



Standard Terms & Conditions

gopro consulting ltd

G-Cloud 15

GoPro Consulting Customer Agreement

This agreement (the “**Agreement**”) is between You and GoPro Consulting Ltd (“**GoPro Consulting**” or “**We**”, “**Our**”, “**Us**”). If You are agreeing to this Agreement not as an individual but on behalf of Your company, then “**Customer**” or “**You**” means Your company, and that You are binding Your company to this Agreement and You represent and warrant that You have all necessary authority to do so.

You also expressly agree that We may modify this Agreement from time to time, subject to the terms of Section 0 (Changes to this Agreement) below. In this Agreement, “**Party**” refers to either You or Us, and “**Parties**” refers to You and Us.

This agreement does not have to be signed in order to be binding. You confirm your assent to be bound by this agreement by using or accessing Our Solutions or by receiving Our Services (“Start of Use”). Every time You pay an invoice for the use of Our Solutions, Custom solutions or Services, you actively reconfirm your continued commitment under this agreement. You may also be required to click “I agree” (or a similar prompt or button) when placing an Order, downloading or accessing Our Solutions. By doing so You are confirming Your agreement to be bound by these terms.

SCOPE OF THE AGREEMENT

This Agreement governs Your use of Our Products You order, as well as any use of further Solutions, Custom solutions and Services You order or request from Us.

Our Documentation, which includes Our [Data Protection Policy](#), Our [Standard Processing Agreement](#) (when applicable), any Orders, and any other policies and standard terms, form an integral part of this Agreement (“[Documentation](#)”). You can view our Documentation as in force at each time here: [Our Terms of Service](#).

This Agreement applies to Service and Our Solutions, whether You are provided with them from Us or access them through Our website.

OUR SOLUTIONS AND SERVICES

In this Agreement the following terms have these definitions:

(Our) Product/-s: refers to Our standard software solutions, commercially available at each time. Products are intended to address general requirements and are usually used by all or a large number of customers (hundreds or thousands of users). Specifics regarding Our development strategy, maintenance, and releases of new versions can be found in the Documentation ([Product definitions and support policy](#) and [Procedures and categorizations of defects, service levels and releases of updates and new versions](#)).

(Our) Hosted Services: refers to Our hosted and/or cloud-based software solutions. These are solutions that include access rights to Our Products that are installed in Our computer

systems. You will be provided with a remote access to specified functions for a specified number of users. Further details on available functions, acceptable use policies, new release schedules and service level terms can be found in the Documentation ([Product definitions and support policy](#) and [Procedures and categorizations of defects, service levels and releases of updates and new versions](#)).

(Our) Asset/-s: refers to software that is standardized and used by a certain number of customers. Assets are intended to; address the needs of a specific group of users, for example a certain type of customers, country specific functions or extensions to Our Products, add certain new functionality to Products or to alter the functions of Products for certain groups of users. More details on available Assets can be found in the Documentation ([Product definitions and support policy](#) and [Procedures and categorizations of defects, service levels and releases of updates and new versions](#)).

(Our) Service Offerings: refers to standard solutions that are used by a number of end-users and are designed to solve specific business needs, common to a group of end-users or certain territories, or add-ons to Our Products that modify their functionality in order to fulfil specific needs of a group of users. More details on available Service Offerings can be found in the Documentation ([Product definitions and support policy](#) and [Procedures and categorizations of defects, service levels and releases of updates and new versions](#)).

(Our) Technology: refers to pre-existing code, design, presentation and/or look-and-feel, that We have developed and is used as stand-alone or parts of Custom solutions, Service Offerings or Products. Our Technology can be based on certain code from Our Products, Our Assets or Our Service Offerings, Custom solutions, Deliverables, any and all related or underlying technology, code, modifications or derivative work of the foregoing, including as they may incorporate Feedback (defined in Section 0). We license Technology to You to use under the terms of this Agreement, but do not actively develop the Technology. All updates need to be specifically agreed on and paid for.

(Our) Solution/-s: refers to all software, whether Our Products, Hosted Services, Assets, Service Offerings or Technology (0 - 0), that is licensed under this Agreement, as well as any and all Updates, New Releases, New Versions or bug fixes.

(Our) Custom solutions: refers to software that is specifically written, coded or developed for a single or few customers and aimed at solving specific tasks for him/them. Cost of, maintenance for, and updates for Custom solutions are subject to a specific agreement between Us and the relevant customers.

(Our) Services: refers to Our standard services for users of Our Solutions (other than Custom solutions). The Services are intended to ensure the defined level of access and are provided via telephone or remotely. More details on the service levels and access time can be found in Our [Documentation](#) ([Product definitions and support policy](#), [Scope of Use Policy](#), and [Procedures and categorizations of defects, service levels and releases of updates and new versions](#)).

CSTs: Refers to Our [Service and Customisation Terms](#).

Affiliate (of a relevant party): refers an entity which, directly or indirectly, owns or controls that party, is owned or is controlled by that party, or is under that parties common ownership or control with other parties, where “control” means the power to direct the management or affairs of an entity, and “ownership” means the beneficial ownership of 50% (or, if the applicable jurisdiction does not allow majority ownership, the maximum amount permitted under such law) or more of the voting equity securities or other equivalent voting interests of the entity.

Section 0 (Software Terms) applies specifically to Products. **Section 0** (Hosted Services Terms) applies specifically to Hosted Services. **Section 0** and Our [Product definitions and support policy](#) and Our [Procedures and categorizations of defects, service levels and releases of updates and new versions](#) (which are a part of [Our Documentation](#)) apply specifically to the Services. **Section 0** and the **CSTs** apply specifically to Custom solutions. Unless otherwise specified, all other provisions of this Agreement apply to all Solutions, Custom solutions and Services.

ORDERING SOLUTIONS AND SERVICES

You will need to register certain information with Us in order to place orders, to access or receive Solutions, or be provided with Services. Any registration information that You provide to Us must be accurate, current and complete. You must also update Your information so that We may send notices, statements and other information, relevant to the contractual relationship between You and Us, to You by email.

Consent to process personal data: By confirming your assent to be bound to this Agreement, You are also giving Us Your consent to process such registration information that may contain personal data for the purposes of:

- a) performing our obligations to You under this Agreement,
- b) offering You additional Solutions and Services relevant to You,
- c) providing you with updates, and
- d) for billing purposes.

All such processing by Us will be governed by our [Data Protection Policy](#).

ORDERS

Orders made directly with Us:

Your “Order” means Your order for Your initial subscription or license for Our Solutions and/or Services and any subsequent orders submitted online or in written form via e-mail.

Your Order shall detail, among other things; **a)** the number of licenses and required Services, **b)** the applicable fees, **c)** the billing cycle, **d)** storage or capacity (for Hosted Services), **e)** other restrictions or billable units as applicable, and **f)** other charges as agreed to between the Parties (all of which will be referred to as the **“Ordered Instances”**). Each such Order is to be incorporated into and to become a part of this Agreement.

In the event of any conflict between the terms of this Agreement and the terms of any such Order, the terms of this Agreement shall prevail. The term **“Order”** also includes any applicable Solution or Services renewal, and requests for Custom solutions (as further described in Section 0 and subject to Our CSTs) or purchases You make to increase or upgrade Your Ordered Instances.

Orders made with Our Partners:

This Agreement applies whether You subscribe to Our Solutions directly from Us or through Our Partners or other authorized Associates (each, a **“Partner”**). If You subscribe through a Partner, Your Ordered Instances shall be as stated in the Order placed by the Partner for You, and the Partner is responsible for the accuracy of any such Order made with Us on Your behalf.

Partners do not act as Our agents and are not authorized to make any promises or commitments on Our behalf. We are not bound by any obligations to You other than what We specify in this Agreement.

The applicability of Our CST’s and Our Maintenance and Support Terms of Service, may be limited by the terms of Your agreement with the Partner.

AUTHORIZED USERS

“Authorized Users” shall mean specific individual human (natural person) users that You have both; **a)** designated to have the right to access and use the Solutions and; **b)** for whom You have paid the applicable fees. Some Solutions may allow You to designate different types of Authorized Users, for whom pricing and functionality may vary according to the type of Authorized User. Authorized Users can be You (if You are a natural person), Your (or Your Affiliates’) employees, representatives, consultants, contractors, agents, or other third parties who are acting for Your benefit or on Your behalf. You may also permit Your customers to have limited access to certain Solutions as Authorized Users, subject to the terms of this Agreement.

You may increase the number of Authorized Users permitted to access the respective Solutions and/or use extended functionality, by placing a new Order or, in some cases, directly through the Solution. Accordingly, You shall be obligated to pay the applicable fee(s) for the increased number of Authorized Users and use of extended functionality.

You represent and warrant that You are responsible for compliance with this Agreement by any and all Authorized Users. All use of Solutions by You and Your Authorized Users must be within the limitations of Your Ordered Instances, solely for the benefit of You and/or Your Affiliates and at all times adhere to Our [Scope of Use Policy](#).

SOFTWARE TERMS

Your License Rights

Subject to the terms and conditions of this Agreement and Your Order, We grant You a **NON-EXCLUSIVE, NON-TRANSFERABLE (AND NON-SUBLICENSEABLE) AND NON-ASSIGNABLE**, license to install and use the Solutions You order or to access the Solutions remotely during the applicable License Term in accordance with this Agreement, and solely within Your applicable limitations of Your Ordered Instances and for Your benefit and subject to Your payment of the applicable fees. The Solutions require a license key in order to operate. These will be delivered as described in Section 0 (Delivery).

License Term

Subject to the limitations contained in this Agreement, the term of each individual license granted begins on the date of the delivery of the Solutions and shall terminate on the date set forth on the Order that requested the license, unless earlier terminated as provided in this Agreement, despite anything stated to the contrary in any document, even if your License is identified as “perpetual” or if no expiration date is specified in Your Order (“**License Term**”).

Number of Instances

For each licence You receive from Us You may install one production instance of the Products on systems owned or operated by You (or Your third-party service providers, if permitted under this Agreement, and so long as You remain responsible for their compliance with the terms and conditions of this Agreement).

Your Modifications

Subject to the terms and conditions of this Agreement: “**Your Customisations**” means by way of example, any additions, configurations of existing functionality of the Solutions and/or integration with external third-party code.

You may use Your Customisations solely with respect to Your own instances and only in support of Your permitted use of the Solution. You may not distribute the code to Your Customisations to any third party. You understand that Your Customisations may affect the pricing of Hosted Services. Notwithstanding anything in this Agreement to the contrary, We have no support, maintenance, warranty, indemnification or other obligation or liability with respect to Your Customisations or their combination, interaction or use with Our Solutions.

YOU SHALL INDEMNIFY, DEFEND AND HOLD US HARMLESS FROM AND AGAINST ANY AND ALL COSTS, DAMAGES, LOSSES, LIABILITIES AND EXPENSES AND WHATEVER OTHER CLAIMS (INCLUDING REASONABLE ATTORNEYS’ FEES AND COSTS) ARISING OUT OF OR IN CONNECTION WITH ANY CLAIM BROUGHT AGAINST US BY A THIRD PARTY RELATING TO YOUR

CUSTOMISATIONS (including but not limited to any representations or warranties You make about Your Customisations or the Products) or Your breach of this Section 0. This indemnification obligation is subject to Your receiving **a)** prompt written notice of such claim (but in any event notice in sufficient time for You to respond without prejudice); **b)** the exclusive right to control and direct the investigation, defence, or settlement of such claim; and **c)** all reasonably necessary cooperation from Us at Your expense.

Third Party Code

The Solutions include code and libraries licensed to Us by third parties, including open-source software. See [Third Party Code in Our Products](#) for additional provisions regarding Our use of third-party code.

HOSTED SERVICES TERMS

Access to Hosted Services - Subscription

Subject to the terms and conditions of this Agreement and Your Order, WE GRANT YOU A NON-EXCLUSIVE, NON-SUBLICENSABLE AND NON-TRANSFERABLE RIGHT TO ACCESS AND USE THE HOSTED SERVICES during the applicable Subscription Term (as defined below) in accordance with this Agreement, Your Ordered Instances and the Documentation (including Our [Scope of Use Policy](#)). If We offer client software (e.g., a desktop or mobile application) for any Hosted Service, You may use such software solely with the Hosted Service, within Your Ordered Instances and subject to the terms and conditions of this Agreement. You acknowledge that Our Hosted Services are on-line, subscription-based products and that We may make changes to the Hosted Services from time to time. More details on access times, service and maintenance, scope of use and security measures can be found in our Documentation ([Scope of use](#)).

When You have accessed the Hosted Services, You are considered to have accepted their functionality, if You do not make written objections within one week.

Subscription Terms and Renewals

Hosted Services are provided on a subscription basis for a set term specified in Your Order ("**Subscription Term**"). The Subscription Term will include a billing cycle (i.e. 1 month, 3 months, 6 months or 12 months). Except as otherwise specified in Your Order, all subscriptions will automatically renew for periods equal to Your initial Subscription Term (and You will be charged at the then-current rates) unless You cancel Your subscription with a written notice to Us (confirmed received, e-mail sufficient). If You cancel, Your subscription will terminate at the end of the third calendar month after the day of cancellation, but You will not be entitled to any credits or refunds for amounts accrued or paid prior to such termination.

Credentials

You must ensure that all Authorized Users keep their user IDs and passwords for the Hosted Services strictly confidential and not share such information with any unauthorized person. User IDs are granted to individual, named persons and may not be shared. You are responsible

for any and all actions taken using Your accounts and passwords, and You agree to immediately notify Us of any unauthorized use of which You become aware.

Your Data

“**Your Data**” means any data, content, code, video, images or other materials or information of any type and in any form that You upload, submit or otherwise transmit to or through Hosted Services. You will retain all right, title and interest in and to Your Data in the form provided to Us. Subject to the terms of this Agreement, You hereby grant to Us a non-exclusive, worldwide, royalty-free, fully paid-up and irrevocable right and license to: **a)** collect, use, copy, store, transmit, modify and create derivative works of Your Data, in each case solely to the extent necessary to provide the applicable Hosted Service to You, and **b)** for Hosted Services that enable You to share Your Data or interact with other people, to distribute and publicly perform and display Your Data as You (or Your Authorized Users) direct or enable through the Hosted Service.

Security

We implement security procedures to help protect Your Data in accordance with Our [ISMS](#) and Our [Data Protection Policy](#). However, You understand that use of the Hosted Services necessarily involves transmission of Your Data over networks that are not owned, operated or controlled by Us, and We are not responsible for any of Your Data that may be lost, altered, intercepted or stored across such networks. We cannot and do not guarantee that Our security procedures will be error-free, that transmissions of Your Data will always be secure or that unauthorized third parties will never be able to defeat Our security measures or those of Our third-party service providers.

You represent and warrant that You are responsible for ensuring that Authorized Users keep their credentials secret and secure at all times and that credentials are changed or deleted immediately when an Authorized User stops working for You or when there is reason to suspect that the integrity of the credentials has been compromised.

Storage Limits

There may be storage limits associated with a particular Hosted Service. These limits are described in the services descriptions on Our websites and in Our Scope of Use Policy for the particular Hosted Service. We reserve the right to charge for additional storage or overage fees at the rates specified on Our website. We may impose new, or may modify existing, storage limits for the Hosted Services at any time in Our discretion, with or without notice to You.

Responsibility for Your Data

General. You must ensure that Your use of Hosted Services and all Your Data is at all times compliant with all applicable local, and international laws and regulations (“Laws”). You represent and warrant that: **a)** You have obtained all necessary rights, releases, consent and permissions to provide all Your Data to Us and to grant the rights granted to Us in this Agreement, and **b)** Your Data and its transfer to and use by Us as authorized by You under this Agreement do not violate any Laws (including without

limitation those relating to export control (if applicable) and electronic communications) or rights of any third party, including without limitation any intellectual property rights, rights of privacy, rights of data protection, or rights of publicity, and any use, collection, disclosure or other forms of processing authorized herein is not inconsistent with the terms of any applicable privacy policies. Other than according to the security obligations under Section 0 (Security), We assume no responsibility or liability for Your Data, and You shall be solely responsible for Your Data and the consequences of using, disclosing, storing, transmitting and otherwise processing it.

Personal Data. Our [Data Protection Policy](#) is a part of Our [Documentation](#). Unless You specifically concluded a Processing Agreement with Us, governing any processing of personal data that You entrust Us with, You will not submit to the Hosted Services (or use the Hosted Services to collect) any personally identifiable information, except as necessary for Your operation of the Hosted Services and in accordance with the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679). You also acknowledge that, **unless specifically agreed otherwise** in a Processing Agreement, **We are not acting as Your Processor** or subcontractor (as such terms are defined and used in GDPR). If You do require Us to carry out specific, limited and defined actions, that constitute processing within the meaning of the GDPR, You will need to fill out a form and consent to Our [Processing Agreement](#). Otherwise, We have no liability under this Agreement for Your Personal Data.

Indemnity for Your Data. You will defend, indemnify and hold Us harmless from and against any and all loss, cost, liability or damage, including attorneys' fees, for which We become liable arising from or relating to any claim relating to Your Data, including but not limited to any claim brought by a third party alleging that Your Data, or Your use of the Hosted Services in breach of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law. This indemnification obligation is subject to Your receiving; **a)** prompt written notice of such claim (but in any event notice in sufficient time for You to respond without prejudice); **b)** the exclusive right to control and direct the investigation, defence, or settlement of such claim; and **c)** all reasonable necessary cooperation by Us at Your expense. If You have concluded a Processing Agreement with Us, liability for personal data that falls under the scope of that agreement will also be governed by some additional terms of the Processing Agreement.

Deletion at End of Subscription Term

We may remove or delete Your Data within a reasonable period of time after the termination of Your Subscription Term. In the event that You would want Your Data delivered to You by Us, You shall notify Us thereof no sooner than two months and not later than 7 days prior to the termination of the Subscription Term. We will thereafter deliver Your Data to You for a fee in accordance with Our then applicable rates. We will use Our best commercial efforts to deliver Your Data in a format in accordance with Your respective instructions.

Service-Specific Terms

Some of Our Hosted Services may be subject to additional terms specific to that service as set forth in Our [Scope of Use Policy](#). Defect fixing is not a part of the Hosted Services, unless the Defect is caused by the Our hard-ware or Solutions.

SUPPORT AND MAINTENANCE – ADDITIONAL WORK

Support and maintenance

We will provide support and maintenance services for Our Products subject to the terms contained herein and the terms described in Our [Policy for Procedures and categorizations of defects, service levels and releases of updates and new versions](#) (“**Support and Maintenance**”), which is a part of Our Documentation, during the period for which You have paid the applicable fee (“**Support Period**”). Our Support and Maintenance Terms of Service may be modified by Us, from time to time, to reflect changing practices. Support and Maintenance for Products includes access to New Releases, if and when available. You may use any New Releases that We provide to You during a Support Period as New Releases are included in the Products. The frequency of New Releases, New Versions and Updates description of their basic content can be found in Our [Policy for Procedures and categorizations of defects, service levels and releases of updates and new versions](#).

Custom solutions

If You require Us to perform for You certain professional services, custom development work, which is not included in the definition of Maintenance and Support under Our Maintenance and Support Terms of Service, or provide other Custom solutions, You will need to request such Additional Work by submitting an Order. You will be charged for such Custom solutions at Our then current rates and such Custom solutions will be subject to the terms of Our CSTs which form a Schedule to this Agreement.

RETURNS, DELIVERY AND FINANCIAL TERMS

Return Policy

We will allow You to return Solutions within 21 days from Your Start of Use, for any reason or no reason at all, and You will receive a refund of the license fee paid for the returned Products or Hosted Service. As concerns Products, a return means that We will disable the respective license key. As concerns Hosted Services, a return means that We will inactivate Your access to the Hosted Services.

Delivery

We will provide You with the applicable license keys (in the case of Products) or login instructions (in the case of Hosted Services) to the email address(es) specified in Your Order, or according to Our procedures, once payment of the applicable fees has been received, or conditioned on such payments being made, according to Our invoices. All deliveries under this Agreement will be electronic. If You require Us to assist You with the installation of the

Products and We accept to provide such installation assistance, We will charge for such services according to Our then current rates.

Payment

You agree to pay all applicable fees for each Solution and all Services. You shall pay all fee amounts for Your Order against an invoice from Us and thereafter for each billing cycle, in accordance with the terms of the invoice. All fee amounts are non-refundable, non-cancellable and non-creditable (with the exception of the terms of Article 0). If You add Authorized Users during Your License Term or Subscription Term, we will charge You for the increased number of Authorized Users pursuant to the then-current applicable rates. If You purchase any Solutions through a Partner, You will owe payment to the Partner as agreed between You and the Partner, but You expressly agree that We may terminate Your rights to use Solutions if We do not receive Our corresponding payment from the Partner.

Taxes

Your payments under this Agreement exclude any taxes or duties payable in respect of the Solutions, Custom solutions and Services in the jurisdiction where the payment is either made or received. To the extent that any such taxes or duties are payable by Us, you shall pay to Us the amount of such taxes or duties in addition to any fees owed under this Agreement. Notwithstanding the foregoing, you may have obtained an exemption from relevant taxes or duties as of the time such taxes or duties are levied or assessed. In that case, You will have the right to provide to Us any such exemption information, and We will use reasonable efforts to provide such invoicing documents as may enable You to obtain a refund or credit for the amount so paid from any relevant revenue authority if such a refund or credit is available.

RESTRICTIONS OF USE

Except as otherwise expressly permitted in this Agreement, You shall not be entitled to: **a)** rent, lease, reproduce, modify, adapt, create derivative works of, distribute, sell, sublicense, transfer, or provide access to the Solutions to a third party or publicly display, publicly perform or provide access to or make available to unauthorized users or make use of the Solutions in any way that violates this Agreement, **b)** use the Solutions for the benefit of any third party, **c)** incorporate any Solutions into a product or service You provide to a third party, **d)** interfere with any license key mechanism in the Solutions or otherwise circumvent mechanisms in the Solutions intended to limit Your use, **e)** reverse engineer, disassemble, decompile, translate, or otherwise seek to obtain or derive the source code, underlying ideas, algorithms, file formats or non-public APIs to any Solutions, except as permitted by law, **f)** remove or obscure any proprietary or other notices contained in any Solutions, **g)** publicly disseminate information regarding the performance of the Solutions, **h)** use the Solutions for competitive analysis or to build competitive products, **i)** encourage or assist any third party to do any of the foregoing, or **j)** use the Solutions in a way that exceeds either the number of Your Ordered Instances or the permitted [Scope of Use](#).

LICENSE CERTIFICATIONS AND AUDITS

At Our request, You agree to provide a signed certification that You are using all Solutions pursuant to the terms of this Agreement, including the Ordered Instances and Scope of Use. You agree to allow Us, or Our authorized agent, to audit Your use of the Solutions. We will provide You with at least 10 days advance notice prior to the audit, and the audit will be conducted during normal business hours. We will bear all out-of-pocket costs that We incur for the audit, unless the audit reveals that You have exceeded the Scope of Use or the Ordered Instances. You will provide reasonable assistance, cooperation, and access to relevant information in the course of any audit at Your own cost. If You exceed Your Scope of Use or Ordered Instances, we may invoice You for any past or on-going excessive use, and You will pay the invoice promptly after receipt. This remedy is without prejudice to any other remedies available to Us at law, equity and under this Agreement. To the extent We are obligated to do so, we may share audit results with certain of Our third-party licensors or assign the audit rights specified in this Section to such licensors. You further acknowledge and agree that the Solutions may be equipped with a feature that enables the Solutions to submit automatically to Us information in respect of Your use of the products in terms of the number of users as needed by Us to determine the License Fees as applicable from time to time.

INTELLECTUAL PROPERTY - OWNERSHIP AND FEEDBACK

The Solutions will be made available to You by way of a limited license and/or access, and no ownership right is conveyed to You, despite any use of terms such as “purchase” or “sale” in this Agreement or any other documentation or correspondence. You expressly acknowledge that We and Our licensors own and/or control and retain all right, title and interest, including all intellectual property rights, of any nature in and to the Solutions (including but not limited to Copyright, design rights, trade mark rights, proprietary rights, professional- and industrial secrets, expert know-how connected to the Solutions now or at a later time), their “look and feel”, any and all related or underlying technology, and any modifications or derivative works of the Solutions or the intellectual property rights created by or for Us, including without limitation as such modifications and/or derivative works may incorporate Feedback. If You submit comments, information, questions, data, ideas, concepts, description of processes, or contribute programmed codes or other information to Us, including sharing Your Customizations or in the course of receiving Support and Maintenance (“**Feedback**”), You hereby grant Us, by way of an irrevocable license, the unrestricted right to freely use, copy, modify, integrate, disclose, license, transfer, distribute and otherwise exploit any Feedback worldwide in perpetuity in any manner without any obligation, compensation, royalty or restriction based on intellectual property rights or otherwise. No Feedback will be considered Your Confidential Information, and nothing in this Agreement limits Our right to independently use, develop, evaluate, sell, license, distribute and market products, whether such products incorporate Feedback or not.

CONFIDENTIALITY

“Confidential Information” shall mean all information (including all oral and visual information, and all information recorded in writing or electronically, or in any other medium or by any other method) disclosed to, or obtained by one Party from the other Party or a third party acting on that other Party’s behalf, and without prejudice to the generality of the foregoing definition shall include but not be limited to any information relating to a Party’s business, research strategies operations, processes, plans, intentions, software, designs, code, inventions, product information, knowhow, designs, trade secrets, market opportunities, customers and business affairs, provided that it is identified as confidential at the time of disclosure. Any Technology and any performance information relating to the Solutions shall be deemed Our Confidential Information without any marking or further designation.

Except as otherwise set forth in this Agreement each Party and its Affiliates promises to hold the Confidential Information in confidence and not to disclose it to third parties other than Affiliates without the written consent of the other Party. This requirement of non-use, confidentiality and non-disclosure shall not apply, however, to Confidential Information which: **a)** the receiving Party already knew, or was rightfully in its possession, the prior knowledge or possession of which he can document by prior written records; or **b)** is or becomes public knowledge other than through the receiving Party’s breach of this promise of confidentiality; or **c)** the receiving Party receives in good faith from a third party not in violation of an obligation of confidentiality; or **d)** the receiving Party independently develops, discovers or arrives at without use of or reference to the Confidential Information; or **e)** the receiving party discloses, pursuant to a binding and enforceable order from a court of competent jurisdiction or a governmental body.

The receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the receiving Party the disclosing Party shall be entitled to appropriate equitable relief in addition to whatever other remedies it might have at law.

TERM AND TERMINATION

This Agreement is in effect for as long as You have a valid License Term or Subscription Term (the **“Term”**), unless sooner terminated as permitted in this Agreement.

Either Party may terminate this Agreement before the expiration of the Term if the other Party materially breaches any of the terms of this Agreement and does not cure the breach within thirty (30) days after written notice of the breach. Either Party may also terminate the Agreement before the expiration of the Term if the other Party ceases to operate, declares bankruptcy, seeks moratorium, composition or analogous settlement proceedings, or becomes insolvent or otherwise unable to meet its financial obligations.

You may terminate this Agreement at any time without cause (for convenience) with notice to US, but You will not be entitled to any credits or refunds as a result of convenience termination for prepaid but unused Solutions, Hosted Services subscriptions, Support and Maintenance or Custom solutions. Except where an exclusive remedy may be specified in this Agreement, the

exercise by either Party of any remedy, including termination, will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise.

Once the Agreement terminates, You (and Your Authorized Users) will no longer have any right to use or access any Solutions, Hosted Services or any information or materials that We make available to You under this Agreement, including Our Confidential Information. You are required to delete any of the foregoing from Your systems as applicable (including any third-party systems operated on Your behalf) and provide written certification to Us that You have done so at Our request.

The following provisions will survive any termination or expiration of this Agreement: Sections 0 (Indemnity for Your Data), 0 (Payment), 0 (Taxes), 0 (Restrictions), 0 (License Certifications and Audits), 0 (Intellectual Property - Ownership and Feedback), 0 (Confidentiality), 0 (Term and Termination), 0 (Warranty Disclaimer), 0 (Limitation of Liability), 0 (Publicity Rights), 0 (Governing Law and Dispute Resolution) and 0 (General Provisions).

WARRANTY AND DISCLAIMER

Due Authority

Each Party represents and warrants that it has the legal power and authority to enter into this Agreement. If You are an entity, You expressly represent and warrant that this Agreement and each Order is entered into by an employee or agent of such Party with all necessary authority to bind You as an entity to the terms and conditions of this Agreement.

Warranty disclaimer

You acknowledge that the Solutions and Services may not satisfy all Your requirements or be free from defects. We warrant for a period of one year from the date on which installation of the Product or access to the Hosted Services is recorded, that the Products will be free from defects in materials and workmanship under normal use.

OUR ENTIRE LIABILITY AND YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THE FOREGOING LIMITED WARRANTY SHALL BE, AT OUR OPTION, EITHER (A) RETURN OF THE PRICE PAID, IF ANY, OR (B) REPAIR OR REPLACEMENT OF THE PRODUCT THAT DOES NOT MEET OUR LIMITED WARRANTY.

This Limited Warranty is void if failure of the Product has resulted from Your choice of equipment from a third party, from incorrect use by You or any third party or caused by accident, abuse, or misapplication. Any replacement Product will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE EXPRESSLY DISCLAIM ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE OR OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH REGARD TO THE SOLUTIONS, ACCOMPANYING WRITTEN MATERIALS, THE SERVICES, CUSTOM SOLUTIONS AND/OR RESULTING FROM THEIR PERFORMANCE OR FAILURE TO PERFORM ANY OBLIGATION UNDER THIS AGREEMENT OR RESULTING FROM THE FURNISHING, PERFORMANCE, USE OR LOSS OF USE OF ANY PART OF THE SOLUTIONS, CUSTOM SOLUTIONS, OR ANY DATA, INFORMATION OR OTHER PROPERTY

OF CUSTOMER, INCLUDING WITHOUT LIMITATION, ANY INTERRUPTION OF CUSTOMER'S BUSINESS, DELAYS, SERVICE FAILURES, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE OUR REASONABLE CONTROL OF WHETHER RESULTING FROM BREACH OF CONTRACT OR BREACH OF WARRANTY, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU, BUT NOTE THAT TO THE MAXIMUM EXTENT PERMITTED, THE SUBSTANTIVE LAW GOVERNING THIS AGREEMENT IS DEFINED IN PROVISION 0 AND MAY NOT BE THE LAW OF YOUR JURISDICTION. IF YOU DO HAVE OTHER STATUTORY RIGHTS, YOU ACKNOWLEDGE THAT THE DURATION OF SUCH RIGHTS WILL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

Limitation of liability and damages

IN NO EVENT WILL WE, OUR PARENT OR SUBSIDIARIES OR ANY OF OUR LICENSORS, DIRECTORS, OFFICERS, EMPLOYEES OR AFFILIATES OF ANY OF THE FOREGOING BE LIABLE TO YOU FOR;

- A) ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES WHATSOEVER (including, without limitation, damages for loss of business profits, business interruption, loss of business information, cost of delay, lost or inaccurate data and the like), WHETHER FORESEEABLE OR UNFORESEEABLE, arising out of the use of or inability to use the Solutions, Custom solutions, or accompanying written materials, the Services, or any other breach of this Agreement, regardless of the basis of the claim and even if We or Our representative had been advised of the possibility of such damage,
- B) DAMAGES (REGARDLESS OF THEIR NATURE) FOR ANY DELAY OR FAILURE BY US TO PERFORM ANY OBLIGATIONS UNDER THE AGREEMENT DUE TO ANY CAUSE THAT IS BEYOND OUR REASONABLE CONTROL,
- C) DAMAGES (REGARDLESS OF THEIR NATURE) THAT ARE THE RESULT OF THIRD-PARTY OPERATIONAL FACTORS, SUCH AS POWER DISRUPTION OR LOSS OF COMMUNICATION,
- D) CLAIMS THAT HAVE NOT NOTIFIED IN WRITING TO US MORE THAN ONE YEAR AFTER THE DATE ON WHICH CAUSE OF SUCH CLAIM FIRST AROSE.

THIS LIMITATION WILL NOT APPLY IN CASE OF DEATH, PERSONAL INJURY AND LOSS OF, DAMAGE TO OR DESTRUCTION OF, TANGIBLE PERSONAL PROPERTY ORDINARILY INTENDED FOR PRIVATE USE OR CONSUMPTION, OR WHEN THE CAUSE OF THE DAMAGE IS GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD, ONLY WHERE AND TO THE EXTENT THAT APPLICABLE LAW REQUIRES SUCH LIABILITY. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU, BUT NOTE THAT TO THE MAXIMUM EXTENT PERMITTED, THE SUBSTANTIVE LAW GOVERNING THIS AGREEMENT IS DEFINED IN PROVISION 0 AND MAY NOT BE THE LAW OF YOUR JURISDICTION.

OUR LIABILITY TO YOU FOR DAMAGES FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF THE ACTION, WILL BE LIMITED TO THE MONEY ACTUALLY PAID BY YOU, FOR

THE SOLUTIONS, CUSTOM SOLUTION OR SERVICE THAT CAUSED THE DAMAGES, IN THE 12 MONTHS IMMEDIATELY PRECEDING THE RESPECTIVE CLAIM.

IF YOU HAVE CONCLUDED A PROCESSING AGREEMENT WITH US, LIABILITY FOR PERSONAL DATA THAT FALLS UNDER THE SCOPE OF THAT AGREEMENT WILL ALSO BE GOVERNED BY SOME ADDITIONAL TERMS OF THE PROCESSING AGREEMENT.

High-risk activities

The Solutions are not fault-tolerant and are not designed, manufactured or intended for use or resale as on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Solutions could lead directly to death, personal injury, or severe physical or environmental damage ("High Risk Activities"). WE, AND OUR SUPPLIERS, AND AFFILIATES SPECIFICALLY DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES.

INFRINGEMENT – INDEMNIFICATION BY US

Notify

You shall fully notify Us as soon as practicable after You become aware of: a) any actual, threatened or suspected infringement of any of Our intellectual property in respect of Solutions or Custom solutions, any related material or of any breach of confidence relating to any of the foregoing; b) any claim brought against You alleging that Your use of a Product, any related material, any intellectual property or other rights belonging to or alleged to belong to the claimant.

Claim

If any such claim as is mentioned in Section 0.b) is brought against You, We shall use Our reasonable endeavours to replace the portion of the Product or related materials which allegedly infringes the claimant's rights with material which does not so infringe or, if that is not reasonably practicable, shall be entitled to: a) require You to cease, using the material which allegedly infringes the rights of the claimant and give You a proportionate reduction of future fees payable under this Agreement; or b) require You to defend or settle, the claim.

Settlement

If We require You to defend or settle a claim in accordance with Section 0.b) We shall: a) indemnify You in accordance with Section 0; and b) be entitled to all damages, costs or expenses which are awarded against, or agreed to be paid in settlement by, the claimant.

Indemnity

We shall indemnify You against any damages, costs or expenses finally awarded against You, arising out of any claim that the use of the Product or related materials supplied by Us infringes intellectual property or other rights of any other person, provided that You shall: a) fully notify Us as soon as practicable after it becomes aware of the claim; b) permit Us to have exclusive

control of any negotiations or proceedings in connections with the claim; c) take all reasonable steps to mitigate any loss or liability in respect of the claim, including diligently pursuing any possible payment You may be entitled to from any applicable insurance policy; d) not compromise or settle the claim in any way without Our written consent.

Our indemnification obligations above do not apply: (1) if the total aggregate fees received by Us with respect to Your Products in the 6 month period immediately preceding the claim is less than EUR 50,000; (2) if the Product is modified by any party other than Us, but solely to the extent the alleged infringement is caused by such modification; (3) if the Product is used in combination with any third-party product, software or equipment, but solely to the extent the alleged infringement is caused by such combination; (4) to unauthorized use of Products; (5) to any Claim arising as a result of a) Your Data (or circumstances covered by Your indemnification obligations in Section 0 (Indemnity for Your Data) or b) any third-party deliverables or components contained with the Products; (6) to any unsupported release of the Product. THIS SECTION 0 STATES OUR SOLE LIABILITY AND YOUR EXCLUSIVE REMEDY FOR ANY INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS IN CONNECTION WITH ANY PRODUCT OR OTHER ITEMS

PUBLICITY RIGHTS

We may identify You as Our customer in Our promotional materials. You may request that We stop doing so by submitting an email to sales@GoPro.net at any time. Please note that it may take Us up to 30 days to process Your request.

IMPROVING OUR PRODUCTS

Our efforts to improve Our Solutions necessarily requires Us to measure, analyse, and aggregate how users interact with Our Solutions, such as usage patterns and characteristics of Our user base. We collect and use analytics data regarding the use of Our Solutions as described in Our [Data Protection Policy](#). By assenting to be bound to this Agreement you also consent to such use of analytics data by Us.

GOVERNING LAW AND DISPUTE RESOLUTION

Governing Law

This Agreement is governed by and will be construed in accordance with the laws and procedures of Iceland, without giving effect to its principles relating to conflict of laws. Each Party irrevocably agrees that any legal action, suit or proceeding arising out of or related to this Agreement must be brought solely and exclusively before the District Court of Reykjavík, which shall be the competent court of jurisdiction at the first instance. Any appeals shall be made exclusively to the Icelandic Court of Appeal as the second instance and to the Icelandic Supreme Court as the final instance.

Injunctive relief

Notwithstanding the provision of Section 0., nothing in this Agreement will prevent Us from seeking and obtaining injunctive relief, whether in the form of a temporary restraining order,

preliminary injunction, injunction to enforce an ruling, judgment or award, or other order of similar import, prior to, during, or after commencement of court proceedings, with respect to a violation of intellectual property rights, confidentiality obligations or for the enforcement of any judgment, order, award or final decision and award, from any court of competent jurisdiction

Exclusion of CISG and UCITA

The terms of the United Nations Convention on Contracts for the International Sale of Goods (CISG) do not apply to this Agreement. The Uniform Computer Information Transactions Act (UCITA) shall not apply to this Agreement regardless of when or where adopted.

CHANGES TO THIS AGREEMENT

THE PRODUCTS AND SERVICES ARE CONSTANTLY BEING UPDATED AND IMPROVED, THE PARAMETERS OF THE HOSTED SERVICES ARE SUBJECT TO FREQUENT CHANGES IN TECHNOLOGY AND THE ENTIRE SUBJECT MATTER OF THIS AGREEMENT IS GOVERNED BY LAWS AND REGULATIONS THAT REGULARLY CHANGE. Therefore, We may update or modify this Agreement from time to time, including any referenced policies and other documents. If a revision meaningfully reduces Your rights, We will use reasonable efforts to notify You (by, for example, sending an email to the billing or technical contact You designate in the applicable Order, posting on Our blog, through Your account with Us, or in the Product itself). If We modify the Agreement during Your License Term or Subscription Term, the modified version will be effective upon Your next renewal of a License Term, Support and Maintenance term, or Subscription Term, as applicable. In this case, if You object to the updated Agreement, as Your exclusive remedy, You may choose not to renew, including cancelling any terms set to auto-renew. You may be required to click through the updated Agreement to show Your acceptance. If You do not agree to the updated Agreement after it becomes effective, You will no longer have a right to use No-Charge Products. For the avoidance of doubt, any Order is subject to the version of the Agreement in effect at the time of the Order. In any case, any payment of an invoice We send to You shall be deemed acceptance of any updated or modified terms that have been communicated to You prior to Your payment.

We may modify Our Policies to take effect during your then-current Subscription Term in order to respond to changes in Products, our business, Services, or Laws. Modifications to Our Policies will take effect automatically as of the effective date specified for the updated policies.

GENERAL PROVISIONS

Notices: Any notice under this Agreement must be given in writing. We may provide notice to You via email. Our notices to You will be deemed given upon the first business day after We send them. You may provide notice to Us by post to GoPro Consulting hf, Tunguhals 19, 110 Reykjavík, Iceland. Your notices to Us will be deemed given upon Our receipt.

Force Majeure: Neither Party shall be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events which are beyond the reasonable control of such party, such as a strike, blockade, war, act of terrorism, riot, natural disaster, failure or diminishment of power

or telecommunications or data networks or services, or refusal of a license by a government agency.

Assignment: You may not assign this Agreement without Our prior written consent. We will not unreasonably withhold Our consent if the assignee agrees to be bound by the terms and conditions of this Agreement. We may assign Our rights and obligations under this Agreement (in whole or in part) without Your consent.

Entire agreement: This Agreement is the entire agreement between You and Us relating to the Solutions, Custom solutions and Services and supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to the Solutions, Custom solutions, the Services or any other subject matter covered by this Agreement.

Invalidity of terms: If any provision of this Agreement is held to be void, invalid, unenforceable or illegal, the other provisions shall continue in full force and effect.

Modifications: This Agreement may not be modified or amended by You without Our written agreement (which may be withheld in Our complete discretion without any requirement to provide any explanation).

No waiver: No failure or delay by the injured Party to this Agreement in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder at law or equity.

Independent contractors: The Parties are independent contractors. This Agreement shall not be construed as constituting either Party as a partner of the other or to create any other form of legal association that would give one Party the express or implied right, power or authority to create any duty or obligation of the other Party