USHIO EUROPE, B.V.
Breguetlaan 38, 1438 BC Oude Meer, The Netherlands
+31 20 446 9333
info@ushio.eu
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General terms and conditions to the product rental agreement

1. Definitions

In these general terms and conditions, the following terms shall have the following meaning: "Agreement": the Product Rental Agreement as represented by the confirmation of order, including the general terms and conditions and any attachments thereto; "Product": the Product as set forth in the confirmation of order; "Documentation": all written information, instructions and technical specifications related to (use of) the Product as provided by Ushio to the User. "Intellectual Property Rights": any of Ushio's patents, trademarks, trade names, inventions, copyrights, (registered) design rights, or know-how and any other intellectual property right relating to the Product; "Information": all confidential technical, proprietary or other business information, know-how and all technical or other expertise disclosed by one party to the other;

2. Usage rights/obligations

2.1. Ushio grants to the User the non-exclusive temporary right of the Product, during the term of the Agreement, for experimental usage to examine the possible applications of the Product.

2.2. The non-exclusive temporary right of the Product and documentation extends only and is limited to the premises as listed in the Agreement

2.3. The User shall be free to use the Product in connection with other apparatus necessary for its experimental usage activities. At the User's prior written request, Ushio may support the User when assistance is needed to establish interaction between apparatus, at its then applicable rate.

2.4. The User is not entitled to modify the Product. Should any of the original parts of the Product become defective, Ushio shall use its best efforts to provide a new pan on surrender of the original part, on condition that the original part has not become defective by reason of fault or gross negligence by the User.

3. Usage limitations

3.1. The User acquires only the right to use the Product and Documentation as provided for in this Agreement and does not acquire any rights of ownership, or any other implied rights whatsoever. All rights, title to and interest in the Product and Documentation, and all modifications, enhancements and derivatives performed thereto by Ushio shall at all times remain the property of Ushio.

3.2. The rights granted to the User are personal to the User and may not be assigned or transferred to a third party without prior written consent of Ushio. The User in particular will not sell, lease, and (sub) license, rent or otherwise make available the Product to any third party.

4. Delivery and installation

4.1. Ushio will deliver the Product at the premises of the User. The costs of transportation and instalment shall be borne by the User.

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4.2. The delivery of the Product includes the necessary Documentation. The User is entitled to duplicate the documentation for internal use only.

4.3. Both Ushio and the User are entitled to terminate the Agreement at once when delivery and/or installation is delayed for more than two months because of reasons attributable either to Ushio or the User.

4.4. Risk of loss and damage to the Product will pass to the User upon delivery as provided for in Article 4.1.

4.5. The User will provide all necessary cooperation to ensure an efficient delivery and installation.

4.6. The User shall take all reasonable safety precautions with respect to the premises where the product is installed and shall administer the Product with due care.

5. Intellectual Property Rights

5.1. Ushio or its licensors hold all Intellectual Property Rights in the Product, including the Documentation, made available to the User under the present Agreement.

5.2. All Intellectual Property Rights resulting from the execution of this Agreement and related to the Product shall be vested in Ushio.

5.3. The User shall ensure that no Intellectual Property Rights of the Product and resulting from the execution of this Agreement shall become fully or partially vested in third parties.

5.4. The User shall not remove, alter or obscure any Intellectual Property Right notice or other proprietary right notices from the Product.

5.5. The User shall not modify, copy, alter, merge, assemble or translate the Product, including the Information relating to the Product, nor reverse assemble, reverse engineer, decompile or otherwise attempt to derive a source code from any software contained in the Product or any such Product or system or otherwise provided by Ushio.

5.6. The User is obliged to take appropriate measures in order to avoid unauthorised disclosure of the Product and the technology vested therein to third parties.

5.7. In the event that the User or any employee or a third party violates the Intellectual Property Rights with respect to the Product, or otherwise violates the rights granted under this Agreement, the User is obliged to use its best efforts to immediately end such violations and cooperate in the investigation of the violations. Especially, the User shall inform Ushio of any violation without undue delay.

5.8. Ushio warrants that the use of the Product in accordance with the terms of the Agreement shall not infringe any copyright, patent, registered design rights, trademark right or other intellectual property right of any third party. Ushio indemnifies the User of all and any costs related to an (alleged) occurrence of such infringement provided that the User gives Ushio a written notification within thirty (30) days of a claim, information, reasonable assistance and sole authority to defend and settle such a claim.

6. Non-disclosure

6.1. The User acknowledges that, in the course of use of the Product, the User and its officers, directors, employees, financial and legal advisors and third parties to which the Product is demonstrated may receive certain non-public and Confidential Information (hereinafter called "Information") from or about Ushio. In the course of use of the Product, the User may also disclose certain non-public and confidential Information to Ushio.

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6.2. Confidential Information includes, but is not limited to, technical and business information and reports, plans, market projections, equipment, software programs, manuals, data, know-how, or any other confidential and proprietary information relating to the Product or Ushio in general.

6.3. Unless excluded in writing by Ushio, the User shall assume that any and all Information disclosed by Ushio is Confidential Information within the meaning of Article 6.2, whether in oral form, machine readable form, written or tangible form, and whether designated as confidential or unmarked.

6.4. Confidential Information shall not include information which: (i) is or becomes part of the public domain through no wrongful act or omission of either Party; or (ii) was in the User's lawful possession prior to the disclosure and has not been obtained by the User either directly or indirectly from Ushio; or (iii) is lawfully disclosed to the User by a third party without restriction on disclosure; or (iv) is independently developed by the User without breach of the Agreement; or (v) has been approved for release by a written authorisation by Ushio; or (vi) is disclosed by operation of law.

6.5. The User shall not commercially use the Product, including the proprietary technology contained therein.

6.6. Any copies of items or material received shall be returned. Nothing contained in this Agreement shall be construed as granting or conferring any property, right, title, or Interest, in any Information or other proprietary right that is now or subsequently owned by Ushio.

6.7. For the purpose of complying with the obligations set forth herein, when receiving any Information, the User guarantees to commensurate with those standards that the User employs for the protection of corresponding sensitive information of its own, and upon discovery of any inadvertent disclosure it shall use best efforts to prevent further disclosure of such Information.

7. Indemnity and limitation of liability

7.1. Ushio shall indemnify the User for personal injury or death caused by defects in the Product or by negligence of Ushio or its employees, unless the Product is used in connection with apparatus of the User causing the damage referred to herein. Ushio’s liability is limited to the amount as covered in each case under the liability insurance entered into by Ushio.

7.2. Ushio shall not be liable for other financial damages, including, but not limited to, indirect consequential damages and losses, loss of profits, lost data, loss of revenue, profits or goodwill and loss caused by interruption of operations.

7.3. Ushio's liability shall not arise unless the User forthwith and properly declares Ushio in default in writing, stating a reasonable period in which to remedy the failure. The notice of default must specify the failure in as much detail as possible, so that Ushio will be able to react adequately.

8. Term and termination

8.1. Ushio may agree to extend the term upon User's request two (2) weeks prior to the expiration of the rental term.

8.2. Either party may terminate the Agreement by reason of breach of a condition of this Agreement by the other party provided the breach has not been remedied within ten (10) days of receipt of written notice specifying the breach.

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8.3. The Agreement shall be terminated by law when one of the parties is granted an official moratorium, whether provisional or not; when one of the parties has been declared bankrupt or an application for bankruptcy has been filed or if either party undergoes a substantial change of management or ownership.

8.4. Ushio is entitled to terminate the Agreement without prior written notice with immediate effect if the User fails to fulfil its obligations subject to Articles 5 and 6.

8.5. Neither termination nor expiration shall relieve the User of the obligation to pay any fees due hereunder.

8.6. The provisions relating to non-disclosure, intellectual property, indemnities and limitation of liability, jurisdiction and payments shall survive the termination or expiration of this Agreement.

9. Rights and obligations upon expiration or termination

9.1. Upon the expiration or early termination of this Agreement, all rights herein granted to the User shall immediately revert to Ushio. Ushio shall be entitled to retain all fees paid to Ushio.

9.2. The User agrees that from and after the expiration or early termination of this Agreement the User shall not be entitled to use the Product any longer. The User shall return the Product and Documentation (including copies for internal use) to Ushio within five (5) days from expiration or early termination. The costs for returning the Product shall be borne by the User.

10. Waiver

A waiver by either party at any time of a breach of any provision of this Agreement shall not apply to any breach of any other provision of this Agreement or imply that a breach of the same provision at any other time has been or will be waived.

11. Miscellaneous

11.1. Amendments of and changes to the Agreement have to be made in writing and signed by duly authorised persons on behalf of both contracting parties.

11.2. Attachments, as well as future attachments, are part of this Agreement. When the Agreement and attachment are contradictory, the Agreement will be given preference to. A recent Attachment will be given preference to an older.

11.3. Should any pan, term or provision of this Agreement be held by a court of law to be void, invalid, or unenforceable, the validity of the Agreement as a whole shall not be affected or impaired thereby. The provision held void, invalid or unenforceable should be replaced by the statutory provision that comes closest to the desired purpose.

11.4. The User shall not assign, transfer, mortgage, charge, pledge or otherwise dispose of any of its rights and obligations under this Agreement without the prior written consent of Ushio.

As of: February 2024