

FLUICAL End User License Agreement

These terms and conditions ("Terms") set out the terms under which Bronkhorst High-Tech B.V. shall provide Customer with access to FLUICAL, a calibration software which can be used for the calibration of Bronkhorst flow meters and controllers. The characteristics and functionalities of FLUICAL may be further described in user manuals and information within FLUICAL itself or on the Website. These Terms are an integral part of the Agreement.

Please read these Terms carefully and ensure that You have understood them. By clicking on 'I agree' or the continued use of FLUICAL, You accept these Terms and conform that you have authorisation from the Customer to accept these Terms.

Article 1 Definitions

1.1 In these Terms the capitalized terms shall have the following meaning, regardless of being using in singular, plural or composed form:

Agreement: the underlying agreement between Bronkhorst and Customer consisting of the order confirmation and the General Terms and Conditions and these Terms;

Bronkhorst: the limited liability company Bronkhorst High-Tech B.V., registered in the trade register under number 08058979;

Customer: the legal entity that enters into an agreement with Bronkhorst;

Device: the hardware on which FLUICAL is being downloaded and used in connection with an Instrument;

End User: An employee of the Customer or a person authorised by the Customer to use FLUICAL under the Customer's responsibility;

FLUICAL: Calibration software which can be used for the calibration of Bronkhorst flow meters and controllers, including any services provided through the software;

Instrument: any Bronkhorst low-flow (mass) flow meter(s), controller(s) and or any other Bronkhorst instruments used by You;

Intellectual Property Rights: any and all intellectual property rights such as copyright, trademark, patent and database rights as well as associated rights such as trade secrets, moral rights and know-how;

Website: www.bronkhorst.com or the local websites of Bronkhorst's affiliates, such as but not limited to www.bronkhorst-china.com; www.bronkhorst.jp; www.bronkhorst.kr and www.bronkhorst.tw;

You(r): the Customer and/or End User.

Article 2 General provisions

- 2.1 These Terms shall apply to all agreements between Bronkhorst and the Customer, to the supply of FLUICAL by Bronkhorst to the Customer and to Your use of FLUICAL.
- 2.2 Your use of FLUICAL is at your own risk and account. Furthermore, the Customer shall be fully responsible and liable for End Users' use of FLUICAL and the results, and for any damage suffered by Bronkhorst as a result of any breach of these Terms.
- 2.3 You shall comply with all applicable laws and regulations regarding Your use of FLUICAL in whatever country You are located.
- 2.4 You shall comply with all Bronkhorst's reasonable instructions and policies in respect of Your use of FLUICAL and co-operate with any reasonable security or other checks or requests for information made by Bronkhorst in this regard.
- 2.5 You are responsible for maintaining your state of knowledge on the use of FLUICAL by periodically attending refreshment courses provided by Bronkhorst (at an extra cost). You shall use the latest version of FLUICAL at all times and are responsible for regularly visiting the Website to verify if there is an updated version of FLUICAL available.
- 2.6 When using FLUICAL, You shall not:
- Do anything that may impair, interfere with or damage or cause harm to persons using FLUICAL, the Instruments or further equipment or software installed in connection to the Instruments;
 - Use FLUICAL in combination with other equipment than Instruments;
 - Use FLUICAL, the Website or the content therein in a manner that may infringe any Intellectual Property Right or other rights of third parties;
 - Introduce viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful; and
 - Use FLUICAL in any other unlawful manner or contrary to the purposes for which it is intended.

Article 3 Term License and Termination

- 3.1 The license to access and use FLUICAL is granted for (one) 1 year and is thereafter subject to renewal by the Customer. Bronkhorst reserves the right to not renew Your right to access and use FLUICAL, without thereby becoming liable for any damages or compensation.

- 3.2 In case the Customer acts in breach of the Terms, Bronkhorst reserves the right to terminate Your right to access and use of FLUICAL, without thereby becoming liable for any damages or compensation.

Article 4 Changes

- 4.1 Bronkhorst may revise these Terms at any time by communicating an update via FLUICAL or posting an update on the Website. Unless communicated otherwise, the amended Terms will be effective immediately. Your continued use of FLUICAL constitutes Your acceptance of the new Terms.
- 4.2 Customer shall pay fee a yearly upfront for the use of FLUICAL to Bronkhorst. The payment and invoicing conditions set forth in the Agreement and General Terms and Conditions shall apply.
- 4.3 Bronkhorst is entitled at all times, without prior announcement and without in any way thereby becoming liable, to make alterations and/or improvements to FLUICAL, the minimum system requirements or to (temporarily) suspend FLUICAL or any connection or synchronisation in relation thereto to solve bugs and errors. Bronkhorst will notify You of any alterations insofar as reasonably possible. Bronkhorst reserves the right to stop supporting an outdated version of FLUICAL partly or entirely.
- 4.4 Bronkhorst may add or change the compatibility of Devices on which FLUICAL may run in the future, without in any way thereby becoming liable. Such compatibility changes will be communicated through the Website. You are solely responsible to stay up to date on any changes.

Article 5 Intellectual Property Rights

- 5.1 All Intellectual Property Rights relating to FLUICAL, including the software, programming, APIs, databases, processes, methodologies, algorithms, techniques, architectures, user or operating manuals, designs, texts and images, are owned by Bronkhorst and/or its licensors. All rights, title and interest in and to FLUICAL will remain exclusively with Bronkhorst and/or our licensors. Nothing in these Terms constitutes the transfer of any Intellectual Property Rights from Bronkhorst to Customer and/or End User.
- 5.2 Upon payment of the applicable fee (as referred to in Article 4.2), End User is solely granted a limited, personal, revocable, non-exclusive, non-sublicensable, non-transferable right to download, install and use FLUICAL in connection with (an) Instrument(s) and only for internal business operations of the Customer. The right of use shall be granted for one (1) year after which Your access to FLUICAL shall be automatically denied, unless this right of use is renewed (as per Article 3.1).
- 5.3 Unless allowed by mandatory statutory law, You shall not:
- Modify, translate, create or attempt to create derivative copies of or copy FLUICAL in whole or in part;
 - Reverse engineer, decompile, disassemble or otherwise reduce the object code of FLUICAL to source code form; or

- Distribute, sub-licence, assign, share, timeshare, sell, rent, lease or otherwise exploit or make available FLUICAL, whether commercially or non-commercially.

5.4 You are not permitted to remove, render illegible, conceal, or change any notifications or statements regarding Intellectual Property Rights in FLUICAL.

5.5 FLUICAL may include code and libraries licensed to Bronkhorst by third parties, including open-source software. Open-source software may be used according to the terms and conditions of the specific licence under which the relevant open-source software is distributed but is provided "as is" and expressly subject to the terms in Article 6.

5.6 You remain owner of the rights relating to the data or information provided by You, or generated by Your use of FLUICAL. You grant Bronkhorst the irrevocable, non-exclusive, sublicensable, transferable, worldwide and royalty-free right to internally use this data and information in any way useful for provision of FLUICAL and/or any other services, for improving FLUICAL, the Instruments and/or any Bronkhorst services or Devices. Bronkhorst will take reasonable measures to keep this information confidential.

Article 6 Privacy

6.1 Insofar any personal data are processed in Your use of FLUICAL, this will be in accordance with the Privacy Policy of Bronkhorst and the applicable data protection laws. Insofar needed, the Customer and Bronkhorst shall make arrangements accordingly to adhere to these data protection laws.

Article 7 Use of FLUICAL and results

7.1 You accept that FLUICAL only contains the functionalities and other characteristics as it contains at the moment of use ("as is" and "as available").

7.2 Before You use FLUICAL, you shall:

- Follow the proper training as provided by Bronkhorst before using FLUICAL;
- Follow the instructions as supplied by Bronkhorst for Your use of FLUICAL;

7.3 You are responsible for the content and the information entered into FLUICAL, the legality of the use of the information, and that (the correctness and legality of) the authorisations provided to Bronkhorst by You are accurate.

7.4 You are responsible and shall for your expense and risk arrange for the required computer, data or telecommunication networks, services and facilities, including the internet, and their timely and complete availability. Bronkhorst is not liable for any damages or costs due to transmission errors, failures or unavailability of these computer, data or telecommunications networks, services and facilities and the consequences thereof for the provision and use of FLUICAL.

7.5 You indemnify Bronkhorst against all damage and costs, including – but not limited to – claims by third parties, collection costs, statutory (commercial) interest, loss of profits, penalties incurred and legal fees, which Bronkhorst incurs, or which result from:

- Any breach of these Terms by You;
- Any use of FLUICAL and/or the information generated through FLUICAL; or
- Any (other) unlawful act by You.

7.6 Bronkhorst does not guarantee that FLUICAL shall be effective, Your use of FLUICAL shall lead to certain results, or that the information in FLUICAL shall be accurate, up to date and complete. Bronkhorst does not warrant that FLUICAL will be accessible at all times and without interruptions or failures and shall not be liable to You in any way for damage ensuing from or caused by interruptions, failures and/or the unavailability of FLUICAL or any connection or synchronisation thereto.

7.7 Bronkhorst uses industry standard security measures to protect against misuse of FLUICAL. However, You acknowledge and agree that Bronkhorst cannot guarantee complete security or that our security measures will prevent hacks, worms, bugs, trojans or similar issues.

7.8 Bronkhorst is not responsible for making backup copies of data or information, including checking the settings, Your use of FLUICAL or the manner in which the results of FLUICAL are used.

7.9 FLUICAL is not covered by any Bronkhorst service level agreement.

Article 8 Miscellaneous

8.1 Bronkhorst may transfer all rights and obligations arising from these Terms to third parties, and/or affiliates and will inform You of this. If You do not consider such a transfer acceptable, Your sole recourse is to discontinue using FLUICAL and remove it from the Device(s).

8.2 No waiver by Bronkhorst of any of the Terms shall be effective unless it is expressly stated to be a waiver and is communicated in writing.

Article 9 Contact

9.1 For questions about FLUICAL or these Terms, You can contact Bronkhorst through the following contact details:

- By email: info@bronkhorst.com
- By visiting our Website
- By phone: +31 573 45 88 00
- By mail: Nijverheidsstraat 1A 7261 AK Ruurlo (The Netherlands)