



General Sales Conditions (“General Conditions”) NIKON Europe BV (UK Branch Office)

Article 1 – Definitions

“Affiliate(s)” shall mean any company which controls, is controlled by, or is under the same controller as Nikon or the Customer. “Control” shall mean the direct or indirect ownership of more than fifty percent (50%) of the issued share capital.

“Contract” shall mean each binding contract including any appendices, agreed to by Nikon and the Customer, in writing, electronically or by any other means and to which the General Conditions applies or as further specified in Article 2.1 hereunder.

“Customer” shall mean each person or entity (including, where applicable its Affiliates) that enters into a Contract.

“Deliverable(s)” shall mean the output of the Services, or Goods;

“Goods” shall mean the goods as supplied/to be supplied by Nikon under an Order and/or Contract.

“Nikon” shall mean Nikon Europe BV, having its registered office at Stroombaan 14, 1181VX, Amstelveen, The Netherlands;

“Nikon IPR” shall mean any and all intellectual and industrial property rights such as patent, trademark, copyright (including portrait rights and moral rights), trade name, trade secret, brand license or other proprietary rights or symbols, whether embodied in or related to the products bearing the brand name “NIKON” and which are owned or licensed by Nikon and/or its Affiliates.

“Order” shall mean the order placed by Customer with Nikon for Goods, Services and/or Deliverables whether or not under a Contract.

“Party” or “Parties” shall mean either Nikon or Customer or both Nikon and Customer as the case may be.

“Services” shall mean the services to be performed by Nikon for Customer under an Order and/or Contract;

“Specification(s)” shall mean the specifications for the Goods or Services to be provided by Nikon.

“Statement of Work (SoW)” shall mean requirements and/or Specification as agreed between the Parties.

Article 2 – Scope & Application

2.1 The General Conditions shall be applicable to all relevant Orders and/or any Contract. Customer shall be deemed to be bound to these General Conditions through acknowledgment (whether implicit or explicit), by acceptance of an Order or Contract, by delivering Goods and/or otherwise carrying out the Services, including any preparatory stages. 2.2 Nikon shall not be bound by and hereby expressly rejects Customer’s pre-printed general conditions and/or any condition not expressly agreed by Nikon in writing.

2.3 Any changes, additions, alterations to the General Conditions, Contract or Order shall only be valid upon the express written agreement by Nikon.

2.4 Any and all costs incurred by the Customer in preparing and submitting any proposal and/or offer or Order/Contract shall be at the sole expense and risk of the Customer.’

2.5 In the event of any conflicts, contradictions and/or inconsistencies, the following order of precedence shall apply:

1. Contract or Order including any annexes or appendices thereto other than these General Conditions;
2. Where applicable any selective distribution agreements;
3. General Conditions.

Article 3 – Order

3.1 All offers, quotations and prices of Nikon, in whatever form, are without obligation. Any offer made by Nikon is revocable after the expiry of the agreed cooling-off period, or in the absence thereof, after 30 days from the date of the written offer.

3.2 An Order shall only be binding upon the express written confirmation by Nikon.

3.3 Oral promises by and agreements with an employee are only binding for Nikon if and insofar as they have been confirmed in writing by one or more persons who can legally bind Nikon.

3.4 Nikon reserves the right to refuse an Order at any time without requiring any reason.

Article 4 – Delivery

4.1 Nikon shall deliver the Goods as agreed in the Contract or Order. Unless explicitly agreed otherwise, the delivery times specified in an Order or Contract are indicative and non-binding.

4.2 No penalty or other charges shall apply to late deliveries. The Customer may cancel an Order or terminate a Contract in the event the delay exceeds 30 days from the (indicative/agreed) delivery date or any adjusted delivery date as may be communicated by Nikon; whichever is later.

4.2 Unless parties have agreed otherwise in an Order or Contract, for example by incorporating any Incoterms, delivery shall be deemed completed no later than at the moment the receipt of the Goods has been signed off at the delivery location specified in the Order/Contract. From the moment of delivery, the risk in the Goods shall pass to the Customer.

4.3 Nikon shall be allowed to make partial deliveries or delivery before the agreed Delivery date(s).

4.4 The Customer is obliged upon delivery to examine whether the Goods comply with the Order/Contract.

4.5 Visible defects and/or incorrect deliveries must be reported by the Customer within two (2) days.

4.6 Goods delivered by Nikon and received by the Customer may only be returned upon written agreement by Nikon.

4.7 If applicable, the Customer shall follow the return procedure as provided in article 8 of these General Conditions.

Article 5 – Prices

5.1 The prices are in pound sterling, and are exclusive of VAT and other taxes/charges.

5.2 Nikon reserves the right to adjust the prices of any agreed Order or Contract.

5.3 If the price adjustment leads to an increase of more than five (5) percent of the price in an Order/Contract, the Customer may cancel/terminate the Order/Contract in writing within 5 working days without incurring any liability.

Article 6 – Payment

6.1 Unless otherwise agreed, payment by the Customer must be made within thirty (30) days of the invoice date. Payment must be made by transfer to a bank account number to be specified by Nikon. Payment is deemed to have been made when the amount due has been credited to Nikon’s bank account. Nikon will under no circumstances accept payments in the form of checks or cash, but will only accept payments by bank transfer.

6.2 Any disagreement, rejection and/or complaint regarding the invoices must be formulated in detail within 3 days of receipt of the invoice.

6.3 In the event where Nikon applies a credit insurance for the Order/Contract with the Customer, Nikon reserves the right to require an advance payment for the Goods where no sufficient credit limit is available for the Customer. In such a case, a Pro Forma invoice will be issued to the Customer. Delivery of the Order/Contract will only take place after payment of the Pro Forma invoice by the Customer. Notwithstanding the foregoing, Nikon may at its discretion require advance payment where circumstances may so require, such as but not limited to the financial status or payment history of the Customer. Nikon reserves the right to change the billing method at any time.

6.4 Nikon reserves the right to postpone or suspend the delivery of the Goods if the Customer does not meet the term referred to in Article 6.1 and/or if the Customer exceeds its credit limit, without prejudice to Nikon’s rights to cancel/terminate the Order/Contract without incurring any liability.

6.5 The Customer shall be responsible for all costs related to the payment under this Article 6.

6.6 The Customer may not set off any claim against any other obligation or payment settlement. The Customer remains obliged to pay in full and on time the amount as referred to in Article 6.1. Notwithstanding the foregoing, Nikon is entitled to set off claims against payments to be made by Nikon to the Customer.

6.7 Payments made by the Customer shall first serve to settle any costs and interest owed by the Customer (including any collection costs) referred to in Article 6.9 and shall cover the oldest outstanding payment first.

6.8 If any payment term is exceeded, the Customer shall automatically be in default without any notice of default being required. Moreover, Nikon may at its option withdraw or otherwise cancel any payment discount which may have been agreed. From the due date, the Customer shall incur a late payment interest of two (2) percent above the Euribor rate of the European Central Bank over any outstanding payment.

6.9 The Customer shall be liable for all costs and charges incurred by Nikon in recovering its claim against the Customer.

Article 7 - Title

7.1 Nikon shall retain title of all Goods until the Customer has paid for the Goods in full.

7.2 Title shall be retained until all outstanding invoices, including interest, costs and penalties have been paid in full.

7.3 The Customer shall be entitled to sell and transfer the Goods to a third party before they are paid in full, provided that this required in the normal course of business.

7.4 Notwithstanding the foregoing, the Customer may not pledge the Goods, or use as security for the benefit of third parties in any shape or form while the Goods are subject to the retention of title.

7.5 The Customer shall clearly mark or otherwise keep the Goods which are owned by Nikon separate from other goods.

Article 8 – Repair, Replacement and Refund

8.1 If the sold Goods do not meet the Specifications set out in the Contract between Nikon and the Customer, the Customer - at the sole

discretion of Nikon - may be entitled to either (i) repair of the product, (ii) replacement of the product and/or (ii) a (partial) refund.

8.2 The Customer shall follow the return procedure indicated by Nikon (if any).

8.3 The Customer shall return the Goods within [x amount of days] and Customer shall bear the cost of the return unless Nikon has explicitly confirmed otherwise in writing.

8.4 Nikon shall inspect the Goods returned by the Customer and inform the Customer of the estimated time for either repair or replacement.

8.5 In the event Nikon has decided in its sole discretion that the Customer is entitled to a refund of the Goods, then Nikon shall inform the Customer on the refund amount.

Article 9 – Guarantee & Warranty

9.1 Nikon warrants that the Goods delivered hereunder (as further described in the relevant warranty conditions of the delivered Goods): 1) meet the specifications; and/or 2) are free from defects that are the direct result of material-, manufacturing and/or construction errors. This warranty commences on the moment of delivery and shall remain in force until the expiry of the warranty period specified by the manufacturer of the Goods.

9.2 Customer shall promptly notify Nikon in writing of any alleged defect. Goods shall, at Nikon’s determination, be further repaired or replaced in accordance with the procedure set out in Article 8.

9.3 Contrary to Article 9.1, the guarantee/warranty for Goods that Nikon has obtained from third parties or which have been developed and/or manufactured by third parties is limited to the guarantee that Nikon has obtained from these third parties.

9.4 Further subject to any published warranty conditions applicable to the Goods, Nikon’s warranty for the Goods shall be voided if: (i) the Goods are not used in accordance with their specification or intended purpose or are used improperly, or have been exposed to abuse, incorrect use, neglect, incorrect transport, accident, (design) changes to the Goods by someone other than Nikon; (ii) the operating or maintenance instructions and/or, if applicable, the installation or mounting instructions have not been observed; (iii) improper repairs have been carried out by unauthorized third parties or non-original parts have been installed in the Goods; and/or (iv) the original name and/or serial number and/or identification marks have been changed, adapted or removed.

9.5 Nikon’s obligations under this Article 9 are Nikon’s sole liability in connection with the Customer’s right to repair for defects in material or manufacturing and/or construction errors in connection with the Goods. Customer hereby disclaims all other warranties, conditions or liabilities, implied or express, at law or otherwise, for any Goods or parts thereof under an Order/Contract. Nikon disclaims any implied warranties of merchantability and/or fitness for a particular purpose.

9.6 The alleged failure by Nikon to fulfil its warranty obligation does not release the Customer from any obligation under an Order/Contract. The reliance on the guarantee can in no case lead to the dissolution of the agreement by the Customer.

Article 10 - Liability

10.1 Nothing in the General Conditions, Contract or Order excludes any liability of either party which cannot legally be excluded, including liability for: (i) death or personal injury caused by negligence; (b) fraud or fraudulent misrepresentation; or (c) any other liability that cannot lawfully be excluded.

10.2 Subject to article 10.1, Nikon shall only be liable for direct damages. Nikon’s liability shall be limited up to an amount not exceeding what has been paid for the Goods, Services and Deliverables pursuant to an Order/Contract. The aforementioned limit is cumulative and not per incident.

10.3 Subject to article 10.1 Nikon shall not in any circumstances be liable (whether in tort (including for negligence), breach of statutory duty, contract, misrepresentation (whether innocent or negligent), restitution or otherwise) for 1) special, incidental, indirect, consequential or punitive damages; or 2) lost profits, business, revenue, goodwill, or anticipated savings; or 3) loss of, or damage to, data; howsoever arising under or in connection with this agreement and even if Nikon was or ought to have been aware of the possibility that such loss or damage might be incurred.

10.4 Subject to article 10.1, Nikon will not be responsible for damage suffered by third parties or claims from third parties received by the Customer, except for claims which cannot be excluded pursuant to applicable and mandatory law.

Article 11 – Intellectual Property Rights

9.1 Customer acknowledges that any and all Nikon IPR are the exclusive property of Nikon or have been licensed to Nikon by a third party. Unless expressly agreed otherwise, no license or use of Nikon IPR is granted under an Order/Contract. The Customer shall have no rights in any Nikon IPR.



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9.2 Customer shall not: (i) disassemble, decompile, reverse engineer, merge or combine with other software, copy, translate, adapt, vary or modify any Nikon IPR; (ii) communicate or disclose any Nikon IPR (in whole or in part) to any third party; or (iii) distribute any Nikon IPR (in whole or in part) in any form.

9.3 The Customer shall indemnify, defend and hold harmless Nikon and its Affiliates, its agents and employees in respect of any and all claims, damages, costs and expenses (including but not limited to loss of profit and reasonable attorneys' fees) in connection with any breach of the obligations contained in Articles 9.1 and 9.2.

Article 12 – Confidentiality

12.1 “Confidential Information” shall mean, any information disclosed by any Party (the “Disclosing Party”) to the other Party (the “Receiving Party”), either directly or indirectly, in writing, orally or by inspection of tangible objects (including without limitation any agreements, appendices to the agreements, documents, business proposals, any and all information related to the Products, prototypes, samples, software, schematics, flowcharts, graphical layouts and descriptions, plant and equipment), which is designated as “Confidential”. Information communicated orally shall be considered Confidential Information if such information is confirmed in writing as being Confidential Information within thirty (30) days after the initial disclosure. Confidential Information shall not, however, include any information which: was publicly known and made generally available in the public domain prior to the time of disclosure by the Disclosing Party; is already in the possession of the Receiving Party at the time of disclosure by the Disclosing Party as shown by the Receiving Party's files and records immediately prior to the time of disclosure, other than by breach of this Agreement; is obtained by the Receiving Party from a third party without a breach of such third party's obligation of confidentiality; is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information, as shown by documents and other competent evidence in the Receiving Party's possession; is required by law to be disclosed by the Receiving Party, provided that the Receiving Party gives the Disclosing Party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

12.2 Each Party agrees not to use or disclose any Confidential Information of the other Party for any purpose except for the strict purpose of performing its obligations hereunder. The obligation not to disclose or use Confidential Information as set out herein shall not apply if: The Receiving Party has obtained consent from the Disclosing Party; Disclosure or use is necessary in the interest of pursuing and securing effective legal remedies against the other Party; Disclosure or use is made to a Party's Affiliate, as may be necessary from time to time.

12.3 Each Party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other Party. Without limitation of the foregoing, each Party shall take at least those measures that it takes to protect its own most highly confidential information and shall ensure that its employees who have access to Confidential Information of the other Party have signed a non-use and non-disclosure agreement in content similar to the provisions hereof, prior to any disclosure of Confidential Information to such employees.

12.4 This Article shall survive any termination or expiration of an Order/Contract for a period of three (3) years after such termination or expiration as the case may be.

Article 13 – Force Majeure

Nikon shall not be liable for any delay in performing or for failure to perform its obligations hereunder if the delay or failure results from any cause or circumstance whatsoever beyond its reasonable control, including any breach or non-performance under an Order/Contract (hereinafter “event of force majeure”). If an event of force majeure occurs, the date(s) for performance of the obligation affected shall be postponed for as long as it made necessary by the event of force majeure, provided that if any event of force majeure continues for a period of or exceeding fifteen (30) days, either Party shall have the right to terminate an Order/Contract forthwith by written notice to the other Party. Nikon shall use its reasonable endeavors to minimize the effects of any event of force majeure.

Article 14 – Suspension and Termination

14.1 An Order or Contract shall enter into force only upon the express written acceptance by Nikon.

14.2 Without prejudice to any other right or remedy available to Nikon under applicable law, Nikon shall be entitled at its discretion to suspend the performance of its obligations under an Order or Contract in whole or in part or to terminate the Order or Contract in whole or in part by means of written notice to Customer in the event that: (a) subject to the applicable law, the Customer becomes insolvent, is adjudicated bankrupt, voluntarily files or suffers the filing of a petition in bankruptcy,

makes an assignment for the benefit of creditors, seeks any other similar relief under any bankruptcy laws or related statutes, or otherwise becomes financially incapable of performing in accordance with the terms of the Contract or Order, (b) the Customer ceases or threatens to cease to carry on business in the ordinary course; or (c) the Customer breaches any of its obligations under an Order or Contract or Nikon, in its reasonable discretion, determines that the Customer cannot or shall not pay for the Goods as required. Nikon shall not be liable to the Customer by virtue of such termination.

Article 15 – Anti-Bribery

Both Parties represent, warrant and agree that each Party in the course of performing their respective obligations under hereunder will comply with all applicable laws and regulations relating to anti-bribery and corruption laws such as but not limited to the local anti-bribery law, the U.S. Foreign Corrupt Practices Act (FCPA), the UK Bribery Act or any other anti-corruption legislation applicable to the Parties or third parties. Both Parties further agree to protect themselves from any bribery and corruption risk and take adequate preventive measures for strict compliance.

Article 16 - Export Control

Both Parties acknowledge that Goods sold to Customer by Nikon may be subject to applicable export control and trade sanctions laws, regulations, rules and license, including without limit those of the U.S. and the EU (“Export Control and Sanctions Rules”). Customer shall comply with the Export Control and Sanctions Rules. In particular, but without limit, Customer will procure that it will not use sell, resell, export, re-export, dispose of, disclose or otherwise deal with Goods, directly or indirectly, to any country, destination or person without first obtaining any required export license or other governmental approval, and completing such formalities as may be required by Export Control and Sanctions Rules.

Article 17 – Entire Agreement

17.1 The General Conditions, Order and Contract shall constitute the entire agreement between the Parties. It sets forth all intended rights and obligations and supersedes any and all previous agreements and understandings between them with respect to the subject matter thereof. For the avoidance of doubt, any standard general terms and conditions of the Customer is hereby excluded.

17.2 For the avoidance of any doubt, the United Nations Convention on International Sale of Goods shall not apply to the Agreement.

Article 18 – Severability

If any provision hereunder or an Order or Contract is held invalid or unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability will affect only such provision or part thereof in such jurisdiction, and will not in any manner affect the provision in any other jurisdiction, or any other provision hereunder or in an Order or Contract in any other jurisdiction. To the extent legally permissible, the Parties shall negotiate in good faith to agree a replacement provision that reflects the original intent of the Parties to the fullest extent possible.

Article 19 – Governing law and Jurisdiction

19.1 The General Conditions, Contract, Order and all matters arising from them (including any dispute relating to their existence, validity or termination, or any contractual or non-contractual obligation) shall be governed by and construed in accordance with the laws of England and Wales.

19.2 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the General Conditions, Order, Contract or their subject matter or formation.

Article 20 – Amendments

Any amendments to the General Conditions, Order, or Contract shall only be valid if both Parties agree in written form to such amendment.

Article 21 – Non - Assignment

The Customer may not assign any of its obligations, rights or interests under an Order or Contract without first obtaining the written approval of Nikon.

Article 22 – Non-Waiver

Failure or delay by Nikon to enforce or exercise, at any time or for any period, any provision of the General Conditions, Order or Contract does not constitute, and shall not be construed as, a waiver of such term which may be exercised at any time.

Article 23 – Survival

Except as expressly provided herein, the termination or expiration of an Order or Contract shall not relieve the Customer of obligations accruing

prior to the date of such expiration or termination or which expressly survive expiration or termination.

Article 24 – No Third Party Rights

Except as expressly stated otherwise, nothing in the General Conditions, Order or Contract shall create or confer any rights or other benefits in favor of any person other than the parties to this Agreement whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.