

Waiver of Liability, Assumption of Risk, and Indemnification Agreement

Introduction

This Waiver of Liability, Assumption of Risk, and Indemnification Agreement (“Agreement”) is entered into by and between the user of any Product sold by Clear Above LLC or related accessories (“Product”) (“I” or “User”) and Clear Above LLC (“Company”). By purchasing and/or using the Product, the User acknowledges that they have read, understood, and agreed to the terms of this Agreement.

Important Notice: This Agreement is legally binding. If the User does not agree to its terms, the User must not use the Product and must return it to the original place of purchase.

Version and Effective Date:

This Agreement was last updated on **March 3rd, 2025** (Version 1.0). Future updates will be indicated with a revised version number and effective date.

Acknowledgment of Risks

The **Product is not a safety device**. It is intended solely as an **aid to the User** and does not remove or replace any part of the User’s responsibility to:

- Maintain a safe distance from other aircraft and objects,
- Avoid collisions, and
- Ensure the safety of the balloon and all occupants.

The User acknowledges and understands that the use of the Product involves inherent risks, including but not limited to:

Product-Related Risks:

- Fire hazards may arise during normal operation, improper battery charging, misuse, water exposure, battery defects, impact damage, aging, or abuse. These risks could lead to fire, personal injury, death, and/or property damage.
- Electrical malfunctions may occur due to worn insulation, faulty components, or improper maintenance.
- Operational failures or malfunctions may result from technical issues, improper installation, damage, wear, or misuse.

Hot Air Balloon Risks:

- Collisions involving the User’s hot air balloon and other balloons, objects, or structures, regardless of the Product’s operational status.
- Structural impacts on the User’s hot air balloon due to the Product’s placement, misuse, improper installation, or lack of maintenance.
- Damage to the User’s hot air balloon caused by rubbing, cutting, snagging, or fire.
- Detachment or falling of the Product, leading to injury or property damage.

Interference Risks:

- Potential signal interference with aviation instruments, emergency communication systems, or other wireless communications.

Legal Risks:

- Depending on local laws, output power, or frequency selection, a license may be required to operate the Product legally. The User is solely responsible for ensuring compliance with local laws regarding wireless communication and aviation regulations. Refer to the provided instructions for guidance.

General Risks:

- Injuries, fatalities, or property damage directly or indirectly resulting from the Product's use or misuse.
- Fire-related damage, injury, or death caused by battery or electrical components during charging, storage, or operation.
- Other reasonably foreseeable risks directly related to the Product's use.

These risks may arise from the User's actions, the actions of others, environmental factors, or conditions beyond the Company's control.

The User confirms that they have read and understand all instructions available at:

www.clearabovecamera.com/instructions.

If the User cannot locate the instructions or has any questions or concerns, they will contact the Company at clearabovecamera@gmail.com for assistance.

Product Safety, Compliance & Legal Responsibility

The User acknowledges that additional safety and operational documentation is available, including but not limited to:

- The **Material Safety Data Sheet (MSDS)** for the battery.
- **User manuals** for key system components.

These documents contain **critical safety, handling, and regulatory compliance information**. The User agrees to review these materials before using the Product and to follow all safety guidelines provided.

The User further agrees to:

- **Operate the Product in compliance with all applicable laws, regulations, and licensing requirements**, including those set by the **Federal Communications Commission (FCC)** and **local aviation authorities**.
- **The Product is sold under FCC Part 97 regulations and may only be legally operated by individuals holding a valid amateur (ham) radio license**. Operation of this device **without a valid amateur (ham) radio license is a direct violation of FCC Part 97 regulations and may result in legal penalties, including fines or other enforcement actions**. The User assumes full responsibility for obtaining the necessary licensing before operation.
- **Properly install, maintain, and operate** the Product in accordance with the Company's instructions.
- **Display the required FCC call sign** during operation and ensure the Product is used lawfully.

- **Inspect the Product and all batteries regularly** for wear, damage, or defects, and replace components as needed.

If the User **cannot access** the required documents or has questions about the product's legality or safety, they must contact **clearabovecamera@gmail.com** for assistance.

By using the Product, the User **accepts full responsibility** for understanding and complying with the safety and operational guidelines outlined in these documents. **Failure to do so may increase the risk of injury, property damage, or legal non-compliance, for which the User assumes full liability.** The User also accepts full responsibility for **any legal consequences**, including penalties, fines, or liabilities, arising from operating the Product without proper authorization or compliance with applicable laws.

For additional legal guidance, the User should refer to the latest instructions available at:

www.clearabovecamera.com/instructions.

Assumption of Responsibility & Release of Liability

The User **assumes full responsibility** for any damage, injury, or harmful consequences resulting from:

- Failure to properly install, maintain, or operate the Product in accordance with the instructions.
- Failure to review and follow safety guidelines at www.clearabovecamera.com/instructions.
- Non-compliance with applicable legal, regulatory, or licensing requirements.
- Unauthorized modifications, alterations, or improper handling of the Product.

To the **fullest extent permitted by law**, the User **releases, discharges, and holds harmless** Clear Above LLC, including its owners, employees, agents, and affiliates, from any claims, demands, or causes of action **arising from the User's use, misuse, or failure to comply with this Agreement**, except where such limitation of liability is expressly prohibited by applicable law.

This release applies to, but is not limited to, **any injuries, fatalities, property damage, or losses** resulting from the risks outlined in the **Acknowledgment of Risks** section of this Agreement.

The Company **shall not be liable** for any damages, injuries, or losses caused by the User's **failure to follow instructions, improper use, or legal non-compliance**. The User agrees to **adhere to all safety, maintenance, and operational guidelines** provided by the Company.

Retention of Waiver Notice

The waiver notice slip containing the QR code and link to the full Waiver of Liability, Assumption of Risk, and Indemnification Agreement and Instructions (“Waiver Notice Slip”) is a critical component of the Product. It must remain securely attached to the Product case at all times. By purchasing the Product, the User agrees to the following:

1. Original Owner Responsibility:

- As the original owner of the Product, the User accepts full responsibility for ensuring that the Waiver Notice Slip remains intact and legible during their ownership. If the Waiver Notice Slip becomes detached, damaged, or otherwise unreadable, the User must immediately contact Clear Above LLC at clearabovecamera@gmail.com to obtain a replacement.

2. Transfer to Subsequent Owners:

- If the original User sells, gifts, or otherwise transfers ownership of the Product, the original User agrees to provide the Waiver Notice Slip along with the Product to the new owner. Before completing the transfer, the original User must obtain the new User’s signature on this acknowledgment, confirming that they have read, understood, and agreed to all terms herein. This ensures the new owner is fully informed of and bound by all terms of this waiver.

Transferee (print name here): _____

By (sign here): _____

Title (N/A if individual): _____

Date: _____

3. Subsequent Owner Acceptance:

- By using the Product included with the Waiver Notice Slip, all subsequent Users acknowledge and agree to the terms outlined in the most recent version of the Waiver of Liability, Assumption of Risk, and Indemnification Agreement. The waiver applies to each new User as if they were the original User. If they do not agree, then they must not use the Product and return it to the Company.

4. Notice of Legal Accountability:

- This notice is intended to comply with applicable Michigan laws regarding product liability and consumer protection. Any disputes regarding the liability or enforceability of this waiver shall be governed by Michigan law, and the original owner may retain liability until the Waiver Notice Slip is replaced or transferred.
- The original User is responsible for providing the Waiver Notice Slip to any subsequent owner. Clear Above LLC is not responsible for any claims, damages, or injuries arising from the use of the Product by a new User, regardless of whether the Waiver Notice Slip was provided to a new User during a transfer of ownership.

If the User has questions about replacing or transferring the Waiver Notice Slip, please contact Clear Above LLC at clearabovecamera@gmail.com.

General Applicability Across Products

This Agreement applies to all Products purchased from Clear Above LLC, including any current or future Products sold or distributed by the Company. By purchasing and using any Product from Clear Above LLC, the User agrees to be bound by the terms and conditions outlined in this Agreement.

Waiver of Legal Claims

The User waives their right to sue or seek compensation for damages resulting from the use, misuse, or malfunction of the Product, except where prohibited by law or where gross negligence or willful misconduct by the Company is proven. The User does not waive the rights guaranteed to them by Michigan consumer protection laws.

Indemnification

The User agrees to indemnify and hold harmless Clear Above LLC, its owners, employees, agents, and affiliates from any claims, liabilities, damages, losses, legal fees, or judgments arising from:

- Failure to follow the Product's instructions, safety guidelines, or operational requirements as provided by Clear Above LLC here: www.clearabovecamera.com/instructions.
- The User's failure to comply with laws, regulations, or licensing requirements.
- Injuries, fatalities, or property damage caused to third parties resulting from the use or misuse of the Product.
- Interference caused by the Product with other devices or systems.

This indemnification obligation shall survive the termination of this Agreement and the User's use of the Product. This indemnification does not apply to claims arising solely from the Company's **gross negligence or willful misconduct**.

Dispute Resolution and Binding Arbitration

Any disputes arising out of or relating to this Agreement, including its formation, interpretation, or alleged breach, shall be resolved exclusively through binding arbitration administered by the American Arbitration Association (AAA) under its Consumer Arbitration Rules. Arbitration shall take place in Grand Rapids, Michigan, unless otherwise agreed by the parties.

Waiver of Court and Class Action Rights

By agreeing to arbitration, the User waives their right to a court trial and to participate in any class action, collective, or representative proceeding. All claims must be arbitrated on an individual basis.

Costs and Fees

Each party shall bear its own legal fees. Arbitration costs will be allocated in accordance with the American Arbitration Association (AAA) Consumer Arbitration Rules, unless the arbitrator determines otherwise.

Small Claims Exception

This arbitration agreement does not prevent either party from pursuing claims in small claims court for matters within its jurisdiction.

Errors and Omissions Disclaimer

Clear Above LLC is not responsible for any errors, omissions, or changes in the Product or its associated instructions over time. If any concerns arise, please contact clearabovcamera@gmail.com.

Applicability Across Jurisdictions

This Agreement complies with applicable laws and shall be interpreted to achieve its intended purpose within legal limits. The User acknowledges that the enforceability of liability waivers may vary by jurisdiction. If any provision is found invalid or unenforceable under local law, the remaining provisions shall remain in full force and effect.

This Agreement is **governed by the laws of the State of Michigan**, without regard to conflict of law principles. Any disputes arising from or related to this Agreement shall be **resolved exclusively through binding arbitration**, as outlined in this Agreement, **except where prohibited by applicable law**.

Acknowledgment of Changes & Responsibility to Review Updates

By using any Product from Clear Above LLC, the User **agrees to be bound** by the most recent version of this Agreement, including future updates. The User understands that it is their **sole responsibility** to review the latest version available at www.clearabovcamera.com/instructions before each use of the Product. The Company will make reasonable efforts to notify users of material changes to these terms via email or product notifications. Continued use of the Product after an update constitutes acceptance of the revised terms.

Non-Acceptance of Terms

If the User does not agree to any changes in this Waiver of Liability, Assumption of Risk, and Indemnification Agreement, they must **discontinue use of the Product** and return it to the place of purchase.

Acceptance Through Use

By using the Product, the User acknowledges and agrees to the terms outlined in this Waiver of Liability, Assumption of Risk, and Indemnification Agreement. The User's use of the Product signifies that they:

- **Understand and Accept Risks:** The User understands the inherent risks associated with the Product as described in this Agreement and voluntarily assumes those risks.
- **Release the Company from Liability:** The User releases Clear Above LLC, its owners, employees, agents, and affiliates from any claims, demands, or causes of action, except those arising from gross negligence or willful misconduct.
- **Agree to Terms Without Signature:** By using the Product, the User **expressly acknowledges and agrees** to be bound by all terms, conditions, and disclaimers stated in this Agreement, **whether or not they have signed it**.

If the User does not agree to these terms, they **are not authorized** to use this Product and **must return it** to the original place of purchase.