

# GENERAL SUPPLY CONDITIONS OF WAVE

## GENERAL PROVISIONS

### 1 APPLICABILITY

- 1.1 These general supply conditions (the “**Conditions**”) will apply to all provision of services and/or delivery of goods (by sale or otherwise) and/or Deliverables and all offers and/or agreements pertaining thereto by Wave Agency NV and all affiliated companies of Wave Agency NV (hereafter collectively “**Wave**”). Only the company issuing the offer and/or entering into the agreement or, in the absence of an offer or agreement, providing the goods and/or the services, is liable therefore, without any joint liability of any of its affiliated companies. The Conditions also apply to any non-contractual obligation or liability that Wave may incur as a result of the provision of services and/or the delivery of goods by it. The Conditions apply to provision of services and/or delivery of goods against payment or free of charge. The Conditions apply to any provision of services and/or delivery of goods or Deliverables and to any disputes thereabout as from 15 March 2018.
- 1.2 The Conditions apply to the exclusion of all other general or specific conditions which have been or will be communicated at any time by the party which orders or receives one of the goods or services referred to in clause 1.1 (hereafter the “**Customer**”), unless Wave has expressly accepted such provisions in writing. Unless expressly agreed otherwise in writing, any provision deviating from these Conditions will only apply to the relevant offer, agreement, assignment or delivery for which such deviation was mutually agreed. If there is any discrepancy, inconsistency or ambiguity between the Conditions and any specific terms agreed with the Customer, the specific terms agreed with the Customer will prevail to extent of the discrepancy, inconsistency or ambiguity.
- 1.3 By placing an order, the Customer expressly confirms to effectively have taken notice of the Conditions and irrevocably agrees with the applicability of these Conditions.

### 2 DEFINITIONS AND INTERPRETATION

#### 2.1 Definitions

In these Conditions, the following defined terms have the following meaning:

- Affiliate or Affiliated Company** means, with respect to a legal entity, any person or entity Controlling, Controlled by, or under common Control with that legal entity
- Agreement** means any agreement, offer or other document between the Customer and Wave. These Conditions are part of any such Agreement, in addition to the specific conditions of the Agreement. These Conditions are applicable to any such Agreement.
- Background Rights Customer** means any IP Rights which, before the date that the Agreement was entered into, have been written, developed, generated or used by the Customer or are owned by the Customer
- Background Rights Wave** means any IP Rights which, before the date that the Agreement was entered into, have been written, developed, generated or used or by Wave or are owned by Wave
- Business Day** means any day excluding Saturday, Sunday that is not a legal bank holiday in Belgium
- Control** means, in relation to a legal entity, the situation where a person (or persons acting in concert) acquires, agrees to acquire or has a right to acquire, directly or indirectly:
- control over the affairs of that legal entity; or
  - more than 50% of the total voting rights conferred by all the issued shares in the capital of that legal entity which are ordinarily exercisable in general meeting; or
  - the right or ability to determine the composition of the board of directors of that legal entity in such a way that the directors appointed by that person or upon that person's proposal have control over the voting within the board of directors of that legal entity;
- and Controlling and Controlled will be construed accordingly
- Deliverables** means any Goods, Services, solutions, events, promotion campaigns, websites, works of art, documentation, productions or other deliverables that Wave delivers to the Customer under any Agreement
- Foreground Rights** means any IP Rights written, developed or generated by Wave specifically for the Customer under the Agreement
- Goods** means those goods or products that Wave delivers to the Customer under any Agreement

<b>IP Rights</b>	means any and all intellectual, industrial and other proprietary rights, including copyrights, related rights, trademarks, trade names and logos, designs, software programs, manuals and other documentation, know-how, any elements of text, graphics, photos, multimedia and audio-visual material and the “look and feel” of any Deliverables
<b>Parties</b>	means Wave, the Customer and any other party to any Agreement if applicable
<b>Services</b>	means those services that Wave provides to the Customer under any Agreement
<b>Tariffs</b>	means the tariffs for the Deliverables as set out in the Agreement

## 2.2 Interpretation

- 2.2.1 Any undertaking by a Party to do or not to do an act will be deemed to include an obligation to procure that its directors or managers, employees and authorised agents will do or not do the same act.
- 2.2.2 The Schedules to an Agreement form an integral part hereof and any reference to an Agreement includes the Schedules and vice versa. If there is any discrepancy, inconsistency or ambiguity between the terms of an Agreement and any of the Schedules, the terms of the Agreement will apply to the extent of the discrepancy, inconsistency or ambiguity.
- 2.2.3 The titles and headings included in an Agreement are for convenience only and do not express in any way the intended understanding of the Parties. They shall not be taken into account in the interpretation of the provisions of the Agreement.
- 2.2.4 When using the expressions “shall use its best efforts” or “shall use its best endeavours” (or any similar expression or any derivation thereof) in an Agreement, the Parties intend to refer to the Belgian legal concept of “obligation de moyen” / “middelenverbintenis”.
- 2.2.5 When using the words “shall cause” or “shall procure that” (or any similar expression or any derivation thereof), the Parties intend to refer to the Belgian legal concept of “porte-fort” / “sterkmaking”.
- 2.2.6 The words “include”, “includes”, “including” and all forms and derivations thereof shall mean including but not limited to.
- 2.2.7 References in the singular will also include references to the plural, and vice versa, wherever this is required by the context.
- 2.2.8 All periods of time set out in an Agreement shall be calculated from midnight to midnight. They shall start on the day following the day on which the event triggering the relevant period of time has occurred. The expiration date shall be included in the period of time. If the expiration date is a Saturday, a Sunday or a bank holiday in Belgium, the expiration date shall be postponed until the next business day. Unless otherwise provided herein, all periods of time shall be calculated in calendar days. All periods of time consisting of a number of months (or years) shall be calculated from the day in the month (or year) when the triggering event has occurred until the eve of the same day in the following month(s) (or year(s)) (“de quantième à veille de quantième” / “van de zoveelste tot de dag vóór de zoveelste”).
- 2.2.9 Unless otherwise provided herein, all references to a fixed time of a day shall mean Brussels time.

## 3 PRICE AND PAYMENT

- 3.1 All Tariffs set out in any Agreement are based on Wave’s estimates of the amount and unit price of the man-hours and other resources required to deliver the Deliverables under such Agreement. If at any time, the Customer instructs any change to the scope of the Deliverables that affects the amount or unit price of the resources required (e.g. the duration, geographic scope or number of attendees of an event or changes in the catering choices of an event), then Wave will be authorised to adjust the Tariffs accordingly. Wave will be allowed to rely on the instructions of any person within the Customer’s organisation who works with Wave on the implementation of the Agreement. If the Customer is aware that the scope of the Deliverables has been changed and proceeds with the implementation of the Agreement without making any objection or comment, this will constitute irrefutable proof that the Customer has instructed and accepted the change in the scope of the Deliverables.
- 3.2 Wave will at all times be allowed to invoice the Tariff for a particular production or other Deliverable in tranches that reflect the progress in the production or the Deliverable. Wave will in any event be allowed to charge 50% of the overall Tariff at the time that a binding Agreement has been entered into between Wave and the Customer, 30% at the time that the first Deliverables are being delivered and 20% at the time of full and final delivery of all Deliverables, unless (i) the specific requirements of a particular Agreement justify that Wave invoices the Tariff according to a more upfront schedule or (ii) specific project milestones and corresponding payment tranches have been identified in the Agreement.
- 3.3 Unless agreed otherwise, the invoices of Wave are payable within 30 days of the invoice date and at the registered office of Wave. The first order will always be paid immediately upon receipt. Notwithstanding anything to the contrary, all Tariffs and any other amounts due to Wave will be charged in the currency determined by Wave. Wave reserves the right to convert such Tariffs and other amounts into a different currency, applying the exchange rate at the time of the conversion.

- 3.4 Wave reserves the right to check the Customer's credit rating periodically and to modify the Customer's payment terms (as set out in any Agreement) in the event that there is a material change in the Customer's credit rating.
- 3.5 Unless otherwise specified, all Tariffs and other charges referred to in any Agreement are net of taxes. If there is value-added tax or any tax of a similar nature levied on these Tariffs or charges, the Customer will pay such tax in addition to the Tariffs or charges. If a withholding tax is withheld from the payments made by the Customer (i.e. as opposed to being levied in addition to the Customer's payments), the Customer will gross up the payments to Wave so that, after deduction of the withholding tax, Wave will receive, on a net basis, the amounts mentioned in the Agreement.
- 3.6 Rebates given to the Customer and any other amounts owed by Wave to the Customer (or to any affiliated companies of the Customer) may, at Wave's discretion, be set off against any sums due from the Customer to Wave (or to any affiliated companies of Wave). All sums due from the Customer to Wave will be paid without deduction.
- 3.7 Any dispute in relation to invoices, in order to be valid, must be notified in detail by registered letter within eight days after receipt of the invoice. No cause, such as e.g. filing a dispute, exempts the Customer of its payment obligation.
- 3.8 If the Customer does not pay an invoice (or any other amount due under or in connection with any Agreement) in whole or in part on its due date, or if the Customer owes Wave any damages on any basis whatsoever, the Customer will owe Wave monthly interest on the amount due, *ipso jure* and without notice, starting from the relevant due date or the date on which the damages occurred. The interest rate will be the interest rate provided in the Law of 2 August 2002 with respect to the suppression of late payments in commercial transactions. Each month commenced will be considered a whole month.
- 3.9 If the Customer does not pay an invoice (or any other amount due under or in connection with any Agreement) in whole or in part on its due date, the Customer will owe Wave *ipso jure* and without notice, a lump sum equal to the higher of (i) 15% of the unpaid amount or (ii) 250 €, for administrative costs and notwithstanding the right of Wave to claim a higher amount upon proof of higher suffered costs.
- 3.10 If the Customer or any Affiliate of the Customer does not pay an invoice or any other amount due to Wave or any Affiliate of Wave, in whole or in part on its due date, all other claims of Wave or any Affiliate of Wave against the Customer that are not yet due will become due *ipso jure* and without prior notice. If Wave has multiple claims against the Customer and the Customer carries out a partial payment, Wave will have the right to decide, in its discretion, towards which claim the payment will be applied.

#### **4 EXEMPTIONS**

- 4.1 Wave is not liable for any delay in the performance of its obligations or failure to perform its obligations because of force majeure. For the purpose of these Conditions and any agreement, offer or any other document to which these Conditions are applicable, force majeure shall be defined as any event not caused by Wave's fault and which prevents, complicates or delays the performance of Wave's obligations, including but not limited to the following circumstances: any act of God, war, civil war, mobilization, invasion, occupation, revolution, rebellion, hostilities, terrorism, fire, explosion, storm, fierce gusts of wind, flood, lightning, fog, strike, lock out, shortage of personnel, epidemic, theft and breakage of material). If Wave relies on third parties for the execution of its obligations, the provisions mentioned in this clause 4 are also applicable if the force majeure event occurs to any of these third parties.
- 4.2 If Wave, as a consequence of the circumstances set out in clause 4.1, is prevented or delayed from performing or observing its obligations, Wave is entitled to suspend any agreement with the Customer to which these Conditions apply in whole or in part or, in the event that the suspension has lasted for 12 months, to terminate any such agreement by registered letter, both without prior court intervention. In that case, Wave will be exempt from its obligations without any liability to indemnify the Customer and without any entitlement of the Customer to demand specific performance. If, at the time of the suspension or termination, Wave has partially performed its obligations, the Customer will pay the pro rata amount of the total price.

#### **5 HARDSHIP**

- 5.1 In case of exceptional circumstances not within the control of Wave, which alter the relative rights and obligations of Wave and/or the Customer to the detriment of Wave by excessively increasing the contractual obligations of Wave (including but not limited to increases of the cost of labour, energy and/or materials), the parties, upon the request of Wave, will in mutual consultation seek to adjust the conditions that apply between them in order to re-establish the initial contractual equilibrium while protecting their respective interests.
- 5.2 In case parties do not reach an agreement with respect to the restoration of the balance of their respective interests within thirty (30) days following the date of Wave's request, Wave will have the right, at its sole discretion, to terminate the agreement to which these Conditions apply by registered letter without any liability. If, at the time of the termination, Wave has partially performed its obligations, the Customer will pay the pro rata amount of the total price.

#### **6 TERMINATION**

- 6.1 Wave has the right to terminate any agreement to which these Conditions apply without prior court intervention and without any prior notice, notice period or indemnity being due, in whole or in part, effective immediately, to the detriment of the Customer, by means of a registered letter to the Customer, in the following cases:

- 6.1.1 If the Customer fails to comply with any of its obligations (either its obligations under the agreement to which these Conditions apply or any other obligations towards Wave or Wave's affiliates);
- 6.1.2 if the Customer is declared bankrupt, is involved in a dissolution, applies for the cessation of payment or loses control over its assets or parts thereof (by seizure, by being put under legal restraint or otherwise) or applies for a judicial settlement ("*gerechtelijk akkoord* ") or if any other collective measure intended to protect the Customer from its creditors is applied for or taken; or
- 6.1.3 if there is a change in control over the Customer and if Wave has reasons to suspect that this change of control will have a negative impact, on the commercial relationship with the Customer or otherwise. For the purposes of these Conditions, control means, in relation to a party, where a person (or persons acting in concert) has, or has a right to acquire, by equity ownership, contract or otherwise, (i) control over the affairs of that party; (ii) 50% of more of the total issued shares and/or 50% of more of the voting rights of that party; and/or (iii) control of the appointment of 50% or more of the members of the board of directors or similar governing body of that party. A change in control occurs *inter alia* (i) when person(s) that held control previously, no longer hold control; (ii) when person(s) that did not hold control previously, acquire control; and (iii) when persons that previously held control acting in concert, no longer act in concert.

In any of the aforementioned cases, all sums payable by the Customer that are not yet due will become due *ipso jure* and without prior demand or notice. In the aforementioned cases, Wave has also the right to suspend the performance of its obligations in whole or in part.

- 6.2 In case of termination or suspension in accordance with the previous clause, Wave will never be liable for any kind of damages. The Customer will indemnify Wave and hold Wave harmless for any damage resulting from or in connection with the termination or suspension.

## 7 CONFIDENTIALITY

- 7.1 The following information will be considered confidential: (i) the existence, subject matter and content of these Conditions and of any agreement, offer or other document to which these Conditions are applicable and (ii) any information (in whichever form; whether about Wave or about any other subject) that is obtained by the Customer as a result of these Conditions and of any agreement, offer or other document to which these Conditions are applicable.
- 7.2 The Customer will treat the information referred to in clause 7.1 as confidential and will not disclose this information or any part of it without the explicit prior written consent of Wave. The Customer will procure ("*maakt zich sterk*") that its affiliated companies and the directors, employees, officers and advisors of itself and of its affiliated companies will comply with this obligation.
- 7.3 The following actions will not constitute a breach of the obligation set out in clause 7.2: (i) the disclosure by the Customer in the event of a judicial and/or arbitral procedure initiated by one party against the other, to the extent that disclosure is strictly necessary for the procedure, and (ii) disclosure if and to the extent that it is strictly necessary for the Customer to comply with its legal or regulatory obligations. In the latter case, the Customer will consult with Wave, in so far as reasonably possible, prior to complying with this obligation.

## 8 LIABILITY

- 8.1 Wave is only liable for the proven damage and/or the loss that is the direct consequence of its proven fault. In no event (including gross negligence) can Wave be held liable for general or specific indirect damages or economic damage or consequential or punitive damages of any kind (including but not limited to lawyers' fees, experts' fees, loss of income or profit, loss of contracts and/or similar damages).
- 8.2 Wave is exempt from any liability in the following events: force majeure as set out in clause 4, acts or omissions (including intentional misconduct or gross negligence) of third parties (including third parties upon whom Wave relies for the execution of its obligations) and/or the Customer, failure to communicate or the incorrect communication of data or instructions by the Customer and/or by third parties. If the acts or omissions occur in respect of Wave's suppliers or subcontractors, Wave will endeavour to minimize its impact and provide the Customer with the best possible solution.
- 8.3 Any liability of Wave is subject to the condition being met that the Customer notifies Wave in writing of the event giving rise to the liability as soon as possible after having been discovered, and in any event not later than one month after having been discovered. The notice must include at least the legal and factual basis of the claim in reasonable detail and an estimate of the amount of the damage.
- 8.4 Any liability of Wave is subject to the condition being met that the Customer has initiated and served formal legal proceedings (in accordance with clause 12.2 or in accordance with the relevant clauses of the applicable agreement or in accordance with applicable law) within 12 months after the goods having been delivered or the services having been supplied.
- 8.5 All costs arising from government decisions will be borne by the Customer. If as a result of (i) the passing of, or any change in, any law or regulation, or (ii) a material change in the interpretation or application of any law or regulation, Wave has to carry out additional tasks that are not part of the tasks contractually agreed, then Wave will carry out such tasks against payment by the Customer of an appropriate compensation, which may be determined in accordance with Clause 5.

- 8.6 Any liability of Wave to the Customer is limited to the maximum amount as covered by Wave's insurance and to 25% of the value of the relevant Agreement.
- 8.7 Wave will not be required to pay any indemnification if the amount which would otherwise be recoverable from Wave (taking into account *inter alia* these Conditions and any agreement, offer or other document to which these Conditions apply) is below 250 €. To the extent that a claim exceeds this amount, Wave will be liable only for the excess.
- 8.8 If any person other than the Customer makes any claim against Wave in respect of loss or damage resulting directly or indirectly from services provided and/or goods delivered by Wave to the Customer, the Customer will fully indemnify Wave in respect of any liability, loss or damage that Wave may incur. Wave will not be liable for, and the Customer will indemnify Wave for, any liability, claim, proceeding, loss, delay, detention, cost or expense in connection with or arising out of (i) Wave applying any provision of, or exercising any rights under, these Conditions (or any agreement to which these Conditions apply), or (ii) the Customer breaching any provision of these Conditions (or any agreement to which these Conditions apply).
- 8.9 Nothing in these Conditions will limit the right of Wave to recover any sum from the Customer on account of the Customer's contributory negligence or breach of any Agreement.
- 8.10 The Customer will take all reasonable steps to mitigate the effect of Wave's negligence or breach of obligations (if any) and to minimise the charges to be borne by Wave.
- 8.11 The Customer will ensure that any exemptions or defences of Wave against the Customer, and any limitations of or conditions to Wave's liability towards the Customer under these Conditions (or under any agreement to which these Conditions apply) will also be opposable by, and apply to the benefit of, Wave against any third parties contracting with the Customer (and in particular against the Customer's customer).
- 8.12 The agreed provisions with respect to Wave's liability in any Agreement will constitute the Customer's sole remedy in connection with the services and/or goods provided by Wave and will apply to any claims by the Customer against the Terminal Operator under contract or at law.
- 8.13 In the event of damage suffered by the Customer as a result of services and/or goods provided by Wave, Wave's liability is limited (including in the event of gross negligence) to the following amounts: (i) for each calendar year: the net turnover invoiced by the relevant Wave company and paid by the Customer in that calendar year; and (ii) for each incident (or each series of incidents arising from a common cause): the net amount invoiced by the relevant Wave company and paid by the Customer in respect of the assignment giving rise to the incident(s), if applicable.
- 8.14 The provisions of this Clause 8 are subject to any deviating provisions of mandatory law, in particular consumer protection rules, as applicable.

## **9 INTELLECTUAL PROPERTY**

- 9.1 The Background Rights Customer remain the property of the Customer. The Customer grants to Wave a nonexclusive and non-transferable right to use the Background Rights Customer to the extent and for the time necessary for carrying out the Agreement. The Customer represents and warrants to Wave that these Background Rights Customer do not infringe any third-party IP Rights. The Customer will safeguard Wave against third party claims in this regard.
- 9.2 The Background Rights Wave and the Foreground Rights remain the property of Wave. Upon final delivery of the Deliverables and provided that the Tariff is paid in full in accordance with the agreed payment terms, the Customer will be granted a nonexclusive and non-transferable right to use the Background Rights Wave and the Foreground Rights to the extent necessary for the functioning of the Deliverables and the consultation thereof by their intended users. Wave represents and warrants that, to the best of its knowledge, the Background Rights Wave and Foreground Rights do not infringe any third party IP Right.
- If all or any part of the Background Rights Wave or Foreground Rights are, or in the opinion of Wave may become, the subject of any claim, suit or proceeding for infringement, Wave may, in its own discretion, take one of the following actions:
- 9.2.1 procure for Customer the right under such IP Right to use, as appropriate, the Background Right Wave, the Foreground Right or the affected part thereof; or
- 9.2.2 replace the Background Right Wave, the Foreground Right or the affected part thereof with other suitable IP Right or parts thereof it; or
- 9.2.3 suitably modify the Background Right Wave, the Foreground Right or the affected part thereof to make it non-infringing; or
- 9.2.4 if the use of the Background Right Wave, the Foreground Right or a part thereof shall be prevented by injunction, or if none of the foregoing remedies are commercially feasible, refund the aggregate payments paid by the Customer for the license of the Background Right Wave, the Foreground Right or the affected part thereof, less reasonable depreciation for use.
- 9.3 The Customer will protect the Background Rights Wave and the Foreground Rights against any copying, adapting, varying, modifying and against any other unauthorised use by third parties.

**10 NON-SOLLICITATION**

- 10.1 During the term of execution of the Agreement and for a period of one year thereafter, the Customer will not directly or indirectly solicit, employ, or in any other way engage any person who, during the term of execution of the Agreement, was an employee, consultant or officer of Wave.
- 10.2 In the event that the Customer employs or engages any person in breach of the terms of Clause 10.1, it will pay, as liquidated damages, to Wave a sum equal to twelve times the monthly salary and/or remuneration which was paid by Wave to such person. Such monthly salary or remuneration will be determined on the basis of the salary or remuneration effectively paid to such person during the twelve-month period immediately preceding the date when such person stopped being an employee, consultant or officer of Wave, or during such shorter period as applicable.

**11 MISCELLANEOUS**

- 11.1 If one or more of the provisions of these Conditions and/or of any agreement pertaining to the provision of services and/or delivery of goods by Wave is declared to be invalid, illegal or unenforceable under any applicable law, such invalidity, illegality or unenforceability will not in any way affect the remaining provisions. In this event, the Customer and Wave will use their best efforts to immediately and in good faith negotiate a provision that replaces the invalid, illegal or unenforceable provision and which is legally valid and is consistent with the purpose and intent of the Conditions and/or the agreement.
- 11.2 The Customer may not assign its rights or obligations under these Conditions and/or any agreement to which these Conditions apply (by merger, split-up, contribution of a universality or a branch of activities, transfer of a universality or a branch of activities or any similar corporate restructuring, either under Belgian law or under any other law, or otherwise) without Wave's prior written consent. Wave reserves the right to assign its rights or obligations under any Agreement to any Affiliate or third party, and to appoint sub-contractors to perform all or any part of its duties.
- 11.3 If:
  - 11.3.1 the Customer or any party controlling the Customer is or has been involved in any mergers & acquisitions activity with a third party (i.e. (i) the Customer or any party controlling the Customer merges or enters into an amalgamation with a third party, (ii) the Customer, solely or jointly, directly or indirectly, acquires control over the management and/or operations of a third party, or (iii) control over the management and/or operations of the Customer is acquired by a third party, solely or jointly, directly or indirectly, or (iv) the Customer or any party controlling the Customer enters into any other transaction with a third party of which the purpose and/or the consequence is the combination of two or more formerly independent legal entities and/or groups); or
  - 11.3.2 the Customer or any party controlling the Customer is or has been involved in any partnership, consortium or strategic alliance with a third party, or any other transaction with a third party of which the purpose and/or the consequence is the pooling of resources and/or the integration of operationsthen:
  - 11.3.3 the terms of these Conditions and/or of any agreement to which these Conditions apply will not in any way be invoked or applied to the benefit of such third party without the prior written consent of Wave; and
  - 11.3.4 the terms of these Conditions and/or of any agreement to which these Conditions apply, will prevail over any conflicting terms and/or conditions agreed by such third party
- 11.4 The relationship between the parties will in no event be considered a partnership, a joint venture or any other association between the parties, nor will one party be considered the agent or employee of the other.
- 11.5 Wave's rights under these Conditions and/or of agreement to which these Conditions apply are cumulative with its rights under law except as agreed otherwise.
- 11.6 Failure by Wave to insist upon the strict performance by the Customer of any provisions of these Conditions and/or of agreement to which these Conditions apply will not be construed to be a waiver by Wave of any right to insist upon strict performance at all times.
- 11.7 Wave reserves the right to change the Conditions unilaterally at all times in accordance with any changes in its commercial policy and the economic and legal necessities. The new Conditions will enter into force immediately upon being notified to the Customer. Changes will apply to offers already made and agreements already concluded.
- 11.8 All offers made by Wave are noncommittal, unless explicitly indicated otherwise. Offers by Wave are not valid for more than two weeks. Wave is only bound by an order after such order has been confirmed in writing by Wave. Offers and tenders by Wave are based on current levels of salaries, raw materials (including energy prices) and exchange rates. If these levels are subject to change, Wave reserves the right to adjust the prices. Any cancellation by the Customer must be done in writing. In that case, the Customer owes Wave at least a flat fee of 40% of the value of the order.
- 11.9 The Customer represents and warrants that (i) it is a corporation duly incorporated and validly existing under the laws of its country of incorporation and has full power, authority and legal right to carry on its business and to enter into any agreement, offer or other document to which these Conditions are applicable and (ii) any provision of services and/or delivery of goods to which these Conditions are applicable does not and will not conflict with any law, regulation, judgement, order, authorisation, agreement or obligation applicable to it or with any agreement to which it is a party (such as exclusivity commitments).

- 11.10 The Customer acknowledges that in entering into its agreement with Wave, it has not relied on any express or implied representation, warranty or other assurance (except those specifically set out in writing in the agreement) made by or on behalf of Wave before the entering into of the agreement.
- 11.11 If the Customer enters into an agreement with Wave also on behalf of one or more of its affiliates or on behalf of other third parties, the Customer will be jointly and severally liable for the obligations of these parties.
- 11.12 Save as otherwise agreed, Wave is entitled to make reference to the Customer in its marketing materials and disclose reasonable details about the nature of Wave's cooperation with the Customer.

## **12 APPLICABLE LAW - JURISDICTION**

- 12.1 These Conditions and any agreement to which these Conditions apply will be governed by and construed in accordance with Belgian law.
- 12.2 Any litigation between the parties will be submitted to the exclusive jurisdiction of the courts of Antwerp, division Mechelen, Belgium.

## **SUPPLY OF GOODS**

### **13 GENERAL**

- 13.1 Clauses 13 up to 15 apply to the extent that the agreement between Wave and the Customer pertains to the supply (pursuant to a sale or otherwise) of goods by Wave to the Customer.  
The provisions of Clauses 13 up to 15 are subject to any deviating provisions of mandatory law, in particular consumer protection rules, as applicable.

### **14 SUPPLY**

- 14.1 Unless agreed otherwise, the goods will be supplied Delivery Duty Unpaid (Incoterms 2000).
- 14.2 The terms for delivery are indicative only and are not binding. No delay in the delivery can give rise to the termination of the agreement for the benefit of the Customer, except in the event of deliberate delay. Wave is entitled to make partial deliveries. In the event of non-delivery of the goods, the advance payments made by the Customer (if any) will be reimbursed by Wave without interest or without any other compensation.
- 14.3 The goods supplied by Wave will remain its property until the Customer will have paid the entire price, including transport expenses, taxes, late payment interest, expenses or late payment compensation. Without Wave's prior written consent, the Customer may not transfer the goods to third parties. In the event of non-payment of the entire price on the due date, Wave is entitled to take back the goods, as of law and at the expense of the Customer. In that event, Wave will also be entitled (by sending a registered letter and without any other formality or judicial review) to terminate the agreement as of law, at the expense of the Customer, without prejudice to Wave's right to claim damages.
- 14.4 The risk for the goods is transferred to the Customer at the time of delivery of the goods to the Customer.
- 14.5 Complaints regarding delivered goods must reach Wave within eight days after delivery. The relevant goods must be returned immediately to Wave. The use or resale of the goods, even in part, implies full acceptance of the delivery.
- 14.6 Wave has the right to deliver up to 10% less and up to 10% more than the amounts ordered. If Wave supplies up to 10% less goods, the Customer cannot require Wave to deliver the remaining amount. If Wave supplies up to 10% more goods, Customer will take these additional goods at the agreed unit price.

### **15 WARRANTY**

- 15.1 Save as expressly agreed otherwise, Wave only warrants that the goods will comply with the laws of the country where the registered office of the relevant Wave company is located.
- 15.2 Wave's warranty will be limited to the replacement of the goods and, if this would not be possible, reimbursement of the price paid. If Wave supplies goods provided by a third party, Wave's warranty and liability will not exceed the warranty provided for by such third party.

## **PROVIDING OF SERVICES**

### **16 GENERAL**

Clauses 17 and following apply to the extent that the agreement between Wave and the Customer pertains to the provision of services by Wave to the Customer.

### **17 PRINTING**

If the Customer entrusts print jobs to Wave, the Customer will take responsibility for the materials to be printed prior to the start of printing by communicating a 'good for print' (or equivalent wording) to Wave.

### **18 DEVELOPMENT OF ONLINE APPLICATIONS**

In the event that the Deliverables include the development of online applications (websites and other applications), the following will apply.

- 18.1 Wave will use reasonable efforts to ensure proper functioning of the website on the following browsers: MS Internet Explorer, Chrome and Safari. Unless explicitly agreed otherwise, Wave will not ensure functioning of the website on any other browsers. In the case of MS Internet Explorer, such proper functioning will be on the latest browser version available at the start of the development of the website and the two versions immediately preceding it.
- 18.2 To the extent that the Customer provides content of the application, the Customer expressly warrants that such content does not violate any applicable law, regulation, contract or generally accepted code of conduct, and does not violate, in any manner, any third-party rights. The Customer undertakes to observe all applicable laws, regulations, contracts and generally accepted codes of conduct which prevent, limit or regulate the diffusion of any information, e.g. provisions relating to advertising, to the protection of privacy rights, to the protection of intellectual property rights, to the prohibition of pornography, hate speech etc. The Customer will hold Wave harmless against all claims by any third party in this respect.
- 18.3 Either of its own initiative, or on the initiative of a third party, Wave may decide to temporarily or definitively suspend delivery of, or access to, all or part of the application, if it has the reasonable conviction that a legal or regulatory provision, or a contractual provision is or was violated. The Customer expressly waives its right to claim any damages in the event of an error of appreciation of Wave, except in case of fraud or the serious fault of Wave. The suspension of any provision of service by Wave in application of the present paragraph does not suspend the Customer's payment obligations.