

End user license agreement

NOTICE TO USER: PLEASE READ THIS CONTRACT CAREFULLY. BY ACCEPTING THIS AGREEMENT OR BY USING ALL OR ANY PORTION OF THE SOFTWARE, YOU ACCEPT ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING, IN PARTICULAR THE LIMITATIONS ON: USE CONTAINED IN SECTION 2; TRANSFERABILITY IN SECTION 4; WARRANTY IN SECTION 5; AND LIABILITY IN SECTION 6, AND WARRANTS THAT YOU ACT AS ENTREPRENEUR AND NOT AS CONSUMER. YOU AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN NEGOTIATED AGREEMENT SIGNED BY YOU. THIS AGREEMENT IS ENFORCEABLE AGAINST YOU AND ANY LEGAL ENTITY THAT OBTAINED THE SOFTWARE AND ON WHOSE BEHALF IT IS USED. IF YOU DO NOT AGREE, OR ACT AS CONSUMER, DO NOT USE THIS SOFTWARE. ARRI and its suppliers own all intellectual property in the Software. ARRI permits you to Use the Software only in accordance with the terms of this Agreement.

1. Definitions. "*Software*" means (a) all of the contents of the files provided under this Agreement, including but not limited to (i) Software as provided together with this licence agreement for download at ARRI's website, or provided to you whether on disk, in read only memory or any other media or in any other form (ii) any related files to the Software and (iii) related explanatory written materials or files or oral information ("Documentation"); and (b) upgrades, modified versions, updates, bug fixes, additions, and copies of the Software, if any, licensed to you by ARRI, unless they are accompanied by a separate licence or licence agreement (collectively, "Updates"). "*Use*" or "*Using*" means to access, install, download, copy, use or otherwise benefit from using the functionality of the Software in accordance with the Documentation. "*Free Functionality*" means any free functionality which the Software provides automatically without the need for a License Key; "*Paid for Functionality*" means any functionality of the Software other than Free Functionality, which must be paid for or otherwise requires a License Key; "*License Key*" means a license key which activates and enables use of the Software or any Paid-For Functionality within the Software, for a defined period of time. The scope of the rights and permissions granted by any License Key and its duration will be as specified by ARRI at the time you order and purchase the same from ARRI or are otherwise supplied with the same; "*Permitted Number*" means one (1) unless otherwise indicated under a valid license (e.g. volume license) granted by ARRI. "*Device*" means a camera system, accessories and/or any other product manufactured by ARRI, identified by a specific ARRI serial number and internal product code, that is intended, prepared or dedicated for use with the Software and specified in the Software or the order form. "*ARRI*" means Arnold & Richter Cine Technik GmbH & Co Betriebs KG, Türkenstrasse 89, 80799 München.

2. Software License.

2.1 Free Functionality. As long as you comply with the terms of this software license agreement ("Agreement"), ARRI grants to you a royalty-free, revocable, non-exclusive, non-transferable and purpose restricted license to Use the Free Functionality of the Software for the purposes described in the Documentation and this Agreement. You may install and Use a copy of the Software on your Device and not on a stand-alone basis or in any other way than on such Device, up to the Permitted Number.

2.2 Paid for Functionality. As long as you comply with the terms of this Agreement, ARRI grants to you a royalty-bearing, revocable, non-exclusive, non-transferable and purpose restricted license to Use the Paid for Functionality of the Software for the purposes described in the Documentation and this Agreement. You may Use any Paid-For Functionality of the Software, which is authorized by the License Key(s) you order and purchase from ARRI or which you otherwise validly obtain from ARRI and inputted by you into the Software from time to time, on your Device and not on a stand-alone basis or in any other way than on such Device, up to the Permitted Number. You are responsible for inputting into the Software the code of any License Key to activate the Paid-For Functionality.

2.3 Backup Copy. You may make one backup copy of the Software, provided your backup copy is not installed or used on any other Device. You may not transfer the rights to a backup copy unless you transfer all rights in the Software as provided under this Agreement.

2.4 Title to all Software and all rights not expressly granted to you hereunder shall remain with ARRI. For the avoidance of doubt, this Software License only covers the executable files ARRI supply and does not extend to any source code.

2.5 ARRI shall have no obligation to offer support for the Software, to offer any Updates or any other services related to the Software.

3. Intellectual Property Ownership, Copyright Protection. The Software and any authorized copies that you make are the intellectual property of and are owned by ARRI and its suppliers. The structure, organization and code of the Software are the valuable trade secrets and confidential information of ARRI and its suppliers. The Software is protected by law, including without limitation the copyright laws of the Federal Republic of Germany and other countries, and by international treaty provisions. Except as expressly stated herein, this Agreement does not grant you any intellectual property rights in the Software and all rights not expressly granted are reserved by ARRI and its suppliers.

4. Restrictions.

4.1 Copy. You shall not copy the Software except as set forth in Section 2.3. Any copy of the Software that you make must contain the same copyright and other proprietary notices that appear on or in the Software.

4.2 No Modifications. You shall not modify, adapt or translate the Software. You shall not reverse engineer, decompile, make derivative works, disassemble or otherwise attempt to discover the source code of the Software except to the extent you may be expressly permitted to decompile under applicable law, it is essential to do so in order to achieve operability of the Software with another software program, and you have first requested ARRI to provide the information necessary to achieve such operability and ARRI has not made such information available. ARRI has the right to impose reasonable conditions and to request a reasonable fee before providing such information. Any such information supplied by ARRI and any information obtained by you by such permitted decompiling may only be used by you for the purpose described herein and may not be disclosed to any third party or used to create any software which is substantially similar to the expression of the Software.

4.3 Transfer. You may not rent, lease, sublicense, assign or transfer your rights in the Software, or authorize all or any portion of the Software to be copied onto another user's computer or device except as may be expressly permitted herein. You may, however, transfer

all your rights to Use the Software to another person or legal entity provided that: (a) you also transfer (i) this Agreement, and (ii) the Software and all other software or hardware bundled or pre-installed with the Software, including all copies, Updates and prior versions, to such person or entity; (b) you retain no copies, including backups and copies stored on a Device; and (c) the receiving party accepts the terms and conditions of this Agreement and any other terms and conditions upon which you legally purchased a license to the Software. Notwithstanding the foregoing, you may not transfer education, pre-release, or not for resale copies of the Software.

4.4 You may not remove any product identification, proprietary, copyright, trade secret or other notices or legends contained in the Software.

4.5 You agree to permit ARRI to audit your Use of the Software, including allowing us to visit and inspect any Device on which it is installed.

5. NO WARRANTY. The Software is being delivered to you "AS IS" and ARRI makes no warranty as to its use, capabilities or performance. ARRI AND ITS SUPPLIERS DO NOT AND CANNOT WARRANT THE PERFORMANCE OR RESULTS YOU MAY OBTAIN BY USING THE SOFTWARE. EXCEPT FOR ANY WARRANTY, CONDITION, REPRESENTATION OR TERM TO THE EXTENT TO WHICH THE SAME CANNOT OR MAY NOT BE EXCLUDED OR LIMITED BY LAW APPLICABLE TO YOU IN YOUR JURISDICTION, ARRI AND ITS SUPPLIERS MAKE NO WARRANTIES CONDITIONS, REPRESENTATIONS, OR TERMS (EXPRESS OR IMPLIED WHETHER BY STATUTE, COMMON LAW, CUSTOM, USAGE OR OTHERWISE) AS TO ANY MATTER INCLUDING WITHOUT LIMITATION NONINFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY, INTEGRATION, SATISFACTORY QUALITY, OR FITNESS FOR ANY PARTICULAR PURPOSE. IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE FREE FUNCTIONALITY OF THE SOFTWARE, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF DELIVERY. IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE PAID FOR FUNCTIONALITY OF THE SOFTWARE, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO ONE YEAR FROM THE DATE OF DELIVERY. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ARRI OR ITS EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY PROVIDED HEREIN. You must inspect the Software immediately upon its receipt and must notify ARRI in writing of any apparent defects within one week. ARRI must be notified of hidden defects in writing within two weeks of their emergence. In the event that the customer has notified ARRI of defects in a timely manner and is thus eligible to make a claim for re-performance, ARRI shall have the right, at its own cost, either to remedy the defect or to redeliver. Any warranty explicit given by ARRI or constructed under any law theory does not apply if the Software (i) has been altered, except by ARRI, (ii) has been subject to abnormal physical or electrical stress, misuse, negligence or accident or (iii) is used in hazardous activities. The provisions of Section 5 and Section 6 shall survive the termination of this Agreement, howsoever caused, but this shall not imply or create any continued right to Use the Software after termination of this Agreement.

6. LIMITATION OF LIABILITY. IN NO EVENT WILL ARRI OR ITS SUPPLIERS BE LIABLE TO YOU FOR ANY UNFORSEEABLE DAMAGES, CLAIMS OR COSTS WHATSOEVER OR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL DAMAGES, OR ANY LOST PROFITS OR LOST SAVINGS, EVEN IF AN ARRI REPRESENTATIVE

HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, DAMAGES, CLAIMS OR COSTS OR FOR ANY CLAIM BY ANY THIRD PARTY. THE FOREGOING LIMITATIONS AND EXCLUSIONS APPLY TO THE EXTENT PERMITTED BY APPLICABLE LAW IN YOUR JURISDICTION. ANY LIABILITY OF ARRI OR ITS SUPPLIER FOR DAMAGES ARISING FROM EITHER THIS AGREEMENT, OR YOUR USE OR PERFORMANCE OF THE SOFTWARE, OR THE RESULTS OBTAINED THROUGH USE OF THE SOFTWARE, UNDER ANY LEGAL THEORY, WHETHER IN CONTRACT, EXTRACTIONAL, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE SHALL BE LIMITED EXCLUSIVELY TO REPLACEMENT OF THE SOFTWARE OR REIMBURSEMENT OF THE PRICES PAID BY YOU, AT ARRI'S SOLE OPTION. FURTHERMORE ARRI'S AGGREGATE LIABILITY AND THAT OF ITS SUPPLIERS, EMPLOYEES, DIRECTORS OR OFFICERS UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT PAID FOR THE SOFTWARE. Nothing contained in this Agreement limits ARRI's liability to you in the event of death or personal injury; ARRI's liability resulting from intention or the tort of deceit (fraud), any strict liability or ARRI's liability for typical and foreseeable damages in case of gross negligence or resulting from violation of essential contractual obligations (Kardinalpflichten). ARRI is acting on behalf of its suppliers for the purpose of disclaiming, excluding and/or limiting obligations, warranties and liability as provided in this Agreement, but in no other respects and for no other purpose.

7. Basis of Bargain. The Limited Warranty and Disclaimer and Limited Liability set forth above are fundamental elements of the basis of the agreement between ARRI and you. ARRI would not be able to provide the Software without such limitations. Such Limited Warranty and Disclaimer and Limited Liability inure to the benefit of ARRI's licensors.

8. Term. This Agreement is effective as of the first Use of the Software and continues until terminated as provided herein ("Term"). Either party may terminate this Agreement (including all related Order Forms) if the other party (a) fails to cure any material breach of this Agreement within thirty (30) days after written notice of such breach; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against such party (and not dismissed within sixty (60) days thereafter).

8.1 Software License Term. The term of Software license or of specific functionality (Free Functionality or Paid for Functionality), shall expire on the expiration date specified on the relevant order form. Notwithstanding the foregoing, the license to any item of Software shall terminate automatically upon your breach of any of the terms of this Agreement relevant to such Software. In addition, you may terminate the license to Software granted hereunder at any time by providing written notice to ARRI, but no such termination shall affect your obligations hereunder.

8.2 Termination. Upon termination of this Agreement, you shall cease any and all use of any Software and shall return or destroy all copies thereof in your possession, custody or control and certify to ARRI in writing.

8.3 Survival. Sections 2.4, 3, 4, 5, 6, 7, 8, 9 and 10 shall survive any termination or expiration of this Agreement.

9. Governing Law. Notwithstanding the place where this Agreement is executed, accepted or where obligations under this Agreement are performed, the parties expressly agree that this Agreement and any claim or controversy arising out of or relating to rights and obligations of the parties under it will be governed by and construed in accordance with the substantive laws of the Federal Republic of Germany, without regard to its conflicts of laws principles or the provisions of the United Nations Convention on Contracts for the International Sale of Goods or the United Nations Convention on the Limitation Period in the International Sale of Goods, as each is amended. The parties consent to the exclusive jurisdiction of the Munich district court (Landgericht München I) for any dispute arising out of this Agreement, and the parties waive their right to have an action under this Agreement brought or tried elsewhere.

10. General Provisions. If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of this Agreement, which shall remain valid and enforceable according to its terms. If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to effect the intent of the parties. By accepting this Agreement you state explicitly and irrevocable that you are acting as entrepreneur and not as consumer. This Agreement may only be modified by a writing signed by an authorized officer of ARRI. This Agreement and any General Terms of Sales and Delivery of ARRI accepted by you with the relevant order or purchase form are the entire agreement between ARRI and you relating to the Software and it supersedes any prior representations, discussions, undertakings, communications or advertising relating to the Software.

11. Compliance with Licenses. You agree that upon request from ARRI, you will within thirty (30) days fully document and certify that use of any and all Software at the time of the request is in conformity with your valid licenses from ARRI.

“ARRI”, “ARRI ARRI”, “ALEXA”, “AMIRA” are registered trademarks of ARRI in Germany and/or other countries.