

## STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS AND SERVICES

### 1. DEFINITIONS AND INTERPRETATION

In these standard terms and conditions the following words and expressions shall have the following meanings unless the context otherwise requires:

- 1.1 **Buyer** – this is you
- 1.2 **Force Majeure Event** – earthquake, fire, flood, storm or other extreme weather, volcanic ash, war, riot or terrorism
- 1.3 **Goods** – any products which we supply to you
- 1.4 **Material Specification** – all product is supplied on the basis of our standard Material Specification – this tells you what you can expect from the material. The standard Material Specification is always in the download area of our website : [www.wfte.bz/downloads](http://www.wfte.bz/downloads). Please make sure you read and understand this before placing any orders with us.
- 1.5 **Order Confirmation** – a document created by Wavefront Technology Europe Limited headed "Order Confirmation" with an order number and date showing
- 1.6 **Seller** – that's us, WaveFront Technology Europe Limited
- 1.7 **Specification** – the written technical specification of the Goods and all design and development materials which relate thereto
- 1.8 **Support Services** – assistance provided either free of charge or for a fee to assist in the completion of a project
- 1.9 **Terms and Conditions/Ts & Cs** – these standard terms and conditions of sale plus any specific written terms in the Order Confirmation issued by us
- 1.10 **We/Us** - that's us, WaveFront Technology Europe Limited
- 1.11 **You/Your** – that's you, the Buyer

### 2. FORMATION AND INCORPORATION

- 2.1 We price and sell our products and services on the basis of these Terms and Conditions only. If you want to buy our products and services you accept this, unless we specifically agree to an alternative Contract in which case an alternative document will be sent to you for signature and dating. Sending us your own standard Ts and Cs of purchase at any time will not override the formation of the contract on these terms.
- 2.2 The Contract is formed when your purchase order is confirmed by us by way of an Order Confirmation. No contract will come into existence until an Order Confirmation is issued by us. Remember, our Ts and Cs of Sale apply to all transactions, unless varied by alternative signed contract.
- 2.3 You must ensure that where product is to be supplied to a unique Specification, that Specification is complete and accurate and has been physically acknowledged and signed off by each of us prior to Order Confirmation.
- 2.4 After the issuance of an Order Confirmation by us you may not cancel the Contract unless it has our written consent.

### 3. THE GOODS

- 3.1 The quantity and description of the Goods and/or Services will be as set out in the Order Confirmation and will conform to our standard Material Specification.
- 3.2 We may deliver to you Goods up to 10% more or 5% less than the quantity ordered without any adjustment in the price, and such quantity delivered will be deemed to be the quantity ordered.
- 3.3 Where the Goods will be incorporated into any other goods or over-lacquered or overprinted, you will satisfy yourself that the Goods will not adversely affect, or be adversely affected by those goods, lacquers or ink. You shall satisfy yourself that the Goods ordered are suitable for any manufacturing or packaging process which they may undergo.
- 3.4 We may at our option provide Support Services. Where and to the extent that any Support Services are provided they are performed at your risk and you shall save, indemnify, defend and hold harmless us from all claims, losses, damages, costs (including legal costs), expenses, and liabilities in respect of a direct or indirect breach or negligent performance or failure in performance by us of the Support Services.

### 4. PRICE

- 4.1 The price for the Goods and/or Services will be the price set out in the Order Confirmation. This will be inclusive of any value added tax or other applicable sales tax or duty.
- 4.2 We always sell our products on an Ex Works basis, so you, the Buyer, will always be responsible for freight and duties to get the product from our point of supply to your desired delivery place.

### 5. PAYMENT

- 5.1 We may invoice you for the Goods on or at any time after delivery and for the Services on or at any time after performance commences and, payment is due 45 days after the date of such invoice.
- 5.2 You must pay on the date the invoice falls due. We are a small company and cash flow is vital to enable us to pay our bills on time. No requests for payment deferral, even for a few days, will be either welcome or granted. Just pay us on the date you have agreed to. Simple.
- 5.3 Also, all payments to be made by you under the Contract must be made in full without any set-off, restriction or condition and without any deduction or withholding for or on account of any counterclaim or any present or future taxes, levies, duties, charges, fees, deductions or withholdings of any nature. This is particularly important in situations where requests for credit notes have been made – do not try to off-set credit note requests against maturing invoices.
- 5.4 No payment will be deemed to have been made until the Seller has received the sum due and payable in cleared funds.
- 5.5 If any sum payable under the Contract is not paid when due then, without prejudice to the Seller's other rights under the Contract, that sum will bear interest from the due date until payment is made in full, both before and after any judgment, at 8% per annum over Barclays Bank plc base rate from time to time and the Seller will be entitled to suspend deliveries of the Goods and/or performance of the Services until the outstanding amount has been received by the Seller from the Buyer.

### 6. DELIVERY

- 6.1 We always sell our products on an Ex Works basis, so you, the Buyer, will always be responsible for freight and duties to get the product from our point of supply to your desired delivery place.
- 6.2 You will also be responsible for obtaining all export and import licences and authorisations relating to the Goods, and for the payment of all customs and excise duties, taxes and charges, including clearing and brokerage charges, paid or payable for or in respect of the exportation and importation of the Goods. You will be liable for and shall indemnify us from and against all claims, demands, penalties, charges, liabilities, costs and expenses of any nature suffered or incurred by us as a result of or by reason of any such importation or exportation.
- 6.3 If you fail to accept delivery of any of the Goods or to provide any instructions, documents, licences or authorisations required to enable the Goods to be delivered and/or Services to be performed on time (except solely on account of the Seller's default), the Goods and/or Services will be deemed to have been delivered or performed on the due date and (without prejudice to its other rights) we may:
  - 6.3.1 store or arrange for storage of the Goods until actual delivery or sale in accordance with Condition 6.3.2 and charge you for all related costs and expenses (including storage and insurance); and/or
  - 6.3.2 following written notice to you, sell any of the Goods at the best price reasonably obtainable in the circumstances and charge you for any shortfall below the price under the Contract or account to you for any excess achieved over the price under the Contract, in both cases having taken into account any charges related to the sale.

### 7. RISK / OWNERSHIP

- 7.1 Risk of damage to or loss of the Goods will pass to you on shipment from our point of supply (or deemed delivery in accordance with Condition 6.3).
- 7.2 Ownership of the Goods will not pass to you until we have received in full (in cash or cleared funds) all sums due to it in respect of:
  - 7.2.1 the Goods; and
  - 7.2.2 all other sums which are or which become due to us from you on any account.
- 7.3 Until ownership of the Goods has passed to you, you must:
  - 7.3.1 hold the Goods on a fiduciary basis as our bailee;
  - 7.3.2 store the Goods (at no cost to us) separately from all of your other Goods or any third party in such a way that they remain readily identifiable as our property;
  - 7.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
  - 7.3.4 maintain the Goods in satisfactory condition insured on our behalf for their full price against all risks to our reasonable satisfaction, and will whenever requested by us produce a copy of the policy of insurance.
- 7.4 You may use or incorporate the Goods into other products and sell such products or resell the Goods before ownership has passed to you solely on the following conditions:
  - 7.4.1 any sale of the Goods (or the Goods as used or incorporated into such other products) will be effected in the ordinary course of your business at full market value and you will account to the Seller accordingly; and
  - 7.4.2 any such sale will be a sale of our property and will be deemed to be on your own behalf and you will deal as principal when making such a sale.
- 7.5 Your right to possession of the Goods will terminate immediately if you become Insolvent or if we serve notice to terminate the Contract.
- 7.6 We will be entitled to recover payment for the Goods notwithstanding that title in any of the Goods has not passed from us to you.
- 7.7 You grants us, our sub-contractors, agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where your right to possession has terminated, to recover them.

### 8. WARRANTY, EXCLUSION OF LIABILITY AND INDEMNITY

- 8.1 **Warranty**  
We will, free of charge, within a period of 3 months from the date of delivery of Goods which are proved to our reasonable satisfaction to not comply with the Material Specification, or (where there is no Specification) with the requirements in relation to satisfactory quality in Section 14.2 of the Sale of Goods Act 1979, in either case due to defects in materials, or workmanship or design (other than a design made, furnished or specified by you), replace or, at our option, refund the price of such Goods. This obligation will not apply where:
  - 8.1.1 the Goods have been improperly used or altered in any way;
  - 8.1.2 any instructions as to storage or use of the Goods have not been complied with; or
  - 8.1.3 you have failed to notify us of any defect or suspected defect within 14 days of the delivery where the defect should be apparent on reasonable inspection, or within 14 days of the same coming to your knowledge where the defect is not one which should be apparent on reasonable inspection, and in any event no later than 3 months from the date of delivery or performance.

- 8.2 We will refund to you the cost of carriage on the return of any Goods where we are reasonably satisfied that such Goods are defective, and will deliver any replacement Goods to you at our own expense.
- 8.3 Any Goods which have been replaced will belong to us. Any replacement Goods will be subject to the terms specified in clause 8.1 for the unexpired portion of the [3] month period from the original date of delivery of the Goods which have been replaced.
- Exclusion of Liability**
- 8.4 In the event of any breach of our express obligations under Conditions 8.1, 8.3 and 8.3 above your remedies will be limited to damages.
- 8.5 We do not exclude our liability (if any) to you:
- 8.5.1 for breach of our obligations arising under section 12 Sale of Goods Act 1979 or section 2 Sale and Supply of Goods and Services Act 1982;
- 8.5.2 for personal injury or death resulting from our negligence;
- 8.5.3 under section 2(3) Consumer Protection Act 1987;
- 8.5.4 for any matter for which it would be illegal for us to exclude or to attempt to exclude our liability; or
- 8.5.5 for fraud.
- 8.6 Except as provided in Conditions 8.1 to 8.5, we will be under no liability to you whatsoever (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any indirect or consequential loss (both of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill, loss of machine time, and like loss) howsoever caused arising out of or in connection with:
- 8.6.1 any of the Goods and/or Services, or the manufacture of the Goods or the sale or supply, or failure or delay in supply, of the Goods and/or Services by us;
- 8.6.2 any breach by us of any of the express or implied terms of the Contract;
- 8.6.3 any use or resale by you of any of the Goods, or of any product using or incorporating any of the Goods;
- 8.6.4 any statement made or not made, or advice given or not given, by or on behalf of us.
- 8.7 **You clearly acknowledge that the above provisions of this Condition 8 are reasonable and are reflected in the price which would be higher without these provisions, and you will accept such risk and/or insure accordingly.**
- 8.8 You agree to indemnify us, and keep us indemnified from and against all costs (including legal costs on a full indemnity basis), expenses, liabilities, indirect and consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, and proceedings and judgments which you incur or suffer in respect of any actual or threatened claim by a third party as a result of any act or omission of you or as a consequence of any breach or wilful default or negligent performance or failure in performance by you of the terms of the Contract.
- 9. FORCE MAJEURE**
- 9.1 We shall not be in breach of the Contract or otherwise liable to you for any failure to perform or delay in performing our obligations under the Contract to the extent that such failure or delay is due to a Force Majeure Event.
- 9.2 If a Force Majeure Event occurs:
- 9.2.1 we shall as soon as reasonably practicable after becoming aware of the Force Majeure Event notify you that the Force Majeure Event has occurred; and
- 9.2.2 we shall use reasonable endeavours, without being required to incur additional expenditure, to mitigate the effects of the Force Majeure Event.
- 9.3 You shall continue to pay the prices for any Goods and/or Services which we continue to supply notwithstanding the occurrence of the Force Majeure Event.
- 9.4 If we are unable to deliver or you are unable to take delivery of a material part of the Goods or we are unable to provide a material part of the Services for a period of more than 60 days due to a Force Majeure Event which gives rise to relief from liability under Condition 9.1, either Party shall be entitled to terminate the Contract by giving not less than 30 days written notice to that effect to the other Party.
- 10. TERMINATION**
- 10.1 If you:
- 10.1.1 commit a breach of the Contract which cannot be remedied; or
- 10.1.2 commit a breach of the Contract which can be remedied but you fail to remedy that breach within 14 days of a written notice setting out the breach and requiring it to be remedied being given by us,
- we may terminate the Contract by giving not less than 7 days written notice to that effect to you.
- 10.2 We may terminate the Contract immediately by giving written notice to that effect to you if you become Insolvent.
- 10.3 Notwithstanding Condition 10.1, we may terminate the Contract immediately and all future Contracts by giving written notice to that effect to you if you fail to make any payment due to us under the Contract on or before the due date.
- 10.4 Following expiry or termination of the Contract:
- 10.4.1 Conditions 5.2, 5.3, 5.4, 5.5, 6.2, 7, 8, 10.4, 11, 12, 13, 14 and 15 shall continue in force, together with any other Conditions which expressly or impliedly continue to have effect after expiry or termination of the Contract; and
- 10.4.2 all other rights and obligations shall immediately cease without prejudice to any rights, obligations, claims (including claims for damages for breach) and liabilities which have accrued prior to the date of expiry or termination.
- 10.5 We will be entitled to suspend any deliveries or performance otherwise due to occur following service of a notice specifying a breach under Condition 10.1.2, until either the breach is remedied (if applicable) or the Contract terminates, whichever occurs first.
- 11. INTELLECTUAL PROPERTY**
- 11.1 No right or licence is granted to you in respect of our Intellectual Property Rights, except the right to use, or re-sell the Goods or use the Services in your ordinary course of business.
- 11.2 You will indemnify us and keep us indemnified from all claims, losses, damages, costs (including legal costs), expenses, and liabilities of every kind and nature for, or arising out of, any alleged or actual infringement of any third party Intellectual Property Rights where any such alleged or actual infringement of Intellectual Property Rights is due to the use by us of any Intellectual Property Rights which you have granted or purported to grant us the right to use.
- 12. CONFIDENTIALITY**
- 12.1 Each Party will keep confidential any and all Confidential Information that it may acquire from the other Party.
- 12.2 Each Party will not use the Confidential Information of the other Party for any purpose other than (in our case) to perform our obligations under the Contract or (in your case) to receive and use the Goods and the Services. Each Party will ensure that its officers and employees comply with the provisions of this Condition 12.
- 12.3 The obligations on each Party set out in Condition 12.1 and 12.2 will not apply to any information which is publicly available or becomes publicly available through no act or omission of that Party, or if that Party is required to disclose by order of a court of competent jurisdiction or due to any law or regulation (but then only to the extent of such required disclosure).
- 13. GENERAL**
- 13.1 Our rights and remedies set out in the Terms and Conditions are in addition to and not exclusive of any rights and remedies provided by law.
- 13.2 If any term of the Contract is found by any court or body or authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term shall be deemed to be severed from the Contract and this shall not affect the remainder of the Contract which shall continue in full force and effect.
- 13.3 A delay in exercising or failure to exercise a right or remedy under or in connection with the Contract shall not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor shall the single or partial exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default shall only be valid if it is writing and signed by the Party giving it and only in the circumstances and for the purpose for which it was given and shall not constitute a waiver of any other right, remedy, breach or default.
- 13.4 The Contract constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of its subject matter. Neither Party has entered into the Contract in reliance upon, and it shall have no remedy in respect of, any representation or statement which is not expressly set out in the Contract. The only remedies available for breach of any representation or statement which was made prior to entry into the Contract and which is set out in the Contract shall be for breach of contract. Nothing in this Condition 13.4 shall be interpreted or construed as limiting or excluding the liability of either Party for fraud or fraudulent misrepresentation.
- 14. NOTICE**
- 14.1 A notice or other communication given under or in connection with the Contract shall be in writing, in the English language and:
- 14.1.1 delivered by hand; or
- 14.1.2 sent by email,
- to us at the address and marked for the attention of the individual detailed below or to you at the address detailed in any order or other document received by us from you (or such other address as may be notified by the relevant Party to the other Party from time to time in accordance with this Condition 14):
- WaveFront Technology Europe Limited, Carnoustie House, The Links, Warrington, United Kingdom, WA3 7PB
- For the attention of: Andrew Stevenson, Managing Partner [Andrew.Stevenson@wfte.bz](mailto:Andrew.Stevenson@wfte.bz)
- 14.2 Any notice or communication given in accordance with Condition 14.1 shall be deemed to have been served:
- 14.2.1 if delivered by hand, at the time of delivery; and
- 14.2.2 if sent by email, at the time of sending
- 14.3 To prove service of a notice or communication it shall be sufficient to prove that the provisions of Condition 14.1 were complied with.
- 15. GOVERNING LAW AND JURISDICTION**
- 15.1 The Contract and any non-contractual obligations arising out of or in connection with it will be governed by English law.
- 15.2 The parties irrevocably submit to the [non-]exclusive jurisdiction of the courts of England and Wales for the determination of any dispute arising out of or in connection with the Contract (including in relation to any non-contractual obligations).