

# RED MOUNTAIN SCIENTIFIC

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**(c) No-Contest Covenant.** Licensee will claim no right or interest in or to the Software or Company content, other than the rights expressly granted herein, to the extent the same are valid and in effect.

**2. FEES.**

**(a) Fees.** Licensee shall pay all Fees to Company.

**(b) Payment Terms.** All Fees are non-refundable except as otherwise provided by the Agreement. All payments must be made in U.S. Dollars. Any portion of the Fees that is not paid when due will accrue interest at 20% per annum or the maximum rate permitted by applicable law, whichever is less, from 15 days after the due date until paid. Licensee will be responsible for the cost of any collection activity, including reasonable attorneys' fees.

**(c) Taxes.** Company shall charge taxes when applicable. Any stated fees exclude all applicable sales, use, and other taxes and all applicable export and import fees, customs, duties and similar charges, and Licensee will be responsible for payment of all such taxes (other than taxes based on Company's net income), fees, duties, and charges, and any related penalties

and interest, arising from the payment of the Fees or the delivery or license of the Software to Licensee.

**3. WARRANTY.**

**(a) Warranty Disclaimer.**

(i) THE SOFTWARE AND/OR OTHER SERVICES PROVIDED IN CONNECTION WITH THIS AGREEMENT ARE PROVIDED "AS IS." WITHOUT LIMITING THE FOREGOING, COMPANY DOES NOT REPRESENT, WARRANT OR GUARANTEE THAT THE SOFTWARE WILL BE ERROR-FREE, UNINTERRUPTED, OR SECURE, OR MEET LICENSEES' EXPECTATIONS. COMPANY DOES NOT MAKE ANY WARRANTY REGARDING THE SOFTWARE'S RESULTS OF USE OR THAT COMPANY WILL CORRECT ALL ERRORS. THE LIMITED WARRANTY SET FORTH ABOVE IS EXCLUSIVE AND COMPANY MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS WITH RESPECT TO THE SOFTWARE AND/OR OTHER SERVICES PROVIDED IN CONNECTION WITH THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE AND THE SAME ARE HEREBY EXPRESSLY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

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CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT, THE Software AND ANY OTHER SERVICES PROVIDED BY COMPANY TO LICENSEE HEREUNDER, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED TOTAL FEES PAID BY LICENSEE TO COMPANY HEREUNDER.

**4. INDEMNITY.**

(a) Licensee agrees to defend, indemnify and hold the Company and its officers, directors, agents, affiliates, distributors, franchisees and employees harmless against any loss, damage, expense, or cost, including reasonable attorneys' fees (including allocated costs for in-house legal services) ("Liabilities") arising out of any claim, demand, proceeding, or lawsuit arising out of Licensee's acts or omissions relating to this Agreement or Licensee's use of a drone or other device with the Software.

**5. INSURED REQUIRED.**

(a) A standard Comprehensive or Commercial General Liability (CGL) policy. Such insurance shall include the following coverages: Broad Form Contractual Liability, Broad Form Property Damage Liability, Personal Injury Liability, Advertising Liability, Completed Operations Liability, and Products Hazard Liability. The limits of liability of such insurance shall not be less than \$500,000 per occurrence. Such insurance shall expressly cover property of Company and its affiliates;

**6. GENERAL.**

(a) **Proprietary Rights.** The Software including Updates and Customization is licensed, not sold. The Software and Documentation, and all Intellectual Property rights therein, are the exclusive property of Company and/or its licensors. All rights in and to the Software, the Documentation and Company's other Intellectual Property not expressly granted to Licensee in this Agreement are reserved by Company and nothing in this Agreement will be deemed to grant, by implication, estoppel or otherwise, a license under any of Company's existing or future Intellectual Property. If Licensee or any of its affiliates or agents are deemed to have any ownership interest or other rights in the

Software including any and all derivative works, enhancements or other modifications thereto, then Licensee hereby assigns, on behalf of itself or any affiliate or agent, irrevocably and royalty-free, all of such ownership interest or other rights exclusively to Company and Licensee shall, at Company's reasonable request and expense, complete, execute and deliver any and all documents necessary to effect or perfect such assignments. Licensee will not remove, alter, or obscure any proprietary notices (including without limitation copyright notices) of Company on the Software or any copy thereof.

**(b) Amendments.** Amendments to this Agreement must be in writing and signed by both parties.

**(c) Compliance with Laws.** Licensee shall comply with all applicable laws including those relating to the operation of drones in general and the operation of a drone in a particular airspace. All commercial drone pilots shall have the applicable FAA licenses. All pilots shall obtain all applicable licenses, waivers or certifications required to operate drones in a particular air space. Licensee will not export or re-export the Software without all required United States and foreign government licenses.

**(d) Assignment.** Licensee may not assign or transfer, by operation of law or otherwise, this Agreement and/or any of its rights or obligations under the Agreement to any third party without the Company's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be null and void.

**(e) Notices.** All notices, consents, and approvals under this Agreement must be delivered (a) in writing by reputable overnight courier, or certified or registered United States mail, (postage prepaid and return receipt requested) to the other party at the address set forth in the Ordering Document, or (b) by facsimile (with a copy sent by postage prepaid first-class mail) to the other party at the facsimile number set forth in the Ordering Document (or to such other address or as such party may have specified in a written notice to the other party) and shall be effective upon receipt or three business days after being deposited in the mail as set forth above, whichever occurs sooner. Either party may change its address and/or facsimile number by giving written notice of the new address and/or facsimile number to the other party.

**(f) Governing Law.** Any controversy, claim or dispute arising out of or relating to this Agreement, or the breach thereof, shall be governed by and construed in accordance with the laws of the State of Colorado, without regard to its conflicts of laws principles. The parties agree that exclusive venue for any dispute arising under or in connection with this Agreement shall be in state and federal courts of the State of Colorado. Each party hereby agrees that such courts shall have in personam jurisdiction and venue with respect to such party, and each party hereby submits to the in personam jurisdiction and venue of such courts and waives any objection based on inconvenient forum. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

**(g) Waivers.** The rights and remedies of the parties to this Agreement are cumulative and not alternative. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**(h) Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions of this Agreement will continue in full force and effect.

**(i) Force Majeure.** Neither party will be held responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay is caused by events or circumstances beyond the delayed party's reasonable control.

**(j) Waiver and Modification.** The waiver by any party of any breach of covenant will not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing, and signed by the party waiving its rights. This Agreement may be modified only by a written instrument executed by authorized representatives of the parties hereto.

**(k) Entire Agreement.** This Agreement constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. In no event will pre-printed terms and conditions of

sale printed on a separate purchase order be considered part of this Agreement or be binding on either party. In the event of a conflict between this Agreement, on the one hand, and the terms of the Pricing Schedule and/or a separate purchase order, on the other hand, the terms of this Agreement shall control to the extent of such conflict.

**(I) Electronic Agreement/Assent.**

Company and Licensee agree that when Licensee has clicked the "I Agree" button below, that Licensee has agreed to the terms of this Agreement.

Contact:

970-306-7407

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