

# General Terms and Conditions (T&C)

Version 20230101

## APPLICABLE TERMS

These Terms govern the sale of Products provided by Photoneo, as well as provision of Software and Services by Photoneo. Any applicable addenda to these Terms, including purchase agreement, framework agreements, agreed and signed by the Parties, purchase order, order confirmation issued by Photoneo, and Photoneo's (price) quotation form the Parties' final agreement. In the event of a conflict between these documents, precedence shall apply in accordance with the following order: purchase agreement including framework agreement, Order Confirmation, these Terms, quotation, Purchase Order. Photoneo's quotation or Order Confirmation is conditioned by Buyer's acceptance of these Terms. Any additional or conflicting terms in Buyer's initial request, specifications, purchase order or any other written or oral communication are not binding on Photoneo unless separately signed by Photoneo. Photoneo's failure to object to Buyer's additional or conflicting terms does not operate as a waiver of any terms contained in these Terms. Photoneo reserves the right to set out its contractual relationship by way of derogation from these Terms.

## 1 Definitions and Interpretation

**1.1** In this Agreement the following definitions shall have the following meanings:

„ACCESSORIES” - additional equipment which is not fixed to the Products enabling or supporting the use of a Product (e.g. cables, chargers etc.);

„AGREEMENT” - any applicable addenda to these Terms, including purchase agreement, framework agreements, agreed and signed by the Parties, order confirmation issued by Photoneo, and Photoneo's (price) quotation, any End-User License for the Software (if applicable), form the Parties' final agreement;

„BUSINESS DAY” means any day in which normal business operations are conducted, generally considered to be Monday through Friday from 9 a.m. to 5 p.m. excluding weekends and public holidays in Slovakia.

„BUYER” - the legal entity which buys or agrees to buy Product from Photoneo for business, employment or profession related purposes (i.e., excluding consumers);

„COMMERCIAL CODE” - the Act no. 513/1991 Coll. Commercial Code as amended.

„CONFIDENTIAL INFORMATION” - all information relating to either Photoneo or the Buyer (including but not limited to information in respect of the Services (or any of them)) which might fairly be considered to be of a confidential nature;

„DOCUMENTATION FOR THE PRODUCT” - user manual, instruction manual, installation instructions, or any other information on the use of the Product sent electronically to the Buyer or packaged with the Product;

„ORDER CONFIRMATION” Photoneo's written confirmation of the Buyer's order which meets criteria specified in Section 5.1.

„PARTY” - either the Buyer or Photoneo;

„PARTIES” - the Buyer and Photoneo together;

„PHOTONEO” - Photoneo s. r. o., with its registered seat at Plynárenská 6, Bratislava 821 09, Id. No. (IČO): 47 353 309, registered with the Commercial Registry of District Court Bratislava I, Section: Sro, File No. 91452/B;

„SERVICES” - the services required by the Buyer to be undertaken by Photoneo;

„PRODUCT” - the equipment, components, parts, and materials provided by Photoneo;

„PURCHASE ORDER” - the paper or electronic form (as part of electronic transactions) with which the Buyer orders Products and Accessories from Photoneo;

„SOFTWARE LICENSE” - the software licenses governing the use of the Software;

„SOFTWARE” - the software related to the use of the Products, which may be supplied together with the Products or on a stand-alone basis, and to which Photoneo holds the proprietary rights;

„TERMS” - these Photoneo General Terms and Conditions (T&C).

**1.2** All references in these Terms to the singular shall mean the plural and vice versa, all references to person shall include companies, partnerships and other organizations and all references to the masculine shall include the feminine and neuter and vice versa.

These Terms are executed in the English language, and any and all communication between the Buyer and Photoneo shall also be made in English, unless Photoneo explicitly consents to the use of a different language in a particular case.

## 2 Basic of the Sale

**2.1** Photoneo shall sell and the Buyer shall purchase the Products or supply the Services based on a written Purchase Order which is accepted by Photoneo's Order Confirmation, and in accordance with these Terms which shall govern the Agreement, unless otherwise specified therein.

**2.2** The Order Confirmation and these Terms shall be deemed a binding Agreement without the Parties having to conclude a formal purchase agreement to execute the sale of a Product.

**2.3** Photoneo's employees or agents are not authorized to make any representations concerning the Product unless confirmed by Photoneo in writing. In entering into the Agreement, the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations that are not so confirmed.

**2.4** Any typographical, clerical or other error or omission in any sales agreement, quotation, Order Confirmation, price list, acceptance of offer, invoice or other document or information issued by Photoneo shall be subject to correction without any liability on the part of Photoneo.

## 3 Orders and Specifications

**3.1** No Purchase Order submitted by the Buyer shall be deemed to be accepted by Photoneo unless and until confirmed by Photoneo's authorized representative in writing (the "Order Confirmation"). No Purchase Order acceptance thereof is guaranteed until Photoneo issues an Order Confirmation to Buyer.

**3.2** Buyer shall be responsible to Photoneo for ensuring the accuracy of details of any Purchase Order (including any applicable specification) submitted by the Buyer and for giving Photoneo any necessary information relating to the Product within and if applicable sufficient time to enable Photoneo to perform the Agreement in accordance with its Terms.

**3.3** All orders from Buyer must be made in writing. The quantity, quality and description of and any specification of the Product shall be those set out in the Photoneo's quotation (if unconditionally accepted by the Buyer) or the Buyer's order (if accepted by the Photoneo via Order Confirmation).

**3.4** Photoneo's performance is contingent upon Buyer's timely fulfillment of all of its obligations under the Agreement. The Buyer shall supply all documents and approvals needed for Photoneo to perform its obligations under the Agreement, including but not limited to, technical information and data, drawing and document approvals, and necessary commercial documentation. Photoneo may request a change order for an equitable adjustment in prices and times for performance, as well as for any additional costs or any delay resulting from the failure of the Buyer or Buyer's contractors, successors or assigns to meet such obligations.

**3.5** If the Products are to be manufactured or any process is to be applied to the Products by Photoneo in accordance with a specification submitted by the Buyer the Buyer shall indemnify the Photoneo against all loss damages, costs and expenses awarded against or incurred by the Photoneo in connection with or paid or agreed to be paid by Photoneo in settlement of any claim of infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Photoneo's use of the Buyer's specification.

**3.6** Photoneo reserves the right to make any changes in the specification of the Product which are required to conform with any applicable safety or other statutory requirements.

#### **4 PRICING & PAYMENT**

Prices and payment terms are as stated in Photoneo's quotation and/or Order Confirmation. Where no price has been quoted or confirmed (or a quoted price is no longer valid), the applicable price is listed in the Photoneo's published price list current at the date of acceptance of the order.

**4.1** Unless stated in Photoneo's quotation, all payments are due net thirty (30) days from the invoice date in EUR (Euro).

**4.2** Photoneo issues original invoices and provides them to the Buyer in an electronic form in .pdf format only; and sends to the email address specified by the Buyer in writing in the Agreement (including any applicable agenda according to these Terms). In case that the Buyer issues an invoice to Photoneo, the invoice shall be in electronic form .pdf. format; and sent to the email address provided by Photoneo in writing.

#### **4.3 Credit Approval**

All orders are subject to credit approval by Photoneo. Photoneo may modify, suspend or withdraw the credit approval or payment terms at any time. If there is doubt as to Buyer's financial condition, Photoneo may withhold manufacturing or shipment, require cash payments, require advance payment or require other satisfactory security. Photoneo may recover shipped Products from the carrier pending such assurances.

#### **4.4 Taxes, Shipping, Packing, Handling**

Unless stated in writing by Photoneo, Photoneo's prices exclude charges for freight, unloading, storage, insurance, taxes, excises, fees, duties or other government charges related to the Products. Buyer will pay these amounts or reimburse Photoneo upon the mutual agreement of the Parties. If Buyer claims a tax or other exemption or direct payment permit, Buyer will provide a valid exemption certificate or permit or any other documents requested in this process by relevant authority and indemnify, defend and hold Photoneo harmless from any taxes, costs and penalties arising from the same. Photoneo's prices include the costs of its standard domestic packing only. Any packing deviation will be charged to the Buyer. Increases, changes, adjustments or surcharges which may be incurred are for Buyer's account. Buyer will pay or reimburse any excess transportation charges for special, Photoneo initiated or expedited delivery.

**4.5 Price Increase.** Photoneo reserves the right by giving notice to Buyer at any time before delivery to increase the price of the Products to reflect any increase in the cost to Photoneo which is due to any factor beyond the control of Photoneo (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labor, materials or other costs of manufacture) or any delay caused by any instructions of the Buyer or failure of the Buyer to give Photoneo adequate information or instructions.

#### **4.6 Late Payments**

Late payments shall bear interest at an annual percentage rate of eight percent (8%) p.a. or the highest rate allowed by law, whichever is lower.

#### **4.7 Disputed Invoice**

If Buyer disputes all or any portion of an invoice, it must first deliver to Photoneo the written notice of the disputed amount and the basis for the dispute within seven (7) days of receiving the invoice, otherwise the Buyer is considered to agree with the invoice and must pay the invoice in full and in time. Photoneo shall inform Buyer without undue delay on the acceptance of the notice. Upon resolution of the dispute, Buyer must pay the invoice or the remainder of the invoice, plus any accrued interest on the late payment. In case the undisputed part of the invoice or non-acceptance of dispute process by Photoneo due to lack of relevant factual and/or legal matter of fact, the original terms and due date specified in the disputed invoice remain effective and shall apply to the undisputed part of the invoice or refused disputed invoice (in whole).

#### **4.8 Suspension/Termination Right**

Unless stated in writing by Photoneo, Photoneo may suspend work or performance of the Agreement, if an undisputed invoice is more than thirty (30) days past due. Photoneo may terminate the Agreement if an undisputed invoice is more than thirty (30) days past due. Unless prohibited by law, Photoneo may also terminate the Agreement immediately in the event of a material adverse change in Buyer's financial condition including, but not limited to, bankruptcy, insolvency, liquidation or similar financial condition. Photoneo has the right to a proportional payment of a Product price and to a compensation of the respective expenses in relation to performance under the Agreement before the termination from Buyer.

#### **5 DELIVERY; TITLE; RISK OF LOSS**

**5.1** Products will be delivered under Ex Work (EXW) Incoterms® 2020, unless otherwise agreed in writing by Photoneo. The particular delivery place shall be stated in the Order Confirmation issued by Photoneo. Buyer is responsible for all transportation, insurance and related expenses. The related expenses shall include any taxes, duties or documentation fees. Photoneo may make partial shipments. Any shipping, delivery and installation dates are estimated dates only, and Photoneo is not liable for any loss or expense incurred by Buyer or Buyer's customers as a result of changes in shipping, delivery or installation dates. In the event of any such delay or failure in performance, Photoneo shall have such additional time within which to perform its obligations hereunder as may reasonably be necessary under the circumstances; and Photoneo shall also have the right, to the extent necessary in Photoneo's reasonable judgment, to apportion fairly among its various Buyers in such manner as Photoneo may consider equitable, the Products then available for delivery.

**5.2** Where the Products are delivered in installments, each delivery shall constitute a separate Agreement and failure by Photoneo to deliver any one or more of the installments in accordance with these Terms or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the Agreement as a whole as repudiated.

#### **5.3. Acceptance of Product**

**5.3.1** Buyer shall inspect the Products at the place of delivery. Buyer shall accept any Product which substantially conform to the description and specification of the Product in Documentation.

**5.3.2** Buyer shall be deemed to have accepted any Product and Buyer's right to cancel, reject, or claim warranty or breach of Photoneo's obligation under the Agreement shall cease, unless Buyer gives Photoneo notice in writing of a breach: (a) in the case of defects discoverable through inspection, three (3) days after arrival of the shipment or (b) in the case of defects not discoverable through inspection, ten (10) days.

In the case of nonconforming Product, Buyer shall immediately notify Photoneo.

**5.3.3** Acceptance of any nonconforming Products shall constitute a waiver by Buyer of specification requirements for said Product. Buyer's acceptance of Product under the Agreement shall be final and irrevocable.

#### **6 DEFERMENT AND CANCELLATION**

**6.1** Upon placing a Purchase Order by Buyer followed by an Order Confirmation issued by Photoneo, or upon conclusion of the Agreement by Parties (if applicable), Buyer shall not be entitled to cancel or modify the order. If any change to any law, rule, regulation, order, code, standard or requirement impacts Photoneo's obligations, Photoneo may request a change order for an equitable adjustment in the price and time of delivery. Photoneo is obliged to supply the Product in accordance with such Order Confirmation, and Buyer shall use the best effort to accept and take over in due and timely manner Product supplied by Photoneo in accordance with the Order Confirmation.

#### **7 TRANSPORTATION AND STORAGE**

**7.1** Buyer must provide complete and proper shipping instructions to Photoneo. If Buyer fails to provide timely shipping instructions, Photoneo cannot get into delay in shipping or delivery of the

Product, and any shipping, delivery and installation schedule is postponed until Buyer provides relevant shipping instructions.

**7.2** Photoneo reserves the right to initiate shipment at Buyer's expense, should Buyer fail to provide shipping instructions five (5) Business Days prior to confirmed delivery dates.

**7.3** If the Buyer fails to take delivery of the Products or fails to give then, without prejudice to any other right or remedy available to Photoneo, Photoneo may:

**7.3.1** store the Products until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

**7.3.2** sell the Products at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Agreement or charge the Buyer for any shortfall below the price under the Agreement.

## **8 FORCE MAJEURE / DELAYS**

**8.1** Neither Party shall be considered in breach of the Agreement by reason of any delay or failure to perform any obligation there under and/or hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, due to strikes, acts of God or the public enemy, war, embargoes, riots, incendiaries, flood, or accidents; shortages of transportation, facilities, fuel, energy, labor, or materials; interference by civil and military authorities, pandemic or epidemic etc. If by reason of Force Majeure, either Party hereto shall be rendered unable wholly or in part to perform its obligations under the Agreement then such Party shall give notice and comprehensive details of Force Majeure event in writing to the other Party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the Party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such Party shall endeavor to remove or overcome such inability with all reasonable effort. Notwithstanding the foregoing, if, as a result of any such contingency, Photoneo is unable to perform the Agreement in whole or in part, then to the extent that it is unable to perform, the Agreement shall be deemed terminated without liability to either Party but shall remain in effect as to the unaffected portion of the Agreement, if any. A Party in delay in performance under the Agreement due to Force Majeure event shall not be considered to be in default or breach of the Agreement, and shall be excused from performance or liability for damages or contractual penalties to the other Party.

## **9 INDEMNITY**

Buyer agrees to indemnify, defend, and hold Photoneo, its subsidiaries, affiliates, officers, directors, employees, agents, licensors, consultants, suppliers, and any third-party providers harmless from and against all claims, demands, actions, liabilities, losses, expenses, damages, and costs, including actual attorneys' fees, resulting from the Buyer's violation of the material terms of the Agreement, any misuse or abuse of a Product by the Buyer, any use of the Product by the Buyer that amounts to infringement, or infringement by any other user of the Buyer's account of any intellectual property or other right of Photoneo or any other third party. Buyer will cooperate as fully as reasonably required in Photoneo's defense of any claim. Photoneo reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by Buyer and Buyer shall not in any event settle any matter without the written consent of Photoneo. Buyer agrees immediately to notify Photoneo of any unauthorized use of the Buyer's account or any other breach of security known to the Buyer.

## **10 WARRANTIES**

### **10.1 Warranties**

Photoneo warrants that at the time of delivery: (i) each Product is free from defects in material and workmanship; (ii) each Product materially conforms to Photoneo's specifications that are attached to, or expressly incorporated into the Agreement, and (iii) Photoneo has title to each Product free and clear of liens and encumbrances

(collectively, the "Warranties"). The Warranties do not apply to Software furnished by Photoneo. The sole and exclusive warranties for any software are set forth in the applicable End-User License Agreement attached to the Software or a device in or with which the Software is supplied.

### **10.2 Warranty claim process**

(i) To apply a warranty claim, the Buyer must contact Photoneo Support via [Technical Support](#) and specify all details of the claim (including mandatory data marked with \*). Technical Support consists of expert consultation provided by Photoneo's professionals regarding the claim who try to finally resolve the claim in its response through a consultation or via remote access. Photoneo does not guarantee that any claim raised via Technical Support will be finally resolved to Customer's satisfaction during the Technical Support consultation or in a specific time period.

(ii) After the claim cannot be resolved through the Technical Support, Buyer may initiate the RMA process which allows him to send the Product to Photoneo for repairs. Before sending the Product to Photoneo for resolving the warranty claim, Buyer must enter the additional details via [RMA Form](#) (including PS ticket number which can be obtained only during the Technical Support). Any Products under warranty claim can be shipped by Buyer back to Photoneo only when the RMA Form is submitted by Buyer; Photoneo is not obliged to accept any Products shipped without RMA Form submitted by Buyer prior to a Product consignment.

(iii) The Product shall be shipped by Buyer to Photoneo under Delivered at Place (DAP) Incoterms® 2020. Photoneo may reject the warranty claim, should Buyer not follow warranty claim process specified herein; Occasionally, Photoneo may provide an explicit exception to exclude some items (for example, cables, if they are mounted in an inaccessible manner and are not required in claim investigation). This needs to be agreed before consignment of the Product.

(iv) Buyer must pack claimed items adequately to prevent damage during shipment, preferably in the original undamaged packaging, including all original accessories; however, in accordance with the instructions of Photoneo, if applicable. Buyer shall bear risk of loss or damage for Product in transit to Photoneo.

(v) Photoneo assumes risk of loss or damage of Products in Photoneo's holding within the warranty claim procedure. Upon resolution of a warranty claim by Photoneo (in its own discretion), Photoneo returns the Product to Buyer under Delivered at Place (DAP) Incoterms® 2020. In the absence of specific written instructions for the return of Product to Buyer, Photoneo will select the carrier, however Photoneo shall not thereby assume any liability in connection with the return shipment.

### **10.3 Conditions to the Warranties**

The Warranties are conditioned on: (i) no repairs, modifications or alterations being made to the Product other than by Photoneo or its authorized representatives; (ii) Buyer handling, using, storing, installing, operating and maintaining the Product in compliance with any parameters or instructions in the Documentation for the Product or in any specifications attached to, or incorporated into this Agreement, including without limitation, disassembling the Product or breaking or tampering with any seals on the Product; (iii) compliance with all generally accepted industry standards; (iv) Buyer discontinuing use of the Product after it has, or should have had, knowledge of any defect; (v) Buyer providing prompt written notice of any warranty claims within the warranty period described below; (vi) at Photoneo's discretion, Buyer either removing and shipping the Product or non-conforming part thereof to Photoneo in compliance with the warranty claim process specified herein or therein, at Buyer's expense, or granting Photoneo reasonable access to the Products to assess the warranty claims; (vii) Product not having been subjected to accident (including force majeure), alteration, abuse or misuse; and (viii) Buyer not being in default of any payment obligation in relation to Photoneo.

### **10.4 Exclusions from Warranty Coverage**

The Warranties do not apply to any equipment not provided by Photoneo under the Agreement. Any Product that is described as being experimental, developmental, prototype, or pilot is specifically excluded from the Warranties and is provided to Buyer "as is" with

no warranties of any kind. Normal wear and tear is excluded, including any expendable items and consumables that comprise part of the Product (such as fuses, light bulbs and lamps). Photoneo does not warrant or guarantee that any Product will be secure from cyber threats, hacking or similar malicious activity. Products that are networked, connected to the internet, or otherwise connected to computers or other devices must be appropriately protected by Buyer and/or end user against unauthorized access.

#### **10.5 Configuration & Installation**

Photoneo does not warrant or guarantee any final performance or mechanical properties. The Warranties do not cover any mechanical damage caused by configuration or usage of the Product.

#### **10.6 Warranty Period**

Unless Photoneo agrees otherwise in writing, the Buyer must provide written notice of any claims for breach of Warranties by the earlier of twelve (12) months from initial operation of the Product or twelve (12) months from invoice delivery date, whichever occurs first. Additionally, absent written notice within the warranty period, any use or possession of the Product after expiration of the warranty period is conclusive evidence that the Warranties have been satisfied.

#### **10.7 Remedies**

Buyer's sole and exclusive remedies for breach of the Warranties are limited, at Photoneo's discretion, to repair or replacement of the Product, or its non-conforming parts, within a reasonable time period, or refund of all or part of the purchase price. Any replacement of a Product (paid by Buyer) shall be provided by Photoneo at its sole discretion. Sections from 436 to 439 of the Commercial Code as amended shall not apply. The warranty on repaired or replaced parts is limited to the remainder of the original warranty period. Unless Photoneo agrees otherwise in writing, Buyer will be responsible for any costs associated with: (i) gaining Photoneo access to the Product; (ii) removal, disassembly, replacement, installation, or reinstallation of any equipment, materials or structures to permit Photoneo to perform its warranty obligations; (iii) transportation to the Photoneo factory or repair facility; and (iv) damage to equipment components or parts resulting in whole or in part from non-compliance by the Buyer with this Article 10 and Article 12 of these Terms or from their deteriorated condition. All exchanged Products or their components replaced under this Warranty will become the property of Photoneo.

#### **10.8 Transferability**

The Warranties are not transferable.

**10.9** If agreed by the Parties that Photoneo provides online support to the Buyer in connection with the use of the Product by the Buyer, Photoneo is entitled and the Buyer shall be obliged to allow Photoneo to provide such online support through the software or means determined by Photoneo.

**10.10** The Warranties in this Article 10 are Photoneo's sole and exclusive Warranties and are subject to the Limitation of Liability in Article 11 below. Photoneo makes no other Warranties, express or implied, including, without limitation, Warranties of merchantability or fitness for a particular purpose, course of dealing and usage of trade.

#### **11 LIMITATION OF LIABILITY**

**11.1** Notwithstanding anything in this Agreement to the contrary, to the maximum extent permitted under the applicable laws, Photoneo is not liable, whether based in contract, warranty, tort (including negligence), strict liability, indemnity or any other legal or equitable theory, for: loss of use, revenue, savings, profit, interest, goodwill or opportunity, costs of capital, costs of replacement or substitute use or performance, loss of information and data, loss of power, voltage irregularities or frequency fluctuation, claims arising from the Buyer's third party contracts, or for any type of indirect, special, liquidated, punitive, exemplary, collateral, incidental or consequential damages, or for any other loss or cost of a similar type that would exceed the amount of damage foreseeable at the time of the Agreement. The Parties agree that the maximum amount of

foreseeable damage on the side of the Buyer equals the actual purchase price received by Photoneo for the Product that gave rise to the claim. Buyer agrees that the exclusions and limitations in this Article 11 will prevail over any conflicting terms and conditions in the Agreement (including these Terms) and must be given full force and effect, whether or not any or all such remedies are determined to have failed of their essential purpose. The waivers and disclaimers of liability, releases from liability and limitations on liability expressed in this Article 11 extend to Photoneo's affiliates, partners, principals, shareholders, directors, officers, employees, suppliers, agents, and successors and assigns.

#### **12 SAFETY**

**12.1** Buyer will (i) cause each person who receives or uses a Product to read and comply with all safety instructions in the Documentation for the Product; (ii) instruct the user in the proper use of the Product; and (iii) implement and enforce the safety provisions of all Product safety notices, warnings, instructions or similar Documentation for the Product. Buyer will not remove any shields, guards, or other safety devices from the Product.

#### **13 PATENT AND COPYRIGHT INFRINGEMENT**

**13.1** Photoneo will, at its option and expense, defend or settle any suit or proceeding brought against Buyer based on an allegation that any Product or use thereof for its intended purpose constitutes an infringement of any Patent Cooperation Treaty country member's patent or misappropriation of a third party's trade secret or copyright in the country where the Product is delivered by Photoneo. Buyer will promptly give Photoneo written notice of the suit or proceeding and the authority, information, and assistance needed to defend the claims. Photoneo shall have the full and exclusive authority to defend and settle such claim(s) and will pay the damages and costs awarded in any suit or proceeding so defended. Buyer shall not make any admission(s) which might be prejudicial to Photoneo and shall not enter into a settlement without Photoneo's prior written consent. Photoneo is not responsible for any settlement made without its prior written consent. If the Product, or any part thereof, as a result of any suit or proceeding so defended is held to constitute infringement or its use by Buyer is enjoined, Photoneo will, at its option and expense, either: (i) procure for Buyer the right to continue using said Product; (ii) replace it with substantially equivalent non infringing Product; or (iii) modify the Product so it is non-infringing. Photoneo will have no duty or obligation under this Article 13.1 if the Product is: (i) supplied according to Buyer's design or instructions and compliance therewith has caused Photoneo to deviate from its normal course of performance; (ii) modified by Buyer or its contractors after delivery; or (iii) combined by Buyer or its contractors with devices, methods, systems or processes not furnished hereunder and by reason of said design, instruction, modification, or combination a suit is brought against Buyer. In addition, if by reason of such design, instruction, modification or combination, a suit or proceeding is brought against Photoneo, Buyer must protect Photoneo in the same manner and to the same extent that Photoneo has agreed to protect Buyer under this Article 13.1.

THIS ARTICLE IS AN EXCLUSIVE STATEMENT OF PHOTONEO'S DUTIES AND BUYER'S REMEDIES RELATING TO PATENTS, TRADE SECRETS AND COPYRIGHTS, AND DIRECT OR CONTRIBUTORY INFRINGEMENT THEREOF.

**13.2** Photoneo grants to the Buyer, for the useful life of the related Product, a non-assignable, non-exclusive license to use the Software in the manner and subject to the restrictions set forth in the Documentation for the Product and in the End-User License Agreement, if applicable. The Software is Photoneo's proprietary property and is licensed for the duration of the use of the Product by Buyer (unless otherwise specified in the End-User License Agreement), not sold to Buyer. Photoneo retains all right, title and interest in and to the Software provided to Buyer in connection with the Product. Buyer will not use the Software except on or in conjunction with the Product. Buyer will not (i) copy, alter, modify, adapt, translate, create derivative works, reverse engineer, disassemble, or decompile all or any portion of the Software; (ii) disclose, sell, sublicense or otherwise transfer or make available all or any portion of the Software to any third party, without the express

written consent of Photoneo; or (iii) remove any copyright, trademark or other proprietary notice from the Software; it is without prejudice to any statutory rights the Buyer may have under applicable Slovak Copyright Law. In addition to any other remedy Photoneo may have, Photoneo reserves the right to terminate Buyer's license if Buyer fails to comply with the terms of the License or the Agreement (including these Terms).

#### **14 CONFIDENTIALITY**

**14.1** Both during and after the term of the Agreement, the Parties will treat all information obtained from the disclosing Party as confidential and all relevant information compiled or generated by the disclosing Party under the Agreement for the receiving Party, including but not limited to business information, manufacturing information, technical data, drawings, flow charts, program listings, software code, and other software, plans and projections. Neither Party may disclose or refer to the work to be performed under the Agreement in any manner that identifies the other Party without advance written permission. However, Photoneo has the right to share confidential information with its affiliates and subcontractors, provided those recipients are subject to the same confidentiality obligations set forth herein.

**14.2** Nothing in the Agreement requires a party to treat as confidential any information which: (i) is or becomes generally known to the public, without the fault of the receiving Party; (ii) is disclosed to the receiving Party, without obligation of confidentiality, by a third party having the right to make such disclosure; (iii) was previously known to the receiving Party, without obligation of confidentiality, which fact can be demonstrated by means of documents which are in the possession of the receiving Party upon the date of the Agreement; (iv) was independently developed by receiving party or its representatives, as evidenced by written records, without the use of discloser's confidential information; or (v) is required to be disclosed by law, except to the extent eligible for special treatment under an appropriate protective order, provided that the party required to disclose by law will promptly advise the disclosing Party of any requirement to make such disclosure to allow the disclosing Party the opportunity to obtain a protective order and assist the disclosing Party in so doing.

**14.3** It is Photoneo's policy not to unlawfully or improperly receive or use confidential information, including trade secrets, belonging to others. This policy precludes Photoneo from obtaining, directly or indirectly from any employee, contractor, or other individual rendering services to Photoneo confidential information of a prior employer, client or any other person which such employee, contractor, or individual is under an obligation not to disclose. The Buyer agrees to abide by this policy.

#### **15 COMPLIANCE WITH LAWS**

**15.1** In relation to the performance under the Agreement the Parties agree to comply with all applicable laws and regulations, including but not limited to those relating to the manufacture, purchase, resale, exportation, transfer, assignment or use of the Products.

**15.2 The applicable laws, standards and regulations to** Products and Services are exclusively laws, standards and regulations applicable in the Slovak Republic or those specifically stated on a Product or in Documentations, unless otherwise agreed by Photoneo in writing.

**15.3 Sanctions.** Each Party acknowledges that the ability of the other Party to perform under the Agreement is subject to compliance by such other Party and its affiliates with applicable laws, rules and regulations, including but not limited to applicable trade sanctions implemented at the local, regional, and international level (collectively, "Trade Sanctions"). Each Party agrees that any refusal or failure by the other Party to perform hereunder on account of compliance with Trade Sanctions or other legal requirements shall not constitute a breach of any obligation under the Agreement.

#### **16 NON-WAIVER**

Any waiver by a party of strict compliance with the Agreement must be in writing, and any failure by the Parties to require strict

compliance in one instance will not waive its right to insist on strict compliance thereafter.

#### **17 MODIFICATION OF AGREEMENT**

The Agreement may only be modified by a written instrument signed by authorized representatives of both Parties.

#### **18 ASSIGNMENT**

Neither party may assign all or part of the Agreement, or any rights or obligations under the Agreement, without the prior written consent of the other; but either Party may assign its rights and obligations, without recourse or consent, to any parent, wholly owned subsidiary, or affiliate or affiliate's successor organization (whether as a result of reorganization, restructuring or sale of substantially all of a party's assets). However, Buyer shall not assign the Agreement to: a competitor of Photoneo; an entity in litigation with Photoneo; or an entity lacking the financial capability to satisfy Buyer's obligations. Any assignee expressly assumes the performance of any obligation assigned. Photoneo may grant a security interest in the Agreement and/or assign proceeds of the Agreement without Buyer's consent. The Buyer shall not be entitled to grant a security interest in its rights and claims under the Agreement, nor assign any proceeds of the Agreement without Photoneo's prior written consent.

#### **19 APPLICABLE LAW AND JURISDICTION**

**19.1** The Agreement and these Terms are governed by and constructed in accordance with the laws of the Slovak Republic, without regard to its conflict of laws principles, and to the United Nations Convention on Contracts for the International Sale of Goods. Each Party agrees that claims and disputes arising out of the Agreement must be decided by the Slovak courts. Each Party submits to the personal jurisdiction of such courts for the purpose of litigating any claims or disputes.

#### **20 SEVERABILITY**

If any provision of the Agreement is held invalid, illegal or unenforceable, the remaining provisions will not in any way be affected or impaired.

#### **21 EXPORT / IMPORT COMPLIANCE**

Buyer acknowledges that Photoneo is required to comply with applicable export / import laws and regulations relating to the sale, export, import, transfer, assignment, disposal and use of the Products, including any export / import license requirements. Buyer agrees that Products will not at any time directly or indirectly be used, exported, imported, sold, transferred, assigned or otherwise disposed of in a manner which will result in non compliance with any export / import laws and regulations. Photoneo's continuing performance hereunder is conditioned on compliance with such export / import laws and regulations at all times.

#### **22 PRODUCT RETURNS**

Prior to the return of any Product to Photoneo other than under the Warranty claims, Buyer must identify the Product or portion thereof and obtain written authorization and shipping instructions from Photoneo. Photoneo has the right, in its sole discretion, to permit or reject any such return. Photoneo's authorization to return any Product to Photoneo does not relieve Buyer of its obligation to pay for such Product. Upon receipt, inspection, and acceptance of the Product by Photoneo, Photoneo will issue a credit memo to Buyer, less applicable restocking fees. Photoneo reserves the right to reject any hazardous material.

#### **23 PERSONAL DATA PROTECTION**

**23.1** The Parties undertake to protect privacy and personal data, in compliance with all applicable laws regarding personal data protection, namely, but not exclusively, with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC and/or Act No. 18/2018 Coll. on Personal Data Protection, as amended. The Buyer agrees with the use and provision (either physically or electronically) of its personal data or personal data of the persons to be participating in the

performance of the Agreement, even abroad, to the legal persons affiliated to Photoneo, and that through the processors (that will process such personal data on behalf of Photoneo) for the above mentioned purpose and in order to track the transactions with the Buyer and/or its employees or statutory bodies and that even to the countries, which do not provide for adequate level of personal data protection. In case of data transfer to third countries, Photoneo adopted/will adopt appropriate safeguards for data protection.

**23.2** Photoneo is also entitled to provide the personal data of the Buyer, if it is required by the general binding rules. The Buyer and/or the persons, participating in the performance of the Agreement on its behalf, are entitled to require information regarding the processing of their personal data, correction and deletion of those personal data. In the extent stipulated by respective regulations, the Buyer also has the right to object the processing, to restriction of processing, to portability, as well as right to file a complaint to respective supervisory authority.

**23.3** Personal data related to the conclusion of the Agreement shall be stored by Photoneo during the period of the Agreement performance and after its termination only for a period and to the extent necessary for a complete termination of cooperation, if applicable laws do not require further storage or there is no other legal basis for storage.

**23.4** In case the Buyer provides to Photoneo for the purpose of this Agreement personal data of other data subjects, it represents that it is entitled to, on the basis of a consent or on another legal basis, provide them to Photoneo for its processing as controller for the purpose of Photoneo's legitimate interest and has informed the data subjects about the data processing activities as set out in the Agreement.

#### **24 SURVIVAL**

The articles titled "Indemnity","Patent and Copyright Infringement," "Limitation of Liability," "Confidentiality," "Delivery; Title; Risk of Loss," and "Export / Import Compliance," :Applicable law and Jurisdiction; survive termination, expiration or cancellation of the Agreement.

#### **25 LEGAL EFFECTIVENESS**

These Terms shall enter into the force on 1 January 2023.