth herein, shall only imply a non-exclusive and non-transferable license to Customer under Philips Intellectual Property Rights to use such documentation in conjunction with and as embedded in or delivered with the Products as supplied by Philips in the territory.

7. Licenses

- 7.1 Philips hereby grants and shall cause its Affiliates to grant Customer a royalty-free and fully paid-up license under Philips' and its Affiliates Intellectual Property Rights to the extent needed for (a) using, leasing, selling or otherwise disposing of the Products as provided by Philips, (b) using, selling or otherwise disposing of products manufactured by using or by means of Products as provided by Philips and (c) using object code of software that is part of a Product or in itself is a Product as provided by Philips for Customer's normal and intended use of the Products, provided Customer warrants it shall not reproduce, distribute, rent, communicate to the public, assign, transfer or lease such software to any third party without Philips' written prior consent.
- 7.2 Any and all licenses granted pursuant clauses 7.1 shall be perpetual, non-exclusive, non-transferable and without the right to grant sub-licenses. Furthermore said licenses shall not extend to source code. In addition said licenses are subject to Customer's fulfillment of all of its payment obligations in relation to the Products.
- 7.3 Customer warrants that it shall not perform any actions with regard to software licensed pursuant clauses 7.1 in a manner that would require the licensed software or any derivative work thereof to be licensed under Open License Terms. Without limitation, such actions include (a) combining the licensed software or a derivative work thereof with Open Source Software by incorporation, linking or otherwise; or (b) using Open Source Software to create a derivative work of the licensed software.
- 7.4 Customer shall in no event, unless and only to the extent permitted by licenses granted pursuant clause 7.1 or unless and only to the extent

permitted by mandatory law applicable to the Agreement: reverse assemble, decompile, disassemble, or otherwise attempt to derive the source code for such software without written authorization from Philips.

- 7.5 No licenses, immunity or other rights are granted to Customer, either directly or by implication, estoppel, operation of law or otherwise, under any Philips Intellectual Property that (i) would require payment of royalty or other consideration by Philips and/or its Affiliates to a third party, (ii) is necessarily infringed by implementing a standard adopted by a standard setting body and/or agreed between two or more companies, or (iii) is licensed as part of an industry wide licensing program.
- 7.6 Except as expressly set forth in clause 7.1 in relation to Products, Customer acknowledges and agrees that nothing contained in these General Terms and Conditions shall be construed as a transfer of ownership to Customer of any Intellectual Property Right or as granting to Customer any license, immunity or other right under any Intellectual Property, either directly or by implication, estoppel, operation of law or otherwise.

8. Limitation of liability and indemnification

- 8.1 Except to the extent Losses or Third Party Claims arise from mandatory liability, Philips' gross negligence or wilful misconduct, or in cases of injury to life, body or health, Philips shall not be liable for any Losses or Third Party Claims. Save for clause 5.2 and clause 5.4 Philips shall have no liability for any damage, costs or expenses associated with warranty or any intellectual property infringement claims whether or not these claims call for the replacement or repair of Products, including labor, installation or other costs incurred by Customer and, in particular, any costs related to the removal or replacement of any assembled, circuit or combined product, excess procurement costs or rework charges.
- 8.2 Customer shall defend, indemnify and hold Philips harmless against any and all Third Party Claims and any Losses of Philips, arising out of or relating to the death of or injury to any person or any damage to property or any other damage directly or indirectly resulting from the Customer Supplies.
- 8.3 Except as specifically provided otherwise in an Agreement, Philips' Products are not designed, authorized or warranted to be suitable for use in medical, military, air craft, space or life support equipment nor in application where failure or malfunction of a Philips' Product can reasonably be expected to result in a personal injury, death or severe property or environmental damage, and inclusion and /or use of Philips' Product in such equipment or applications, without prior authorization in writing of Philips, is not permitted and for Customer's own risk, and Customer agrees to fully indemnify Philips for any damages resulting from such inclusion or use.
- 8.4 To the fullest extent permitted by law Philips hereby disclaims any and all liability for any consequential, special or indirect damage, loss of profits, business opportunity or goodwill or a claim of a third party even if Customer has been advised of the possibility of such damage, loss or claim WHETHER OR NOT SUCH DAMAGES ARE BASED ON TORT, WARRANTY, CONTRACT OR ANY OTHER LEGAL THEORY.
- 8.5 NOTWITHSTANDING ANYTHING CONTRARY IN THIS AGREEMENT, PHILIPS AND ITS AFFILIATES AGGREGATE AND CUMULATIVE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE LOWER OF (I) TWENTY PERCENT (20%) OF AMOUNT ACTUALLY RECEIVED BY PHILIPS FOR THE PRODUCTS DELIVERED UNDER THE RELEVANT OFFER DURING THE TWELVE (12) MONTHS IMMEDIATELY FOLLOWING THE FIRST EVENT GIVING RISE TO SUCH LIABILITY OR OF (II) HUNDRED PERCENT (100%) OF THE AMOUNT THAT WOULD HAVE BEEN DUE FOR THE PART OF THE OFFER THAT WAS MISPERFORMED.
- 8.6 Any claim for Losses must be notified to Philips in writing within ninety (90) business days of the date of the event giving rise to any such claim, and any lawsuit relative to any such claim must be filed within one (1) year of the date of the claim. Any claims that have been brought or filed in conflict with the preceding sentence are null and void.
- 8.7 In case Customer is aware of a third party claim, Customer shall (i) promptly notify Philips in writing of any such claim; (ii) give Philips the sole right to control and direct the investigation, preparation, defense and settlement of such claim, including the selection of counsel; and (iii) give Philips full reasonable assistance and cooperation in such investigation, preparation, settlement and defense.

9. Confidential Information

- 9.1 Neither Party shall use, employ or disclose Confidential Information received from the other Party whether orally, in writing, by demonstration or otherwise, - except to the extent necessary to implement the Agreement and in such case, subject to the prior written approval of Philips if disclosure to third parties by Customer would be necessary to implement the Agreement -, unless and to the extent the receiving Party can prove by written record that:
- (a) is or has become part of the public domain without violation of the Agreement; or
 - (b) is known and on record at the receiving Party prior to disclosure by the disclosing Party; or
 - (c) is lawfully obtained by the receiving Party from a third party who is not bound by similar confidentiality obligations; or
 - (d) is developed by the receiving Party completely independently of any such disclosure by the disclosing Party.
- 9.2 In the event the receiving Party receives a subpoena or court order to disclose any Confidential Information, the receiving Party shall deliver prompt written notice to the disclosing Party and shall cooperate with the disclosing Party in its attempts to obtain a protective order or other similar protection for the Confidential Information.
- 9.3 The provisions of this clause 9 shall (i) retroactively be in full force and effect from the date first contacts were established with respect to the subject matter of the Agreement and shall remain in full force and effect during the duration of the Agreement and three (3) years thereafter, or (ii) if a non-disclosure agreement has been agreed upon between the Parties, this Agreement replaces such non-disclosure agreement as from the effective date of this Agreement.
- 9.4 Immediately following the termination or expiration of the Agreement, upon request of the disclosing Party, the receiving Party will return all media containing Confidential Information and will make no further use thereof.

10. Production

- 10.1 Philips reserves the right to make changes to the Products and/or production process at any time. In such event Philips represents that said changes shall not negatively affect form, fit or function of the Products and their performance characteristics.
- 10.2 Philips reserves the right to discontinue manufacturing and sale of Products at any time. If however at any time during the term of an Agreement Customer purchases Products on a regular basis, Philips shall use its reasonable commercial efforts to accept last-time-buy orders for such discontinued Products all in accordance with Philips' product discontinuation process.

11. Termination

- 11.1 The Agreement will remain in force until the supply of the Products, or for the term as specified in the Agreement, if any. If the Agreement has been entered into for an indefinite period, Philips may terminate the Agreement by giving three (3) months written notice to Customer, unless otherwise explicitly agreed to in writing. In no event shall Philips be liable for any compensation or damage for such termination or expiration.
- 11.2 Without prejudice to any of its other rights and obligations under the Agreement or at law, a Party shall be entitled, at its discretion, to suspend the performance of its obligations under the Agreement in whole or in part or to terminate the Agreement in whole or in part by means of written notice to the other Party in the event that:
- (i) the other Party files a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding;
 - (ii) the other Party becomes the subject of a petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding;
 - (iii) the other Party ceases or threatens to cease to carry on (a part of the) business in the ordinary course;
 - (iv) a Party fails to comply with its material obligation (including non-compliance of any payment obligations) under the Agreement, if the Party in default has failed to remedy such default within thirty (30) business days, or a longer period if indicated in the notice, as from the receipt of a written notice of default detailing in a reasonably manner the nature of the default.

- 11.3 Philips may terminate this Agreement in whole or in part by giving three (3) months written notice to Customer if Philips decides to discontinue the part of its business necessary for the supply of Products. In no event shall Philips be liable for any compensation or damage for such termination.
- 11.4 Subject to Philips' written prior approval, Customer may terminate the Agreement or part thereof for convenience and Philips shall therefore stop as soon as reasonably possible the performance of the Agreement or the relevant part thereof. Upon termination for convenience, Customer shall pay Philips:
- (i) all outstanding invoices for Products supplied until the termination; and
 - (ii) costs incurred by Philips due to the early termination by Customer, including but not limited to costs of manpower of Philips own and temporary or seconded staff allocated to the performance of the Agreement incurred by Philips during the period needed to reallocate such staff; and
 - (iii) Ten percent (10%) of the amount Customer would have been invoiced for the remaining part of the Agreement had the Agreement been performed in full.
- 12. Effects of Termination**
- 12.1 If at the time of the termination or expiration of the Agreement, Customer has received the benefit of any part of the performance of the Agreement, Customer shall pay (i) immediately upon such termination or expiration, the amounts invoiced by Philips for the Products supplied under the Agreement before the termination or expiration or (ii) the pro rata amounts invoiced by Philips for partial performance, as the case may be.
- 12.2 In the event of termination or expiration of the Agreement, the terms and conditions destined – whether expressed or not - to survive such termination or expiration, which shall include without limitation clauses 5, 7, 8, 9, 11, 15 and 16 shall survive.
- 13. Force Majeure**
- 13.1 Neither Party shall be bound to comply with any of its obligations under the Agreement if it is prevented from doing so through Force Majeure.
- 13.2 If the Force Majeure has lasted for more than sixty (60) business days, the other Party will be entitled to terminate with immediate effect the Agreement or part thereof by written notification, without prejudice to Philips' right to compensation for what Philips has already performed under the Agreement.
- 14. Assignment**
- Customer shall not assign any rights or obligations under the Agreement without the prior written consent of Philips. Customer acknowledges and agrees that Philips may delegate and/or formally assign all or part of its rights and obligations under the Agreement to any other Philips' Affiliate or to any third party to which it has outsourced its activities in whole or in part.
- 15. Compliance with laws and Export Control**
- 15.1 Customer represents that, with respect to its performance under the Agreement, it will comply with all applicable laws and regulations, including but not limited to those pertaining to U.S. Export Administration or the export or import controls or restrictions of other applicable jurisdictions.
- 15.2 If the delivery of a Product under the Agreement is subject to the granting of an export or import license by a government and/or any governmental authority under any applicable law or regulation, or otherwise restricted or prohibited due to export or import control laws or regulations, Philips may suspend its obligations and Customer's rights regarding such delivery until such license is granted or for the duration of such restriction and/or prohibition, respectively, and Philips may even terminate the Agreement, without incurring any liability towards Customer. Furthermore, if an end-user statement is required, Philips shall inform Customer immediately thereof and Customer shall provide Philips with such document upon Philips first written request; if an import license is required, Customer shall inform Philips immediately thereof and Customer shall provide Philips with such document as soon as it is available. Customer warrants that it will not deal with the Products in violation of any applicable export or import control laws and regulations.

- 16. Non solicitation**
- Customer will not directly or indirectly solicit any Philips' employee for employment during the term of the Agreement and one (1) year thereafter, provided that this clause shall not apply to the hiring or engagement of any Philips' employee who has responded at his/her own initiative to a general solicitation for employment that in essence is not focused on Philips' employees.
- 17. Governing law and forum**
- 17.1 All business relation, Offers, Confirmations and Agreements are governed by and shall be construed in accordance with the laws of The Netherlands, without giving regard to its conflict of law principles. The UN Convention on Contracts for the International Sale of Goods shall not apply to any Offer, Confirmation or Agreement.
- 17.2 All disputes arising out of or in connection with any Offer, Confirmation or Agreement shall first be attempted by Customer and Philips to be settled through consultation and negotiations in good faith and a spirit of mutual cooperation.
- 17.3 All disputes that have not been settled as per Clause 17.2 shall be submitted to the competent courts in The Hague, the Netherlands, without prejudice to the right of Philips to bring any action or proceedings against Customer, including injunctive or other equitable relief, in any other court of competent jurisdiction.
- 18. Miscellaneous**
- 18.1 In the event that any provision of the Agreement or these General Terms and Conditions shall be held invalid or unenforceable by a court of competent jurisdiction or by any future legislative or administrative action, the validity and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired, provided that in such case the Parties shall use all reasonable efforts to achieve the purpose of the invalid or unenforceable provision.
- 18.2 Either Party's failure to exercise, or delay in exercising, any right or remedy arising from any Offer, Confirmation or Agreement shall not operate as a waiver thereof; nor shall any single or partial exercise of any right or remedy arising therefrom preclude any other or future exercise thereof or the exercise of any other right or remedy arising from any Offer, Confirmation or Agreement or from any related document or by law.
- 18.3 All notices and communications to be given under the Agreement shall be in writing and shall be deemed delivered upon hand delivery, confirmed facsimile communication, or three (3) business days after deposit in the mail of the home country of the Party, postage prepaid, by certified, registered, first class or equivalent mail, addressed to the Parties at their addresses set forth on the Offer, Confirmations and/or Agreements.
- 18.4 Philips reserves the right to make any amendments or modifications to these General Terms and Conditions at any time. Such amendments and modifications shall have effect on all Offers, Confirmations and Agreements referring to such amended or modified General Terms and Conditions as from the date of such Offer, Confirmation or Agreement.
- 19. Publicity**
- Any reference to the name Philips on trademarks in connection with any advertisement, publication or sales literature requires Philips' prior written permission. Copies of proposed press releases or advertisements or other communications for which permission is requested shall be submitted to Philips for Philips' prior approval in writing.
- 20. Definitions**
- Except as otherwise explicitly agreed to in writing, the following terms shall have the meanings set out below:
- "Affiliate"** shall mean any and all other companies, firms and legal entities with respect to which now or hereafter Koninklijke Philips N.V. directly or indirectly holds 50% or more of the nominal value of the issued share capital or 50% or more of the voting power at general meetings or has the power to appoint a majority of directors or otherwise to direct the activities of such company, firm or legal entity.
- "Agreement"** shall mean any agreement resulting from an Offer or Confirmation and any agreement incorporating these General Terms and Conditions by reference.
- "Confidential Information"** shall mean any information (i) that is marked or labelled "Confidential", "Secret" or the like at the moment

of disclosure or, in case of oral disclosure, is identified as confidential and confirmed in writing within 30 (thirty) business days after disclosure; or (ii) of which the confidential nature is reasonably apparent under the circumstances.

"Confirmation" shall mean any written acceptance, acknowledgement or confirmation by Philips of any order of Customer.

"Customer" shall mean the person or company addressed in an Offer or identified as such in the Agreement.

"Custom Products" shall mean any customized Product designed, developed and/or manufactured in accordance with Customer's Specifications.

"Customer Supplies" shall mean any and all tools - including CAD systems and applicable licenses -, materials including parts of equipments, documents, information or data provided by Customer.

"Delivery Date" shall mean the last date communicated or acknowledged by Philips in writing for the delivery of the Products.

"Force Majeure" shall mean any circumstances or occurrences beyond a Party's reasonable control - whether or not foreseeable at the time of the Order, Confirmation or Agreement - as a result of which a Party cannot reasonably be required to execute its obligations. Such circumstances or occurrences include but are not restricted to: acts of God, war, civil war, insurrections, strikes, fires, floods, earthquakes, labor disputes, epidemics, governmental regulations and/or similar acts, freight embargoes, non-availability of any permits, licenses and/or authorizations required, defaults or delays of suppliers or subcontractors and/or inability or impracticability to secure transportation, facilities, fuel, energy, labor, materials or components.

"Intellectual Property Rights" or "IPRs" shall mean patents, utility certificates, utility models, industrial design rights, copyrights,

database rights, any protection offered by law to information, semiconductor IC topography rights and all registrations, applications, renewals, extensions, combinations, divisions, continuations or reissues of any of the foregoing.

"Losses" shall mean any and all fines, losses, damages, costs and expenses - such as but not limited to reasonable attorneys' fees -.

"Offer" shall mean any quotation or offer made by Philips to Customer.

"Open Source Software" shall mean any software that is licensed under Open License Terms.

"Open License Terms" shall mean terms that require the use, copying, modification and/or distribution of source code, a modified version or a derivative work thereof be at least partially subject to (a) making available to any third party whether royalty-free or not or (b) granting of permission to create modified versions or derivative works to any third party.

"Party" or "Parties" shall mean, individually, Philips or the Customer and, collectively, Philips and the Customer.

"Philips" shall mean the Philips legal entity issuing the Offer and its Affiliates, their trustees, shareholders, officers, directors, agents and employees.

"Specifications" shall mean all detailed specifications, hardware, material and other specific requirements as well as acceptance criteria and packaging specifications with regard to the Products as specified in detail in the annexes to the Offer or the Agreement per Product.

"Taxes" shall mean any and all value-added tax (VAT), sales tax or like kind taxes, fees, levies, imposts, duties, assessments, charges, customs duties or withholdings of whatever nature.

"Third Party Claim" shall mean any claim or suit brought directly or indirectly by any third party.