



PhotonDelta Cooperative's IP Cloud Work Practice Members Terms & Conditions

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**This version supercedes all previous versions of
this document.**

**PLEASE TAKE A MINUTE TO READ THE FOLLOWING TERMS &
CONDITIONS (T&C).**

**NOT ABIDING BY THE T&C AS STIPLATED BELOW CAN LEAD
TO THE CANCELLATION OF YOUR INSTITUTION OR COMPANY
AS A MEMBER OF PHOTON DELTA.**

PLEASE BE AWARE OF THE FOLLOWING

**IN ADDITION TO THE TEXT BELOW, PLEASE ALSO REFER TO
THE ARTICLES OF ASSOCIATION OF THE PHOTONDELTA
COOPERATIVE AND ANY INTERNAL RULES AND REGULATIONS
THAT MAY BE APPLICABLE.**



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Background: PhotonDelta Cooperative Services

The PhotonDelta Cooperative is a new international, professional membership organization with its headquarters in The Netherlands. It is a separate legal entity and operates under Dutch law.

We believe that exponential growth of the global Photonics Industry comes through intensive, sustained cooperation between trusted partners.

We're combining the powerful energy found in young scale-up companies with the experience of established photonics enterprises. We also have unique access to world-class Research and Development institutions across our region and across the world. That includes Universities as well as private corporate research centres.

Our Four Guiding Principles

PhotonDelta has conducted extensive research into the global photonics sector. We see that the runway on product development time is getting very much shorter as companies face growing international competition. Those discussions have led to the formation of the PhotonDelta Cooperative with 4 strategic goals.

We want to

Connect - We actively link best-in-class innovation and research to best business practice. Local, National and Global.

Amplify - PhotonDelta amplifies existing initiatives, strengthens existing collaborative networks and, when needed, helps to build new ones.

Accelerate - We know from experience that a mix of formal and informal networks is the key to speeding up technology validation and time to market. Trust is key.

Partner - We want to increase the flow of leading-edge expertise and investment to The Netherlands – to open up Europe's photonics innovation to the rest of the world.

Getting Access

Being a member of the PhotonDelta cooperative gives you fast track access to relevant IP before that intellectual property is published. That's a clear strategic advantage you can't achieve alone. With time to market becoming increasingly important, the Cooperative has been established to facilitate faster and simplified low-threshold access to partners and IP.

Each member in the network has recognised the benefit of trusted collaboration and wishes to share information and/or give insights on their expertise.

After being accepted as a member, parties have password-protected access to the PhotonDelta Integrated Knowledge and I.P. Cloud ("the Cloud") which assists them in identifying potential partners and lists their expertise.

Information exchange is achieved by actively posting research outputs and insights as well as specific technology or expertise calls.

A standard membership of the PhotonDelta co-operative comes with a fixed number of licenses per company to access the cloud. Additional licenses to the cloud can be requested from the PhotonDelta Office.



Definition of Research & Commercial licenses.

All parties acknowledge that any information released and made accessible via the PhotonDelta IP cloud grants them an automatic **research** license. This means that companies can use the gained knowledge in their own research projects.

In the event a Party wishes to use the knowledge for commercial purposes, a **commercial** license is always required. PhotonDelta is the issuing party for these licenses.

Academics and companies are encouraged to share research output as well as technical expertise, equipment they have available etc. in the Cloud. But the PhotonDelta Office does not warrant that all PhotonDelta research output will be made available on its IP Cloud.

Access to a highly-specialised network of people and companies

The Cooperative is a highly specialised network of people and companies. The identification of partners can be partially facilitated through using and accessing the Cloud. The best way to establish possible collaborators, however, is through personal contact. Events such as the Annual Technology Mapping Forum or other specialised events offer members opportunities to connect with each other. Some events may be part of the membership benefits whereas other may require payment of an additional fee.

Who can join?

In principle, there are no geographical restrictions for selecting the companies who wish to join the Cooperative. However, all membership applications require the approval and will be at the sole discretion of the Approval Committee, which consists of members of the Cooperative.

All companies who wish to join the Cooperative will be subject to a brief due diligence procedure. Existing companies may be asked to submit their last annual financial report or statement when they (re-) apply for membership. Members of the Cooperative may also be required to submit an update of their Annual Financial Statement every two years. Start-ups and spin-outs who wish to join the Cooperative may be asked to submit a viable business plan. Service companies such as VC's, business angels, consultancy companies etc. are permitted to join provided they clearly state the reason why they wish to join.

PhotonDelta will seek to find a healthy balance between companies in the value chain of PhotonDelta and service providers such as VC's, consultancy companies etc. For this group of companies, a limit may be set to keep the balance and as a result, service companies who wish to join can be put on a waiting list.

PhotonDelta also seeks to find a constructive balance between non-service companies and the types thereof. As a result, there may be waiting lists for certain companies depending on the number of similar firms in that part of the value chain already in the Cooperative or the number of companies offering similar services.

Membership Dues

Member type	Annual Membership Fee
Start-ups (<5 years)	€1.500
Research institutions	€1500
Companies > 5 years	€2500

The fees are due annually at the beginning of the year. Companies that join during the course of the year will be invoiced proportionally until the end of the year.

Membership includes:

- A €5K Voucher: exchangeable for a Multi Project Wafer project.
- Access to unpublished data and publications from academic research groups via a secure private IP Cloud.
- Professional media coverage of breakthroughs developed by member organizations, positioned for an international audience. We're making more use of explainer video formats and working with photonics media outlets worldwide. Members may use PhotonDelta material on their own sites.
- Proprietary market intelligence reports
- Exclusive Industry briefings
- Access to special invite-only events

The membership is not transferable to an affiliate company. Parties hereby consent to a Member Profile page, which is accessible to all Members. The information provided on this page derives from the Membership Application Form, Section A.

Change of Address or Contact of Members

Companies must advise the PhotonDelta Office of any change of name, address, or other relevant details as soon as the change occurs. The PhotonDelta Office is not responsible for any failure by the Company to notify the PhotonDelta Office of the change that may result in the loss of membership benefits. Changes to address should be made by email to office@photondelta.eu or in writing to PhotonDelta Cooperative, P.O Box 513, 5600 MB, Eindhoven, The Netherlands.



PhotonDelta
Cooperative

Termination of Membership

The membership is valid for 12 months and will be renewed automatically. Notice of termination of a new membership term must be given 2 months before the end of the existing term.

Membership may be cancelled/refused to individuals by PhotonDelta Office at its discretion, if Membership is deemed to be fraudulent, linked to a fraudulent Membership and/or a Member and/or manner otherwise regarded by PhotonDelta as highly inappropriate.

Membership may also be terminated if a Party is found to be deliberately blocking exploitation of foreground IP through not offering licenses to background and side-ground IP it owns which are required to commercially exploit the foreground IP.



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Using the Cloud

Administrators and Sub-users

When a company registers with PhotonDelta for the first time, they need to appoint an Administrator. This can be the individual that registers the company or it can be a delegated to another person in the same organisation. However, the individual that registers the company and the Administrator, need to be authorized to sign on behalf of the firm.

Once the company has been approved to join by the Membership Approval Committee, the Administrator will be given access to the IP Cloud.

Administrators can invite “sub-users” but the final approval of allowing sub-users into the IP Cloud will be governed by PhotonDelta.

Sub-users are other employees of the same firm as their Administrator, with the difference that the Administrator is responsible for the overall Company account. He/She is also responsible for the Company profile on the Cloud. Sub-users cannot invite other sub-users

The PhotonDelta Cloud is provided and hosted by Innoget

The PhotonDelta secure Cloud is provided and hosted by Innoget. Innoget is a Spanish company and has it's own Terms & Conditions. When entering the Cloud, you accept Innoget's Terms & Conditions for using the Cloud.



Agreements in PhotonDelta

Use of Standard Agreements

Parties understand, commit and agree to use the standard NDA agreement when joining the PhotonDelta Cooperative. Parties will not seek to negotiate with academics independently of PhotonDelta.

PhotonDelta will review agreements annually. If amendments are required, then the proposed changes will be discussed with a committee consisting of a representative group of the Cooperative Companies.

PhotonDelta also offers companies a standard license agreement. This agreement has been approved by universities and a representative group of companies. It is not obligatory to use this agreement.

Owner(s) of patents or other licensable technology posted in the Cloud who find a potential licensee, are free to choose the PhotonDelta license model or negotiate their own license with their TTO. For more information on the license model provided by PhotonDelta, please read further under Patenting and Licensing – The PhotonDelta model.

Patenting and licensing – The PhotonDelta Model

Parties interested in taking a license to technology posted on the Cloud will inform the owner of the post. This can be done via the “Contact Me” functionality on the page of the Technology Post or if parties are already in contact, the company interested in the technology can inform the owner.

The interested Licensee fills out a License Request accompanied with the R&D and Exploitation plan. The owner of the IP will collect and assess the requests. In the event more than one party is interested in a patent, a split may be made on the Field of Use, a semi-exclusive license is given or the Member with the best R&D and exploitation plan will be given the license.

Patent costs

The patent is filed together with the licensee(s) and costs relating to the filing are borne by the licensee(s).

License Fee Structure Proprietary I.P.

When the standard license to proprietary I.P. is issued, there will be a one-off signing fee plus an Annual Lease fee. The size of the lease fee is dependent on the size of the company.

There will be no milestone or royalty payments.

In the event a company grows in size, the annual lease fee will grow with them.



All licensees will be asked to fill out a report annually on the development of the technology they have a license to. As part of this report, all companies will be asked the number of employees at that point in time. This will be the number on which the lease fee will be set for the following year.

In a similar way as described above, if the number of employees is reduced then the lease fee will be reduced as well.

Type of Fee	Amount Due
One-off signing fee	€10.000
Annual lease fee for a company <50 employees	€1000
Annual lease fee for a company >50 but <250 employees	€5000
Annual lease fee for a company >250 employees	€10.000

Example:

Company A has identified a patent on a specific technology that it would like to license. The owner of the technology is known as they've had discussions as to how to use the technology. The parties agree on using the PhotonDelta license model.

Company fills out the License Request form as much as they can and ideally submit a research project. The owner of the patent can use this form as the basis for the license and any future reporting obligations. The owner of the patent can agree to give the license to Company A if they are satisfied with the information provided in the License Request.

The license agreement's blanks (parties, exclusivity etc.) is filled out based on the License request. Company A is invoiced for €10.000 (signing fee) and the first annual fee. In the event that there are historic costs, Company A has to pay for the historic costs as well.

As company A is a medium sized company with 60 employees, their annual fee is €5000. Assuming the patent is still in its priority year, the total annual fee the company pays is €5000 per year x 20 years = €100.000. In addition, all patent costs are borne by Company A.

License Fee Structure Research Tools

Access to research tools is given through a standard research tool license and is free of cost.

Termination of Licenses under the PhotonDelta model

Companies can terminate if the research area that the licensed I.P. is in is no longer of interest to the company. The company is obliged to offer the I.P. back to the Institution at no cost. However, there is no obligation for the Institution to take it back and maintain the patent costs. In the event the Institution chooses to maintain the patent and seeks to find a new licensee, the ex-licensee is required to transfer all relevant patent documentation to the Institution.

Termination follows after written notification clearly stating which I.P. is to be returned to the Institution as well as the reason for the termination (e.g. the research area no longer has priority, the research conducted has indicated the technology does not work etc.).



Existing Licenses in the area of Photonics with Technology Partners

In principle all existing I.P. will continue under the previously negotiated licenses. However, if an existing licensee can terminate under the current license and wishes to do so in order to opt for a Photon Delta license, the company should be aware that the full process is to be followed. This means the company must join the Cooperative. The IP will be offered to all parties in the Cooperative for a period of 12 weeks. Any company interested in a license to the technology will need to submit a license bid, which may include a research proposal with the cost calculated according to Photon Delta model. In the event multiple parties wish to take a license, the Institution to whom the I.P. belongs to will make a decision with which party they wish to collaborate. Thus, no guarantees will be given that the same company will receive a license to the IP.

Research projects

Research projects that are fully funded by Members of the Cooperative

All research projects fully funded by Industry will follow the Full Economic Cost methodology (FEC). The FEC methodology applies a 100% overhead on labour costs. In addition, any material costs required for the project will be added. More information about FEC can be requested at office@photondelta.eu.

A one-off fee of €10.000 will be built into the research project at the outset of the project and is due at the beginning of the project. This is the cost for any foreground patents and all types of licenses (research and commercial) for future patents deriving from the agreed project. In exchange for using the FEC methodology, the license to a future patent is hereby considered fully paid up. The FEC cost for the research project in addition with the one-off fee for foreground patents is the full project price.

Research projects that are fully or partially funded by government grants, subsidies or similar instruments must follow the terms and conditions of the grant.

Giving access to background and side-ground IP

Parties hereby agree to make background IP and side-ground IP available through a research license in the event this is required to carry out research within the Research projects in the Technology Center in which they are involved.

Parties agree not to withhold or deny access to background or side-ground IP necessary to develop or exploit **foreground IP** derived from projects in the Photonics Integrated Technology Center (PITC). Commercial terms for giving licenses to background or side-ground IP will be at the discretion of the owner of the background or side-ground I.P.

Existing Research agreements in the area of Photonics with Technology Partners

In principle all existing research contracts will continue under the previously negotiated contract. However, if an existing research collaborator can terminate under the current contract and wishes to do so in order to opt for research collaboration under the Photon Delta terms (e.g. paid up future I.P.) the company should be aware that the full Photon Delta process is to be followed. This means that the cost of the project will be recalculated under the Photon Delta model terms. As the original research collaboration was signed off prior to an Industry Club, a 30% additional fee (cost for a non-Cooperative member) will be charged on the full project cost. In the event that the cost is higher, the difference between the prices paid until the termination and the new price will be charged.