

Beta Participation Terms and Conditions

Participation in the Fusion v.2.0 beta is conditioned upon acceptance of these Terms of Participation (“Terms”). Acceptance of these Terms is evidenced by your downloading, installation or use of the Fusion v.2.0 beta GoPro is willing to provide to you (the “Evaluator”) with access to certain products, software, related materials and documentation currently named New Firmware v2.0(Beta), New Fusion Studio v1.4 (Beta), and New Adobe Premiere Plug-ins (collectively “Products”) to enable Evaluator to use, evaluate and provide feedback regarding the Products (“Evaluation”). Evaluator desires to have access to and use the Product for purposes of the Evaluation and agrees that such access and use constitutes valid consideration for its participation in the Evaluation and provision of feedback. PARTICIPATING IN THE EVALUATION DOES NOT ENTITLE EVALUATOR TO ANY COMPENSATION OR ANY FUTURE RIGHTS WITH RESPECT TO THE PRODUCTS. **THIS AGREEMENT CONTAINS MANDATORY ARBITRATION AND CLASS ACTION WAIVER PROVISIONS THAT REQUIRE THE USE OF INDIVIDUAL ARBITRATION TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS. PLEASE READ IT CAREFULLY.** Accordingly, the parties hereby agree as follows:

1. Use of Product. Subject to the terms and conditions of this Agreement, GoPro hereby grants to Evaluator a nonexclusive, royalty-free, personal, non-transferable, non-sublicensable limited license to use the Products solely as necessary to perform the Evaluation during the Evaluation Period. There is no fee for use of the Products during the Evaluation Period in accordance with this Agreement.

2. Requirements for Use. Evaluator shall use the Products in accordance with all applicable laws, the provisions of the Agreement, and the instructions given by GoPro, whether contained in the documents that are part of the Products or otherwise in writing or orally.

3. Restrictions. As a condition on the rights granted in Section 1 (Use of Product), Evaluator shall not: (i) copy the Products or any portion thereof, except for a single backup copy of software; (ii) rent, sublicense or transfer the Products, or any copies or portions thereof, to a third party or allow a third party to use the Products; (iii) modify, decompile, disassemble or reverse engineer the Products; (iv) use the Products to develop services or products for sale or include any components of the Products in any product; (v) use any portion of the Products to create a competitive service, product or technology; (vi) make the functionality of the Products available to the public in any manner; or (vii) use the Products for any commercial purpose.

4. Feedback. In connection with the Evaluation, Evaluator may provide to GoPro suggestions, descriptions, data feedback, video files, image files, sound files and other information, either orally, in writing or as a file (collectively, “Feedback”) concerning or related to the Products. Evaluator agrees that all Feedback will be non-confidential and non-proprietary to Evaluator and that GoPro will be free to use, disclose, reproduce, license or otherwise distribute and exploit such Feedback as GoPro sees fit, entirely without obligation or restriction of any kind.

5. Ownership. Except for the limited license rights expressly provided herein, GoPro and its suppliers have and will retain all rights, title and interest in and to the Products (including, without limitation, all patent, copyright, trademark, trade secret and other intellectual property rights). Title to and ownership of each unit of Product shall be and at all times remain with GoPro. Evaluator acknowledges that it is obtaining only a limited right to use the Products solely for Evaluation and that irrespective of any use of the words “purchase,” “sale” or like terms hereunder no ownership rights are being conveyed to Evaluator under this Agreement or otherwise. All copies, improvements, updates, modifications, enhancements or derivative works of the Products (including as may incorporate Feedback) shall remain the property of GoPro.

6. Confidentiality. For purposes of this Agreement, "Confidential Information" means (a) the existence of Evaluation, and (b) information disclosed by GoPro that is not generally known to the public, that is marked "Confidential" or "Proprietary", or which a reasonable person should know is confidential or proprietary under the circumstances. Confidential Information includes without limitation documentation, design and function specifications, the results of Evaluation, Feedback, and other technical information provided by GoPro under this agreement. During the term of this Agreement and for a period of at least two (2) years after any expiration or termination of this Agreement: Evaluator (i) will not use or disclose Confidential Information without the prior written consent of GoPro (**for clarity, this includes sharing any details about Evaluation on social media**), (ii) refer to their role in Evaluation on a resume or other summary of experience without the prior written consent of GoPro, and (iii) will maintain the Confidential Information in strict confidence.

7. Privacy. In connection with the Evaluation, Evaluator may provide GoPro with personally identifiable information including without limitation name, address, email address and IP address and non-personal demographic information including without limitation gender, nationality and age (collectively "Evaluator Information"). Evaluator acknowledges that use of Evaluator's Information is subject to GoPro's privacy policy located at <http://gopro.com/privacy-policy>; provided, however, that notwithstanding anything to the contrary in GoPro's privacy policy, GoPro may store and utilize Evaluator Information for the purpose of (a) contacting Evaluator about Evaluation and possible future evaluations; (b) analyzing Evaluator's use of Product and how people similar to Evaluator might use Product; and (c) other reasonable uses connected to Evaluation and use of GoPro's products and services in general. Evaluator understands and agrees that GoPro operates primarily in the United States and as a result Evaluator Information may be transferred to, used, processed, or held by GoPro in the United States and in other countries, including countries outside of Evaluator's location.

8. Risk of Loss; Return of Products. Evaluator assumes the risk of loss, damage, theft or destruction of the Products while in Evaluator's possession and during transportation from Evaluator's premises to GoPro. Within ten (10) days following the end of the Evaluation Period or earlier termination of this Agreement, Evaluator shall return the Products to GoPro at Evaluator's expense unless GoPro gives Evaluator written permission to keep the Products and, where Product is software, delete Product. If Evaluator does not return Products, GoPro may at its sole discretion and without prejudice to any other rights it might have under this Agreement or at law (including repossession) charge Evaluator the full list price for the Products, plus shipping.

9. Disclaimer of Warranty and Damages. EVALUATOR ACKNOWLEDGES AND AGREES THAT GOPRO PROVIDES THE PRODUCTS "AS IS" AND MAKES NO WARRANTIES OF ANY KIND AND SPECIFICALLY DISCLAIMS ANY AND ALL EXPRESS, IMPLIED, STATUTORY AND OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE OR FITNESS FOR A PARTICULAR PURPOSE. UNDER NO CIRCUMSTANCES SHALL GOPRO BE LIABLE (I) UNDER ANY CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL OR EQUITABLE THEORY, FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL COSTS OR DAMAGES, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR USE OF THE PRODUCTS, WHETHER OR NOT GOPRO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR (II) FOR ANY AMOUNTS EXCEEDING FIFTY U.S. DOLLARS (\$50).

10. Assumption of Risk. Evaluator acknowledges that incident to evaluation of Products, Evaluator may voluntarily engage in activities with the potential for accidents or unexpected incidents. GoPro shall not be responsible for any problems, incidents, or accidents which may occur. Evaluator hereby assumes all risks and responsibilities of any kind associated with the Evaluation and shall be personally responsible and liable for any property damage and/or personal and/or bodily injury, including death, suffered by Evaluator or any third party in connection with

the Evaluation (even if Evaluator has adhered to the Evaluation Safety Guidelines). Evaluator shall look to their own resources, insurance company, any responsible third party (other than GoPro), or the insurance company of any responsible third party (other than GoPro) for any claims or damages in connection with the evaluation activities.

11. Assignment. Neither the rights nor the obligations arising under this Agreement are assignable or transferable by Evaluator, and any such attempted assignment or transfer shall be void and without effect. GoPro may freely assign this Agreement.

12. Term and Termination. These terms and conditions shall take effect on the Effective Date and expire on the expiration of the Evaluation Period. Either party may terminate this Agreement for its convenience upon five (5) days' written notice or immediately upon written notice in the event the other party materially breaches any provision hereof. All provisions of this Agreement except for Section 1 (Use of Product) will survive the expiration or earlier termination of this Agreement.

13. Dispute Resolution.

(a) Dispute Resolution; Class Action Waiver. Evaluator and GoPro agree that any dispute, claim or controversy arising out of or relating to the terms of this Agreement or the breach, termination, enforcement, interpretation or validity thereof (collectively, "Disputes") will be settled by binding arbitration, except that each party retains the right to bring an individual action in small claims court and the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a party's copyrights, trademarks, trade secrets, patents or other intellectual property rights. EVALUATOR ACKNOWLEDGES AND AGREES THAT EVALUATOR AND GOPRO ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION OR REPRESENTATIVE PROCEEDING. FURTHER, UNLESS BOTH EVALUATOR AND GOPRO OTHERWISE AGREE IN WRITING, THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF ANY CLASS OR REPRESENTATIVE PROCEEDING. If this specific paragraph is held unenforceable, then Sections 13(a) – 13(f) will be deemed void. Except as provided in the preceding sentence, this Section 13 will survive any termination of this Agreement.

(b) Arbitration Rules. The arbitration will be administered by the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (the "AAA Rules") then in effect, except as modified by this Section 13. (The AAA Rules are available at www.adr.org/arb_med or by calling the AAA at 1-800-778-7879.) The Federal Arbitration Act will govern the interpretation and enforcement of this Section.

(c) Arbitration Process. A party who desires to initiate arbitration must provide the other party with a written Demand for Arbitration as specified in the AAA Rules. (The AAA provides a form Demand for Arbitration at https://www.adr.org/cs/idcplg?IdcService=GET_FILE&dDocName=ADRSTAGE2034889&RevisionSelectionMethod=LatestReleased) The arbitrator will be either a retired judge or an attorney licensed to practice law in the state of California and will be selected by the parties from the AAA's roster of consumer dispute arbitrators. If the parties are unable to agree upon an arbitrator within seven (7) days of delivery of the Demand for Arbitration, then the AAA will appoint the arbitrator in accordance with the AAA Rules.

(d) Arbitration Location and Procedure. Unless Evaluator and GoPro otherwise agree, the arbitration will be conducted in Evaluator's county of residence. If Evaluator's claim does not exceed \$10,000, then the arbitration will be conducted solely on the basis of documents Evaluator

and GoPro submit to the arbitrator, unless Evaluator requests a hearing or the arbitrator determines that a hearing is necessary. If Evaluator's claim exceeds \$10,000, Evaluator's right to a hearing will be determined by the AAA Rules. Subject to the AAA Rules, the arbitrator will have the discretion to direct a reasonable exchange of information by the parties, consistent with the expedited nature of the arbitration.

(e) Arbitrator's Decision. The arbitrator will render an award within the time frame specified in the AAA Rules. The arbitrator's decision will include the essential findings and conclusions upon which the arbitrator based the award. Judgment on the arbitration award may be entered in any court having jurisdiction thereof. The arbitrator's award damages must be consistent with the terms of Section 9 (Disclaimer of Warranty and Damages) above as to the types and the amounts of damages for which a party may be held liable. The arbitrator may award declaratory or injunctive relief only in favor of the claimant and only to the extent necessary to provide relief warranted by the claimant's individual claim. If Evaluator prevails in arbitration Evaluator will be entitled to an award of attorneys' fees and expenses, to the extent provided under applicable law.

(f) Fees. Evaluator's responsibility to pay any AAA filing, administrative and arbitrator fees will be solely as set forth in the AAA Rules.

(g) Governing Law. This Agreement and all related actions and proceedings shall be governed by the laws of the State of California and the United States without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods.

(h) Jurisdiction and Venue. In the event that the arbitration provision in Section 13(a) is found to be unenforceable, the jurisdiction and venue for such actions shall be the state and federal courts located in San Mateo County, California and both parties hereby submit to the personal jurisdiction of such courts for any such actions.

14. Government End-Users. The Products may consist of or contain commercial computer software. If the user or licensee of the Products is an agency, department or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Products, or any related documentation of any kind, including technical data and manuals, is restricted by a license agreement or by the terms of this Agreement in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. The Products were developed fully at private expense. All other use is prohibited.

15. Export Compliance. Evaluator acknowledges that the Products are subject to export restrictions by the United States government and import restrictions by certain foreign governments. Evaluator shall not and shall not allow any third-party to remove or export from the United States or allow the export or re-export of any part of the Products or any direct product thereof: (a) into (or to a national or resident of) any embargoed or terrorist-supporting country; (b) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; (c) to any country to which such export or re-export is restricted or prohibited, or as to which the United States government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; or (d) otherwise in violation of any export or import restrictions, laws or regulations of any United States or foreign agency or authority. The Products are further restricted from being used for the design or development of nuclear, chemical, or biological weapons or missile technology, or for terrorist activity, without the prior permission of the United States government.

16. General Terms. This Agreement constitutes the entire agreement between the parties relating

to the subject matter hereof and supersedes all prior or contemporaneous understandings and agreements relating to such subject matter, whether oral or written. This Agreement may only be amended by a written document signed by both parties. Any waiver of either party to enforce a provision of this Agreement will not be deemed a waiver of any other provision. If any provision contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, and such provision shall be applicable to the extent that such provision would be valid, legal, or enforceable under applicable laws. The parties are independent contractors and no employment, agency or joint venture is created hereunder. This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument.