General Terms and Conditions for Services

These General Terms and Conditions set forth the terms and conditions under which **ICON Photonics**, a simplified joint-stock company founded under French laws, with a shared capital of 22,000 Euros, registered at the Trade and Companies Register in Meaux, under the No. 839 541 687, with its principal place of business at 2 bis rue Alfred Nobel, 77420 Champs-Sur-Marne will provide the Client with Services.

The applicability and order of precedence of these Terms and Conditions, the Non-Disclosure Agreement, the Proposal and the Statement of Work are governed by Article 10 below.

Failing to be expressly formalized in writing, any clause derogating from these Terms and Conditions will be deemed unenforceable. These Terms and Conditions are applicable, unless expressly otherwise agreed or especially agreed with the Client, to the Services provided, whatever the location of the registered office of the Client.

Article 1. DEFINITIONS

For purposes of the General Terms and Conditions, the following capitalized terms shall have the following meanings:

Client: the entity that commissions the Service who, under these General Terms and Conditions, shall be a "professional entity" within the meaning of the provisions of the introductory article of the French Consumer Code.

Parties: means both ICON Photonics and the Client. In the singular, refers to only one of the two Parties.

Order: means any order placed by the Client by means described in these General Terms and Conditions.

Proposal: the quotation issued by ICON Photonics specifying the scope, methods, deliverables, financial conditions and, where applicable, the schedule of the Services.

Prototypes: physical samples, demonstrators or other tangible deliverables developed as part of the Services and provided to the Client for testing, evaluation, qualification or integration.

Services: services provided by ICON Photonics as described in the Proposal and, where applicable, the Statement of Work

Statement of work (SoW): an optional document agreed between the Parties supplementing the Proposal with further technical, operational or financial details relating to the Services.

TERMS APPLICABLE TO THE SERVICES

Article 2. ORDERING SERVICES

The Services shall be performed in accordance with these General Terms and Conditions, the Proposal and, where applicable, the Statement of Work or any other written agreement expressly accepted by the Parties.
To prepare a Proposal, the Client provides ICON Photonics with its requirements and specifications, which may be discussed and clarified during technical meetings.

Following internal validation, ICON Photonics sends the Client a Proposal together with these General Terms and Conditions.
Unless otherwise specified, Proposals remain valid for thirty (30) days from their date of issuance. Upon expiry, ICON Photonics reserves the right to refuse the Order or revise the Proposal.
The Client may accept the Proposal in writing, including by signing it or issuing a purchase order referring to it. The Order becomes binding upon acceptance by ICON Photonics.
Any request to modify the Order shall be notified in writing by the Client and approved in writing by ICON Photonics. Payments corresponding to Services already performed shall remain due to ICON Photonics.

Article 3. Performance of Services

ICON Photonics shall organize the technical and operational resources required to perform the Services.
The Services, including research, development and prototyping activities, shall be performed on a best-efforts basis, without any guarantee of specific technical results unless expressly agreed otherwise in the Proposal or, where applicable, the Statement of Work.
The Client shall provide all information, specifications and technical constraints reasonably necessary for the performance of the Services.
ICON Photonics shall not be held liable for delays or non-compliance resulting from errors, omissions or inaccuracies in the information or specifications provided by the Client.
Unless expressly agreed otherwise in the Proposal or, where applicable, the Statement of Work, delivery schedules are indicative and delays shall not, in themselves, give rise to penalties, compensation or cancellation of the Order.

Article 4. Payment

Payment for the Services shall be made in accordance with the financial conditions and payment schedule specified in the Proposal or, where applicable, the Statement of Work.
ICON Photonics shall issue invoices in accordance with the agreed payment schedule, including any advance payments or milestone payments.
Unless otherwise agreed, payments shall be made in the currency specified in the Proposal by bank transfer to the account indicated on the invoice.
In the event of late payment, the Client shall be liable for late-payment interest accruing automatically, without prior notice, from the day following the payment due date until full payment, at the rate applied by the European Central Bank to its most recent main refinancing operation plus ten (10) percentage points, together with a fixed recovery fee of forty (40) euros per overdue invoice, without prejudice to ICON Photonics' right to claim additional recovery costs where permitted by applicable law and duly justified.
No discount shall be granted for early payment.
No claim or complaint shall entitle the Client to suspend payment of overdue invoices.
Any unpaid invoices shall become immediately due and payable in accordance with applicable law.

Article 5. Services Delivery

If the Client has specific requirements to receive the Services, the Client may specify to ICON Photonics the technical specifications of delivery of the services he wishes to set up in the Proposal or, where applicable, the Statement of Work. In the absence of precision, ICON Photonics cannot be held liable for using any file transfer service company or any carrier.

Article 6. Acceptance of results of the services

The Client shall ensure acceptance of the Services and report any non-compliance within 8 days of their availability.

If the Client does not notify ICON Photonics in writing of any non-conformity within eight (8) calendar days following the delivery or availability of the relevant deliverables, such deliverables shall be deemed accepted in accordance with the Proposal and, where applicable, the Statement of Work, subject to applicable law.

Article 7. SUSPENSION AND EARLY PROJECT CLOSURE

7.1 – Client Obligations and Suspension of Services

The Client shall fulfil its contractual obligations in a timely manner, including payment obligations and the provision of all information, data, materials, approvals, decisions and other contributions reasonably required for the proper performance and completion of the Services, as specified in the Proposal or, where applicable, the Statement of Work.

Such Client contributions and dependencies shall, where reasonably foreseeable, be identified in the Proposal or Statement of Work.

Should the Client fail to fulfil any payment obligation or materially fail to fulfil any other contractual obligation, including by failing to respond to reasonable requests necessary for the continuation of the Services, ICON Photonics shall be entitled to suspend the affected Services upon written notice to the Client.

Any resulting delay shall not be attributable to ICON Photonics, and the corresponding project schedule may be adjusted accordingly.

7.2 – Early Project Closure Due to Client Default

If the Client's failure to fulfil its contractual obligations prevents or materially disrupts the performance or completion of the Services, ICON Photonics may issue a formal written notice identifying the outstanding obligations, requiring the Client to remedy the situation within fifteen (15) calendar days of receipt, and expressly referring to this Article 7.

ICON Photonics shall identify the relevant Client default and its impact on the performance of the Services in the formal written notice referred to above.

If the Client fails to remedy the situation within this period, ICON Photonics shall be entitled to declare the affected Services terminated and the corresponding project closed, without prior judicial intervention, by written notification to the Client.

ICON Photonics shall then provide the Client with the deliverables, results and documentation that can reasonably be produced on the basis of the work performed and the information and materials made available by the Client, subject to the applicable contractual provisions.

ICON Photonics shall not be required to complete any deliverables or activities whose completion has been prevented by the Client's failure to fulfil its contractual obligations.

7.3 – Financial Consequences of Early Project Closure

The Client acknowledges that the agreed project price, where established on a fixed-price basis, reflects ICON Photonics' commitment of resources, technical capabilities and project capacity for the performance of the Services.

Where a fixed-price project is closed pursuant to Article 7.2 due to the Client's failure to fulfil its contractual obligations, the Client shall remain liable for the full agreed project price, notwithstanding the non-completion of deliverables or milestones directly prevented by such failure.

All outstanding amounts under the agreed project price shall become immediately due and payable upon notification of project closure, regardless of the original milestone payment schedule.

Any advance payments or other amounts already paid by the Client shall be deducted from the outstanding balance.

This provision shall apply without prejudice to any mandatory provisions of applicable law and shall not entitle ICON Photonics to recover the same loss twice.

Article 8. INTELLECTUAL PROPERTY

8.1 - ICON Photonics Intellectual Property

Each Party retains ownership of its pre-existing intellectual property. ICON Photonics retains all rights in its proprietary or independently developed technology, patents, patent applications, processes, designs, software, know-how and trade secrets, including any adaptations, modifications, derivatives and improvements thereof developed by ICON Photonics in the course of the Services.
Rights licensed from third parties remain subject to the applicable license agreements.

8.2- Prototypes

Unless otherwise agreed in the Proposal or Statement of Work, physical Prototypes identified as deliverables shall become the property of the Client upon full payment. Such transfer of physical ownership shall not entail any assignment, transfer or license of intellectual property rights in ICON Photonics' underlying technology, designs, processes, methodologies, software or know-how, except for the limited rights of use expressly granted under the applicable contractual documents.
The Client may perform the agreed testing, characterization and evaluation activities but shall not reverse engineer the Prototypes to access or reproduce ICON Photonics' confidential technology, unless otherwise agreed in writing.

8.3- Reports and Project Results

The Client shall receive the reports, test data and other deliverables expressly agreed in the Proposal or, where applicable, the Statement of Work, and may use them for the evaluation, qualification, integration and internal development activities related to the project, including through its affiliates and service providers bound by appropriate confidentiality obligations.
The delivery and permitted use of such results shall not constitute any assignment or transfer of ICON Photonics' intellectual property rights, including those relating to project-specific adaptations of its existing technology, as defined in Article 8.1.
Any additional rights of use or exploitation shall require an express written agreement between the Parties, as specified in the Proposal or Statement of Work.
For the avoidance of doubt, the Client's funding of the Services shall not, by itself, confer any ownership, co-ownership or other intellectual property rights in ICON Photonics' technology or any adaptations, modifications, derivatives or improvements thereof.

8.4- Confidentiality

Each Party shall protect the other Party's confidential technical information in accordance with the applicable Non-Disclosure Agreement and Article 9. Such information shall not be disclosed in publications or patent applications without prior written consent, except as otherwise agreed or required by law.

8.5- Third-Party Rights

The Client confirms that it has the necessary rights to provide the materials, data and instructions used for the Services and shall indemnify ICON Photonics against third-party intellectual property infringement claims directly resulting from their use in accordance with the agreed specifications, except to the extent caused by ICON Photonics' own unauthorized modifications.

Article 9. CONFIDENTIALITY - TRADE SECRETS

The Parties undertake to keep confidential all non-public information exchanged in connection with the preparation or performance of the Services, including technical information, designs, processes, know-how, business information, project results and Prototypes, except where such information is already public or becomes public without breach of a confidentiality obligation.

The Prototypes provided to the Client shall be subject to the agreed confidentiality obligations. The Client may share them with its affiliates, technical partners and service providers where reasonably necessary for the testing, evaluation, qualification or integration activities agreed in the Proposal or, where applicable, the Statement of Work, provided that such third parties are bound by appropriate confidentiality obligations. The Client shall remain responsible for ensuring that any authorized third party receiving Prototypes or confidential information complies with confidentiality and use restrictions at least as protective as those applicable to the Client under these Terms and Conditions.

Consequently, the parties undertake to:

- keep confidential information strictly confidential and not disclose it to third parties without the other Party's prior written consent, except as expressly permitted under these General Terms and Conditions, the applicable Non-Disclosure Agreement, Proposal or Statement of Work;
- use confidential information only for the performance of the Services or the permitted use of the agreed deliverables;
- not reproduce, disclose or exploit the other Party's confidential technology or know-how for any unauthorized purpose.

The Parties shall take appropriate measures to ensure compliance with these confidentiality obligations by their employees and authorized representatives. These obligations shall continue after the end of the contractual relationship, subject to applicable law and any agreed Non-Disclosure Agreement.

Article 10. HIERARCHY AND EVOLUTION

In the event of any inconsistency between these Terms and Conditions and another contractual document expressly accepted by both Parties, the specific provisions of the applicable Proposal or Statement of Work shall prevail for the relevant Order. Any applicable Non-Disclosure Agreement shall govern confidentiality matters to the extent of its specific provisions, unless the Parties expressly agree otherwise in writing.
ICON Photonics reserves the right to amend these Terms and Conditions at its discretion. Any amended version shall apply only to Orders accepted after its effective date, unless otherwise expressly agreed in writing between the Parties.

Any change in current legislation or regulations, or any decision by a competent court invalidating one or more clauses of the General Terms and Conditions shall not affect the validity of the General Terms and Conditions. Any such modification or decision shall in no way authorize Client to disregard the General Terms and Conditions.

Article 11. LIABILITIES

In the event the liability of ICON Photonics is recognized by an enforceable or final court decision, such liability shall be capped at the price paid for the Services, which the Client acknowledges and accepts.

Under no circumstances may ICON Photonics be held liable for indirect damages related to an Order, including but not limited to operating losses, financial losses, loss of turnover, loss of profit, loss of opportunity, loss of reputation or image, loss of clients, loss of prospects, commercial or economic loss.

Under no circumstances shall ICON Photonics be held liable for:

- failure by the Client to comply with the safety and environmental regulations applicable to them;
- cases where the Prototypes or Services results suffer a malfunction that remains within admissible tolerances as per the standard rules of good manufacturing practice applying to Icon Photonics;
- abnormal wear and tear of the Prototypes or Services results;
- premature wear and tear or breakage of the Prototypes, in cases where the Client has used or assembled the Prototypes or Services results in a way that does not comply with the way they would have been used, or where the Client has failed to monitor or maintain the Prototypes or Services results correctly;
- cases where the Prototypes or Services results have been modified and/or repaired by the Client, without having received ICON Photonics' prior written approval.

To the extent permitted by applicable law, ICON Photonics shall not be liable for damage resulting solely from the experimental nature of Prototypes or from their use outside the purposes, specifications or conditions expressly agreed in the Proposal or Statement of work. This provision shall not exclude liability for a failure by ICON Photonics to perform its essential contractual obligations.

Article 12. FORCE MAJEURE

Under no circumstances may ICON Photonics be held liable for delay, non-performance, or any other failure to meet its obligations under these Terms and Conditions, where such failure is the result of a case of force majeure recognized by law and the courts as well as circumstances occurring within ICON Photonics or its suppliers/service providers, such as climatic catastrophes, factory closures, strikes, epidemics, embargoes, serious accidents, machine breakdowns, transport interruptions or delays, raw material defects, partial or total unemployment.

Each Party shall inform the other Party, without delay, of the occurrence of a case of force majeure of which it becomes aware and which, in its opinion, is likely to affect the performance of the Services.

Article 13. DATA PROTECTION AND PRIVACY – GDPR

ICON Photonics may process personal data as a data controller for the purposes of preparing quotations, managing customer relationships, performing Services, invoicing, and conducting related business communications in accordance with applicable data protection laws.

Personal data shall be retained only for as long as necessary for these purposes, subject to applicable legal retention obligations.

In accordance with Regulation (EU) 2016/679 (GDPR), individuals may exercise their applicable rights of access, rectification, erasure, restriction, objection and data portability, as well as withdraw their consent where applicable.

Requests concerning personal data may be addressed to ICON Photonics at its registered office. Individuals may also lodge a complaint with the French Data Protection Authority (CNIL).

Article 14. NON-SOLICITATION

During the performance of the Services and for a period of twelve (12) months following their completion or termination, the Client shall not, directly or indirectly, actively solicit for employment or engagement any employee of ICON Photonics who has been directly involved in the performance of the Services, without ICON Photonics' prior written consent.
This restriction shall not apply to general recruitment advertisements not specifically targeted at ICON Photonics' employees or to unsolicited applications.

Article 15. ADDRESS FOR SERVICE – LAW AND COURTS WITH JURISDICTION

Unless otherwise expressly agreed by mutual agreement, the Parties shall choose their respective registered office as the address for service.

The Parties expressly undertake to attempt to amicably settle any dispute relating to the performance or interpretation of the Contract. These Terms and Conditions are governed by French law.

All disputes resulting from or related to these Terms and Conditions, irrespective of the nature of the claim, shall be exclusively settled by the competent court within the jurisdiction of the Paris Court of Appeal (France).