**MICROSOFT HOLOLENS COMMERCIAL SUITE ONLINE STORE TERMS OF USE AND SALE**

Updated February 2017

Welcome to the Microsoft HoloLens Commercial Suite Online Store (the “Microsoft HoloLens Store” or “Website”). The Microsoft HoloLens Store is a website operated by Microsoft Ireland Operations Limited (“Microsoft,” “We,” “Us,” “Our”), located at , The Atrium Building, Block B, Carmanhall Road, Sandyford Business Estate, Dublin 18, Ireland.

Through the Microsoft HoloLens Store, Microsoft provides you with access to a variety of resources, including the Website, and information about Microsoft HoloLens (collectively "Services"). The Services, including any updates, enhancements, new features, and the addition of any new web properties, are subject to these Terms of Use and Sale ("Terms of Use and Sale" or "Contract"). By using the Website, purchasing products and services from the Microsoft HoloLens Store, or using any Services, you accept and agree to these Terms of Use and Sale, Microsoft's Privacy Statement (see the PRIVACY AND PROTECTION OF PERSONAL INFORMATION section below), and applicable terms and conditions, policies or disclaimers found in the Microsoft HoloLens Store or referenced herein and accessible through the related hyperlinks (collectively the "Microsoft HoloLens Store Policies"). We encourage you to read the Microsoft HoloLens Store Policies carefully. YOU MAY NOT USE THE MICROSOFT HOLOLENS STORE OR SERVICES IF YOU DO NOT AGREE TO THE MICROSOFT HOLOLENS STORE POLICIES.

MICROSOFT HOLOLENS ENTERPRISE PURCHASE AGREEMENT

The products sold at the Microsoft HoloLens Commercial Suite Store (Microsoft HoloLens Commercial Suite devices and accessories, collectively “the Devices”) are sold subject to the terms of the Microsoft HoloLens Enterprise Purchase Agreement in Appendix #1, which are incorporated herein and agreed upon by you in their entirety.

notice specific to documents available on the website or services

In purchasing the Devices you acknowledge and agree that you are acting for purposes which are within your trade, business, craft or profession. Permission to use documents (such as white papers, press releases, datasheets and FAQs) from the Microsoft HoloLens Store (“Documents”) and Services is granted, but only if (1) the following copyright notice: "© 2016 Microsoft Corporation. All rights reserved." that may appear in any such Documents is not removed, modified, or obscured in any way, (2) use of such Documents from the Microsoft HoloLens Store or Services is for informational and non-commercial or personal use only and will not be copied or posted on any network computer or broadcast in any media, unless permitted by exemptions under applicable copyright laws, and (3) no modifications of any Documents are made. Accredited educational institutions, such as primary and secondary institutions, universities, private/public colleges, and community colleges, may download and reproduce the Documents for distribution in the classroom. Distribution outside the classroom requires Microsoft’s express written permission. Use for any other purpose is expressly prohibited.

The Documents, related graphics published on the Microsoft HoloLens Store, or the Services could include technical inaccuracies or typographical errors. Changes are periodically added to the information in such Documents, graphics, and Services. Microsoft or its respective suppliers may make improvements or changes in the product(s) or the program(s) described in this Contract or the Website at any time, without notice.

MEMBER ACCOUNT, PASSWORD, AND SECURITY

If the Microsoft HoloLens Store or any of the Services requires you to open an account, you must complete the registration process by providing us with current, complete, and accurate information as prompted by the applicable registration form. You also will choose a password and a user name. You may also be required to accept a service agreement or separate terms of use as a condition of opening the account. You are responsible for keeping your account information and password confidential and are responsible for all activity that occurs under your account. You agree to notify Microsoft without delay of any unauthorized use of your account or any other breach of security.

NO UNLAWFUL OR PROHIBITED USE

As a condition of your use of the Services, you will not, and have no right to, use the Services for any purpose that is unlawful or prohibited by these terms, conditions, and notices. You may not use the Services in any manner that could damage, disable, overburden, or impair any Microsoft server, or the network(s) connected to any Microsoft server, or interfere with any other party's use and enjoyment of any Services. You may not attempt to gain unauthorized access to any Services, other accounts, computer systems, or networks connected to any Microsoft server or to any of the Services, through hacking, password mining, or any other means. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available through the Services. You may not use the Services in a way that infringes rights of third parties, including, but not limited to, willfully harming a person or entity, including Microsoft.

Microsoft reserves the right at all times to disclose any information, the disclosure of which is necessary to satisfy any applicable law, regulation, legal process, or governmental request, or to edit, refuse to post, or to remove any information or materials, in whole or in part, where there is reasonable justification to do so.

MATERIALS THAT YOU PROVIDE TO MICROSOFT HOLOLENS STORE OR POST ON THE WEBSITE

Microsoft does not claim ownership of the materials you provide to Microsoft (including feedback, ratings, and suggestions) or post, upload, input, or submit to any Services or associated services for review by the general public, or by the members of any public or private community (each a "Submission" and collectively "Submissions"). However, Microsoft shall be permitted to use your Submission, including your name, for the purpose for which it was submitted and may use any feedback or suggestions for any purpose, without regard to intellectual property rights or otherwise.

No compensation will be paid with respect to the use of your Submission. Microsoft is under no obligation to post or use any Submission you may provide, and Microsoft may remove any Submission at any time in its sole discretion.

You warrant and represent that you own or otherwise control all of the rights to your Submissions as described in these Terms of Use and Sale including, without limitation, all the rights necessary for you to provide, post, upload, input, or submit the Submissions.

LINKS TO THIRD-PARTY WEBSITES

The Microsoft HoloLens Store may include links to third-party websites that let you leave the Website. These linked sites are not under the control of Microsoft, and Microsoft is not responsible or liable in any way for the contents of any linked site or any link contained in a linked site, or any changes or updates to such sites. Microsoft is providing these links to you only as a convenience, and the inclusion of any link does not imply endorsement by Microsoft of the site. Your use of the third-party website is subject to that third party’s terms and conditions, if any.

ACCURACY OF BILLING AND ACCOUNT INFORMATION

You agree to provide current, complete, and accurate purchase and account information for all purchases made at the Microsoft HoloLens Store. You agree to promptly update your account and other information, including your email address and credit card numbers and expiration dates, so that we can complete your transactions and contact you as needed in connection with your transactions.

PRODUCT AVAILABILITY AND QUANTITY AND ORDER LIMITS

Product prices and availability are subject to change at any time and without notice but you will always be charged the price which is displayed at the time you confirm your order. Microsoft may place a limit on the quantities that may be purchased per order, per account, per credit card, per person, or per household, which you will be informed of on the Website or prior to us accepting your order.

Microsoft may refuse or reject any order at any time, refunding you any monies you have paid for the order, for reasons that include, but are not limited to, if you have not met the conditions specified at the time of the order, if your payment cannot be processed, if the ordered products or services are not available, or for obvious errors on the Website or made in connection with your order.

Unless a specific delivery period is mentioned at the time you place your order, your products or services will be delivered within thirty ﴾30﴿ days of the date of your order.

Credits or refunds will be made to the same method of payment and account used to place the order.

PRICE AND PAYMENT

Prices at the Microsoft HoloLens Store will be as stated on the Website.

The Microsoft HoloLens Store does not have a price match guarantee.

We may offer you the opportunity to pre-order a product from our Website before it is available for purchase. If you place such a pre-order, we may place a hold on your credit or debit card at the time of pre-order but will not charge your card until the product is available for download or we ship it. If the advertised price of the product decreases between the date you pre-ordered and the date the product is available for download or shipping, we will charge you the lower price. You may cancel your pre-order before the product is available for download or shipped by calling our customer support at msstoreis@microsoft.com or 866-425-4709. Once your pre-order is downloaded or shipped, there are no refunds. We will indicate on the Website if different pre-order terms apply to a specific product.

Once your pre‐order is shipped or available for download, our normal return policies apply. We will indicate on the Website if different pre‐order terms apply to a specific product.

Prices shown on the Website include taxes (“Taxes”) that may apply to your purchase. Prices shown on the Website exclude delivery costs. Delivery costs will be added to the amount of your purchase and shown on the check-out page. You will have an opportunity to review the delivery costs before you confirm your purchase. Each item in your shopping cart is shown at the current price.

The Microsoft HoloLens Store offers different payment options as identified on our Website. We reserve the right to change our payment options at any time and for any reason or no reason. If offers are made in your local currency and are payable in another currency with an international credit card, final price in your currency will depend on the foreign exchange rates, taxes, and fees applied by your bank or the issuer of your international credit card. These transactions may be subject to taxes and fees on international transactions not charged by the Microsoft HoloLens Store.

ALL SALES FINAL

EXCEPT AS SPECIFICALLY PROVIDED IN THE MICROSOFT HOLOLENS ENTERPRISE PURCHASE AGREEMENT, ALL PURCHASES FROM THE MICROSOFT HOLOLENS STORE ARE FINAL, NON-CANCELABLE, AND NON-REFUNDABLE.

CUSTOMER SERVICE

Please visit our customer support page [https://support.microsoft.com] for more information about customer service options. For avoidance of doubt, Microsoft has no obligation to provide any customer support, and any customer support Microsoft elects to provide is provided “as is” and without warranty of any kind.

CHANGING TERMS

Microsoft may change the Terms of Use and Sale at any time and without notice to you. The Terms of Use and Sale in force at the time you place an order, however, will govern your purchase and serve as the purchase contract between us as applicable to that order. Before your next purchase, Microsoft may have changed the Terms of Use and Sale without notice to you. Please be sure to review the current Terms of Use and Sale each time you visit the Microsoft HoloLens Store and, in any case, before you place a new order. We recommend that you save or print a copy of the Terms of Use and Sale for future reference when you place any order.

LIMITATIONS ON USE BY MINORS

You must have reached the age of majority in your province/territory of residence to purchase products from the Microsoft HoloLens Store.

PRIVACY AND PROTECTION OF PERSONAL INFORMATION

Your privacy is important to us. We use certain information that we collect from you to operate and provide the Microsoft HoloLens Store and the Services. Additionally, we may also automatically upload information about your machine, your use of the Services, and Service performance. Please read our Privacy Statement [https://www.microsoft.com/en-us/privacystatement/default.aspx] to learn about how we use and protect your information.

PRODUCT DISPLAY AND COLORS

Microsoft attempts to display product colors and images accurately but we cannot guarantee that the color you see on your monitor will exactly match the product’s color.

ERRORS ON SITE

We work hard to publish information accurately, update the Website regularly, and correct errors when discovered. However, any of the content on our Website may be incorrect or out of date at any given time. We reserve the right to make changes to the Website at any time, including to product prices, specifications, offers, and availability.

TERMINATION OF SITE USE

Microsoft may terminate your account or use of the Microsoft HoloLens Store at any time for any reason, including, without limitation, if you are in breach of these Terms of Use and Sale or if the Microsoft HoloLens Store is no longer operated by Microsoft. By using the Microsoft HoloLens Store, you agree to be responsible for any orders you make or charges you incur prior to such termination (which are deemed to include without limitation any such orders or charges made using your account criteria). Microsoft may change, discontinue, or otherwise suspend the Microsoft HoloLens Store at any time, for any reason, and without prior notice to you.

NO WARRANTIES

THE TERMS OF THIS SECTION APPLY TO THE MAXIMUM EXTENT PERMITTED BY MANDATORY APPLICABLE LAW AND ARE SUBJECT TO THE MICROSOFT HOLOLENS ENTERPRISE PURCHASE AGREEMENT. THIS SECTION IS NOT INTENDED AND DOES NOT OPERATE TO LIMIT OUR LIABILITY TO THE EXTENT WE MAY BE LIABLE TO YOU UNDER LAW (INCLUDING PURSUANT TO ANY STATUTORY RIGHTS WHICH APPLY TO YOU).

MICROSOFT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, GUARANTEES, OR CONDITIONS WITH RESPECT TO PRODUCTS OR SERVICES SOLD ON THE MICROSOFT HOLOLENS STORE. YOU UNDERSTAND THAT YOUR PURCHASE AND USE IS AT YOUR OWN RISK AND THAT WE PROVIDE PRODUCTS AND SERVICES ON AN “AS IS” BASIS “WITH ALL FAULTS” AND “AS AVAILABLE.” YOU ASSUME THE ENTIRE RISK AS TO THEIR QUALITY AND PERFORMANCE. SHOULD THEY PROVE DEFECTIVE YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING OR REPAIR. MICROSOFT DOESN'T GUARANTEE THE ACCURACY OR TIMELINESS OF INFORMATION AVAILABLE FROM THE MICROSOFT HOLOLENS STORE OR SERVICES. TO THE EXTENT PERMITTED UNDER YOUR LOCAL LAW, WE EXCLUDE ANY IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION FOR MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANLIKE EFFORT, TITLE, AND NON-INFRINGEMENT. YOU MAY HAVE CERTAIN RIGHTS UNDER YOUR LOCAL LAW. NOTHING IN THIS CONTRACT IS INTENDED TO AFFECT THOSE RIGHTS, IF THEY ARE APPLICABLE.

YOU ACKNOWLEDGE THAT COMPUTER AND TELECOMMUNICATIONS SYSTEMS ARE NOT FAULT-FREE AND OCCASIONAL PERIODS OF DOWNTIME OCCUR. WE DO NOT GUARANTEE THE MICROSOFT HOLOLENS STORE OR SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE OR THAT CONTENT LOSS WON'T OCCUR.

limitation of liability

If, despite the other sections of this Contract, Microsoft is found liable to you for any loss or damage that arises out of or is in any way connected with your use of the Microsoft HoloLens Store, the Services, or any product or service offered under or in relation to any of the foregoing, you agree that your exclusive remedy is, in respect of a product, as set out in the Microsoft HoloLens Enterprise Purchase Agreement, and in respect of a service, to recover from Microsoft or any affiliates, resellers, distributors, and vendors direct damages up to (1) an amount equal to the price or fee for one month of any service, subscription, or similar fee (not including the purchase price for hardware, software, support, or extended warranties), or (2) US $100.00 if there was no service, subscription or similar fee.

YOU AGREE THAT YOU CAN'T RECOVER ANY OTHER DAMAGES OR LOSSES, INCLUDING, WITHOUT LIMITATION, CONSEQUENTIAL, LOST PROFITS, SPECIAL, INDIRECT, INCIDENTAL, OR PUNITIVE. These limitations and exclusions apply even if you incur damages and even if we knew or should have known about the possibility of the damages. SOME STATES OR PROVINCES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. To the maximum extent permitted by law, these limitations and exclusions apply to anything related to the Microsoft HoloLens Store, the Services, this Contract, or any product or service offered under or in relation to any of the foregoing, including loss of content; any virus affecting your use of the Microsoft HoloLens Store or Services; delays or failures in starting or completing transmissions or transactions; claims for breach of contract, warranty, guarantee, or condition; consumer protection; deception; unfair competition; strict liability, negligence, misrepresentation, omission, trespass or other tort; violation of statute or regulation; or unjust enrichment.

NOTHING IN THIS SECTION SHALL LIMIT MICROSOFT'S STAtUTORY LIABILITY, LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM MICROSOFT'S NEGLIGENCE OR FOR FRAUD, FRAUDULENT MISSTATEMENT OR FRAUDULeNT MISREPRESENTATION.

GENERAL LEGAL TERMS

## **Interpreting the Contract**

If, in any jurisdiction, any provision of this Contract or its application to any party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective without invalidating the remaining provisions of this Contract and without affecting the validity or enforceability of such provisions in any other jurisdiction or without affecting its application to other parties or circumstances. Where possible, any such provision shall apply to the fullest extent permitted by law and be interpreted and applied to a lesser extent, where necessary to be valid. Other terms may apply if you purchase products or services from other Microsoft websites.

## **Assignment**

We may assign, transfer, or otherwise dispose of our rights and obligations under this Contract, in whole or in part, at any time without notice to you. You may not assign this Contract or transfer any rights under it.

## **No Third-Party Beneficiaries**

This Contract is solely for your and our benefit. It is not for the benefit of any other person, except for permitted successors and assigns.

## **Claims**

Claims must be filed within the period of time required by your local law. If your claim isn’t filed in time, it is permanently barred.

## **Notices and Communication**

For customer support inquiries, contact at msstoreis@microsoft.com or 866-425-4709. Microsoft has no obligation, however, to provide any customer support, and any customer support Microsoft elects to provide is provided “as is” and without warranty of any kind.

## **Governing Law**

THIS CONTRACT AND ALL CLAIMS, DISPUTES AND NON‐CONTRACTUAL OBLIGATIONS HEREUNDER, INCLUDING CLAIMS REGARDING BREACH OF CONTRACT, BREACH OF WARRANTY, CONSUMER PROTECTION LAWS, UNFAIR COMPETITION LAWS, AND IN TORT, WILL BE GOVERNED BY AND SUBJECT TO THE LAWS OF IRELAND. THE PARTIES (YOU AND MICROSOFT) HEREBY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF IRELAND OVER ANY DISPUTE OR NON‐CONTRACTUAL OBLIGATION ARISING OUT OF OR RELATING TO THIS CONTRACT.

## **Entire Agreement**

This Agreement (including any appendices) is the entire agreement between you and Microsoft regarding its subject matter. It replaces all prior or contemporaneous agreements, communications and representations between the you and Microsoft regarding its subject matter.

## **Other Terms**

In addition to any License Agreement applicable to software, other products and services available for purchase or trial on the Microsoft HoloLens Store may also be offered to you subject to separate end user license agreements, terms of use, terms of service, or other terms and conditions. If you purchase or use those products, you may be required to also accept those terms as a condition of purchase, installation, or use.

## **Conflicts**

If the terms in this Contract conflict with those in any Microsoft HoloLens Store Policies, the terms in this Contract will control.

NOTICES and reservation of rights

Notifications of claimed copyright infringement should be sent to Microsoft's designated agent. For details and contact information, see Notice and Procedure for Making Claims of Copyright Infringement at: http://www.microsoft.com/info/cpyrtInfrg.htm. INQUIRIES THAT ARE SUBMITTED BUT ARE NOT RELEVANT TO THE PROCEDURE WILL RECEIVE NO RESPONSE.

**Copyright and trademark notices**

All contents of the Website and Services are Copyright ©2015 Microsoft Corporation or its suppliers, One Microsoft Way, Redmond, WA 98052, USA. All rights reserved. We or our suppliers own the title, copyright, and other intellectual property rights in the Website, Services, and (except as otherwise provided above) their content. Microsoft and the names, logos, and icons of all Microsoft products and services may be either trademarks or registered trademarks of Microsoft in the United States, Canada, or other countries.

A list of Microsoft trademarks can be found at: http://www.microsoft.com/about/legal/en/us/IntellectualProperty/Trademarks/EN-US.aspx. The names of actual companies and products may be the trademarks of their respective owners. Any rights not expressly granted in this Contract are reserved.

**APPENDIX #1**

**Microsoft HoloLens Enterprise Purchase Agreement**

This Microsoft HoloLens Enterprise Purchase Agreement (“**Agreement**”), which includes any other documents expressly incorporated into this Agreement, is the entire agreement under which Microsoft agrees to sell you the Devices (defined below). If you are purchasing the Devices on behalf of an entity and its Affiliates (e.g., a company), you warrant that you have the authority to bind that entity and its Affiliates to this Agreement. Microsoft’s Order Quote Form is an offer to sell you the Microsoft HoloLens Devices on the terms of this Agreement. You accept this Agreement by submitting your purchase order in relation to Microsoft’s unmodified Order Quote Form, in which case this Agreement will apply to your purchase of the Devices.

1. **NOTICES, ADDITIONAL TERMS, AND USAGE RIGHTS AND RESTRICTIONS**
   1. **DEFINITIVE AGREEMENT**. You and Microsoft may have entered into a separate written agreement (“**Definitive Agreement**”) for the development, marketing, and commercial deployment of applications or services (e.g., consulting, training, or software development) for Microsoft HoloLens. If this Agreement and the Definitive Agreement conflict, then, solely with regard to your rights and responsibilities in your usage of the Devices, this Agreement will apply.
   2. **EULA**. Additional terms apply to Microsoft software and services installed on or offered for use in connection with the Devices (“**EULA**”). Nothing in this Agreement modifies or supersedes the EULA. By signing this Agreement, you acknowledge having already read, and are deemed to have accepted, the EULA, posted at https://www.microsoft.com/en-us/Useterms/OEM/Windows/10Mobile/UseTerms\_OEM\_Windows\_10Mobile\_English.htm. **If prior to your use of a Device, you do not want to agree to the EULA, you may return the Device unused to Microsoft for a full refund.** This is your only refund opportunity under this Agreement.
   3. **PRERELEASE SOFTWARE UPDATES**. The Devices, along with Microsoft’s automatic updates to the software and services provided with the Devices, may include **experimental and early prerelease software and firmware**. This means that **you may experience occasional crashes and data loss.** To recover, you may have to reinstall your applications, the operating system, or re-flash your Devices. In some instances, once updates are installed, you may not be able to go back to the prior version of the software or firmware**. By using these Devices, you agree to receive automatic updates from Microsoft and to frequently backup your data.**

Automatic software and services updates on your Devices may: (i) automatically collect and transmit data to Microsoft and its partners regarding usage on your Devices; (ii) not be stable or tested to the same level as commercially-released software; (iii) stop working, be updated, or removed from your device automatically without notice (for example, the Device software may update automatically through Windows Update or otherwise); and (iv) change before commercial release or may never be commercially released. Automatic updating cannot be turned off. Some features may be removed or may stop working after a predetermined time period or at the end of an evaluation cycle once enough data has been collected. Some third party applications installed on the device may also not work, may stop working, or may be automatically deleted by the Devices software updates).

* 1. **Data Usage Charges**. Your use of the Devices may incur Internet and data usage charges. You are solely responsible for all such charges.
  2. **No Resale**. You will not resell, rent, lease, or otherwise transfer ownership of the Devices to any other entity or person without Microsoft’s prior, express, written consent, in its sole discretion.
  3. **Use limitations.** Except as expressly provided in this Agreement or as permitted by law notwithstanding the terms of this Agreement, you will not, and will not authorize or instruct any Affiliate or third parties (or permit any of your or your Affiliates’ personnel) to:
     1. Reproduce, modify, create derivative works of, decompile, disassemble, tear-down, or reverse engineer any Devices;
     2. Sell, rent, or lease any Devices;
     3. Transfer ownership of any of the Devices or your rights under this Agreement or any EULA to any third party; or
     4. Create, incur, impose, assess, assume, or attach any lien, levy, claim, encumbrance, or security interest in or to the Devices (except for liens imposed in the ordinary course of your business that apply to all of your after-acquired goods and property).
  4. **Export Restrictions**. Microsoft is only making available for purchase the Devices in the Microsoft online store in certain countries, and the Devices will be certified to meet hardware compliance requirements for these countries only. Microsoft cannot effectively prevent you from after-purchase transport of Devices, but any such transport and use of Devices is done solely at your discretion, without approval by or consultation with Microsoft, and you are entirely responsible and liable for any legal compliance and export requirements associated with your use of the Devices.
  5. **Delivery.** Delivery of the Devices will be Ex Works Microsoft’s shipping point (Incoterms 2010), unless otherwise mutually-agreed in writing in the applicable Purchase Order.

1. **DEFINITIONS**
   1. “**Affiliate**” means any legal entity that a party owns, that owns a party, or that is under its common ownership. “Ownership” means, for purposes of this definition, direct or indirect control of more than a 50% interest in an entity.
   2. “**Devices**” mean the following:
      1. The unit(s) of hardware described on the Order Quote Form attached to this Agreement, including the Windows operating system software included by Microsoft on such hardware and any associated software and online services offered by Microsoft (or its third-party providers, if any), and provided to you by or on behalf of Microsoft (or its third-party providers, if any);
      2. Any third-party firmware and any third-party hardware included in or with such hardware;
      3. Any updates to such hardware, software, or services, as well as any updates to any third-party firmware or third-party hardware made available to you to use on such hardware; and
      4. Any documentation related to such hardware, software, services, third-party firmware, or third-party hardware.
   3. “**Fees**” means the device fees and other charges set forth on the attached Order Quote Form.
2. **RETURNS AND WARRANTY**
   1. **All Sales Final.** EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN **APPENDIX A**, ALL PURCHASES UNDER THIS AGREEMENT ARE FINAL, NON-CANCELABLE, AND NON-REFUNDABLE.
   2. **Product Warranty.** The Devices are subject to the limited warranty attached as **Appendix A** to this Agreement.
   3. **Returned Devices.** If you are returning any Devices to Microsoft pursuant to any applicable warranty provisions, you must, from and with regard to all to-be-returned Devices, back up and store any data you wish to keep, remove any personal or confidential information, remove any peripherals (e.g., memory cards and USB drives), and backup any software not pre-installed by Microsoft (or uninstall such software so that you can preserve any applicable installation count and reinstall on a replacement Device, if any) before you return the Devices to us in accordance with Microsoft’s terms and policies. Microsoft is not responsible for any loss or inconvenience suffered by you due to your failure to comply with the terms in this **Section 3.3** or any other Microsoft warranty or replacement policies, including without limitation any loss of your data or transfer of your data to a third party.
3. **FEEDBACK**

If you give feedback to Microsoft about the Devices, software, or services Microsoft or its Affiliates provide to you under or in relation to this Agreement, you give to Microsoft, without charge, the right to use, share, and commercialize your feedback for any and all purposes, without regard to intellectual property rights or otherwise.

1. **FEES AND PAYMENT**
   1. **Fees**. You agree to pay Microsoft all Fees set forth in the attached Order Quote Form.
   2. **Payment Terms**. Payments to Microsoft must be made NET 30 days from the date of, and in the currency and according to the terms stated on, Microsoft’s invoice. Microsoft may assess a finance charge on all past due amounts payable on demand and equal to the lesser of an annual rate of 1% per month and the highest amount allowed by law, applied from the first day the amount is past due until paid in full.
   3. **Taxes**. Fees owed are exclusive of any taxes. You will pay all value added, goods and services, sales, gross receipts, or other transaction taxes, fees, charges, or surcharges or other similar taxes, charges or fees, or any regulatory cost recovery and pother surcharges that are owed under this Agreement and which Microsoft is permitted to collect from you as customer. You will also be responsible for any applicable stamp taxes and for all other taxes that you are legally obligated to pay. Microsoft will be responsible for payment of all taxes based upon its net income, gross receipts taxes imposed in lieu of taxes on income or profits, or taxes on property ownership.
2. **DISCLAIMER OF WARRANTIES**

THE TERMS OF THIS SECTION APPLY TO THE MAXIMUM EXTENT PERMITTED BY MANDATORY APPLICABLE LAW. THIS SECTION IS NOT INTENDED AND DOES NOT OPERATE TO LIMIT OUR LIABILITY TO THE EXTENT WE MAY BE LIABLE TO YOU UNDER LAW (INCLUDING PURSUANT TO ANY STATUTORY RIGHTS WHICH APPLY TO YOU).

THE DEVICES AND ANY SOFTWARE OR SERVICES (INCLUDING UPDATES) PROVIDED WITH THE DEVICES ARE SOLD “AS IS.” EXCEPT AS PROVIDED IN **SECTION 3** AND **APPENDIX A**, MICROSOFT DOES NOT PROVIDE AND EXPRESSLY DISCLAIMS ANY AND ALL OTHER EXPRESS, IMPLIED, OR STATUTORY WARRANTIES. THIS INCLUDES DISCLAIMER OF WARRANTIES REGARDING NON-USE OF OPEN SOURCE SOFTWARE OR OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, LACK OF VIRUSES OR ERRORS, SATISFACTORY CONDITION, SAFETY, COMFORT, OR QUALITY. FURTHER, MICROSOFT ESPRESSLY DISCLAIMS ANY REPRESENTATION, WARRANTY, OR LIABILITY FOR ANY THIRD-PARTY SOFTWARE OR ASSETS IN THE MICROSOFT DELIVERABLES, INCLUDING BUT NOT LIMITED TO ANY SOFTWARE, TOOLS OR ASSETS BY UNITY TECHNOLOGY.

1. **EXCLUSION OF CERTAIN DAMAGES; LIMITATION ON LIABILITY.**

NEITHER MICROSOFT, NOR ITS AFFILIATES NOR CONTRACTORS, WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, OR DAMAGES FOR LOST PROFITS, REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION IN CONNECTION WITH THIS AGREEMENT OR YOUR PURCHASE OF OR ANYONE’S USE OF A DEVICE, EVEN IF MICROSOFT WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. THE MAXIMUM, AGGREGATE LIABILITY OF MICROSOFT OR ITS AFFILIATES FOR ALL CLAIMS ARISING UNDER OR RELATED TO THIS AGREEMENT IS LIMITED TO THE GREATER OF: (A) THE FEES THAT YOU PAID OR ARE PAYABLE BY YOU FOR DEVICES UNDER THIS AGREEMENT, OR (B) $1,000, IN EACH CASE INCREASED BY THE FEES AND COSTS MICROSOFT WOULD BE OBLIGATED TO PAY IN ACCORDANCE WITH **SECTION 7** OF **APPENDIX A**.

1. **GENERAL TERMS**
   1. **Relationship.** This Agreement does not create a partnership, joint venture, or agency relationship between the parties or grant a franchise.
   2. **Jurisdiction and governing law.** THIS CONTRACT AND ALL CLAIMS, DISPUTES AND NON‐CONTRACTUAL OBLIGATIONS HEREUNDER, INCLUDING CLAIMS REGARDING BREACH OF CONTRACT, BREACH OF WARRANTY, CONSUMER PROTECTION LAWS, UNFAIR COMPETITION LAWS, AND IN TORT, WILL BE GOVERNED BY AND SUBJECT TO THE LAWS OF IRELAND. THE PARTIES ﴾YOU AND MICROSOFT﴿ HEREBY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF IRELAND OVER ANY DISPUTE OR NON‐CONTRACTUAL OBLIGATION ARISING OUT OF OR RELATING TO THIS CONTRACT.
   3. **Assignment.** You may not assign this Agreement or your rights to the Devices. Without limiting the foregoing, and notwithstanding anything in the EULA to the contrary, your rights and obligations under the EULA are not assignable or delegable to anyone else, whether by operation of contract, law, or otherwise (including in connection with insolvency or bankruptcy or the merger or acquisition of a party), except with the express prior written consent of Microsoft.
   4. **Waiver.** A party’s delay or failure to exercise any right or remedy will not result in a waiver of that or any other right or remedy.
   5. **Severability.** If any court of competent jurisdiction determines that any provision of this Agreement is illegal, invalid, or unenforceable, the remaining provisions will remain in full force and effect.
   6. **Termination and Survival.** Either party may terminate this Agreement immediately on notice if the other party breaches this Agreement (and fails to cure the breach within 10 (ten) calendar days after notice. If Microsoft terminates this Agreement as a result of your breach, then: (i) Microsoft’s obligation to provide warranty service for Devices delivered under this Agreement will end as of the date of termination, (ii) Microsoft will not refund any portion of any payment made by you for physical Devices delivered under this Agreement, and (iii) you will remain liable for all outstanding payment obligations under this Agreement. **Sections 1, 2, and 4 through 8**, as well as **Section 5-9** of **Appendix A** and all limitations and exclusions in other sections, will survive termination of this Agreement.
   7. **Entire agreement.** This Agreement (including its appendices and the EULA) is the entire agreement between the parties regarding its subject matter. It replaces all prior agreements, communications, and representations between the parties regarding its subject matter. Except as otherwise expressly stated in this Agreement, it does not modify or supersede the terms of the EULA.
   8. **Amendment.** This Agreement can be changed only by an amendment signed by both parties.

**APPENDIX A**

**MICROSOFT HOLOLENS ENTERPRISE LIMITED WARRANTY**

**THE DEVICES ARE SUBJECT TO THE FOLLOWING ONE-YEAR LIMITED WARRANTY**

This warranty gives you specific legal rights. You may also have other rights that vary from Region to Region.

1. **Warranty -** For one year from the date you purchased your Device from Microsoft (“**Warranty Period**”), Microsoft warrants, only to you, that the Device will not malfunction due to a defect in materials or workmanship under Normal Use Conditions. Except where prohibited by applicable law, this warranty is non-transferrable and is limited to you. This is the only warranty Microsoft gives for your Device. Microsoft gives no other guarantee, warranty, or condition. No one else may give any guarantee, warranty, or condition on Microsoft’s behalf.

If your country's law gives you any implied warranty, including an implied warranty of merchantability or fitness for a particular purpose, its duration is limited to the Warranty Period. Some States or Provinces do not allow limitations on how long an implied warranty lasts, so this limitation may not apply to you.

**Other Definitions.** “**You**” means the original end-user of the Device. “**Normal Use Conditions**” means ordinary use under normal conditions according to the instruction manual.

1. **How to Request Warranty Service**

Follow the online process at https://support.microsoft.com

**Preparing your Device. Before sending your Device to Microsoft, you must:**

* 1. Obtain Microsoft’s permission to return the device and an “RMA” number, all in accordance with the online process described at the link immediately above;
  2. Back up your Device’s hard disk drive and keep a copy of any data (including photographs, documents, video, music, etc.) or programs you want to save. **Microsoft is not responsible for your data or programs and will erase them. If Microsoft replaces your Device, you will receive a different hard disk drive without any of your data or programs on it; if you have not backed up your data and programs before you sent the Device to Microsoft, they will be gone forever, and Microsoft will have no way of retrieving them for you;**
  3. Delete from the Device anything you consider confidential. **Microsoft is not responsible for your privacy if you leave confidential information on your Device;** and
  4. Remove from the Device (and do not send to Microsoft) any peripheral items that may be plugged into ports on the Device (e.g., memory cards, USB drives, etc.); **Microsoft is not responsible for your peripherals, and there is no guarantee that anything you send to Microsoft in connection with warranty service will be returned.**

1. **Microsoft’s Responsibility**

After you return Device to Microsoft, Microsoft will inspect it. If Microsoft determines that the Device malfunctioned due to a defect in materials or workmanship during the Warranty Period under Normal Use Conditions, Microsoft will (at its option) repair or replace it, or refund the purchase price to you. Repair may use new or refurbished parts. Replacement may be with a new or refurbished unit. After repair or replacement, your Device will be covered by this warranty for the longer of the remainder of your original Warranty Period, or 90 days after Microsoft ships it to you. Microsoft’s responsibility to repair or replace your Device, or to refund the purchase price, is your exclusive remedy. If your Device malfunctions after the Warranty Period expires, there is no warranty of any kind. After the Warranty Period expires, Microsoft may charge you a fee for its efforts to diagnose and service any problems. IF MICROSOFT REPLACES YOUR DEVICE, THE REPLACEMENT DEVICE WILL INCLUDE SOLELY MICROSOFT’S THEN-CURRENT SOFTWARE IMAGE. YOUR DATA, PROGRAMS, AND ANYTHING ELSE YOU MAY HAVE STORED ON THE RETURNED DEVICE WILL NOT BE REINSTALLED OR REIMAGED ONTO THE REPLACEMENT DEVICE OR OTHERWISE RETURNED TO YOU, AND MICROSOFT WILL NOT BE ABLE TO RETRIEVE ANYTHING FROM THE REPLACED DEVICE. YOU MUST BACKUP ALL DATA AND PROGRAMS, AND REMOVE ALL PERIPHERALS, BEFORE RETURNING YOUR DEVICE TO MICROSOFT.

1. **Warranty Exclusions**
   1. Microsoft is not responsible and this warranty does not apply if your Device is:
      1. damaged by use with products not sold or licensed by Microsoft;
      2. opened, modified, or tampered with (including, for example, any attempt to defeat or circumvent any Microsoft technical limitation or security mechanism, etc.), or its serial number is altered or removed;
      3. damaged by any external cause (including, for example, by being dropped, exposed to liquid, used with inadequate ventilation, etc., acts of God, power surge, misuse, abuse, negligence, accident, mishandling, misapplication, failure to follow instructions, or other causes unrelated to defects in the Device);
      4. scratched, dented, etc. or shows other cosmetic damage (and Microsoft determines that your issues with the Device relate to such scratches, dents, or other cosmetic damage); or
      5. repaired, modified, or altered by anyone other than Microsoft.
   2. Microsoft is not responsible and this warranty does not apply if your Device is used with an operating system other than the Windows operating system preinstalled in your Device, or any contemporaneous or later version of that operating system.
   3. This warranty does not apply to consumable parts that are designed to diminish over time, including normal wear and tear, unless the failure has occurred due to a defect in materials or workmanship.
   4. Microsoft does not guarantee that your use of the Device will be uninterrupted, timely, secure, or error-free, or that data loss will not occur.
2. **EXCLUSION OF CERTAIN DAMAGES**

MICROSOFT IS NOT RESPONSIBLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; ANY LOSS OF DATA, PRIVACY, CONFIDENTIALITY, OR PROFITS; OR ANY INABILITY TO USE YOUR DEVICE. THESE EXCLUSIONS APPLY EVEN IF MICROSOFT HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES, AND EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. Some States or Provinces do not allow the exclusion or limitation of incidental or consequential damages, so this limitation or exclusion may not apply to you.

1. **Additional Terms**

If you attempt to defeat or circumvent any Device technical limitation or security system, you may cause your Device to stop working permanently. You will also void your warranty, and make your Device ineligible for authorized repair, even for a fee.

1. **Contracting Party and Choice of Law**

THIS CONTRACT AND ALL CLAIMS, DISPUTES AND NON‐CONTRACTUAL OBLIGATIONS HEREUNDER, INCLUDING CLAIMS REGARDING BREACH OF CONTRACT, BREACH OF WARRANTY, CONSUMER PROTECTION LAWS, UNFAIR COMPETITION LAWS, AND IN TORT, WILL BE GOVERNED BY AND SUBJECT TO THE LAWS OF IRELAND. THE PARTIES (YOU AND MICROSOFT) HEREBY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF IRELAND OVER ANY DISPUTE OR NON‐CONTRACTUAL OBLIGATION ARISING OUT OF OR RELATING TO THIS CONTRACT.

1. All parts of this warranty apply to the maximum extent permitted by law or unless prohibited by law (in which case the remainder of this warranty will remain in effect). You may have greater rights existing under legislation in your State or Province.
2. This warranty is valid only in the United Kingdom, France and Germany for Devices which were purchased in the relevant Online Store for those countries.

**Microsoft’s address in the United Kingdom: Microsoft Ireland Operations Limited, The Atrium Building, Block B, Carmanhall Road, Sandyford Business Estate, Dublin 18**