

# SONY MEDIA CLOUD SERVICES LLC ("Sony")

## CI MEDIA CLOUD TERMS OF SERVICES

Effective: May 1, 2024

THIS AGREEMENT CONTAINS A BINDING INDIVIDUAL ARBITRATION CLAUSE AND CLASS ACTION WAIVER. IF YOU WISH TO OPT OUT OF THESE PROVISIONS, PLEASE FOLLOW THE INSTRUCTIONS IN THE DISPUTE RESOLUTION SECTION BELOW.

IMPORTANT NOTICE—PLEASE READ THESE TERMS OF SERVICE, ALONG WITH THE SONY MEDIA CLOUD SERVICES [PRIVACY POLICY](#), CAREFULLY BEFORE USING CI MEDIA CLOUD OR ANY OF THE SONY MCS PROPERTIES. UNLESS YOU OR YOUR COMPANY HAVE A WRITTEN AGREEMENT WITH US THAT STATES OTHERWISE, THESE CI TERMS OF USE ("TERMS") GOVERN YOUR USE OF THE WEBSITES ([www.sonymcs.com](http://www.sonymcs.com), [www.cimediacloud.com](http://www.cimediacloud.com), [app.cimediacloud.com](http://app.cimediacloud.com), <https://workspace.cimediacloud.com/>), PRODUCTS AND SERVICES OF SONY MEDIA CLOUD SERVICES LLC ("SONY," "WE," "US" OR "OUR"), INCLUDING THE SERVICES, PRODUCTS AND RELATED SOFTWARE TOOLSET, WHICH ARE PRESENTLY MARKETING UNDER THE TRADEMARK CI (PRONOUNCED "SEE") (COLLECTIVELY, "CI") AND THROUGH ANY INTERACTIVE FEATURES, APPLICATIONS, WIDGETS, BLOGS, SOCIAL NETWORKS AND OTHER ONLINE OR WIRELESS OFFERINGS THAT LINK TO THESE TERMS, WHETHER ACCESSED VIA COMPUTER, MOBILE DEVICE OR OTHER TECHNOLOGY (COLLECTIVELY, "SONY MCS PROPERTIES")(CI AND THE SONY MCS PROPERTIES COLLECTIVELY THE "SERVICES"), AND IS AN AGREEMENT BETWEEN YOU OR THE ENTITY YOU REPRESENT ("YOU", "YOUR" OR "CUSTOMER"). THESE TERMS TAKE EFFECT WHEN YOU CLICK AN "I ACCEPT" BUTTON OR CHECK BOX PRESENTED WITH THESE TERMS, BY REGISTERING FOR A CI ACCOUNT, OR, IF EARLIER, WHEN YOU USE ANY PART OF THE SERVICES (THE "EFFECTIVE DATE"). IF YOU OR YOUR COMPANY DO NOT AGREE TO BE BOUND BY THESE TERMS, YOU MUST NOT USE THE SERVICES.

If you are agreeing to these Terms on behalf of an entity, such as the company you work for, you are agreeing to these Terms for that entity, and you represent to Sony that you have legal authority to bind that entity (in which event, "you", "your" and "Customer" will refer to that entity). Please see Section 18 for definitions of certain capitalized terms used in these Terms.

### 1. INTRODUCTION

These Terms detail the terms and conditions under which you may be licensed to access and use the Services, including Ci Media Cloud, and any accompanying Documentation.

### 2. CHANGES TO TERMS

These Terms may be modified from time to time. The current version will be posted at <https://www.cimediacloud.com/terms/>. The modified terms will become effective upon posting. Customer is responsible for monitoring this website for changes. Your use of the Services after changes to these Terms are posted on Sony's website will constitute your acceptance of any new or additional Terms which result from those changes. If the modification is, in Sony's sole discretion, material, Sony will take reasonable steps to inform the Customer of such amendment.

### 3. PRIVACY

In order to operate and provide you with the Services, Sony may collect certain information about you. We use and protect that information as described in our [Privacy Policy](#). By using Ci and/or accessing the Sony MCS Properties you expressly consent to the information practices described in this [Privacy Policy](#).

### 4. YOUR CI MEDIA CLOUD ACCOUNT

4.1. **Ci Account.** To obtain access to Ci, Customer and its Authorized Users are required to create a "Ci Account" by completing a registration form and designating a user ID (your email address) and password. When registering with Ci you must provide true, accurate, current and complete information about yourself as requested. Customer and its Authorized Users are required to maintain and promptly update any registration data to keep it true, accurate, current and complete. You may manage and change your Ci Account information by using the Manage Account tab in Ci.

Customer and its Authorized Users are solely responsible for all Customer Content posted and activity that occurs under their Ci Account. Only you may use your Ci Account. You must keep your Ci Account and passwords secure and confidential and not authorize others to use your Ci Account. If you are using a computer that others have access to, you must log out of your Ci Account after using Ci. If you become aware on any breach of security or unauthorized access to your Ci Account, you must notify Sony immediately. Sony is not liable for any of your loss or damage arising from any unauthorized access to your Ci Account.

If a third party, such as an employer or school, gave you your Ci Account, that party has rights to your Ci Account and may manage your Ci Account, reset your password, suspend or cancel your Ci Account, view your Ci Account's usage and profile data (including how and when your Ci Account is used), and read or store Customer Content in your Ci Account.

By creating a Ci Account and providing us your email address you consent to our using your email address to send you service-related notices, including any notices required by law, in lieu of communication by postal mail. We may also use your email address to send

you other messages including changes to features of the services, special offers and Sony marketing material. If you do not wish to receive these emails, you may opt-out by changing your preferences on the Manage Account page. Opting-out may prevent you from receiving email messages regarding updates, improvements, and offers.

If the domain of the primary email address associated with your Ci Account is owned by an organization and was assigned to you as an employee, student, contractor or member of such organization, and that organization wishes to establish a commercial enterprise relationship with Sony, we may share with that entity the existence of such Ci Account along with your Ci Account's usage and profile data, including how and when your account is used. In such instance, should the entity desire to add your Ci Account to such enterprise relationship, then, if you do not change the email address associated with your Ci Account, your Ci Account may become subject to the commercial enterprise relationship between Sony and such organization and controlled by such organization. You may change the email address associated with your Ci Account by contacting us here.

- 4.2. **Paid Services.** Sony offers both free and paid Services. Customer may upgrade their Ci Account to one of Ci's paid subscription plans ("Paid Ci Account") in order to receive certain additional paid Service(s), which may include additional storage, features, and/or functionalities. Until Customer upgrades to a Paid Ci Account, Customer's access to Ci may be limited to Services, if any, that Sony makes available to its free users. By upgrading to a Paid Ci Account Customer may receive additional storage, features and functionalities. Customer may upgrade to a Paid Ci Account by placing an Order, the details of which will be detailed in any applicable Order Documentation. Customer will only receive the storage, features, and functionalities included in the specific Paid Ci Account they have purchased, or as otherwise detailed in their Order Documentation.
- 4.3. **Promotional Accounts.** Sony may provide selected Customer(s) with promotional offers to try one of the Ci Paid Accounts without cost for a set period of time ("Promotional Period"). In such instance, Customer will be capable of accessing certain Ci Paid Account storage, features, and functionalities, as communicated in the promotional offer, for the Promotional Period. In order to receive a promotional Ci Paid Account, Customer must have and/or create a Ci Account and must provide an accurate credit card and billing information in accordance with these Terms. At the end of the Promotional Period, Customer's Ci Account will automatically convert to the equivalent Ci Paid Account. Unless Sony notifies you otherwise, if participating in a promotional offer, Customer must cancel the promotional Ci Paid Account prior to the end of the Promotional Period to avoid incurring any charges. If Customer does not cancel the promotional Ci Paid Account prior to the end of the Promotional Period, Customer authorizes Sony to charge Customer's credit card for the Ci Paid Account and no credits or refunds will be available. Customer may, however cancel its Ci Paid Account before the next billing in accordance with these Terms. Customer may cancel a promotional Ci Paid Account at any point during the Promotional Period to avoid charges. The last day of the Promotional Period signifies the due date of the first payment. If payment is not received, User's Ci Account will be suspended in accordance with these Terms. If request for payment is not received within ninety (90) days of request, User's Ci Account may be deactivated and all files may be permanently deleted.
- 4.4. **Team Workspaces.** In addition to your personal, private storage area ("My Workspace"), Ci gives you the ability to purchase and create additional shared/common storage areas that called "Team Workspaces", where invited participants can upload, share, and view content, and collaborate. Team Workspaces are for you and your trusted collaborators to use as a shared space to collect, organize, and develop content for a shared purpose or project. As the owner of a Team Workspace, you may invite participants who will be able to upload new content to the Team Workspace, as well as view, share and download any content stored in the Team Workspace. You are responsible for any content uploaded to a Team Workspace for which you are the owner as if you uploaded it yourself.

## 5. LICENSE/OWNERSHIP RETENTION/RESTRICTIONS

- 5.1. Subject to the terms and conditions of these Terms and any associated Order Documentation, Sony shall provide and/or make available to, and hereby grants, Customer and its Authorized Users, a limited, non-exclusive, non-transferable right and license to access, display, use (in object code only) and receive Ci and the Documentation solely for internal usage to support Customer's business for so long as Customer has an active Ci Account, subject to Sony's rights to terminate the license. Under these Terms, Ci is not sold, and instead is only licensed for use, strictly in accordance with these Terms. This license does not give you the right to download or install any Software; you are provided a license only to access and use Ci via the Internet.
- 5.2. Customer's and its Authorized User's rights to access and use Ci are only as specified in these Terms and any associated Order Documentation. Sony, and Sony's licensors, if applicable, retain all rights not expressly granted to Customer and its Authorized Users herein, including, without limitation, all right, title, and interest in and to Ci and any Software, hardware, and other technology and materials supplied by Sony. Customer agrees that Ci and Software contain trade secrets and other valuable proprietary information belonging to Sony and/or its licensors. Nothing in these Terms constitutes a waiver of Sony's rights under applicable copyright laws or any other laws. Customer and its Authorized Users shall not remove, modify or alter any copyright or trademark notice, including but not limited to any such notices contained in the physical or electronic media or Documentation, in any of the runtime resources, or in any web presences or web-enabled notices, code, or other embodiments originally contained in or dynamically or otherwise created by Ci.
- 5.3. Only Authorized Users are permitted to access and use the Service, Customer undertakes that it will not permit any other party access to use of the Services. Customer shall not assign, sell, lease, sublicense, rent, or otherwise transfer Ci to any other party, and it shall not use Ci on behalf of any other party (including performing technical or consulting services) or in any manner make Ci available to any third party (including usage through remote access, time share, or service bureau), unless otherwise expressly permitted under the Order Documentation; provided that Customer may permit its designated contractors who are not competitors of Sony to use

Ci solely to assist Customer in its internal usage subject to their compliance with these Terms, including confidentiality obligations. Customer shall not, nor shall it permit others to, reverse engineer, decompile, or disassemble, or otherwise seek to derive source code of Ci.

- 5.4. **Customer Content.** Except for material that Sony licenses to Customer, Sony does not claim ownership to Customer Content (including all content that is transmitted, stored, or processed in Customer's Ci Account). These Terms do not grant Sony any rights relating to Customer Content or intellectual property except for the limited rights that are needed for Sony to be able to provide Service herein.

Customer is solely responsible and liable for Customer Content and its communications with others while using Ci. Customer represents and warrants to Sony that it has all the right, power and authority necessary to grant to Sony the rights granted herein with respect to Customer Content, including all necessary rights to upload Customer Content to Ci. Customer agrees; (a) that Customer Content does not and will not violate any rights of any kind, including, without limitation, any intellectual property rights or rights of privacy; and (b) that Customer Content does not violate Sony's Acceptable Use Policy. Sony reserves the right, but is not obligated, to reject and/or remove any content that it believes, in Sony's sole discretion, violates these provisions. Customer understands that if it does not have the right to submit Customer Content to Ci, doing so may subject Customer to liability.

By using Ci, Customer grants Sony, its affiliates and its third-party service providers a limited, revocable, worldwide, non-exclusive, royalty-free license to use, copy, reproduce, process, adapt, modify, publish, transmit, edit, translate, make derivatives, display and distribute Customer Content solely to the extent necessary to provide Customer and its Authorized Users with the Services under these Terms. The above licenses will continue unless and until Customer or Sony removes or deletes Customer Content from Ci, in which case the licenses shall terminate within a commercially reasonable amount of time; deleted Customer Content may be retained by Sony after removal for the purpose of Sony providing time-limited data recovery services to Customer.

Sony is not responsible for any unauthorized access to, alteration of, or the damage, deletion, loss or failure to store any of, Customer Content under any circumstances. Customer is responsible for its (and that of its Authorized Users) proper use of the Service including properly configuring Ci, and taking its own steps to maintain appropriate security, protection and backup of Customer Content, including using encryption technology to protect Customer Content from unauthorized access and routinely archiving Customer Content. To ensure against loss or damage of Customer Content, Customer shall retain duplicates of such content and shall routinely backup and archive Customer Content. Sony assumes that Customer has insured the Customer Content sufficiently against damage or destruction.

- 5.5. **Retrieval of Customer Content.** Notwithstanding anything to the contrary herein, Customer shall, at any and all times (provided Customer has an active Ci Account and/or during any applicable Contract Term), be able, via the functionality provided within Ci, to access, download, retrieve, extract, export, delete and/or replace its Customer Content from Ci (to the extent agreed upon in an applicable Order Document) at its sole discretion, and in the event that Customer is unable to do so through no fault of Customer, Sony will provide Customer with reasonable assistance and instructions to enable Customer to extract and/or delete such Customer Content. If Customer requests the extraction of Customer Content by means other than via the functionality provided within Ci, additional costs may apply.
- 5.6. **Shared Content.** Ci provides the ability for Customer to share Customer Content and collaborate. Ci provides functions that allow Customer to control who may access Customer Content. If Customer uses or enables any of Ci's features that allow it to share Customer Content with other users or chooses to upload Customer Content to a shared Team Workspace, other users (including the general public, in certain circumstances) may have access to Customer Content. In such instance Customer retains ownership of Customer Content, but there are many things that other users may be able to do with Customer Content, for example, download, copy, modify, re-share or broadcast it. Sony has no responsibility for that activity.
- 5.7. Customer acknowledges that that uploading and/or sharing Customer Content using Ci is not a substitute for registering it with any applicable copyright office or other rights organization.
- 5.8. **Third Party Providers.** Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, export Customer Content to, and purchase products and services from, third parties via third-party websites (such as Twitter, Facebook, and YouTube) ("Third Party Providers"), and that it does so solely at its own risk. Sony makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such Third Party Providers, or any transactions completed, and any contract entered into by Customer, with any such Third Party Provider. Customer may be required to register for, and agree to terms for, such Third Party Providers separately. Any contract entered into and any transaction completed with any Third Party Provider or via any Third Party Provider website is between the Customer and the relevant Third Party Provider. The Customer undertakes to Sony that the Customer will comply with Third Party Provider's website terms and conditions and privacy policies and will indemnify Sony for any loss or damage suffered by Sony as a result of breach of such undertaking, including, but not limited to, any claim made against Sony by any Third Party Provider resulting from the Customer's breach of such Third Party Provider's website terms and conditions and privacy policies. Sony does not endorse or approve any Third Party Providers or their website and/or services.

## 6. SONY PROPRIETARY RIGHTS

- 6.1. Parties acknowledge that Sony will not be creating any deliverables or intellectual property for Customer as part of the Services provided hereunder. Ci and the Sony MCS Properties (including its related technology and Software) are protected by copyright laws and international copyright treaties, applicable patent laws, as well as other intellectual property laws and treaties. All title and copyrights in and to Ci and the Sony MCS Properties (including but not limited to any images, photographs, animation, video, audio, music, text and “applets,” incorporated into Ci and/or the Sony MCS Properties), any accompanying printed materials are owned or licensed by Sony or its affiliates or suppliers. All rights to Ci not specifically granted under these Terms are reserved by Sony. Customer has no rights in or to Ci other than the right to use it in accordance with the terms of these Terms. Customer agrees to endeavor to take all necessary steps to protect Ci from infringement and promptly notify Sony in writing of any infringement, and cooperate with Sony in the handling of such infringement, challenge or claim.
- 6.2. Nothing in these Terms gives Customer the right to use Sony or Ci, or any of Sony’s trademarks, logos, domain names, and other distinctive brand features. Any feedbacks, comments, or suggestions Customer may provide to Sony or post in Sony forums regarding Sony, Ci or any other of Sony services are entirely voluntarily, and Sony will be free to use such feedbacks, comments and suggestions as Sony sees fit without any obligation to Customer.

## **7. FEES/PAYMENTS/TAXES**

- 7.1. Sony offers both free and paid Services. Where the Customer purchases a Paid Ci Account directly from Sony the details of the Order will be recorded in the Order Documentation, which will include details of the Contract Term, the Fees and the Primary User, as well as any storage, limits or functionalities included in your Ci Paid Account (“Entitlements”). Where the Customer purchases a Paid Ci Account from a Reseller, as part of the purchase process the details of the Order will be recorded in the Order Documentation agreed between the Customer and the Reseller which will include, the Contract Term, the Fees, the Primary User and the Entitlements.
- 7.2. The Primary User will be responsible for i) accepting these Terms on behalf of the Customer in respect of the Order ii) the set up and provision of details of other Authorized Users to Sony (including but not limited to Authorized Users whose access to the Service may be limited to a specific Event) iii) ensuring on behalf of the Customer that all other Authorized Users are aware and comply with these Terms when such Authorized Users are accessing and using the Service; and iv) acting as the contact point with Sony on behalf of the Customer in respect of all other matters relating to the Customer’s use of the Service.
- 7.3. In the event that Customer wishes to request a change to the commercial terms on which an Order has been placed, as detailed in the Order Documentation (for example, but not limited to, requiring a different Contract Term and/or Usage Limit) the Customer (represented by the Primary User) will raise this with Sony or the Reseller (as applicable). In the event that Sony or the Reseller (as applicable) agree to the changes requested by the Customer, Sony or the Reseller (as applicable) and the Customer may agree to terminate the existing Order in accordance with Section 12.2 of these Terms and a new Order will be documented in new Order Documentation.
- 7.4. The Sony Price List is subject to alteration by Sony at any time without prior notice. No change will be implemented in respect of any period for which you have already paid for a Ci Paid Account. If you don’t agree to these changes you must cancel or downgrade your Ci Paid Account prior to the conclusion of your current payment term, before renewal. If you cancel, your Ci Paid Account, any applicable Entitlements will terminate at the end of your current payment period or if you fail to cancel as required, we will automatically renew your Paid Sci Account at the new rate.
- 7.5. The Reseller has complete control over the pricing for paid Services as detailed in the Reseller’s Price List.
- 7.6. Fees specific to an Order for all Paid Ci Accounts are listed in the Order Documentation.
- 7.7. In respect of Orders for Ci Paid Accounts made on-line with Sony (where such option is available), the terms and conditions of Website Purchases will apply to in addition to these terms and conditions and these terms and conditions shall be regarded as “Product Terms” as defined in the terms and conditions of Website Purchases.
- 7.8. Where the Customer purchases a Paid Ci Account directly from Sony, Sony will invoice Customer for Fees in accordance with the schedule set forth in the Order Documentation. Other than for on-line payments deducted from the Customer’s card account, all invoices shall be paid by Customer within thirty (30) days of the date of invoice. All amounts payable by Customer under these Terms will be made without setoff or counterclaims and without deduction or withholding. Unless otherwise agreed to in Order Documentation, All Paid Ci Accounts are billed on a monthly recurring basis. Unless agreed otherwise, payment of subscriptions must be made monthly in advance by credit or debit card or by some other method agreed with us. You authorize us to charge you for Paid Ci Account using your credit card and for any additional paid feature of the Service that you choose to sign up for or use. Sony will automatically bill your credit card each month on the calendar day corresponding to the commencement of your Paid Ci Account until cancelled (“Billing Anniversary Date”). In the event your Paid Ci Account began on a day not contained in a given month or year, we will bill your credit card on the last day of such month or year. For example, if your Paid Ci Account began on January 31st, February 28th is the next time your credit card would be billed. You can view the Billing Anniversary Date for your next renewal period on the Manage Account page. You must be authorized to use the payment method that you enter when you create a billing account. It is your responsibility to keep your contact information and payment information current and updated. You can access and modify your billing account information at the Manage Account page.

Where the Customer purchases a Paid Ci Account from a Reseller, the Reseller will invoice Customer for the Fees in accordance with the Order Documentation and Reseller's Price List, all invoices shall be paid by Customer subject to the terms in respect of payment as may be detailed by the Reseller in the Order Documentation.

**Overage Fees/Variable Fees.** Any Entitlements included in your Paid Ci Account are provided on a monthly basis. For the sake of clarification, any unused storage and other limits do not roll over to subsequent subscription periods.

In the event that the Order for the Paid Ci Account was purchased by the Customer from Sony and the Customer has exceeded its Usage Limit then Sony shall be entitled to charge the Customer an excess usage charge. The excess usage charge will be charged by Sony at the rate applicable in the Sony Price List in force at the date excess usage occurred and invoiced and paid in accordance with Section 7.8. Sony will have the right to continue to charge such excess usage fees until the Contract Term is terminated.

In the event that the Order for the Paid Ci Account was purchased by the Customer from a Reseller and the Customer has exceeded its Usage Limit then the Reseller shall be entitled to charge the Customer an excess usage charge. The excess usage charge will be charged by Reseller at the rate applicable in the Reseller's Price List in force at the date excess usage occurred. The Reseller will have the right to continue to charge such excess usage fees until the Contract Term is terminated.

7.9. **Taxes.** The price stated for the Service excludes all taxes and charges, unless stated otherwise. Customer is responsible to pay any and all applicable state and local sales, use, value added, excise, duty and any other taxes of any nature (except any taxes based on Sony's net income) assessed on the Services.

7.10. **Cancellation.** Subject to the termination provisions herein, your Paid Ci Account will continue in effect unless and until you cancel or downgrade it, or we terminate it. You must cancel your Paid Ci Account before it renews in order to avoid billing of the next month's fees to your credit card. Provided that you notify us of your intent to cancel your Paid Ci Account within seven (7) days from your initial purchase we will refund any monies paid to us within thirty (30) days of receiving your notice of cancellation. This refund offer does not apply to renewed plans.

Except as specifically set forth in this section, all Paid Ci Accounts are prepaid for the period selected and are non-refundable. This includes Paid Ci Accounts that are renewed. Nothing in these Terms affects your statutory rights. SONY DOES NOT PROVIDE REFUNDS OR CREDITS FOR ANY PARTIAL MONTHS OR YEARS. You may cancel your Paid Ci Account Plan in accordance with your Order Documentation. Should you elect to cancel your Paid Ci Account please note that you will not be issued a refund for the most recently (or any previously) charged monthly fees. Downgrading your service may cause the loss of features or capacity of your Ci Account. Sony does not accept any liability for such loss.

Failure to pay Fees when due shall constitute a material breach of these Terms which shall entitle Sony to suspend or terminate the Services. In circumstances where Customer purchases a Paid Ci Account from a Reseller, Sony shall be entitled to suspend or terminate the Services without having any further liability to the Customer in the event the Reseller fails to pay Fees to Sony for the relevant Paid Ci Account. Fees are chargeable at our standard rates during the suspension. Failure to resolve outstanding payments may result in Customer Content being removed from Ci following notification. Past due amounts to Sony bear interest at the rate of 1.5% per month (or the highest rate allowed by law, whichever is less) beginning from the date first due until paid in full. If Sony terminates the Customer's Ci Account for Customer's material breach, Customer is required to pay, without delay, all Fees and costs accrued before the termination date, and any other amounts Customer owes Sony under these Terms or any Order Documentation.

## 8. WARRANTIES AND DISCLAIMERS

8.1. **Performance Warranty.** Sony represents and warrants to Customer that Ci will operate and perform in all material respects in accordance with terms, specifications, features and functionality in the Documentation, these Terms, and any applicable Order Documentation. This warranty shall not apply to defects resulting from misuse, negligence or alteration of Ci by Customer and/or its Authorized Users. In the event of a breach of the foregoing warranty, Sony's sole and exclusive liability and Customer's sole and exclusive remedy shall be to receive a credit or terminate the Services and to receive a refund for any prepaid and unused Fees for the Services.

8.2. **Additional Warranties.** Sony represents and warrants that: (i) Ci does not and shall not infringe, violate or misappropriate any confidentiality obligation, intellectual property rights, including without limitation, patent rights, copyright, trade secrets, trademark or other rights of any person or entity; (ii) there are no actual or threatened lawsuits, claims or proceedings alleging that Ci violates, infringes or misappropriates any third party intellectual property rights; (iii) prior to Customer's access to and use of Ci, Sony has tested and scanned, and throughout the Contract Term shall regularly test and scan Ci with a current version of a leading anti-virus application in efforts to detect, and if so detected, to eliminate any malicious code; and (iv) Customer shall not be obligated to secure separate or independent licenses to any materials from any third party in connection with Ci as provided by Sony, and Sony has secured all such necessary licenses on Customer's behalf for the benefit of Customer. In the event of a breach of the warranties set forth in Subsections (i) and (ii) above, Sony's sole and exclusive liability and Customer's sole and exclusive remedy is set forth in Section 7 (Indemnification).

8.3. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH HEREIN, SONY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO CI AND ASSOCIATED SOFTWARE, SERVICES OR DOCUMENTATION, ALL OF WHICH ARE PROVIDED "AS IS" AND "AS AVAILABLE." SONY EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF SATISFACTORY QUALITY, MERCHANTABILITY OR FITNESS FOR A

PARTICULAR PURPOSE OR NONINFRINGEMENT. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT SONY DOES NOT WARRANT THAT (i) USE OF CI WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR FREE; (ii) CI AND/OR THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS; (iii) CI, OR ANY CUSTOMER CONTENT DOWNLOADED FROM CI, IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; or (iv) CUSTOMER CONTENT WILL BE SECURE OR NOT OTHERWISE LOST, DAMAGED OR ALTERED. CUSTOMER ACCEPTS RESPONSIBILITY FOR THE SELECTION OF CI TO ACHIEVE ITS INTENDED RESULTS. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY SONY SHALL CREATE A WARRANTY OR CONDITION OR ANY WAY DECREASE THE SCOPE OF THIS DISCLAIMER. SONY DOES NOT HAVE ANY OBLIGATION TO VERIFY THE IDENTITY OF USERS AND/OR TO MONITOR THE USE OF CI AND/OR THE SERVICES BY USERS.

SPECIFICALLY, AND WITHOUT LIMITATION OF THE FOREGOING DISCLAIMER, SONY MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING CUSTOMER'S ABILITY TO ACCESS THE INTERNET OR ANY DELAYS OR INTERRUPTIONS IN SERVICE RESULTING FROM USE OF THE INTERNET AND/OR TELECOMMUNICATIONS SERVICES NOT UNDER THE CONTROL OF SONY.

## **9. INDEMNIFICATION**

- 9.1. Sony will defend and indemnify Customer and each of its officers, directors, agents and employees (collectively, "Customer Indemnitees") from and against any and all costs, losses, damages and other expenses and charges (including reasonable legal fees) which it or they may suffer or incur as a result of any proceedings, actions, demands, suits and/or claims which have been commenced, brought or raised by a third party that the use of Ci and/or the Services in the manner permitted and intended hereunder infringes any patent or copyright or misappropriates any trade secret. The foregoing obligations in this Section are conditioned upon Customer; (i) complying with the terms of these Terms and/or any Order Documentation, (ii) not making any statements prejudicial to Sony, (iii) promptly notifying Sony in writing promptly of any such third party claim, (iv) granting Sony full and exclusive authority to defend, compromise or settle such third party claim, and (v) providing Sony all assistance reasonably necessary to so defend, compromise or settle. Customer will be entitled to participate in the defense of any such claim at Customer's cost. The foregoing obligations in this Section shall not apply, however, to any third party claim arising from (i) Customer's use of Ci in a manner not authorized by these Terms or not in conformity with Sony's Acceptable Use Policy, (ii) Customer's use of Ci in combination with other services or products not supplied by Sony, (iii) modifications to Ci made by any party other than Sony or its agents, or (iv) Customer's continued use of Ci after Sony provides Customer with a replacement or modification to Ci that makes it non-infringing. THIS SECTION STATES SONY'S SOLE OBLIGATION, AND CUSTOMER'S SOLE REMEDY, WITH RESPECT TO ANY THIRD PARTY CLAIMS UNDER THESE TERMS.
- 9.2. Notwithstanding the foregoing Section 8.1, in the event that Ci is held to constitute an infringement of a valid patent, copyright, or trademark, or if in Sony's opinion Ci is likely to become subject of a successful claim of infringement, Sony may, at its expense and option: (i) procure for Customer the right to continue to use Ci, as licensed in these Terms; or (ii) replace or modify Ci in a manner that is functionally equivalent but non-infringing. If (i) or (ii) are not commercially reasonable, Sony may terminate Customer's license to use Ci and/or the Services in whole or in part and refund to Customer any Fees that have been paid in advance to Sony.
- 9.3. Customer will defend and indemnify Sony and each of its officers, directors, agents and employees (collectively, "Sony Indemnitees") from and against any and all costs, losses, damages and other expenses and charges (including reasonable legal fees) which it or they may suffer or incur as a result of any proceedings, actions, demands, suits and/or claims (i) which have been commenced, brought or raised by a third party that Customer Content violates such third party's patents, copyrights, trademarks, trade names or other rights, including but not limited to rights of privacy and publicity; or (ii) arising from Customer's violation of Sony's Acceptable Use Policy and/or any Customer Content being in violation of Sony's Acceptable use Policy. The foregoing obligations in this Section are conditioned upon Sony (i) complying with the terms of these Terms, (ii) not making any statements prejudicial to Customer, (iii) promptly notifying Customer in writing promptly of any such third party claim, (iv) granting Customer full and exclusive authority to defend, compromise or settle such third party claim, and (v) providing Customer all assistance reasonably necessary to so defend, compromise or settle. Customer will not enter into any settlement involving third party claims that contain any admission of or stipulation to any guilt, fault, liability or wrongdoing by Sony, without Sony's prior written consent. Sony will be entitled to participate in the defense of any such claim at Sony's cost. The foregoing obligations in this Section shall not apply, however, to any third party claim arising from (i) Sony's use of the Customer Content in a manner not authorized by these Terms, or (ii) Sony's use of the Customer Content in combination with other services or products not supplied by Customer or not contemplated by these Terms.

## **10. LIMITATION OF LIABILITY**

- 10.1. SONY AND ITS AFFILIATES OR LICENSORS WILL NOT BE LIABLE TO CUSTOMER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES. SUCH DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF DATA, LOSS OF USE OF CI OR ANY ASSOCIATED SOFTWARE OR SERVICES, DOWNTIME AND CUSTOMER'S TIME, EVEN IF SONY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER SONY NOR ANY OF ITS AFFILIATES OR LICENSORS WILL BE RESPONSIBLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES ARISING IN CONNECTION WITH: (A) CUSTOMER'S INABILITY TO USE CI, INCLUDING AS A RESULT OF ANY (I) TERMINATION OR SUSPENSION OF THE SERVICES OR CUSTOMER'S USE OF OR ACCESS TO CI, (II) SONY'S DISCONTINUATION OF ANY OR ALL OF CI OR SERVICES, (III) ANY UNANTICIPATED OR UNSCHEDULED DOWNTIME OF ALL OR A PORTION OF CI FOR ANY REASON, INCLUDING AS A RESULT OF POWER OUTAGES, SYSTEM FAILURES OR OTHER INTERRUPTIONS, OR (IV) CUSTOMER'S NETWORK CONNECTIVITY; (B) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; (C) ANY INVESTMENTS, EXPENDITURES, OR COMMITMENTS BY CUSTOMER IN CONNECTION WITH THE PROVISION OF THE SERVICES OR CUSTOMER'S USE OF OR ACCESS TO CI; (D) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH CI BY ANY THIRD PARTY; OR (E) ANY UNAUTHORIZED ACCESS TO, ALTERATION OF, OR THE DELETION,

DESTRUCTION, DAMAGE, LOSS OR FAILURE TO STORE ANY OF CUSTOMER'S CONTENT OR OTHER DATA. UNDER NO CIRCUMSTANCES WILL SONY BE RESPONSIBLE FOR ANY DAMAGES, LOSS, OR INJURY RESULTING FROM HACKING, TAMPERING, OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICES OR CUSTOMER'S CI ACCOUNT OR THE CUSTOMER CONTENT OR OTHER INFORMATION CONTAINED THEREIN. SONY IS NOT RESPONSIBLE FOR CUSTOMER'S ABILITY TO CONNECT TO THE INTERNET, OR ANY DAMAGES, LOSS OR INJURY CAUSED BY POOR NETWORK CONNECTIVITY OR INABILITY TO CONNECT TO THE INTERNET.

SUBJECT TO THE EXCEPTIONS IN SECTION 9.2 BELOW, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY HEREUNDER, ON ANY BASIS (INCLUDING, WITHOUT LIMITATION, FOR ANY BREACH OF ANY REPRESENTATION, WARRANTY OR OTHER OBLIGATION SET FORTH HEREIN), EXCEED THE ACTUAL AMOUNT PAID BY CUSTOMER FOR CI FOR THE TWELVE (12) MONTHS PRIOR TO THE COMMENCEMENT OF THE EVENTS GIVING RISE TO THE CLAIM. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO YOU.

10.2. EXCEPTIONS. THE LIMITATIONS OF LIABILITY SET ABOVE SHALL NOT APPLY TO A PARTY'S:

10.2.1. INDEMNIFICATION AND DEFENSE OBLIGATIONS UNDER SECTION 9; and

10.2.2. LIABILITY WHICH IT IS NOT PERMITTED TO LIMIT OR EXCLUDE UNDER APPLICABLE LAW.

## 11. CONFIDENTIALITY

11.1. The parties acknowledge that Confidential Information may be disclosed to the other party during the Contract Term. Each party agrees that it will take such steps at least substantially equivalent to the steps it takes to protect its own Confidential Information, but in no event less than reasonable steps, during the Contract Term and for a period of three (3) years following expiration or termination thereof, to prevent the disclosure of Confidential Information of the other party, other than to its employees, or to its other persons who must have access to such Confidential Information for such party to perform its obligations hereunder and who are bound by agreement or legal duty to protect the confidentiality of same. Upon the Disclosing Party's request or upon termination or expiration of the Contract Term the Receiving Party shall promptly destroy or return to the Disclosing Party all Confidential Information of the Disclosing Party.

11.2. The obligations of non-disclosure and non-use under these Terms shall not apply to any portion of a Disclosing Party's Confidential Information that a Receiving Party can demonstrate: (i) was already known by the Receiving Party or its affiliates; (ii) is obtained by the Receiving Party from a third party lawfully in possession thereof and is not in violation of any contractual or legal obligation to the Disclosing Party with respect thereto; (iii) is or becomes part of the public domain through no fault of the Receiving Party; (iv) is independently ascertained or developed by or for the Receiving Party by their employees or any third party which have not had access either directly or indirectly to the Confidential Information; or (v) is required to be disclosed by any administrative or judicial action; provided, that the Receiving Party attempts to maintain the confidentiality of the Confidential Information by asserting in such action any applicable privileges and immediately notifies the Disclosing Party of such action to give the Disclosing Party the opportunity to seek legal remedies to maintain such confidentiality.

## 12. TERM AND TERMINATION

12.1. **Generally.** These Terms shall commence on the Effective Date and will remain in effect until terminated under this Section 11.

12.2. **Termination For Convenience.** Customer may terminate these Terms for any reason by cancelling any Paid Ci Account(s) (in accordance with the termination terms herein and in any applicable Order Documentation), deleting Customer's and its Authorized Users' Ci Account(s), and ceasing Customers and its Authorized User's use of Ci, the Services and/or any of the Sony MCS Properties.

12.3. **Paid Ci Account Term.**

12.3.1. **Contract Term.** The Contract Term of an Order shall commence on the date specified in the Order Documentation and shall continue for the term detailed in the Order Documentation, unless terminated as provided below.

12.3.2. **Termination of Order by Mutual Agreement.** As provided in Section 6.3 Sony or the Reseller (as appropriate) and the Customer may terminate the Contract Term of an Order by mutual agreement, in circumstances where the existing Order is to be replaced by a new Order made on amended commercial terms.

12.4. **Termination for Cause.** Either party may terminate these Terms and/or the Contract Term upon written notice to the other party if the other party materially breaches any material obligation hereof and fails to cure such breach within fifteen (15) days after receiving notice of breach. Notwithstanding the foregoing, Sony may terminate these Terms and/or Contract Term immediately upon giving Customer notice if Sony reasonably determines that: (a) Customer's or its Authorized Users' use of Ci or Customer Content (i) poses a security risk to Ci or any other Sony customer, (ii) may harm Sony's systems, or (iii) may subject Sony or any third party to liability; (b) Customer or its Authorized Users are using Ci for fraudulent or illegal activities; (c) Customer or its Authorized Users are using Ci in breach of these Terms or Sony's Acceptable Use Policy; (d) Sony's continued provision of any of the services to the Customer is prohibited by applicable law; or (e) if Customer fails to make a payment when due. Furthermore, either party may terminate these Terms and/or the Contract Term in the event the other party: (a) terminates or suspends its business; (b) commits an act of bankruptcy or is adjudicated bankrupt; (c) enters into liquidation, whether compulsory or voluntary, other than for the purposes of

amalgamation or reconstruction; (d) makes an arrangement with its creditors or petitions for an administration order; (e) has a trustee, receiver, administrative receiver or manager appointed over all or part of its assets; (f) generally becomes unable to pay its debts; or (g) is subject to an event or proceeding in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events listed in (a)-(f) of this Section 12.4.

- 12.5. **Effects of Termination.** Upon termination of these Terms and/or the Contract Term for any reason Customer will remain liable for all unpaid Fees, charges and any other payment obligations that have been incurred through the date of termination with respect to Customer's use of Ci. Customer's subscription and license to use Ci or other rights granted to Customer under these Terms will immediately terminate. In the event of termination by Sony under Section 11.4, Customer shall be responsible to make immediate full payment of any outstanding Fees or other charges that are due or would have become due for the remainder of the Contract Term had there been no termination (including any overage or additional fees that may have been incurred). Further, in the event of termination by Sony under Section 11.4, Sony may immediately disable Customer's and its Authorized Users' Ci Account(s) and/or limit or restrict Customer's access to Customer Content until all Fees have been paid in full. Customer acknowledges that Sony may retain Customer Content until all Fees have been paid to Sony. In the event Customer terminates pursuant to Section 12.4, Sony or the Reseller (as appropriate) shall refund any prepaid, unearned Fees for Services.

Upon termination or expiration of these Terms and/or the Contract Term, Customer's Ci Account will be deactivated and Customer will lose all access to Ci and any Customer Content stored therein. At Customer's request, Sony may provide additional extraction services provided that additional costs will apply and shall be payable in advance of performing the services. Sony has no obligation to: i) maintain any of Customer Content in the event of termination or expiration, or ii) return Customer Content outside the scope of the Order Documentation. Customer Content cannot be recovered once it has been permanently deleted.

- 12.6. **Temporary Suspension.** Sony may temporarily suspend Customer's and/or its Authorized Users' access to any portion of Ci if Sony or any of its technology partners reasonably determines that: (a) there is a threat or attack on Ci (including a denial of service attack) or other event that may create a risk to Ci or any other Sony customer; (b) Customer's and/or its Authorized Users' use of Ci or Customer Content poses a security risk to Ci or any other Sony Customer, may harm Sony's infrastructure, or may subject Sony or any third party to liability; (c) Customer and/or its Authorized Users are using Ci for fraudulent or illegal activities; (d) Customer has ceased to continue business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become subject of any bankruptcy, liquidation, dissolution of similar proceedings subject to the applicable law of the Customer's country of incorporation; (e) Customer and/or its Authorized Users are using Ci in breach of these Terms; (f) Customer remains in material default of its payment obligations hereunder (or, in the circumstance where Customer purchased a Paid Ci Account from a Reseller, the Reseller remains in material default of its payment obligations hereunder for the relevant Paid Ci Account); or (g) Sony is instructed to suspend Customer's access by its infrastructure service provider for any reason (collectively, "Service Suspensions").

Circumstances permitting, Sony will endeavor, but does not have the obligation, to provide Customer with notice of any Service Suspension and to provide updates regarding resumption of services following any Service Suspension. In the event Sony suspends Customer's access to any portion of Ci: (a) Customer remains responsible for all Fees and charges incurred through the date of suspension; and (b) Customer remains responsible for any applicable Fees and charges for any portion of Ci or the Services to which Customer continues to have access, as well as applicable data storage fees and charges, and fees and charges for in-process tasks completed after the date of suspension. Sony will have no liability for any damages, liabilities, losses (including any loss of data or profits) or any other consequences that the Customer may incur as a result of any Service Suspension. Sony's right to suspend Customer's access to any portion of Ci is in addition to its right to terminate these Terms and/or the Contract Term as set forth above.

### 13. MODIFICATIONS TO CI

- 13.1. Sony may from time to time, change, modify, add, and/or remove features or functionalities, or otherwise discontinue Ci or any part of it, including any related APIs. Sony may, but is not obligated to, notify Customer of any material changes to or discontinuation of the Service. Sony reserves the right, in its sole discretion, to make necessary unscheduled deployments of changes, updates or enhancements to Ci at any time.

### 14. FORUM USAGE

- 14.1. Nothing in these Terms requires Customer and/or its Authorized Users to participate or contribute to our online forums ("User Comments"). If Customer and/or its Authorized Users choose to participate or contribute the following terms apply:

14.1.1. Sony reserves the right in its sole discretion to remove or modify User Comments. Sony is not responsible for User Comments submitted to or posted in our forums, and does not endorse or guarantee the opinions, views, advice or recommendations posted or sent by users. Sony shall have the right, but not the obligation, to monitor User Comments posted or uploaded to our forums to determine compliance with these Terms, Sony's Acceptable Use Policy and any other operating rules established by Sony and to satisfy any law, regulation or authorized government request. Although Sony has no obligation to monitor, screen, edit or remove any of the User Comments posted or uploaded to our forums, Sony reserves the right, and has the absolute discretion, to screen, edit, and refuse to post, and/or remove without notice any User Comments at any time and for any reason.

14.1.2. By submitting User Comments Customer and/or its Authorized Users automatically grants Sony and its parent companies, a royalty-free, perpetual, irrevocable, non-exclusive right and license to use, publish, reproduce, modify, adapt, edit, translate,

create derivative works from, incorporate into other works, distribute, sub-license and otherwise exploit such User Comment (in whole or in part) worldwide in any form, media or technology now known or hereafter developed for the full term of any copyright that may exist in such User Comment. Customer warrants that such User Comment is accurate and not misleading, and that use and posting or other transmission of such User Comment does not violate these Terms and will not violate any rights of or cause injury to any person or entity. Any person determined by Sony, in its sole discretion, to have violated the intellectual property or other rights of others shall be barred from submitting or posting any further material in our forums, and may have their Ci Account suspended or terminated pursuant to these Terms.

14.1.3. User Comments submitted by Customer and/or its Authorized Users will be considered non-confidential and Sony is under no obligation to treat such User Comment as proprietary information.

## 15. LOCATION OF SERVICE

15.1. Ci is controlled and operated from facilities located in the United States. Customer's access or use of Ci from other jurisdictions is at their own volition and Customer is entirely responsible for compliance with all applicable United States and local laws and regulations, including but not limited to export and import regulations. By using and accessing Ci, Customer understands and consents to the storage and processing of Customer Content and any other personal information in the United States. Sony reserves the right to store and process personal information outside of the United States.

## 16. SECURITY AND PRIVACY

- 16.1. **Sony Data Security Program.** Sony shall implement and maintain physical, electronic and organizational security measures in accordance with the best practices and industry standards to protect Ci and the Customer Content against any unauthorized access, use, destruction, loss, or improper alteration.
- 16.2. **Sony Privacy Policies.** By using and accessing Ci, Customer understands and consents to the storage and processing of Customer Content and any other personal information in accordance with Sony's Privacy Policy.
- 16.3. **Incident Notification.** If Sony suspects or becomes aware of any security breach or unauthorized access, disclosure, loss or use of Customer Content (each an "Incident"), Sony shall use reasonable efforts to report such Incident in detail to Customer, and shall take appropriate remedial actions. Sony shall provide a copy of an Incident report to Customer that sets forth detail regarding the security breach and the steps taken to remedy the breach.

## 17. GENERAL

- 17.1. **Survival.** All terms and provisions of these Terms which by their nature are intended to survive any termination or expiration of the Contract Term shall so survive. These shall include, without limitation, Sections 5, 6, 7.10, 8.3, 9.1, 9.3, 10, 11, 12.5, 14, 17, and 18.
- 17.2. **Independent Contractor.** Neither these Terms nor the provision of Services hereunder shall be deemed to create any joint venture, partnership or agency between Sony and Customer. The parties are independent contractors and shall not be deemed to have any other relationship. Neither party shall have, or hold itself out as having, the power or authority to bind or create liability for the other.
- 17.3. **Waiver; Consents.** No waiver of any right hereunder shall be valid unless in writing and signed by authorized representatives of the party waiving the right and such waiver will be limited to the specific situation for which it is given. If an action by either party hereunder requires, or is subject to the consent or approval of the other party, it is agreed that such consent or approval shall not be withheld unreasonably.
- 17.4. **Assignment.** The Customer's rights and obligations under these Terms may not be assigned or otherwise transferred by Customer, by operation of law or otherwise, in whole or in part, without the prior written consent of Sony.
- 17.5. **Entire Agreement.** These Terms and the Order Documentation sets forth the entire agreement and understanding of the parties relating to the subject matter contained herein, and supersedes all prior communications and agreements, both oral and written, between the parties. Terms on purchase orders or similar ordering documents shall not be applicable. These Terms may not be modified or otherwise amended except by a further writing executed by both parties hereto, which writing specifies that it is an amendment hereto.
- 17.6. **Interpretation; Invalidity.** Whenever possible, each provision of these Terms shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of these Terms is found to violate a law, it will be severed from the rest of these Terms and ignored and a new provision deemed added to these Terms, to the extent possible, the intent of the parties as evidenced by the provision so severed. The headings used in these Terms have no legal effect.
- 17.7. **Governing Law; Jurisdiction.** These Terms shall be deemed to have been made and executed in the State of New Jersey and any dispute arising hereunder shall be resolved in accordance with the laws of the State of California, without reference to its conflict of laws principles. In the event of any dispute related to these Terms, the prevailing party shall be entitled to recover all its expenses related to such dispute including reasonable attorneys' fees and court costs. The parties agree to submit any dispute relating to these Terms to the jurisdiction of the federal or state courts of the State of New Jersey, United States of America. The parties acknowledge and

agree that the provisions of the United Nations Convention on the International Sale of Goods (CISG), and any local implementing legislation related thereto, shall not apply to or govern, in any way whatsoever, this agreement or any transactions resulting from and/or contemplated by this agreement. THE PARTIES SHALL NOT RAISE IN CONNECTION THEREWITH, AND HEREBY WAIVE, TRIAL BY JURY AND/OR ANY DEFENSES BASED UPON THE VENUE, THE INCONVENIENCE OF THE FORUM, THE LACK OF PERSONAL JURISDICTION, THE SUFFICIENCY OF SERVICE OF PROCESS OR THE LIKE IN ANY SUCH ACTION OR SUIT.

- 17.8. **Class Action Waiver.** Any dispute resolution proceedings, whether in arbitration or court, will be conducted only on an individual basis and not in a class or representative action unless both the Customer and Sony specifically agree to do so in writing. This provision is not applicable to the extent such waiver is prohibited by applicable law.

17.9. **Dispute Resolution (Including Binding Arbitration):**

**READ THE FOLLOWING DISPUTE RESOLUTION/ARBITRATION PROVISION CAREFULLY. IT DETAILS YOUR RIGHTS AND INSTRUCTIONS SHOULD A DISPUTE RELATED TO THE PRODUCT ARISE.**

"Dispute" is defined as any disagreement, cause of action, claim, controversy, or proceeding between you and any Sony related to or arising out of the sale of the Products and Services by Sony, your purchase and/or use of the Products and Services, or the terms of this Agreement. Dispute is to be given the broadest possible meaning that will be enforced.

You and Sony agree that all Disputes shall be resolved exclusively through binding arbitration. YOU UNDERSTAND AND ACKNOWLEDGE THAT BY AGREEING TO ARBITRATION, YOU ARE GIVING UP THE RIGHT TO LITIGATE (OR PARTICIPATE IN AS A PARTY OR CLASS MEMBER) ANY DISPUTES IN COURT. You also agree that ANY DISPUTE RESOLUTION PROCEEDING WILL ONLY CONSIDER YOUR INDIVIDUAL CLAIMS, AND BOTH PARTIES AGREE NOT TO HAVE ANY DISPUTE HEARD AS A CLASS ACTION, REPRESENTATIVE ACTION, CONSOLIDATED ACTION, OR PRIVATE ATTORNEY GENERAL ACTION. Despite the above, you have the right to litigate any Dispute on an individual basis in small claims court or other similar court of limited jurisdiction, to the extent the amount at issue does not exceed \$15,000, and as long as such court has proper jurisdiction and all other requirements (including amount in controversy) are satisfied.

If any part of this arbitration provision, other than waivers of class action rights, is deemed or found to be unenforceable for any reason, the remainder shall remain enforceable.

Arbitration Instructions. To begin Arbitration, either you or Sony must make a written demand to the other for arbitration. The Arbitration will take place before a single arbitrator. It will be administered in keeping with the Expedited Procedures of the Commercial Arbitration Rules, and the Supplementary Proceedings for Consumer-Related disputes when applicable ("Rules") of the American Arbitration Association ("AAA") in effect when the claim is filed. You may get a copy of AAA's Rules by contacting AAA at 1-800-778-7879 or visiting [www.adr.org](http://www.adr.org). The filing fees to begin and carry out arbitration will be shared between you and Sony, but in no event shall your fees ever exceed the amount allowable by the special rules for Consumers Disputes provided for by AAA, at which point Sony will cover all additional administrative fees and expenses. This does not prohibit the Arbitrator from giving the winning party their fees and expenses of the arbitration when appropriate pursuant to the Rules. Unless you and Sony agree differently, the arbitration will take place in the county and state where you live, and applicable federal or state law shall govern the substance of any Dispute during the arbitration. However, the Federal Arbitration Act, 9 U.S.C. § 1, et seq., will govern the arbitration itself and not any state law on arbitration. If you purchase the Product in the United States, but subsequently live outside of the United States, arbitration will take place in the county in which you purchased the Product. The Arbitrator's decision will be binding and final, except for a limited right of appeal under the Federal Arbitration Act. The arbitrator may award declaratory or injunctive relief only to the extent necessary to provide relief warranted by that party's individual claim, and any court with jurisdiction over the parties may enforce the arbitrator's decision.

Opt-Out Instructions. IF YOU DO NOT WISH TO BE BOUND BY THE BINDING ARBITRATION PROVISION, THEN: (1) you must notify Sony in writing within 30 days of the date that you created your Ci Account; (2) your written notification must be mailed to Sony Electronics Inc., 16535 Via Esprillo, MZ 1105, San Diego CA 92127, Attn: Legal Department; AND (3) your written notification must include (a) your NAME, (b) your ADDRESS, (c) the DATE you purchased the Product, and (d) a clear statement that "YOU DO NOT WISH TO RESOLVE DISPUTES WITH ANY SONY ELECTRONICS ENTITY THROUGH ARBITRATION AND/OR BE BOUND BY THE CLASS ACTION WAIVER."

- 17.10. **Notices.** For the purpose of these Terms any notice, request, demand, or other communication required or permitted to be given by Sony to the Customer, email to the Customer's registered email address shall be sufficient. Except where Customer can provide notice using Sony's online Account Management page, any notice, request, demand, or other communication required or permitted to be given by Customer under these Terms shall be in writing and will be delivered personally, or mailed by first class mail, postage prepaid, overnight courier service, confirmed by mailing as described above, addressed as follows: Sony Media Cloud Services LLC, 16535 Via Esprillo Drive, San Diego, CA, 92127. In the case of notices to Sony of a legal nature (e.g., notice of breach, termination or claim for indemnification), a copy shall be sent via certified mail or overnight courier to: Sony Electronics Inc., 16535 Via Esprillo Drive, Mail Drop 1095, San Diego, CA 92127, Attn: General Counsel, Law Department

- 17.11. **Force Majeure.** Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, or any other causes that are beyond the reasonable control of such party. For clarity of understanding, it is

understood and agreed that in no event shall Sony have liability for non-performance or delays in performance which are attributable to the failure of Customer or its other contractors or other agents to perform their responsibilities in a proper and timely fashion; and notwithstanding any provision to the contrary, Customer shall be responsible to Sony for additional costs incurred by Sony as a result of any such failure; and Customer shall have no right to terminate in these circumstances.

17.12. **No Third Party Beneficiaries.** Other than as set forth in the indemnification obligations set forth herein, these Terms do not create any third party beneficiary rights in any individual or entity that is not a party to these terms or any Order Documentation.

17.13. **Language.** These Terms shall apply in the English language. Any translation(s) that may be provided are only for information purposes and the accuracy of any such translations should not be relied upon. If there is any conflict in the meaning between the English language version of these Terms and any translation of these Terms, in any other language the English language version shall prevail.

## 18. DEFINITIONS

“Authorized User” means a unique person who had been authorized to access Ci, and/or a Customer’s Network of Content by Customer, pursuant to these Terms. This shall include any employees, agents and independent contractors of Customer who are authorized by Customer to use Ci, either locally or remotely, in accordance with these Terms. The Customer remains primarily liable for the actions of all its Authorized Users

“Ci” means the cloud-hosted storage and collaboration platform provided by Sony for cloud storage, sharing and processing of Customer Content marketed under the trademark Ci (pronounced “see”) that is made available on a subscription basis as a Software as a Service (SaaS) product.

“Ci APIs” means the set of routines, protocols and tools for building software integrations and interactions into Ci.

“Confidential Information” shall mean all information disclosed by one party (the “Disclosing Party”) to the other (the “Receiving Party”) that is either clearly identified as confidential, or by its nature, should be reasonably considered confidential. Confidential Information of Sony includes, but is not limited to, the products and services comprising Ci, the Documentation and these Terms and any associated Order Documentation, including pricing terms. **Customer Content shall not be categorized as Confidential Information for the purposes of these Terms and is subject to its own provisions.**

“Contract Term” means the period of the term for the delivery of the Service under an Order as set out in the applicable Order Documentation.

“Customer Content” means all audio/visual content, data, information, files and folders (which, for the avoidance of doubt, shall include any data or information inputted by Customer or Customer’s Authorized Users into custom metadata fields) that Customer or Customer’s Authorized Users uploads, submits and/or stores to Ci for the purpose of using Ci or facilitating Customer’s use of Ci.

“Documentation” means any written or electronic user and feature guide, and any other materials supplied by Sony for use with Ci, including materials available online at <https://academy.cimediachoud.com/> and <https://academy.cimediachoud.com/>.

“Fees” mean the fees and charges payable by Customer for the supply of the paid Services in accordance with these Terms and any applicable Order Documentation.

“Order” means an order for the provision of any paid Service(s) to the Customer as detailed in the Order Documentation and subject to these Terms.

“Order Documentation” means the documents, completed at the time of the Order between either the Customer and Sony, or the Customer and a Reseller (as applicable) which indicates the specific Service(s) to be purchased by Customer (including Contract Term, Usage Limit type, quantity and Fees). Such documentation may be in paper digital or online format.

“Primary User” means an Authorized User nominated by the Customer in the Order Documentation as the primary contact point in respect of the Customer’s use of the Service.

“Reseller” means a third party reseller authorized by Sony to sell to the Customer access to the Service.

“Reseller Price List” means a Reseller’s price list for the fee structure of the Service, as notified to the Customer. For the avoidance of doubt the Reseller sets their own prices in respect of the sale of access to the Service and Sony has no influence over the Reseller’s Price List.

“Service(s)” means, collectively, Customer’s access and use of Ci, the Sony MCS Properties and Documentation; as well as support services and any additional services to be performed by Sony as described in the Order Documentation. The specific Services, including its features and functionality to be provided to Customer shall be set forth and described in the Order Documentation.

“Software” means Sony provided software and firmware embedded in, or used with, Ci.

“Sony Price List” means Sony’s price list for the fee structure of the Service, as notified to the Customer (for the avoidance of doubt the Sony Price List does not apply in circumstances where the Customer purchases a Paid Ci Account from a Reseller, in which case the Reseller’s Price List shall apply).

“Sony’s Privacy Policies” means Sony’s policies in respect of privacy and personal data, as in force from time to time, the current versions of which can be accessed at [Privacy Policy](#).

“Terms of Service” and/or “Terms” means these terms and conditions, inclusive of all current and future schedules which may include Order Documentation, attachments, exhibits, and addenda; and the following Sony documents: (i) [Acceptable Use Policy](#) and (ii) Sony’s [Privacy Policy](#), all of which may be revised and updated from time to time by Sony in accordance with Section 2.

“Usage Limit” means the maximum usage limit of the Service purchased by the Customer as detailed in the Order Documentation.