

End user license agreement Smart VR Lab

Please read this EULA carefully, as it sets out the basis upon which we license the Software for use.

By using the Smart VR Lab website, app, services and all other Software or products, you agree to be bound by this EULA. If you do not agree to be bound by this EULA, you must cease use of the Software immediately.

You acknowledge and agree that we may in our sole discretion, at any time and from time to time, modify these terms. If we do so, we will post any such changes on our website which will become effective immediately. Continued usage of the Software after amendments have been published, shall be deemed and constitutes your acceptance of those changes.

By agreeing to be bound by this EULA, you further agree that you, your employees or anyone acting on your behalf will comply with the provision of this EULA.

AGREEMENT

1. Definitions

1.1 Except to the extent expressly provided otherwise, in this EULA:

"Documentation" means the documentation for the Software produced by the Licensor and delivered or made available by the Licensor to the User. Among other resources this consists of the Helpdesk that can be accessed on: <https://www.smartvrlab.nl/helpdesk>;

"EULA" means this end user license agreement, including any amendments to this end user license agreement from time to time;

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"Licensor" means YouSurge B.V., a company incorporated in the Netherlands (Chambers of Commerce registration number 65990951) having its registered office at Keizerrijk 44, Amsterdam, the Netherlands;

"Services" means the the website and app that the Licensor provides to the Users under this EULA;

"Software" means the Smart VR Lab Content Management System for 360 video and video which consist of a web application on app.smartvrlab.nl and the Unity application called the Smart VR Lab app;

"Software Defect" means a defect, error or bug in the Software having an adverse effect on the appearance, operation, functionality or performance of the Software, but excluding any defect, error or bug caused by or arising as a result of:

- (a) any act or omission of the User or any person authorised by the User to use the Software;
- (b) any use of the Software contrary to the Documentation by the User or any person authorised by the User to use the Software;
- (c) a failure of the User to perform or observe any of its obligations in this EULA; and/or
- (d) an incompatibility between the Software and any other system, network, application, program, hardware or software not specified as compatible in the Software Specification;

"Source Code" means the Software code in human-readable form or any part of the Software code in human-readable form, including code compiled to create the Software or decompiled from the Software, but excluding interpreted code comprised in the Software;

"Pricing Plan" means the pricing plans specified on the website www.smartvrlab.nl/#pricing unless there is another pricing agreement in a Services Agreement that is an amendment to the EULA.

"User" means the person or company to whom the Licensor grants a right to use the Software under this EULA;

2. Terms

2.1 Smart VR Lab is a platform where a user can easily create interactive 360 video and interactive video.

2.2 It allows Users to distribute and manage 360 video, 360 images and apps easily across multiple VR headsets.

2.3 Users need to register and create an account. The required password will be stored by Smart VR Lab.

2.4 By using the Service, Users agree to giving the Licensor the right to mention the name of the Users company in public communication and in their portfolio.

3. User Generated Content

3.1 The Software allows Users to upload, communicate or submit to Smart VR Lab: text, images, audio, video, text, information, videos, photographs, ideas, concepts or any other material contained in any communication (“User Generated Content”).

3.2 It is strictly prohibited by this EULA to upload, post, submit or otherwise make available any “User Generated Content” on the Service, to which the User does not own or have the all the necessary legal rights to upload, post or submit such content and it will not violate any law or the rights of any person. Users shall not upload post, submit or otherwise make available to the Software any libelous, bigoted, defamatory, obscene, pornographic, abusive, threatening or otherwise illegal material, whether or not such material is protected by law. Also, Users shall not upload any content that violates the Oculus Content Guidelines which can be found at:

<https://developer.oculus.com/policy/content-guidelines/>

3.3 Users shall at all times retain ownership of their “User Generated Content”. By sharing “User Generated Content” with us, Users grant us a worldwide and royalty-free right to use the “User Generated Content” for testing purposes within the Smart VR Lab Software. Smart VR Lab shall not upload, post, submit or otherwise make available any “User Generated Content” to third parties without explicit permission by the User.

3.4 User represents, warrants and covenants that Smart VR Lab is not responsible for, and has no liability for, any use of all or any part of the User Generated Content outside of the uses mandated by this EULA. Users indemnify and hold harmless Smart VR Lab, along with its officers, directors, employees, agents, licensees, successors, customers and users from any and all claims that Users or any persons acting on behalf of the User have or may have relating to the use of your User Generated Content in accordance with this EULA.

3.5 At any time, for any reason and without prior notice, Smart VR Lab retains the right to remove, duplicate, modify or monitor “User Generated Content”, which may or may not violate the terms in this EULA.

4. License

4.1 The Licensor hereby grants to the User from the date of supply of the Software to the User until the end of the Term a worldwide, non-exclusive license to:

- (a) install unlimited instances of the Software;
- (b) use the amount of instances of the Software in accordance with the number of Virtual Reality headset devices allowed by the Pricing Plan a user is on, unless specified differently in a written amendment;
- (c) use the amount of storage data as allowed by the Pricing Plan a User is on unless specified differently in a written amendment;

and

subject to the limitations and prohibitions set out and referred to in this Clause 4.

4.2 The User may not sub-license and must not purport to sub-license any rights granted under Clause 4.1 without the prior written consent of the Licensor.

4.3 Save to the extent expressly permitted by this EULA or required by applicable law on a non-excludable basis, any license granted under this Clause 4 shall be subject to the following prohibitions:

- (a) the User must not sell, resell, rent, lease, loan, supply, publish, distribute or redistribute the Software;
- (b) the User must not alter, edit or adapt the Software; and
- (c) the User must not decompile, de-obfuscate or reverse engineer, or attempt to decompile, de-obfuscate or reverse engineer, the Software.

5. Source Code

5.1 Nothing in this EULA shall give to the User or any other person any right to access or use the Source Code or constitute any license of the Source Code.

6. Compliance with Laws

6.1 User is solely responsible for compliance with any applicable laws and agrees not to use the Service to commit a criminal offense or to encourage conduct that would constitute a criminal offense or give rise to a civil liability, or otherwise violate any law, ordinance, rule, regulation, judgment, decree or order of any national, international, state or local governmental body or court.

7. DMCA policy and Data Policy

7.1 Licensor respects the rights of others and if you believe any materials accessible on or from this Website infringe your copyright, you may request removal of those materials.

8. Data Policy

8.1 Licensor only collects personal user data that is paramount for the administration of giving access to the Software. This includes email and company details the Licensor is obliged by law to use for sending an invoice.

8.2 Licensor shall, and shall procure that all staff acting on behalf of the Licensor shall, keep confidential all matters relating to the personal user data of the User. The data shall not be sold or resold to third parties.

9. No assignment of Intellectual Property Rights

9.1 Nothing in this EULA shall operate to assign or transfer any Intellectual Property Rights from the Licensor to the User, or from the User to the Licensor.

9.2 Users agree that they will not use any robot, spider, or other automatic device, or manual process to monitor or copy our web pages or the content contained therein without prior written official permission of Smart VR Lab. Any use of the content not expressly permitted by this EULA is a breach of this EULA and may violate copyright, trademark, and other laws.

10. Payments

10.1 A Smart VR Lab paid plan comes with a certain amount of data storage, bandwidth and number of allowed enrolled VR devices as specified on the Pricing Plan.

10.2 If a User has uploaded more data than allowed, further uploading of content will not be possible until the pricing plan has been upgraded.

10.3 Users can cancel or downgrade their plan at any time. This will become effective after the term for which a payment has already been made.

10.4 Licensor does not pay any refunds for cancellations, downgrades or termination of use of the Software.

10.5 The Licensor reserves the right to make the account of a User unavailable after payment demands have not been met.

11. Warranties

11.1 The User warrants to the Licensor that it has the legal right and authority to enter into this EULA and to perform its obligations under this EULA.

11.2 All of the parties' warranties and representations in respect of the subject matter of this EULA are expressly set out in this EULA. To the maximum extent permitted by applicable law, no other warranties or representations

concerning the subject matter of this EULA will be implied into this EULA or any related contract.

12. Warranty limitations

- 12.1 The User acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this EULA, the Licensor gives no warranty or representation that the Software will be wholly free from defects, errors and bugs.
- 12.2 The User acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this EULA, the Licensor gives no warranty or representation that the Software will be entirely secure.
- 12.3 The User acknowledges that the Licensor will not provide any legal, financial, accountancy or taxation advice under this EULA or in relation to the Software; and, except to the extent expressly provided otherwise in this EULA, the Licensor does not warrant or represent that the Software or the use of the Software by the User will not give rise to any legal liability on the part of the User or any other person.

13. Indemnities

- 13.1 The User shall indemnify and shall keep indemnified the Licensor against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Licensor and arising directly or indirectly as a result of any breach by the User of this EULA or violation of any third party's right, including without limitation, any intellectual property right, publicity, confidentiality, property or privacy right; your violation of any laws, rules, regulations, codes, statutes, ordinances or orders of any governmental and quasi-governmental authorities, including, without limitation, all regulatory, administrative and legislative authorities; or any misrepresentation made by the User or anyone acting on their behalf.

14. Limitations and exclusions of liability

- 14.1 Nothing in this EULA will:
- (a) limit or exclude any liability for death or personal injury resulting from negligence;
 - (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
 - (c) limit any liabilities in any way that is not permitted under applicable law; or
 - (d) exclude any liabilities that may not be excluded under applicable law,

and, if a party is a consumer, that party's statutory rights will not be excluded or limited by this EULA, except to the extent permitted by law.

- 14.2 The limitations and exclusions of liability set out in this Clause 14 and elsewhere in this EULA:
- (a) are subject to Clause 14.1; and
 - (b) govern all liabilities arising under this EULA or relating to the subject matter of this EULA, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this EULA.
- 14.3 The Licensor will not be liable to the User in respect of any losses arising out of a Force Majeure Event.
- 14.4 The Licensor will not be liable to the User in respect of any loss of profits or anticipated savings.
- 14.5 The Licensor will not be liable to the User in respect of any loss of revenue or income.
- 14.6 The Licensor will not be liable to the User in respect of any loss of business, contracts or opportunities.
- 14.7 The Licensor will not be liable to the User in respect of any loss or corruption of any data, database or software.
- 14.8 The Licensor will not be liable to the User in respect of any special, indirect or consequential loss or damage.

15. General

- 15.1 No breach of any provision of this EULA shall be waived except with the express written consent of the party not in breach.
- 15.2 If any provision of this EULA is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of this EULA will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).
- 15.3 This EULA may not be varied except by a written document signed by or on behalf of each of the parties.
- 15.4 The User hereby agrees that the Licensor may assign the Licensor's contractual rights and obligations under this EULA to any successor or third party. The User must not without the prior written consent of the

Licensor assign, transfer or otherwise deal with any of the User's contractual rights or obligations under this EULA.

- 15.5 This EULA is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree to any amendment, waiver, variation or settlement under or relating to this EULA are not subject to the consent of any third party.
- 15.6 Subject to Clause 14.1, this EULA shall constitute the entire agreement between the parties in relation to the subject matter of this EULA, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.
- 15.7 This EULA shall be governed by and construed in accordance with Dutch law.
- 15.8 The courts of the Netherlands shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this EULA.
- 15.9 All disputes arising out of or in connection with this agreement will be resolved by the Amsterdam District Court following proceedings in Dutch to the exclusion of the jurisdiction of any other courts.

16. Interpretation

- 16.1 In this EULA, a reference to a statute or statutory provision includes a reference to:
- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
 - (b) any subordinate legislation made under that statute or statutory provision.
- 16.2 The Clause headings do not affect the interpretation of this EULA.
- 16.3 In this EULA, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.