

## **Capture One**

### **Software License Agreement**

### **Effective as of May 16, 2023**

---

Please read this software license agreement (“**Agreement**”) carefully before installing or using the software. This Agreement is an agreement between you (also referred to as the “**Licensee**”) and Capture One A/S (“**Capture One**”) and governs your use of the software (as defined below).

**By installing and/or using the software, you agree to be bound by the terms of this Agreement.**

If you do not agree to the terms of this Agreement, you may not install use or otherwise exploit the Software in any manner.

#### **1. LICENSE**

- 1.1 The Terms and Conditions contained in this Agreement as well as any individual terms which may have been concluded at the time of the Licensee’s purchase of the Software shall govern the installation and use by the Licensee (as identified in the Order Confirmation, as defined below, or similar) of the Capture One software application or service and any documentation and other materials (if any) accompanying the software and service whether provided on a separate storage media, in read only memory or by means of any other media including by means of electronic distribution (collectively “**Software**”).
- 1.2 The Software is licensed, not sold, to you for use only pursuant to the terms and conditions of this Agreement. Capture One and/or Capture One’s licensor(s) retain any and all right, title and interest in and to the Software.
- 1.3 Your rights under this Agreement will terminate automatically and without notice from Capture One if you fail to comply with any terms and conditions hereof or if the Agreement is otherwise terminated by Capture One as provided for in this Agreement.

#### **2. GRANT OF USE RIGHTS TO THE SOFTWARE**

##### **2.1 Grant of use rights to the Software**

- 2.1.1 Subject to your compliance with this Agreement including without limitation the restrictions and limitations set out in sections 2, 3 and 9, as well as payment of applicable License Fees, Capture One hereby grants to you a limited and non-exclusive right to install and/or use the Software, including Capture One Live, cf. section 2.8, solely for your own internal purposes.
- 2.1.2 The rights granted to you are personal and non-transferable for your internal use only and further depends on the version of the Software for which you have acquired a License as further detailed below.

# CAPTURE ONE

- 2.1.3 The use of the Software may require your it-systems and communication capabilities to have certain minimum specifications, as set out by Capture One. You are responsible for meeting such requirements and will continue to be so during the Term of the Agreement.
- 2.1.4 Notwithstanding anything to the contrary set out below, you are only entitled to use Software installed following activation hereof using legitimate activation codes issued by Capture One.
- 2.1.5 Capture One may at its discretion disable the Licensee's access to the Software and/or terminate the License immediately if
- (i) the License Fee or other fees are not paid on time and remains unpaid 30 (thirty) days after being due; or
  - (ii) the Licensee uses the Software beyond the agreed scope; or
  - (iii) the Licensee permits non-authorized users to use the Software; or
  - (iv) the Licensee does not fulfill the Representations and Warranties set out in section 10; or
  - (v) if the Licensee fails to comply with any other provision of the terms and conditions of this Agreement in a material manner.

## **2.2 License Fee and Payment Terms**

- 2.2.1 The Licensee shall pay the license fee applicable to the Software as shown on Capture One's website at the time of purchase and set out in the Order Confirmation ("**License Fee**").
- 2.2.2 Capture One may update its pricing at any point in time. Capture One shall notify the Licensee of any changes to the prices.
- 2.2.3 The License Fee shall be due as of the beginning of each License Term.
- 2.2.4 The License Fee are non-refundable, except in case of the Licensee's termination for cause based on Capture One's breach of this Agreement.
- 2.2.5 In the event of late payment, Capture One may charge interest in accordance with the Danish Interest Act per commenced month until payment in full (including interest and reminder charges) is made.
- 2.2.6 The Licensee shall not be entitled to set-off or omit due payments with a counterclaim.

## **2.3 Trial license for Capture One**

If the license acquired is a trial license and provided that a trial version is made available by Capture One, and irrespective of the version of the Software, a trial license allows for installation and use of the Software on one computer only and on a non-perpetual basis. You may use a copy of the trial version of the Software (comprising the trial version of the Software and any accompanying documentation), for evaluation/trial purposes only for a maximum period of 30 days following the date of installation. If you wish to continue to use the Software after expiry of the said 30 days trial period, you must pay any applicable License

# CAPTURE ONE

Fees and obtain a full license. For details of payment, please refer to the purchase information as provided with the Software or visit our website at: [www.captureone.com](http://www.captureone.com). When Capture One has received payment, you will receive a license number, with which you can unlock any locked or disabled functionality in the trial version of the Software.

## **2.4 Perpetual licenses for Capture One**

If you have acquired a license to a version of Capture One which is of a perpetual nature your right to install and use the Software is – in addition to and without limiting any other terms and conditions set out in this Agreement – subject to the following additional restrictions and limitations with respect to installation and use of Capture One depending on the Software and version hereof licensed by you.

### **2.4.1 Single user perpetual licenses for Capture One Pro**

If the license acquired is a single user license for Capture One Pro, it allows for installation and use of the Software by one single individual only or if the single user license is purchased by a legal entity for a single and individually named employee only. A single user license is thus for one individual to install and use only. The single user license may only be used on one computer at a time and only by the same individual provided however, that the Software may be installed on up to three computers always provided that the Software is used at one computer at a time and only by the same individual irrespective of the number of installations.

### **2.4.2 Multi-user licenses for Capture One Pro**

If the license acquired is a multi-user license for Capture One Pro, it allows for installation of the Software on a number of computers up to the maximum number of permitted users acquired and the number of concurrent users must never exceed the maximum number of permitted users acquired pursuant to the multi-user license.

### **2.4.3 Single user perpetual licenses for Capture One (for Nikon)**

If the License acquired is for Capture One (for Nikon) and provided that you are the legitimate owner of eligible Nikon hardware as designated by Capture One in its sole discretion it allows for installation and use of the Software by one single individual only or if the single user license is purchased by a legal entity for a single and individually named employee only. A single user license is thus for one individual to install and use only. The single user license may only be used on two computers at a time and only by the same individual provided however, that the Software may be installed on up to two computers always provided that the Software is used at one computer at a time and only by the same individual irrespective of the number of installations.

### **2.4.4 Single user perpetual licenses for Capture One Express (for Nikon)**

If the license acquired is for Capture One Express (for Nikon) and provided that you are the legitimate owner of eligible Nikon hardware as designated by Capture One in its sole discretion you may install and use an unlimited number of Capture One Express (for Nikon) for your own internal use.

### **2.4.5 Single user perpetual licenses for Capture One (for Sony)**

# CAPTURE ONE

If the license acquired is for Capture One (for Sony) and provided that you are the legitimate owner of eligible Sony hardware as designated by Capture One in its sole discretion it allows for installation and use of the Software by one single individual only or if the single user license is purchased by a legal entity for a single and individually named employee only. A single user license is thus for one individual to install and use only. The single user license may only be used on two computers at a time and only by the same individual provided however, that the Software may be installed on up to two computers always provided that the Software is used at one computer at a time and only by the same individual irrespective of the number of installations.

## 2.4.6 Single user perpetual licenses for Capture One Express (for Sony)

If the license acquired is for Capture One Express (for Sony) and provided that you are the legitimate owner of eligible Sony hardware as designated by Capture One in its sole discretion you may install and use an unlimited number of Capture One Express (for Sony) for your own internal use.

## 2.4.7 Single user perpetual licenses for Capture One Fujifilm

If the license acquired is for Capture One Fujifilm and provided that you are the legitimate owner of eligible Fujifilm hardware as designated by Capture One in its sole discretion it allows for installation and use of the Software by one single individual only or if the single user license is purchased by a legal entity for a single and individually named employee only. A single user license is thus for one individual to install and use only. The single user license may only be used on two computers at a time and only by the same individual provided however, that the Software may be installed on up to two computers always provided that the Software is used at one computer at a time and only by the same individual irrespective of the number of installations.

## 2.4.8 Single user perpetual licenses for Capture One Express Fujifilm

If the license acquired is for Capture One Express Fujifilm and provided that you are the legitimate owner of eligible Fujifilm hardware as designated by Capture One in its sole discretion you may install and use an unlimited number of Capture One Express Fujifilm for your own internal use.

## 2.4.9 Single user perpetual licenses for Capture One for Phase One

Provided that you are the legitimate owner of eligible Phase One digital back hardware as designated by Capture One in its sole discretion it allows for installation and use of the Software by one single individual only or if the single user license is purchased by a legal entity for a single and individually named employee only. A single user license is thus for one individual to install and use only. The single user license may only be used on three computers at a time and only by the same individual provided however, that the Software may be installed on up to three computers always provided that the Software is used at one computer at a time and only by the same individual irrespective of the number of installations.

## 2.5 Subscription licenses for Capture One

Subscription licensed versions of Capture One are subject to the following restrictions and limitations in addition to any other limitations and restrictions set out in this Agreement.

# CAPTURE ONE

## 2.5.1 Single user subscription licenses for Capture One Pro

If the license acquired is a single user license for Capture One Pro, it allows for installation and use of the Software by one single individual only or if the single user license is purchased by a legal entity for a single and individually named employee only. A single user license is thus for one individual to install and use only. The single user license may only be used on one computer at a time and only by the same individual provided however, that the Software may be installed on up to three computers always provided that the Software is used at one computer at a time and only by the same individual irrespective of the number of installations.

## 2.5.2 Multi-user subscription licenses for Capture One Pro

If the license acquired is a multi-user license for Capture One Pro, it allows for installation and use of the Software on a number of computers up to the maximum number of permitted users acquired and the number of concurrent users must never exceed the maximum number of permitted users acquired pursuant to the multi-user license.

## 2.5.3 Single user subscription licenses for Capture One Fujifilm

If the license acquired is a single user license for Capture One Fujifilm it allows for installation and use of the Software by one single individual only or if the single user license is purchased by a legal entity for a single and individually named employee only. A single user license is thus for one individual to install and use only.

## 2.5.4 Single user subscription licenses for Capture One (for Sony)

If the license acquired is a single user license for Capture One (for Sony) it allows for installation and use of the Software by one single individual only or if the single user license is purchased by a legal entity for a single and individually named employee only. A single user license is thus for one individual to install and use only. The single user license may only be used on one computer at a time and only by the same individual provided however, that the Software may be installed on up to two computers always provided that the Software is used at one computer at a time and only by the same individual irrespective of the number of installations.

## 2.5.5 Single user subscription licenses for Capture One (for Nikon)

If the license acquired is a single user license for Capture One (for Nikon) it allows for installation and use of the Software by one single individual only or if the single user license is purchased by a legal entity for a single and individually named employee only. A single user license is thus for one individual to install and use only. The single user license may only be used on one computer at a time and only by the same individual provided however, that the Software may be installed on up to two computers always provided that the Software is used at one computer at a time and only by the same individual irrespective of the number of installations.

## 2.6 Subscription license for Capture One Enterprise

Subscription licensed versions of Capture One Enterprise are subject to the

# CAPTURE ONE

following restrictions and limitations in addition to any other limitations and restrictions set out in this Agreement.

## 2.6.1 Single user subscription licenses for Capture One Enterprise

If the license acquired is a single user license for Capture One Enterprise or it allows for installation and use of the Software by one single individual only or if the single user license is purchased by a legal entity for a single and individually named employee only. A single user license is thus for one individual to install and use only. The single user license may only be used on one computer at a time and only by the same individual provided however, that the Software may be installed on up to three computers always provided that the Software is used at one computer at a time and only by the same individual irrespective of the number of installations.

## 2.6.2 Multi user subscription licenses for Capture One Enterprise

If the license acquired is a multi-user license for Capture One Enterprise, it allows for installation and use of the Software on a number of computers up to the maximum number of permitted users acquired and the number of concurrent users must never exceed the maximum number of permitted users acquired pursuant to the multi-user license.

## 2.7 Perpetual licenses for Capture One Cultural Heritage

If you have acquired a license to a version of Capture One Cultural Heritage which is of a perpetual nature your right to install and use the Software is – in addition to and without limiting any other terms and conditions set out in this license – subject to the following additional restrictions and limitations:

### 2.7.1 Single user licenses for Capture One Cultural Heritage

If the license acquired is for Capture One Cultural Heritage, it allows for installation and use of the Software on a maximum of 4 computers and the number of concurrent users must never exceed four users.

## 2.8 License for Capture One Live

### 2.8.1 Capture One Live (“COL”) adds certain features to the Software, including

- (a) uploading of images from the Software to the cloud;
- (b) sharing the uploaded images with external users through a link;
- (c) enabling the external users to view, comment and rate the images; and
- (d) showing the external users’ comments and ratings inside the Software.

### 2.8.2 COL functionality is integrated into the Software, and any reference to the Software in this Agreement also applies to COL. If you use COL in any version, your right to install and use the Software is – in addition to and without limiting any other terms and conditions set out in this Agreement – subject to additional restrictions and limitations as set out below in sections 2.8.3-2.8.5.

### 2.8.3 COL is currently available as a free version and as a paid for subscription-based add-on to the Software.

# CAPTURE ONE

- 2.8.4 The right to use the COL in any version is contingent on the Licensee having acquired a separate and valid software license to certain versions of the Software. It is not possible to purchase a COL subscription add-on while on a Trial or Express version of the Software. Additionally, Enterprise and Multi user licensees should contact their account representative or Capture One support to purchase access to COL.
- 2.8.5 The Licensee hereby grants Capture One a royalty-free, perpetual right and license to host, reproduce, distribute, display, perform, manipulate, synchronize, create derivative works of and otherwise use the images or other content (“**Content**”) uploaded to COL as necessary to provide COL and to enable the Licensee to use the features of COL.
- 2.8.6 Subject to the terms of this Agreement, Capture One hereby grants the Licensee a limited, personal, non-exclusive, non-perpetual, and non-transferable right to use COL solely for the purpose of using the features of COL with Content that fulfils the Representations and Warranties set out in section 10. Capture One shall be entitled to delete any Content from COL which violates the Representations and Warranties set out in section 10.

## 3. RESTRICTIONS AND LIMITATIONS

- 3.1 Except as permitted by applicable mandatory law you may not (i) decompile, reverse engineer, or disassemble the Software; (ii) modify, rent, lease, loan, distribute, sublicense, create derivative works of, communicate and/or make the Software available to the public; (iii) let any third-party access, install and/or use the Software for any purpose including without limitation any outsourcing, hosting, business process outsourcing or any other arrangements pursuant to which any third-party accesses, installs and/or uses the Software for any purpose.
- 3.2 To use the Software on a subscription basis you must have and maintain an Internet connection allowing for communication between your equipment and Capture One’ equipment via the Internet for the purpose of Capture One being able to validate and reconfirm your valid subscription license including payment of applicable License Fees from time to time during the subscription period. You are solely responsible for establishing and maintaining an Internet connection throughout the subscription period including paying all costs incurred in this respect.
- 3.3 You may not use the Software in any application or situation where any failure of the Software could lead directly or indirectly to death, personal injury, or severe physical or environmental damage, including without limitation using the Software for controlling the operation of equipment in any nuclear facilities; aircraft navigation, communications or flight control systems; air traffic control systems; mass transit systems; applicable medical equipment; or weapons systems.
- 3.4 Capture One may apply technical protection measures of whatsoever nature to ensure compliance e.g. for the purpose of ensuring that specific versions of the Software may be used only following application of activation codes for specific versions of the Software issued by Capture One to you in connection with your acquisition of a given License.
- 3.5 This Agreement only grants you limited rights to install and use the Software and Capture One reserves all rights not explicitly granted.

# CAPTURE ONE

## **3.6 Usage limits of COL**

- 3.6.1 In case Capture One detects an unfair usage or abuse of the COL service, Capture One reserves the right to suspend the COL service for Licensee and will contact the Licensee to resolve the issue.
- 3.6.2 For further information regarding the use of COL, including usage restrictions, we refer to section 10 and our website at: [www.captureone.com](http://www.captureone.com).

## **4. GRANT OF PERSONAL USE RIGHTS TO THE TRAINING MATERIAL**

- 4.1 As a part of Software services, Capture One may provide the Licensee with images in RAW format for the purpose of editing training (hereafter the “**Training Material**” and the “**Purpose**”). Capture One hereby grants the Licensee a limited, personal, non-exclusive, non-transferable, non-sublicensable, worldwide license to use Training Material from Capture One for Licensee’s own personal use, limited by the following:
  - (a) Training Material may only be used for the Purpose defined above;
  - (b) Training Material must not be used for any commercial purposes;
  - (c) Training Material must not be used in any way whatsoever in which you charge money, collect fees, or receive any form of remuneration, and/or for advertising;
  - (d) Training Material must not be displayed or distributed on any kind of physical and/or digital media, including but not limited to social media, websites or other types of any current or future media;
  - (e) Licensee cannot distribute Training Material in any way that allows a third party to use, download, extract, or access the Training Material;
  - (f) Licensee cannot claim any rights to the Training Material;
  - (g) This license does not include the right to misrepresent the authorship of the Training Material as Licensee's original work.

## **5. NEW VERSIONS, RELEASES, UPDATES, PATCHES, FIXES ETC.**

- 5.1 A current description of the Software and key functionality may be found at Capture One’s website.
- 5.2 Capture One may from time to time decide in the sole discretion of Capture One to release new versions, releases, updates, patches, fixes etc. to the Software without the Licensee’s prior consent.
- 5.3 To support the general performance of the Software, Capture One suggests that you install and use such new versions, releases, updates, patches, fixes etc. to the Software to the extent released by Capture One. Installation and use of the aforesaid may require that separate license fees are paid, and that additional terms and conditions are accepted by you.
- 5.4 **End of support of COL**



# CAPTURE ONE

- 5.4.1 Notwithstanding the above, COL specifically is only backwards compatible with the two latest releases of the relevant Software (service packs are not counted as a release).
- 5.4.2 Use of COL on unsupported versions might offer a degraded user experience and some features may not work as expected.
- 5.4.3 If Licensee exceeds the end of support period (i.e., is not using the two latest releases of the relevant Software), the Licensee will be prompted to update to a relevant newer version of the Software.

## **5.5 End of life for COL**

- 5.5.1 End of life (i.e., the time at which the COL functionality cannot be used any longer) occurs 12 months after each new version of the Software has been released AND / OR when a breaking change (a significant change to the core of the Software that makes it incompatible with previous versions of the Software) is introduced.
- 5.5.2 For further information regarding when and how to upgrade the Software, we refer to our website at: [www.captureone.com](http://www.captureone.com).

## **6. DISCLAIMER OF WARRANTY ON SOFTWARE**

- 6.1 You expressly acknowledge and agree that use of the Software is at your sole risk.
- 6.2 The Software is provided “AS IS” and without warranty of any kind and Capture One expressly disclaims all representations and warranties, express or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. Capture One does not warrant or make any representations regarding the use of or the results of use of the Software or related documentation in terms of their correctness, accuracy, reliability, or otherwise. No oral or written information or advice given by Capture One or its authorized representative shall create a warranty. Should the Software prove defective, you (and not Capture One or a Capture One authorized representative) assume the entire cost of all necessary servicing, repair or correction. Some jurisdictions do not allow the exclusion, so this limitation may not apply to you.

## **7. AVAILABILITY, MAINTENANCE, AND DATA**

- 7.1 Capture One intends that the Software shall be available to the Licensee 24 hours each day, 365 days a year, except when Capture One is performing maintenance on the Software. Capture One does not guarantee any minimum availability. This is subject to the Licensee observing any requirements as to it-systems, communication capabilities and similar required for the Software to function properly, as set out by Capture One from the time to time.
- 7.2 Capture One intends for all Content uploaded to COL to be available during the License Term. However, Capture One makes no guarantees in respect of the integrity or retention of Content uploaded to COL, and COL shall not be regarded as a backup solution. Capture One shall not be liable for any loss of Content. Consequently, the Licensee is encouraged ensure to perform backup of the Licensee’s images and other content, including the Content uploaded to COL, locally or with dedicated cloud backup solutions.

## **8. SUPPORT**

# CAPTURE ONE

8.1 Capture One shall provide support for the Software as set out in this section.

Capture One's standard support includes:

- (a) Customer service, including:
  - Advice on purchasing, payment, account, and/or activation issues.
- (b) Technical support, including:
  - Enabling the Licensee to submit issues relating to the Software, i.e. bugs, errors or other situations where the Software does not work as intended or in accordance with any accompanying documentation;
  - Providing the Licensee with status of issues previously submitted by the Licensee;
  - Providing the Licensee with suggestions for a temporary workarounds if available until the issue has been resolved; and
  - Advice and guidance on the use of the Software, if such is not already covered by any accompanying documentation in which case Capture One may refer hereto.
- (c) Help Center, including:
  - Access to learning videos, articles, or troubleshooting guides.
- (d) User-to-user support, including:
  - Access to dedicated forum topics with user-to-user help on legacy versions of the Software.

8.2 Capture One provides customer service and technical support on workdays excluding weekends and public holidays via the following link: <https://support.captureone.com> or through such other means that Capture One may have informed the Licensee of. There may be exceptions to the support hours, in which case such exceptions will be posted on Capture One's website.

8.3 Outside of working hours Capture One only provides support in case of system failures of COL or other critical issues of similar severity as a system failure, and only if such failure or issue is caused by Capture One or Capture One's sub-contractors.

8.4 The Licensee shall provide initial support for the Licensee's users in relation to the Software, including but not limited to, questions relating to login, user access rights, roles, registrations, organizational aspects, and the general guidance of the users in the use of Capture One in the Licensee's own organization, including attempting to use different browsers to access COL.

8.5 Capture One shall have the right to access the Licensee's data on COL, if required to ensure the continuous operations of COL or to provide support or maintenance.

8.6 Capture One shall provide technical support as long as the Licensee is operating in a supported environment in accordance with the minimum system

# CAPTURE ONE

requirements as stated in the release notes, although no longer than 24 months from the time of purchase of the perpetual license (**“End of Technical Support”**). For subscription license holders the technical support shall be available for the duration of the subscription. Even after the End of Technical Support, perpetual license holders can always access the Help Center and the User-to-user support for consulting issues on legacy versions of the Software. Customer service according to Section 8.1(a) of this Agreement is not time limited.

- 8.7 Certain Capture One Software products may offer separate or additional customer service and/or technical support.
- 8.8 The Parties may agree that Capture One shall provide support outside the scope of Capture One’s support obligation set out herein. Such support will be subject to separate agreement and fees.
- 8.9 Capture One shall be entitled to amend the terms of support set out in Section 8 of this Agreement by notifying the Licensee in writing, including by way of e-mail or in the Software.

## **9. COMPLIANCE WITH RULES AND LEGISLATION**

- 9.1 The Licensee shall comply with all rules set out by Capture One for use of the Software.
- 9.2 The Licensee shall comply with all relevant legislation in the Licensee’s jurisdiction.

## **10. REPRESENTATIONS AND WARRANTIES IN RELATION TO COL**

- 10.1 By uploading Content to COL, the Licensee represents and warrants that
  - (a) the Licensee owns and controls or otherwise has the unconditional right to upload the Content to COL;
  - (b) the Licensee has obtained all necessary third-party rights and permissions to upload and use such Content;
  - (c) the uploading and use of the Content in connection with COL does not and will not infringe upon or violate the rights of any third party, including without limitation any copyright, right of privacy or right of publicity, or violate any applicable law, rule or regulation;
  - (d) the Content does not contain any viruses, trojan horses, worms, time bombs, or other code intended to harm or obtain unauthorized access to data;
  - (e) the Content conforms with and does not violate any rules set out by Capture One for use of COL; and
  - (f) the Content complies in all respects with the rules set forth in these Terms and Conditions.

## **11. INDEMNIFICATION**

# CAPTURE ONE

- 11.1 The Licensee agrees to indemnify and hold Capture One and sub-contractors, and each of its respective parents, subsidiaries, affiliates, officers and employees, harmless from any liabilities, claims, expenses or demands, including reasonable attorneys' fees and costs, made by any third party due to or arising out of
- (a) The Licensee's use or misuse of the Software;
  - (b) the viewing of the Licensee's Content;
  - (c) the violation of laws, rules, regulations or the terms and conditions of this Agreement, including the Representations and Warranties in section 10,
  - (d) infringement by the Licensee's Content or by someone using the Licensee's account, of any intellectual property or any other right of any person or entity.
- 11.2 Capture One reserves the right, at its own expense, to assume the exclusive defence and control of any matter otherwise subject to indemnification by the Licensee, in which event the Licensee must cooperate with Capture One in asserting any available defences.

## 12. LIMITATIONS AND EXCLUSIONS OF LIABILITY

- 12.1 Capture One, its officers, agents, employees or sub-contracts disclaim and shall not be liable to any person or entity for the loss of profits or for any indirect, special, incidental or consequential losses or damages, including without limitation, any loss of goodwill, business interruption, loss of data, loss caused by non-availability of the Software or incorrect information in the Software, operating loss, or any other indirect economic losses, irrespective of the basis and nature of the liability.
- 12.2 In no event shall the total, cumulative liability, including without limitation damages, proportional reductions and indemnifications, of Capture One and its sub-contractors exceed the License Fees paid by the Licensee in the preceding 12 (twelve) months.
- 12.3 Some jurisdictions may not allow this limitation of incidental, consequential or other damages so this limitation may not apply to you.

## 13. TERM AND TERMINATION

- 13.1 If the Software (incl. any add-ons) are licensed on a non-perpetual basis, the license is initially granted from the day on which the Software has been made available to the Licensee (the "**Effective Date**") and for the duration of the license term ("**License Term**") as shown at Capture One's website at the time of purchase and set out in the license order confirmation e-mail sent by Capture One to the Licensee confirming the Licensee's ordering of the Software subsequent to the Licensee's submission of an order at Capture One's website or in the Capture One Software ("**Order Confirmation**").
- 13.2 Upon expiry of the License Term, the license will automatically renew for an additional License Term of the same length as the previous, unless otherwise agreed between the parties or unless the License is terminated by either party.

## CAPTURE ONE

- 13.3 Licensee may terminate the license for convenience with one (1) days' notice to the end of a License Term, cf. section 13.1 by observing the process set out by Capture One at any given time regarding termination of a License.
- 13.4 If Licensee terminates a license to COL for convenience, Licensee will retain access to existing COL sessions until the expiry of the License Term, but Licensee will not be able to create any new sessions from the time at which the termination request is processed by Capture One. Upon the expiry of the License Term, Capture One is entitled to delete any Content uploaded to COL by Licensee without notice.
- 13.5 Capture One may terminate a license for convenience with one (1) months' notice to the end of a License Term, cf. section 13.1.
- 13.6 Notwithstanding anything to the contrary set out in this Agreement, Capture One may terminate this Agreement for convenience with immediate effect upon serving written notice to you in the event of an intellectual property infringement claim relating to the Software from any third-party if Capture One assesses in its sole discretion that Capture One is unable to remedy the infringement by working around such infringement or by obtaining the required license rights on commercial reasonable terms.
- 13.7 If a party is in material breach of its obligations under this Agreement, including but not limited to if the Licensee is in material breach of the terms of the License (irrespective of whether the Software is licensed on a perpetual or non-perpetual basis), the non-breaching party may terminate this Agreement for cause with immediate effect by giving the other party written notice.
- 13.8 The Parties agree that those provisions in this Agreement that by their nature are intended to survive termination or expiration of a license shall so survive.

## **14. EXPORT RULES**

- 14.1 The Software is subject to applicable import and export laws and regulations. You must comply with all applicable import and export laws and regulations that apply to the Software, including its components.

## **15. THIRD-PARTY SOFTWARE**

- 15.1 The Software includes certain third-party software. Such third-party software may be subject to and governed by separate third-party license terms and you accept such third-party license terms when you install or use the Software.
- 15.2 Credits and separate license terms applicable to third-party software are included in the license and credits file available in the "About" section of the Software via the "Credits" button.
- 15.3 You agree that certain third-party software licensors may be third-party beneficiaries and thus may rely in their sole discretion on their applicable third-party software license terms instead of and/or in addition to the terms of this Agreement. If separate third-party software license terms are not referenced in the license and credit file, the third-party software licensor may in its sole discretion decide to rely on the terms and conditions set out in this Agreement.
- 15.4 Without limiting the generality of any other provisions of this Agreement, Capture One may at any time request that you discontinue use and delete any

# CAPTURE ONE

third-party software components (or portions hereof) with immediate effect upon Capture One's notice to you in this respect, if Capture One assesses in its sole discretion that Capture One's right to include the third-party software components is or may be cancelled, withdrawn or terminated for whatever reason.

- 15.5 You agree not to take any actions that may prevent or otherwise impair any such third-party software licensors' exercise of their rights to such third-party software.

## **16. PERSONAL DATA**

- 16.1 Capture One collects and processes information, including personal data, provided by you in relation to Capture One's supply of the Software and services to you. Such collection and processing is regulated by the terms set out in the Capture One Privacy Policy and Cookie Policy, and Capture One Data Processing Agreement, as updated from time to time. The referenced policies and agreements form an integrated part of this Agreement.

- 16.2 For the latest versions of these referenced documents, please refer to <https://www.captureone.com/en/terms-conditions>

## **17. THIRD-PARTY INTEGRATIONS**

- 17.1 The Software may integrate with certain third-party service providers ("**Integration(s)**"). Any use of such Integrations is regulated by the Third-Party Integrations Terms, as updated from time to time ("**Integration Terms**"). The referenced Integration Terms form an integrated part of this Agreement.

- 17.2 For the latest version of Integration Terms, please refer to <https://www.captureone.com/en/terms-conditions>.

## **18. MISCELLANEOUS**

- 18.1 The parties explicitly agree that the language of this Agreement (and if applicable any user guides and documentation) is English, and the English language will prevail in terms of any disputes between the parties. You explicitly disclaim any right to request that this Agreement (and if applicable any user guides and documentation) should be interpreted into any other language than the English language to be valid and enforceable. The aforesaid applies to the maximum extent permitted by applicable law.

- 18.2 If you purchased a license to use the Software from a third-party reseller or distributor, you may be subject to additional terms and conditions imposed by such third party.

## **19. ASSIGNMENT**

- 19.1 Any or all of Capture One's rights and obligations under this Agreement may be assigned by Capture One without the Licensee's consent, and upon any such assignment, Capture One shall have no further obligation towards the Licensee, and shall no longer be liable to the Licensee in respect of any obligation so assigned. Capture One's use of sub-contractors does not release Capture One from its obligations vis-à-vis the Licensee.

# CAPTURE ONE

- 19.2 The Licensee's rights and obligations under the License may not be assigned by the Licensee without Capture One's prior written approval.

## **20. SEVERABILITY**

- 20.1 If any section of this Agreement is deemed unenforceable or invalid for any reason, the remaining parts of this Agreement shall not be affected hereby. The parties shall enter negotiations for the purpose of substituting such section with a corresponding valid and enforceable wording, if possible.

## **21. NOTICES**

- 21.1 Capture One may provide the Licensee with information and notices about the Software electronically, including via email, through the Software, through a website that Capture One identifies or similar means.

## **22. CONTROLLING LAW, VENUE AND SEVERABILITY**

- 22.1 This Agreement shall be governed by the laws of the Kingdom of Denmark save that any rules concerning choice of law and venue and the UN Convention on Contracts for the International Sale of Goods ("CISG") are explicitly excluded and will not apply.
- 22.2 Any dispute shall be settled by the District Court of Copenhagen, Denmark, as the court of first instance.

## **23. ENTIRE AGREEMENT AND AMENDMENTS**

- 23.1 This Agreement constitutes the entire agreement between the parties with respect to the use of the Software and supersedes all prior or contemporaneous understandings regarding such matter. No amendment to or modification of this Agreement will be legally valid and binding unless in writing and signed by Capture One.
- 23.2 Capture One shall, however, be entitled to amend the terms and conditions of this Agreement applicable to the Software, by notifying the Licensee in writing, including by way of e-mail or in the Software. Such amendments shall not have any effect on already purchased perpetual licenses. If the Licensee cannot accept the amended terms and conditions, Licensee shall be entitled to terminate the License with effect as of the date when the amended terms and conditions take effect by giving written notice to Capture One. If Licensee does not give such written notice of termination, the License shall continue subject to the amended terms and conditions.