



## TERMS AND CONDITIONS WAVELIGHT TECHNOLOGIES B.V.

### CHAPTER 1. GENERAL PROVISIONS

The provisions described in this chapter are applicable to all agreements of Wavelight Technologies B.V.

#### Article 1. Definitions

- Contractor: the private limited liability company Wavelight Technologies B.V., with seat and offices in (6533 NV) Nijmegen at the address Snelliusstraat 10.
- Client: every natural or legal person by whose order services are provided and/or activities are conducted or to whom goods are delivered and/or sold.
- Agreement: the agreement concluded between contractor and client in the matter of the provision of the services and/or the conducting of the activities and/or the delivery of goods to which these terms and conditions are applicable.

#### Article 2. General

1. These conditions are applicable to every offer, quotation, and agreement between contractor and client, to the extent these conditions have not been derogated from expressly and in writing by parties.
2. The conditions are applicable as well to actions by third parties deployed by contractor in the context of the assignment. These conditions have also been formulated for collaborators of contractor and his management. The applicability of any possible purchasing or other conditions of client is expressly rejected.
3. If one or several provisions in these conditions at any time are entirely or partially void or annulable, then what is established elsewhere in these terms and conditions remains fully effective. Contractor and client will enter into consultations in such case so as to establish new provisions to replace the void or annulled provisions, whereby the purpose and tenor of the original provisions will be observed as much as possible.
4. If ambiguity pertains regarding the interpretation of one or several provisions of these terms and conditions or a situation occurs that these terms and conditions have not provided for, then interpretation must occur 'in the spirit' of these provisions and/or the other provisions.
5. Contractor has the right to modify and/or supplement these terms and conditions. In case of a material change, contractor will notify client accordingly in writing at least one month before the relevant modification or addition becomes effective. If client does not object against the modification of the terms and conditions within a one-month term, the approval by Client is deemed granted.

#### Article 3. Quotations, offers, and assignment

1. All quotations and offers of contractor are non-committal, unless a term for acceptance is set in the quotation. If no acceptance term is set, the offer lapses 14 days after the sending of the quotation.
2. Contractor cannot be held to his quotations or offers if the client is reasonably able to understand that the quotations or offers, or a part thereof, contain an apparent mistake or typing error. Unless stated otherwise, prices listed in a quotation or offer are exclusive of VAT and other government-imposed levies, such costs as may have to be incurred in the context of the agreement, also including travel and accommodation costs, shipping and administration costs.



3. If the acceptance (whether or not on minor points) deviates from the offer stipulated in the quotation or offer, then contractor is not bound by such. In such case, the agreement is not adopted in accordance with this deviating acceptance, unless contractor indicates otherwise. A combined price listing does not oblige contractor to carry out a part of the assignment against a corresponding part of the listed price. Offers or quotations do not automatically apply for future orders.

#### **Article 4. Adoption and duration of the agreement**

1. The agreement is adopted by way of a written or verbal consent from client to contractor or because contractor has started to provide the service, the product, or to carry out the activities. Upon the adoption of the agreement, the terms and conditions are provided by client to contractor.
2. The agreement between contractor and client is adopted for a fixed term, unless it flows differently from the nature of the agreement or parties have expressly established otherwise in writing.
3. Each agreement is adopted on the suspensory condition of sufficient availability of the services to be provided. Contractor reserves himself the right to have the assignment carried out by third parties. In such case, the charges are passed on to client.

#### **Article 5. Obligations of parties and implementation of the agreement**

1. Contractor will carry out the agreement to the best of his understanding and ability and in accordance with the requirements of good craftsmanship. All matters on grounds of the state of the art at such time.
2. In order to let the implementation of the agreement progress as much as possible in accordance with the established planning, client will, if necessary and following written agreement between parties, make available sufficient employees of his own organization and otherwise all the material and tools.
3. If activities are conducted in the context of the assignment by third parties deployed by contractor at the location of client or at a location designated by client, the client procures the facilities reasonably required by those collaborators free of charges.
4. Without the written permission of contractor, client does not have the right to transfer any entitlement or obligation from this agreement to third parties.
5. Contractor has the right to carry out the agreement in different stages and to invoice the part thus implemented separately. If the agreement is carried out in stages, contractor can suspend the implementation of those parts belonging to a subsequent stage until client has approved the results of the preceding stage in writing.
6. Client makes sure that all information for which contractor indicates that it is required for the implementation of the agreement is timely provided to contractor. If the information required for the implementation of the agreement has not been provided timely to contractor, contractor has the right to suspend the implementation of the agreement and or to bill the additional costs resulting from the delay to client in accordance with the rates that are customary at such time. The implementation term does not commence before client has provided contractor with the information.
7. Contractor is not liable for damage, of any nature whatsoever, because contractor relied on incorrect and/or incomplete information provided by the client.

#### **Article 6. Prices**

1. All prices are listed in Euros, exclusive of sales tax and other government-imposed levies, as well as exclusive of such costs as may have to be incurred in the context of the Agreement.



2. All prices listed are exclusive of packaging-, shipping and/or delivery costs, unless parties have established otherwise in writing.
3. Contractor reserves himself the right to adjust the prices at all times because of the changing of price-determining factors.

## **Article 7. Payment terms**

1. The payment of invoices occurs within 21 days after invoice date in a manner indicated by contractor, unless parties have expressly established otherwise in writing.
2. If client has an objection against the amount of the invoice, then client must contact contractor concerning within 14 days after the invoice date. After expiry of this term, contractor is deemed to have accepted the invoice.
3. In case of non or late payment by client, contractor has the right as from the day on which payment should expressly have occurred until the day of full settlement to bill the statutory interest on the outstanding sum of the invoice amount.
4. If client after warning or default notice still does not proceed with payment, then contractor will transfer the claim for collection. In that case, client is obliged to settle, besides the sum owed and the statutory interest, the extrajudicial and judicial costs as well. If contractor has incurred higher expenses for collection that those that are appropriate according to the effective guidelines, the costs effectively incurred are eligible for compensation. Such judicial and enforcement costs as may have been incurred will be claimed from client as well.
5. Payments by client will be deducted first from the costs owed and the interest due, before the payments will be deducted from the principal sum. Contractor, without falling into default as a result, can refuse a proposal for payment if the client designates a different order for the allocation of the payment. Contractor can reject total settlement of the principal sum if the matured and current interest and collection costs are thereby not settled as well.
6. Client is never authorized to suspend or set off a payment.
7. Contractor has the right in case of an agreement with client to demand partial or full payment in advance of the invoice amount.
8. Contractor has the option upon entering into the agreement or during the implementation of the agreement to stipulate security from the part of client.

## **Article 8. Terms**

1. All terms indicated by the contractor or established terms have been determined in accordance with available knowledge on grounds of the information and circumstances known at such time.
2. Contractor will exert himself at all times to observe and comply with the established terms as much as possible. The sole overrunning of an indicated or established term does not entail the default of contractor. Contractor is deemed to be default after client has declared his default in writing.
3. The terms established between parties are never designated as strict time limits, unless parties have expressly established otherwise in writing.

## **Article 9. Suspension and rescission of the agreement**

1. Contractor is authorized to suspend compliance with his obligations or to rescind the agreement if:



- Client does not, does not fully, or does not timely comply with the obligations from the agreement or in case contractor after conclusion of the agreement has learned that circumstances pertain that entail a legitimate fear for non-compliance with the obligations of client;
  - Client upon conclusion of the agreement or during the implementation of the agreement has been asked to lodge security for the settlement of his obligations from the agreement and this security fails to be lodged or is insufficient;
  - Due to the delays on the part of client it can no longer be demanded of contractor that he will comply with the agreement against the conditions originally established;
  - Circumstances occur that are of such a nature that compliance with the agreement is impossible or if circumstances occur otherwise that are of such a nature that the unaltered maintaining of the agreement cannot reasonably be demanded of contractor.
2. In case of the suspension or rescission of the agreement by contractor, client cannot demand compliance or compensation of damages from contractor. In such case, contractor retains his entitlements from the agreement and the law.
  3. If contractor exercises his authority to suspend, client does not have the authority to rescind the agreement.
  4. If the agreement is rescinded, the claims of contractor on client become immediately payable.
  5. If client does not comply with his obligations flowing from the agreement and such non-compliance justifies rescission, then contractor has the right to rescind the agreement instantly and with immediate effect without any obligation on his part to pay any compensation of damages or indemnification. Client is obliged on account of non-performance to pay compensation of damages.

#### **Article 10. (Intermediate) cancellation of the agreement**

1. If the agreement is cancelled intermediately by contractor, contractor will take care, in consultation with client, of the transfer of the activities still to be conducted to third parties, unless the cancellation is attributable to client. If the transfer of the activities entails additional costs for contractor, these are billed to client. Client is obliged to settle these costs within the term indicated for this, unless parties expressly establish otherwise in writing.
2. In case of the liquidation, of (filing for) suspension of payments or bankruptcy, of attachment to the charge of client if and to the extent the attachment is not lifted within 3 months, of debt restructuring or a different circumstance due to which the client is no longer able to freely dispose of his assets, contractor is at liberty to cancel the agreement instantly and with immediate effect or to cancel the order or the agreement, without any obligation on his part to pay any compensation of damages or indemnification. The claims of contractor on the client become instantly payable in such case.
3. If the client cancels a placed order entirely or in part, then the activities that were carried out and the matters ordered or prepared for such, increased by any possible supply, removal and delivery costs for such and the working time reserved for the implementation of the agreement will be billed to the client integrally.

#### **Article 11. Force majeure**

1. Contractor is not held to comply with any obligation from the agreement vis-a-vis client if he is prevented from doing so as a result of a circumstance that cannot be blamed on his fault and that neither pursuant to the law nor to a legal transaction or commonly held opinion is his responsibility. By force majeure is intended in these conditions in any event what is defined as such in the law and jurisprudence, all outside causes, foreseen or unforeseen, that contractor cannot exert any influence on, but as a result of contractor



is unable to comply with his obligations. Work strikes at the company of contractor or of third parties, excessive illness absenteeism of staff, transport and/or delivery issues, government measures and/or operational disruptions are included in force majeure in any event. Contractor also has the right to appeal to force majeure if the circumstance that prevents (further) compliance with the agreement enters into effect after contractor should have complied with his undertaking.

2. During the period that the force majeure continues, contractor can suspend the obligations from the agreement. If this period lasts longer than three months, each of the parties has the right to rescind the agreement, without any obligation to compensate damage to the other party.
3. To the extent contractor has partially fulfilled his obligations from the agreement at the time the force majeure becomes effective or will be able to do so, and the part fulfilled or to be fulfilled respectively represents independent value, contractor has the right to separately invoice the part already fulfilled or to be fulfilled respectively. The client is obliged to settle this invoice as if it regarded a separate agreement.

## **Article 12. Liability**

1. The liability of contractor, his collaborators and/or third parties deployed by him is limited to the amount that is disbursed in the relevant case by the liability insurance of contractor with a maximum of € 50,000 in case of rentals and of € 100,000 in case of sale. If for whatever reason no disbursement is made pursuant to the liability insurance of contractor, then any liability of contractor for direct and/or indirect damage or damage that has arisen otherwise is excluded. Any further liability is excluded, as is the application of article 7:407 BW (Civil Code).
2. Contractor, with due regard for the preceding in this article, can solely be held accountable for direct damage. By direct damage is exclusively intended the reasonable costs to determine the cause and scope of the damage, to the extent the determination regards damage in the sense of these conditions, such reasonable costs as may have been incurred to have the defective performance of contractor correspond with the agreement, to the extent these can be attributed to contractor and reasonable costs incurred to prevent or mitigate damage, to the extent the client proves that these costs have led to the mitigation of direct damage as intended in these conditions.
3. Contractor is never liable for indirect damage, also including, though not limited to, consequential damage, business damage, loss of profits, missed savings and/or damage due to operational stagnation.
4. Contractor is not liable for damage, of any nature whatsoever, that has arisen due to incorrect and/or incomplete information provided by or on behalf of client or due to persons or matters made available by client.
5. Contractor does not accept any liability for errors of the third parties deployed for the benefit of client.
6. Contractor is never liable for the goods and/or devices delivered not, not properly, or not fully functioning at the time of an event, training and/or other activity whereby the goods and/or devices are used. Contractor therefore is not liable for damage that client and/or third parties incur as a result of devices that do not function. By third-party claims is intended, though not solely, claims by visitors, viewers, athletes, TV shows, organizers, or other third parties.

## **Article 13. Waiver**

1. Client safeguards contractor against any possible third-party claims in connection with the implementation of the agreement concluded between parties. If Contractor were to be addressed on such account by third parties, then Client is obliged to assist Contractor both extrajudicially and judicially and to forthwith do everything that may be expected of him in such case. Were the Client to remain in default with regard to



the taking of adequate measures, then Contractor has the right, without any default notice, to proceed to do so himself. All costs and damages on the part of Contractor and third parties that have arisen as a result fall integrally to the expense and risk of the Client.

#### **Article 14. Intellectual property**

1. Contractor reserves himself the rights and authorizations that fall to him on grounds of copyrights law 'Auteurswet' and other intellectual legislation and regulations, unless parties expressly establish otherwise in writing.
2. All rights of intellectual property to all products and documents developed or provided pursuant to the agreement lie exclusively with contractor and without the prior written consent of contractor may neither in their entirety nor partially be reproduced, forged, or shown to third parties in any form, nor be provided for any purpose whatsoever, unless this is required for the implementation of the law.
3. Contractor has the right to use the knowledge that has accumulated on his part through the implementation of an agreement for different purposes as well, to the extent no strictly confidential information of the client is thereby brought to the knowledge of third parties.

#### **Article 15. Non-disclosure**

1. Client will not disclose the agreement and everything he learns in connection with the conclusion of the agreement and the confidential nature of which he is aware of or can reasonably suspect in any manner to third parties.
2. The preceding in section is not applicable to the extent the disclosure is necessary for the implementation of the agreement and contractor has granted his explicit consent for this or in case disclosure is obligatory on grounds of any legal regulation.

#### **Article 15. Applicable law and disputes**

1. To all legal relationships to which contractor is a party, Netherlands Law is exclusively applicable. The applicability of the Vienna Commercial Convention is hereby explicitly excluded.
2. The court of law in the place of establishment of contractor is exclusively competent to hear the disputes flowing from the agreement(s), unless the law prescribes otherwise in a mandatory manner.

#### **Article 16. Privacy statement**

1. Contractor applies a privacy statement in which matters such as the (manner of) processing of personal data has been established, as well as the purposes and the grounds thereof.
2. The privacy statement is published on the website of contractor: [www.wavelight-technologies.com](http://www.wavelight-technologies.com) and will be forwarded upon request of client.

#### **Article 17. Publication reference and modification terms and conditions**

1. The conditions have been registered with the Chamber of Commerce in Arnhem. Applicable always is the version registered most recently or respectively the version as it was effective at the time of conclusion of the legal relationship with contractor. The Dutch version of the terms and conditions is always decisive for the interpretation thereof.

## **CHAPTER 2. PROVISIONS IN CONNECTION WITH RENTALS**



The provisions described in this chapter are applicable, besides the General Provisions of the terms and conditions, if contractor rents out products to client.

## Article 18. Delivery and returns

1. Unless parties have expressly established otherwise in writing, the client must pick up the rented goods at contractor and return them to contractor after termination of the agreement. The bringing back and/or returning of the rented goods is entirely at the expense and risk of client.
2. Client is supposed to have checked the rented goods for defects upon receipt and to have received the same in proper condition.
3. If client during the loading and/or unloading of the rented goods makes use of employees in the service of contractor, then these employees at the moment of implementation of the services are deemed to work under the responsibility of contractor.
4. If parties have established that contractor has the rented goods delivered to client, then contractor will strive to observe the established delivery term as precisely as possible. The overrunning of the delivery time never results in an entitlement to compensation of damages.
5. The rental period commences on the day that parties establish. The rental period applies for a minimum of one day or for a multiple thereof, unless parties expressly establish otherwise in writing.
6. Client is obliged to make the rented matters available to contractor in the same condition in which they were provided to him. If it turns out that the rented matters manifest defects or in the event of damaging, contractor has the right to bill the repair charges to client.
7. Client is obligated to bring back the rented goods to contractor before the time established between parties. Failing such, contractor forfeits an immediately payable fine for the amount of the daily price of the rented matter, without prejudice to the entitlement of contractor to additional compensation of damages.

## Article 19. Reservations and cancellations

1. The rented matters can be reserved by client beforehand. Upon the reservation, the hour, the period, and the price are established. If client does not pick up the rented matters at the established hour and/or for the established period, client is obligated to settle the full rental price.
2. Without prejudice to the preceding, client has the right to cancel the agreement in writing or to annul the agreement with due regard for the following terms and the amounts to be paid. In case of cancellation/annulment of the rented matters:
  - up to 100 days before the implementation date: 50% of the principal sum
  - up to 50 days before the implementation date: 70% of the principal sum
  - less than 50 days but more than 14 days before the implementation date: 85% of the principal sum
  - less than 14 days before the implementation date: 100% of the principal sum.

## Article 20. Obligations parties in case of rentals

1. Client is obliged to use the rented matters in accordance with the provisions of the agreement and the present terms and conditions.
2. Contractor will carry out his obligations flowing from the rental agreement to the best of his ability and in accordance with what may be expected of a good contractor.
3. It is not permitted to client to give the rented matters in use to third parties, to sub-let the same, or provide them otherwise without the prior written consent of contractor.



4. Client and/or third parties engaged by him are not authorized to apply changes to the rented matters. The restoral or replacement of the rented matters in such case is at the expense of client. Client does not bear any responsibility and/or liability with regard to damage that flows from the changes to the rented matters.
5. Client must grant contractor access to the rented matters at all times.
6. Client commits himself to keep and safeguard the rented matters as is becoming to a proper caretaker. Client must in any event, though not solely, take care of a safe and proper storage space for the rented matters. If there is no safe and proper storage space, then client must report this to contractor upon the start of the agreement. Contractor will take measures in such case to procure a safe and proper storage space for the rented matters. Any possible costs associated with these measures are passed on to client.
7. Client must insure the rented matters for the duration of the rent for at least, though not exclusively, fire- and explosion hazard, water damage, theft, and damaging. Upon request of contractor, client must provide the insurance policy for perusal.

#### **Article 21. Liability in connection with damage and defects**

1. Client is obliged to investigate the rented matters at the time of provision. Defects and deviations on the rented matters must be immediately communicated to contractor in writing. Failing such, the rented matters are deemed to have been properly delivered.
2. Client is never obligated to proceed with the repair of the rented matters without the prior written permission of contractor.
3. Defects or damage to the rented matters do not confer any right to client vis-a-vis contractor. In particular, there is no right of client to the replacement of the rented matters and to the compensation of damage incurred as a result of the defect of the rented matters.
4. The risk of the loss, theft, or damaging of the rented matters is borne by client at the moment that the rented matters have left the storage area of contractor.

### **CHAPTER 3. PROVISIONS IN CONNECTION WITH SALES**

The provisions described in this chapter are applicable besides the General Provisions of the terms and conditions in case contractor sells products to client.

#### **Article 22. Retention of title**

1. The goods delivered to client remain the property of contractor until client has settled all amounts owed pursuant to the agreement as well as the sums on account of falling short with respect to the payment obligations.
2. Until the total transfer of the property to client, client is not authorized to pawn the good, to transfer the property thereof to third parties, or to grant any other right to third parties. In case of negligence with respect to this section, the goods delivered are assumed to belong to contractor.
3. Client must insure the goods for the duration of the retention of title for, in any case, though not exclusively, fire- and explosion hazard, water damage, loss, theft, and damaging. Upon request of contractor, client must provide the insurance policy for perusal.

#### **Article 23. Delivery of the good**

1. From the moment that the good has left the warehouse of contractor, the good is at the risk of client.
2. If contractor takes care of the shipping or transportation of the good, the risks associated with the shipping or transportation are entirely at the risk of client, unless parties have expressly established otherwise in writing.



3. Client has the obligation to accept the delivered good at the moment that contractor or a third party delivers the good or at the moment that the good is made available otherwise. If client refuses to accept the good or client is negligent with providing the information required and with following instructions that are necessary for the delivery of the good, then contractor has the right at all times to store the good at the expense and risk of client.
4. Return shipments of the good are exclusively possible with the prior written consent of contractor. In such case, parties enter into consultations whether return shipment can occur, on what conditions the return shipment takes place, and what consequences the return shipment must entail.
5. The returning of the good occurs at the expense and risk of client.

#### **Article 24. Right of complaint**

1. Client must control the good after receipt for correctness, completeness, damage, and defects. Defects and deviations of the good must be communicated to contractor without delay in writing. Failing such, the good is deemed to have been properly delivered. Visible defects must be reported within 48 hours to client. Non-visible defects must be reported as soon as possible though no later than within one month after delivery to client. If the defects are not reported within the terms established, the right of complaint lapses for client.

#### **Article 25. Warranty provisions**

1. The warranty arrangement and warranty term of contractor coincides with the manufacturer's warranty term for the delivered good. Contractor is never responsible for the suitability of the goods for every individual application by client, nor for any possible advice with regard to the application of the good.
2. If an appeal to the right of complaint as described in article 24 of these terms and conditions is legitimate and the defect occurs within the (valid) manufacturer's warranty on the delivered good, contractor will replace the defective good. Contractor is only liable to the extent established in article 12 of these terms and conditions.
3. What is established in this article lapses if:
  - client has repaired and/or processed the delivered good in autonomy or has had it repaired and/or processed by third parties without the prior written consent of contractor;
  - unprofessional and inappropriate use has occurred or if the good has been used for a different purpose than what the product is intended for;
  - normal wear and/or poor maintenance pertains;
  - external influences pertain;
  - client does not have the delivered good annually inspected, controlled and updated by a company certified to such effect.