

## NL ACOUSTICS SOFTWARE LICENSE TERMS

**NOTICE TO THE USER: PLEASE READ THESE SOFTWARE LICENSE TERMS CAREFULLY. BY DOWNLOADING, INSTALLING, STARTING OR OTHERWISE USING THE SOFTWARE YOU ACCEPT THESE TERMS. SHOULD YOU NOT ACCEPT THE TERMS, THEN DO NOT DOWNLOAD, INSTALL, START OR OTHERWISE USE THE SOFTWARE. INSTEAD, UNINSTALL THE SOFTWARE FROM YOUR COMPUTER AND DELETE THE DOWNLOADED INSTALLATIONS PACKAGE(S).**

### 1. APPLICATION OF THE TERMS

These software license terms ("Terms") apply to, and form part of, Agreement(s) on the licensing of the software for sound recording, analyzing and processing equipment developed by NL Acoustics Oy ("Supplier") to its customers ("Customers"). Without limiting the foregoing, any additional or conflicting terms specified in any purchase order or other document issued by Customer are, unless specifically acknowledged and agreed by Supplier in writing, deemed proposals only and are hereby rejected. Supplier and Customer are also hereinafter referred to each as a "Party" and together as the "Parties".

These Terms will also be applicable in case a reseller of Supplier is selling the Service to the Customer and these Terms have been attached to that contract. In such situations, the reseller is considered to be Supplier under these Terms and the reseller assumes all rights and obligations towards Customer. In such a case NL Acoustics Oy is not a contracting party with Customer and any and all claims should be made to the reseller alone.

### 2. DEFINITIONS

The following terms shall have the meanings assigned to them herein, unless otherwise agreed in the Agreement:

**"Agreement"** shall mean an agreement, in which the Parties agree in writing on licensing of the Software to Customer, such as (i) an agreement signed (manually or electronically) by the Parties, (ii) Supplier's offer accepted in writing (by manual signature, email confirmation or otherwise electronically) by Customer, or (iii) Customer's order accepted by Supplier (by manual signature, email confirmation or otherwise electronically).

**"Documentation"** shall mean usage manuals and specifications in written or electronic format that are supplied by Supplier to Customer along with the Software, but excluding marketing materials.

**"Error"** shall mean an error which causes the Software not to function at all or not to function materially as set out in the product description.

**"Intellectual Property Rights"** shall mean any and all intellectual property rights, such as patents, inventions, rights in designs, rights in know-how, trademarks, database rights, trade secrets, domain names, techniques, methods and copyrights (including without limitation right to amend and further develop as well assign one's rights), in each case whether registered or not, whether registrable or not, and including applications for grant of any of the foregoing and all rights or forms of protection having equivalent or similar effect to any of the foregoing which may now or at any time hereafter exist anywhere in the world.

**"NL Viewer"** means a software program called NL Viewer developed by Supplier for viewing of pictures and related data taken by Supplier's sound recording, analyzing and processing equipment.

**"NL Viewer Pro"** means a software program called NL Viewer Pro developed by Supplier for viewing of pictures and related data taken by Supplier's sound recording, analyzing and processing equipment.

**"Software"** shall mean any or all of the following software programs and documentation as context may require: NL Viewer, NL Viewer Pro and related Documentation and Third Party Software..

**"Third Party Software"** shall mean third party software included in the Software and delivered to Customer. Upon request Supplier provides a list of Third Party Software to Customer. Third Party Software that is included in the Software will be governed by and be subject to their respective licensing and other terms and conditions that will apply instead of the provisions of these Terms.

### 3. GRANT OF LICENSE

Supplier grants to Customer, subject to the terms and conditions of these Terms and subject to payment of the license fees set forth by Supplier, under all of Supplier's Intellectual Property Rights, a limited, non-exclusive, non-sublicensable, worldwide, non-transferable, revocable right and license during the term of the Agreement, to install the Software to one (1) computer and use it on the computer where it is installed for its internal business purposes.

Supplier and the licensors of Third Party Software own and solely retain all rights, title and interest including but not limited to all Intellectual Property Rights to the Software. All rights, titles and interest to the Software and shall at all times remain solely the property of Supplier and its Third-Party Licensors. Supplier will also retain all rights in and to the results of any possible work performed by Supplier under these Terms. Any use of the Software in deviation to these Terms is expressly forbidden.

The License gives Customer only a limited license to use the Software, which is subject to revocation in accordance with these Terms. Any other use of the Software and in deviation to these Terms is expressly forbidden and may terminate the Agreement upon Supplier's notice to Customer according to these Terms. These rights and licenses are temporary and valid only for as long as the Agreement is in force.

All the copies of the Software hereupon shall be subject to the provisions of these Terms. Any reproductions of any portion of the Software by Customer shall always include all proprietary and statutory copyright notices of the original Software. Customer may not distribute or disclose the Software or portions thereof to third parties in deviation to the provisions of these Terms.

Customer shall neither cause nor permit any reverse engineering, disassembling, decompilation, translation, modification, adaptation of the Software, or extraction of any part of the Software, or otherwise attempt to learn the inner workings, source code, structure, algorithms, artwork or ideas underlying in the Software. Customer is expressly prohibited from adapting, modifying, revising, improving, upgrading, enhancing and creating derivative works of the Software for any purpose including error correction or any other type of maintenance, except as expressly allowed in the Documentation.

The Agreement shall not be deemed to result in the sale, transfer or any other conveyance of patents, trademarks, copyrights, or any other Intellectual Property Right of whatsoever nature held or used by Supplier to Customer.

### 4. LICENSE FEES

Customer will pay the license fees as specified in Supplier's offer or price list.

### 5. NO WARRANTY

THE SOFTWARE AND ALL RELATED INFORMATION AND DOCUMENTS ARE PROVIDED "AS IS" AND "AS-AVAILABLE." SUPPLIER DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AVAILABILITY AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. CUSTOMER USES THE SERVICE AND ALL RELATED INFORMATION, RECOMMENDATIONS AND DOCUMENTS AT ITS OWN RISK.

### 6. CONFIDENTIALITY

Except where otherwise provided in the Agreement, each Party (i) shall keep in confidence all information of the other Party that is marked as confidential or that the receiving party should reasonably understand is confidential from the circumstances of disclosure or the nature of the information ("Confidential Information"); (ii) may not disclose the other Party's Confidential Information to any third parties and (iii) may not use or utilize such Confidential Information for any other purposes than for the fulfillment of the purpose of the Agreement. Supplier may disclose Customer's Confidential Information to its subcontractors for the purpose of the fulfillment of the purpose of the Agreement, provided that it has agreed on a confidentiality provision substantially similar as that herein with the subcontractors.

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This confidentiality obligation shall not apply to information: (i) which at the time of disclosure is or later becomes generally available or otherwise public through no breach of the Party receiving the information; (ii) which was in the possession of the receiving Party without a confidentiality or non-use obligation prior to receipt of the same from the other Party; (iii) which the receiving Party receives from a third party who did not breach an obligation of confidentiality when disclosing the information; (iv) which the receiving Party can prove the receiving Party has developed independently without using the Confidential Information of the other Party; or (v) which the receiving Party is obliged to disclose pursuant to an order by an authority or court or otherwise in accordance with law. Without limiting the foregoing, Supplier shall have the right to utilize the general know-how, skills and expertise that its and its subcontractors' personnel have learned in conjunction with the performance under any Agreement.

Unauthorized disclosures of Confidential Information that are caused by security breaches or other similar causes are not regarded as a breach of the above confidentiality obligation as long as the Party has used reasonable care in protecting the Confidential Information from such causes.

### 7. LIABILITY

EITHER PARTY SHALL HAVE NO LIABILITY FOR ANY (I) INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, REVENUE OR SAVINGS, OR FOR DAMAGES PAYABLE TO THIRD PARTIES, OR (II) LOSS OR ALTERATION OF DATA OR EXPENSES CAUSED THEREFROM OR COST OF COVER PURCHASE ARISING UNDER OR IN CONNECTION WITH ANY AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

In no event shall Supplier's aggregate maximum liability to Customer arising out of or related to any Agreement exceed one thousand (1000) euro.

The limitations of liability shall not apply to damages caused by gross negligence or intentional act or to breach of the licence by Customer or breach of the Section entitled "Confidentiality".

### 8. TERM AND TERMINATION

#### Term

The term of the Agreement is stated in the Agreement.

#### Termination due to Cause

Either Party may terminate the Agreement immediately with a written notice to the other Party in case:

- a) the other Party commits any material breach of the Agreement and fails to remedy the same within seven (7) days after receipt of a written notice by the other Party, or
- b) the other Party is adjudicated bankrupt or placed in liquidation, discontinues the active conduct of its business, fails or is unable to pay its debts as they become due, or is or becomes insolvent.

### 9. MISCELLANEOUS

#### Reference Right and Assignment of the Agreement

Supplier may assign Agreement(s) without the consent of Customer to a transferee, in connection with the sale or transfer of its business or part thereof, or to its affiliate, and by merger or demerger. Except as aforesaid, neither Party may assign any Agreement without the prior written consent of the other Party.

Supplier shall have the right to use any subcontractors. Supplier shall be liable for the work of its subcontractors as work of its own.

Supplier may use Customer as a reference in its marketing. Customer can ask Supplier to stop doing that.

#### Entire Agreement

The Agreement(s) constitutes the complete agreement between the Parties with respect to the subject matter of the Agreement(s) and supersedes all previous proposals and marketing materials and other communications between the Parties with respect to the subject matter of the Agreement(s).

#### Severability

If any provision of any Agreement is found to be contrary to law, the other

provisions of the Agreement will remain in full force and effect and the Agreement shall be interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law.

#### Waiver and Amendment

No change or amendment of any Agreement shall be valid unless made in writing and signed both Parties. No failure by either Party in exercising any right, power, or remedy under any Agreement shall operate as a waiver of any such right, power or remedy.

#### Force Majeure

Except with respect to payment obligations, which will not be subject to this Section, a Party shall not be liable for the delays, defects or damages that are caused by factors due to an impediment beyond his control, which he cannot reasonably be deemed to have taken into account at the time of the conclusion of that Agreement, and the consequences of which he could not reasonably have avoided or overcome. Such events of force majeure shall include, without being limited to, natural disasters, breakdown of electricity or networks, failures in Internet and other public networks or data traffic, security attacks, strikes and other labor disputes or acts of government or authorities. A labor dispute shall be considered a force majeure event also when the Party concerned is the target or a party to such an action. The force majeure events suffered by subcontractors shall also be deemed as force majeure events.

#### Governing Law and Disputes

If not otherwise agreed in other parts of any Agreement, all Agreements shall be construed in accordance with the laws of Finland excluding its choice of law provisions and the UN Convention on Contracts for the International Sale of Goods and all disputes arising out of all Agreements shall be finally settled by arbitration in accordance with the Arbitration Rules of the Finland Chamber of Commerce by one (1) arbitrator. The arbitration shall take place in Helsinki, Finland, and shall be conducted in English.

Notwithstanding the above, each Party shall be entitled to seek equitable and/or injunctive relief to prevent or stop a violation of the terms and conditions in any Agreement pending arbitration and Supplier may take legal actions concerning overdue payments, in any court of law.