



## SOFTWARE AS A SERVICE TERMS

This document contains the terms of use (the "Terms") for the **Esports Coaching Platform** (as defined below) and provides the contractual framework between Esports Coaching Academy ("ECA") and the Licensee (as defined below).

Please read these Terms carefully as they govern the Licensee's use of (which includes access to) ECA's proprietary Esports Coaching Platform.

Use of the Esports Coaching Platform may be subject to additional terms and conditions presented by ECA, which are hereby incorporated by this reference into these Terms.

By signing up for, accepting, or otherwise using, the Esports Coaching Platform, the Licensee agrees to these Terms. If the Licensee does not agree to these Terms, then the Licensee must not use the Esports Coaching Platform or access any content therein.

### 1 Definitions and interpretations

1.1 The following words shall have the meaning stipulated herein below:

<b>"Defect"</b>	means a defect, error or bug having a materially adverse effect on the appearance, operation or functionality of the Esports Coaching Platform, but excluding any defect, error or bug caused by or arising as a result of an act or omission of the Licensee, any failures of the internet or part of the internet or other mechanism designed or used to disable, erase, alter or harm the Esports Coaching Platform.
<b>"Device"</b>	means a single personal computer, workstation, terminal, handheld computer, personal digital assistant, or other electronic devices.
<b>"Derivative Work"</b>	means any modifications, enhancements or derivative works of the Esports Coaching Platform created as a feature, functionality or a reproduction of the Software.
<b>"Documentation"</b>	means any electronic or written aids, manuals, user instructions, technical literature, training material, demo material, specifications and all other related materials, which may be accessible by the Licensee in the Esports Coaching Platform.
<b>"ECA"</b>	means Esports Coaching Academy, reg. no. 611221-2070, domiciled at Hrisategi 43, 105 Reykjavik, Iceland.
<b>"Esports Coaching Platform"</b>	means the computer software developed and owned by ECA known as Esports Coaching Platform, run on the Server Software and made available to the Licensee as a service via the internet, including Documentation, updates, supplements, modification, addition and/or adaptation of the Esports Coaching Platform to enable or include certain features and/or functionality, under the terms and conditions of these Terms.



<b>“Intellectual Property”</b>	means all intellectual property rights wherever in the world, whether registered or unregistered, including any application or right of application of such rights, including codes, sequences, derivative works, copy rights, data-base rights, trade secrets, know-how, business names, trade names, trademarks, service marks, patents, petty patents, utility models, rights in design, organisation, structure, interfaces, any documentation, data and other related rights.
<b>“License”</b>	means the subscription license to use the Esports Coaching Platform according to these Terms, either an instructor License and/or student License.
<b>“Licensee”</b>	means the party which acquires a License for the Esports Coaching Platform by accepting these Terms these Terms.
<b>“License Fee”</b>	means the fee payable by the Licensee for the License as set out in the License Order Form.
<b>“License Order Form”</b>	means ECA’s order form setting out the License Fee and number of Licenses for the Esports Coaching Platform.
<b>“Personal Data”</b>	has the meaning given to it according to Regulation (EU) 2016/679 and Directive 95/46/EC as implemented in the Icelandic Personal Data Act, as amended from time to time.
<b>“Server Software”</b>	means the software that provides services or functionality on the Licensee’s server including Dotnet running as cloud service in the Microsoft Azure cloud platform.
<b>“Term”</b>	means the term of one year from the date of entering into these Terms Date.

The headings of these Terms are for convenience only and shall not constrain or affect its construction or interpretation in any way whatsoever. Words importing the singular shall include the plural, and vice versa. Sections and headings do not affect the interpretation of these Terms.

## 2 The Esports Coaching Platform

- 2.1 The License to use the Esports Coaching Platform shall be purchased from ECA and/or a Partner.
- 2.2 **Different License models.** The Esports Coaching Platform may be licensed based on the following:
  - the number and types of Licenses of the Licensee’s users and/or Devices that access the Esports Coaching Platform; and
  - the degree of access to Server Software functionality and the tasks enabled by the Licensee’s users and/or Devices.
- 2.3 The objective of the Esports Coaching Platform is to provide instructors with guidance on the fundamentals of coaching in general, the fundamentals of coaching esports and to enable instructors to construct engaging youth esports programs from scratch within the Esports Coaching Platform. Furthermore, to provide access to the Esports Coaching Platform to students engaging in esports programs.



- 2.4 The Esports Coaching Platform is made available through an account set up particularly for the Licensee. The Licensee's right to use the License for the Esports Coaching Platform is web based only pursuant to the terms of these Terms.
- 2.5 If the Licensee does not accept and/or comply with these Terms, the Licensee is prohibited from using the Esports Coaching Platform.

### 3 The Licensee rights and restrictions

- 3.1 Subject to the payment of the License Fee and terms of these Terms, the Licensee is granted a limited, non-transferable, non-exclusive, terminable license to access and use the Esports Coaching Platform via any standard web browser during the Term and, subject to the type of License, to permit Licensee's employees or students, to access and use the Esports Coaching Platform hosted on a server controlled by the Licensee for the Licensee's legitimate business purposes. Licensee remains at all times responsible for use of the Esports Coaching Platform, including but not limited to any liability to and/or claims that may arise from such use, by all parties which have access to the Esports Coaching Platform through the Licensee's License, such as students, and employees.
- 3.2 The Licensee is prohibited to publish, lend, sell or distribute the Esports Coaching Platform. The Licensee shall only access and use the License for the Esports Coaching Platform for its internal business use. The Licensee shall not give any party his account logins or enable access to the Licensee's account and use the Esports Coaching Platform under the Licensee's name and/or sublicense his access to the Esports Coaching Platform unless permitted according to the terms of these Terms.
- 3.3 The Licensee is prohibited to use the Esports Coaching Platform in such way that causes or may cause damage to the Esports Coaching Platform or impairment of the availability or accessibility of the Esports Coaching Platform or any of the areas of or services on the Esports Coaching Platform.
- 3.4 The Licensee is prohibited to use the Esports Coaching Platform in any way that is unlawful, illegal, fraudulent or harmful or in connection with any unlawful, illegal, fraudulent unethical, immoral, inappropriate or harmful activity. The Licensee accepts to use the Esports Coaching Platform only in ways properly authorized.

### 4 Additional licensing requirements and/or use rights

- 4.1 **Multiplexing.** Hardware, software or any other manual mechanism the Licensee uses to: (i) pool connections; (ii) reroute information; (iii) reduce the number of Devices or users that directly or indirectly access or use the Esports Coaching Platform; or (iv) reduce the number of Devices or users the Esports Coaching Platform directly manages, (referred to as "multiplexing" or "pooling"), shall not reduce the number of Licenses the Licensee is required to subscribe for.
- 4.2 **Third party hosting.** The Licensee may have a third party host the Esports Coaching Platform on the Licensee's behalf solely for access by the Licensee. The Licensee shall not permit any third-party hosting vendor to allow access to the Esports Coaching Platform by unauthorised or unaffiliated third parties.
- 4.3 **Third party notices.** The Esports Coaching Platform may include third party code that ECA, not the third party, licenses to the Licensee under these Terms. Notices, if any, for the third-party code are included for the Licensee's information only.
- 4.4 Modification disclaimer.
  - 4.4.1 The Licensee may modify Esports Coaching Platform by building Licensee's own training material on the Esports Coaching Platform for non-commercial purposes and solely to the extent necessary for its internal business purposes in providing training. All such modification



is Derivative Work, the Intellectual Property of ECA and may only be used with the Esports Coaching Platform.

- 4.4.2 The Licensee accepts and agrees that ECA shall not be responsible for anything resulting from modifications made by the Licensee, a Partner, or any other third party acting on the Licensee's behalf, or anything caused by Licensee's or third party hardware or software.
  - 4.4.3 ECA shall not be obligated to provide any form of support for any modifications made by the Licensee, a Partner or any other third party. ECA disclaims any representation, endorsement, guarantee or assurance of the suitability of the Esports Coaching Platform for the Licensee's business purposes, the suitability of the Partner or any other third party to create modifications or to implement the modifications or the Esports Coaching Platform, or that any modification created, implemented, supported and/or serviced by, for or on behalf of the Licensee or any third party will meet the Licensee's business needs or operate successfully with the Esports Coaching Platform. No damage resulting from the use of the modifications can be recovered from ECA.
  - 4.4.4 ECA may use third party components as part of the development of its Esports Coaching Platform, which may be subject to separate third party license terms that are independent from these Terms. In the event the Licensee modifies or attempts to modify such third party components, the Licensee shall remain liable to such third party for, and indemnify ECA from, any loss and/or damage arising from such modification or attempted modification.
  - 4.4.5 ECA and its Partners are independent entities and ECA shall not be liable for nor be bound by any acts or omissions of any Partners.
- 4.5 **Access and use of the Esports Coaching Platform.** The Licensee may install and use permitted copies of the Esports Coaching Platform, based on the Licensee's types of Licenses, on servers and other Devices that are under the day-to-day management and control of third parties. The Licensee is and shall remain responsible for all of the obligations under these Terms regardless of the physical location of the hardware upon which the Esports Coaching Platform is used.

## 5 Maintenance and Support

- 5.1 ECA does not make any representation, endorsement, guaranty, or assurance of the suitability of the Esports Coaching Platform for the Licensee or the Licensee's intended use.
- 5.2 ECA will maintain the Esports Coaching Platform and provide patches and fixes to the Esports Coaching Platform at no additional cost.

## 6 License Fee and payments

- 6.1 The Licensee shall pay to ECA a License Fee for using the Esports Coaching Platform as set out in the License Order Form. The License Fee is payable and due at the date set out in the License Order Form.
- 6.2 The amount of the License Fee for the Esports Coaching Platform does not include any applicable taxes including but not limited to value added tax (VAT) which will be added on top of the License Fee as applicable. The Licensee shall be responsible for payment of any tax owed by the Licensee due to entering into these Terms.

## 7 Confidentiality, data protection and privacy

- 7.1 The Licensee acknowledges that the Esports Coaching Platform, the Documentation, the functions, reports, test results and/or benchmarks, the Intellectual Property and all other related information are confidential and part of the trade secrets of ECA ("**Confidential Information**"). The Licensee



guarantees the confidentiality of the Confidential Information and shall make sure that no unauthorised party can access the Confidential Information.

- 7.2 The Licensee accepts and agrees to protect the Confidential Information disclosed to it to the same extent and in the same manner that it would protect its own Confidential Information. In no event shall efforts fall below a level of reasonable and due care, which shall include limiting disclosure to only those employees who have a need to know for the purposes of these Terms.
- 7.3 ECA will protect the Licensee's Personal Data in the Esports Coaching Platform against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.
- 7.4 The Licensee accepts and agrees that anonymized usage statistics received by ECA on the basis of the Licensee's use of the Esports Coaching Platform, may be exported and used by ECA for the purpose of further development of the Esports Coaching Platform, including but not limited to, further project development, creation of campaigns and presentations.
- 7.5 ECA respects the privacy of the Licensee and has in place a privacy policy to demonstrate its commitment to protecting privacy and Personal Data. The privacy policy is accessible on the web page of ECA. ECA only discloses Personal Data within the Licensee's group or if required by law.

## 8 Intellectual Property

- 8.1 The Esports Coaching Platform is licensed, not sold. ECA owns and retains all right, title, interest and ownership to the Esports Coaching Platform including without any limitation all Intellectual Property rights in and to the Esports Coaching Platform and all Derivative Work of the Esports Coaching Platform. Accordingly, no title or ownership of the Esports Coaching Platform is transferred to the Licensee. The Licensee's ability to access the Server Software does not grant the Licensee any right to access and/or use any ECA Product and/or Esports Coaching Platform premised in such Server Software, unless otherwise permitted in writing by ECA.
- 8.2 Rights to access and use the Esports Coaching Platform does not give the Licensee any right to implement patents, assert any rights under any inventions, discoveries, concepts or ideas or improvements thereof, or establish any rights relating to the Esports Coaching Platform including any Intellectual Property in and relating to the Esports Coaching Platform.
- 8.3 The Licensee shall not attempt to directly or indirectly, or allow any third party to attempt, to copy, modify, duplicate, mirror, republish, reverse compile, disassemble, reverse engineer, download, transmit, or distribute all or any portion of the Esports Coaching Platform, including but not limited to the object code and the source code, in any form or media or by any means. The Licensee shall not use the Esports Coaching Platform for any commercial purpose or for any public display, whether commercial or non-commercial, without the prior written approval of ECA or as expressly permitted according to these Terms.

## 9 Warranties

- 9.1 ECA warrants and represents to the Licensee that the Esports Coaching Platform will perform substantially as described on ECA's website. ECA makes no representation regarding the Esports Coaching Platform other than as stated in these Terms.
- 9.2 The Licensee has relied on its own skill and judgment or that of its advisers in deciding to enter into these Terms. The Licensee acknowledges and declares that ECA gives no warranty or representation that the Esports Coaching Platform will be wholly free from Defects.
- 9.3 ECA warrants that it has in place appropriate security measures against unlawful or unauthorised processing of Personal Data and against loss or corruption of Personal Data processed by ECA.



- 9.4 This warranty does not cover problems arising from the Licensee's acts or omissions, the acts or omissions of others, including but not limited to, modifications or implementations made by the Licensee or any third party acting on the Licensee's behalf, or events beyond ECA's reasonable control.
- 9.5 ECA warrants to use commercially reasonable efforts to make the Esports Coaching Platform available on a 24x7 basis (twenty-four hours per day, seven days per week) during the Term, except for: (i) scheduled ongoing maintenance as required and scheduled in advance by ECA, or (ii) for any unforeseen cause beyond ECA's reasonable control, including but not limited to internet service ECA or communications network failures, denial of service attacks or similar attacks, or any force majeure events set forth in these Terms. ECA will monitor performance indicators on the systems and network infrastructure (its own and that of third party suppliers) in order to gauge the overall performance of its hosting services, and will take reasonable steps to address systems and network infrastructure as required to maintain satisfactory performance of the Esports Coaching Platform. ECA further reserves the right to monitor and reasonably restrict the Licensee's ability to use the Esports Coaching Platform if the Licensee is using excessive computing resources which are impacting the performance of the Esports Coaching Platform for other subscribers. ECA warrants to use commercially reasonable efforts to notify the Licensee in cases where it restricts such use and use good faith efforts to determine an appropriate alternative or work-around solution.
- 9.6 The limited warranty provided under this section 9 is the only warranty given by ECA. ECA does not provide any other express warranties, guarantees or conditions. ECA disclaims any implied warranties of merchantability, fitness for a particular purpose and non-infringement to the extent permitted by law.

## 10 Liability and exclusion of damages

- 10.1 All use of the Esports Coaching Platform shall be in accordance with the provisions of these Terms. The Licensee shall be responsible for all use of the Esports Coaching Platform, including but not limited to the use of the Licensee's employees. If any provisions of these Terms are breached, the Licensee shall be solely responsible for such breach towards ECA and as such be responsible for payment of all direct and indirect damages resulting from unauthorised access or use of the Esports Coaching Platform.
- 10.2 The Licensee can recover from ECA only direct damages up to the actual amount of License Fees the Licensee paid in the preceding twelve (12) months from the occurrence of an incident resulting in a claim for damages, except for claims covered by section 11 of these Terms.
- 10.3 No damage resulting from the use of the Esports Coaching Platform can be recovered from ECA, including consequential, lost profits, special, indirect, punitive or incidental damages arising out of or in connection with these Terms. This limitation applies to: (i) anything related to: (a) the Esports Coaching Platform, (b) content (including code) on any third party internet sites, and/or (c) third party programs; (ii) claims for breach of these Terms, breach of warranty, loss of privacy, loss of opportunity, cost of recovery, loss arising out of use of the Esports Coaching Platform or damage arising from the Licensee participating in hosting or use of third party products or hardware, guarantee or condition, strict liability, negligence, loss of data, damage to records or data, loss of goodwill, loss as a consequence of a business interruption, loss arising from any infringement claim, and/or any other tort to the extent permitted by applicable law; (iii) the use of the Esports Coaching Platform or the Documentation or the Licensee importation of the Esports Coaching Platform however caused and on any theory of liability; and (iv) if ECA should have known about the possibility of the damages.
- 10.4 The exclusions and limitations in section 10 do not apply with respect to damages arising from fraud, gross negligence or wilful misconduct.





## 11 Defence of infringement

- 11.1 In case the Licensee receives any third party claims that the Esports Coaching Platform infringes third party rights, the Licensee shall notify ECA, in writing, of any claim or proceeding, actual or threatened, within five (5) days after the Licensee learns of such claim or proceeding and give ECA sole control over its defence and/or settlement. All such claims and proceedings shall be deemed ECA's Confidential Information. The Licensee shall not at any time admit to liability or otherwise attempt to settle or compromise such claim or action except upon the express instructions of ECA.
- 11.2 ECA will at its cost defend Licensee from and against actions, proceedings, claims and demands that arise out of or relate to a third party alleging that the Esports Coaching Platform infringes any third party intellectual property rights and will indemnify Licensee for established and proven damages, reasonable costs and expenses, including attorneys' fees. However, ECA assumes no liability for any infringement claim to the extent that the claim is based on (i) the Licensee's continued use of the Esports Coaching Platform after ECA notifying the Licensee to discontinue use of the Esports Coaching Platform; (ii) the Licensee combining the Esports Coaching Platform with a non-ECA product, program, hardware, data, business process, or other materials, including third party add-ons or programs; (iii) the Licensee altering or modifying the Esports Coaching Platform, including any Derivative Work created by the Licensee and any modifications by third parties; (v) the Licensee's distribution of the Esports Coaching Platform to, or for the benefit of, any third party; (vi) the Licensee's use of ECA's trademark(s) without express written consent to do so or any other trademark infringement of the Licensee involving any trademark not applied by ECA; or (vii) for any trade secret claim, the Licensee acquiring a trade secret: (a) through improper means; (b) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (c) from a person (other than ECA) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the trade secret. The Licensee shall fully indemnify ECA for any losses and/or damages that arise from these actions of the Licensee.
- 11.3 If ECA receives information concerning an infringement claim related to the Esports Coaching Platform, ECA may choose, at its expense, in order to make the Esports Coaching Platform non-infringing, to do one of the following: (i) procure for the Licensee the right to continue to run the Esports Coaching Platform; (ii) modify the Esports Coaching Platform; or (iii) replace the Esports Coaching Platform with a functional equivalent. In case of an infringement claim the Licensee shall stop running the infringing version of the Esports Coaching Platform immediately. If, as a result of an infringement claim, the Licensee's use of the Esports Coaching Platform is enjoined by a court of competent jurisdiction, ECA will, at its option, procure the right to continue its use, replace it with a functional equivalent or modify it to make it non-infringing.
- 11.4 Entire liability. The provisions in this section 11 state the exclusive remedy of the Licensee with respect to any infringement claims.

## 12 Term and termination

- 12.1 The term of these Terms is for twelve months from the date of entering into these Terms. These Terms shall automatically renew upon receipt of payment for the License Fee unless the Licensee provides a written notice of non-renewal at least 15 days prior to the end of the current term.
- 12.2 A License can be terminated by ECA:
- 12.2.1 with a thirty (30) days' prior written notice if the Licensee does not pay overdue License Fees within fifteen (15) days' of receipt of such written notice requesting for payment of such overdue License Fees; and/or
  - 12.2.2 without prior notice if the Licensee breaches duties, obligations or responsibilities of these Terms and without incurring any direct or indirect liability.



- 12.3 Upon termination of these Terms, the Licensee's account will be closed, the Licensee shall not have access to the Esports Coaching Platform and applicable data therein, including any Intellectual Property of ECA.
- 12.4 **Survival.** Sections of these Terms that, by their terms, require performance after the termination or expiration of these Terms will survive as permitted by local law. These sections include section 1 (Definition), section 7 (Confidentiality, data protection and privacy), section 8 (Intellectual property), section 9 (Warranties), section 10 (Liability and exclusion of damages) and section 13 (Miscellaneous).

### 13 Miscellaneous

- 13.1 These Terms and the Licensee use of the Esports Coaching Platform shall not establish any relationship of partnership, joint venture, employment, franchise or agency between the parties.
- 13.2 **Assignment.** Neither party may assign or transfer its rights or obligations under these Terms without the other party's prior written consent. Any prohibited assignment or transfer is void.
- 13.3 **Entire agreement.** The terms and conditions of these Terms and the License Order Form, form the entire agreement between ECA and the Licensee. It supersedes any prior or contemporaneous communications, and any prior agreement between the Parties regarding its subject matter. These Terms will not be modified except by a subsequent written agreement signed by both Parties.
- 13.4 **Waiver.** No waiver of any breach of these Terms shall be a waiver of any other breach, and no waiver will be effective unless made in writing and signed by an authorized representative of the waiving Party.
- 13.5 **Severability.** If a court holds any provision of these Terms to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect and the Parties will amend these Terms to give effect to the stricken section to the maximum extent possible.
- 13.6 **Governing law.** Regardless of where the Licensee acquires the License for the Esports Coaching Platform, Icelandic law govern the interpretation of these Terms, regardless of conflict of laws principles.
- 13.7 **Jurisdiction.** In case of dispute and/or claim that arise out of or in connection with these Terms such disputes or claims shall be resolved by arbitration under the rules of the Nordic Arbitration Centre of the Iceland Chamber of Commerce. However, the Parties may also at their own discretionary choice, refer the dispute to the District Court of Reykjavík, Iceland. Notwithstanding the above ECA shall have the exclusive right to direct any dispute or claim that arise out of or in connection with these Terms to the courts where the Licensee is domiciled.