

Software End User License Agreement

IMPORTANT – READ THESE TERMS AND CONDITIONS OF THIS END USER LICENSE AGREEMENT (AS AMENDED FROM TIME TO TIME, THESE “TERMS”) CAREFULLY BEFORE SELECTING THE “I ACCEPT” BUTTON OR DOWNLOADING, INSTALLING, ACCESSING OR OTHERWISE COPYING OR USING ALL OR ANY PORTION OF THE ESCHER INNOVATIONS SOFTWARE. BY SELECTING THE “I ACCEPT” BUTTON OR DOWNLOADING, INSTALLING, ACCESSING OR OTHERWISE COPYING OR USING ALL OR ANY PORTION OF THE ESCHER INNOVATIONS SOFTWARE, YOU REPRESENT AND WARRANT THAT YOU ARE 18 YEARS OR OLDER AND YOU ACKNOWLEDGE THAT YOU HAVE READ THIS END USER LICENSE AGREEMENT, THAT YOU UNDERSTAND IT, AND THAT YOU AGREE TO BE BOUND BY THE TERMS. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS, DO NOT INSTALL OR USE THE ESCHER INNOVATIONS SOFTWARE; AND DELETE OR DISABLE ANY DOWNLOADED COPY OF THE ESCHER INNOVATIONS SOFTWARE IN YOUR POSSESSION OR CONTROL.

IMPORTANT: BELOW ARE TERMS RELATED TO OUR ABILITY TO UPDATE OR MODIFY THESE TERMS.

EXCEPT TO THE EXTENT THAT ESCHER INNOVATIONS (DEFINED BELOW) IS EXPRESSLY PRECLUDED BY APPLICABLE LAW, ESCHER INNOVATIONS MAY AMEND, CHANGE, ADD, REMOVE OR OTHERWISE MODIFY (“MODIFY”, AND EACH SUCH MODIFICATION, A “MODIFICATION”) THESE TERMS AT ANY TIME, AT ITS SOLE DISCRETION, AFTER PROVIDING REASONABLE NOTICE OF SUCH MODIFICATION, INCLUDING WITHOUT LIMITATION (I) BY POSTING REVISED TERMS ON ITS WEBSITE AT THE FOLLOWING URL: www.escher-innovations.com/legal, (II) BY SENDING NOTICE TO THE EMAIL ADDRESS REGISTERED WITH ESCHER INNOVATIONS FOR YOUR ACCOUNT AS OF THE TIME THAT ESCHER INNOVATIONS PROVIDES SUCH NOTIFICATION, OR (III) BY PROVIDING NOTICE WITHIN ONLINE SERVICES OR BY MESSAGING LINKED TO THE ACCOUNT OF THE ESCHER INNOVATIONS SOFTWARE. AFTER ESCHER INNOVATIONS HAS PROVIDED SUCH NOTICE, ESCHER INNOVATIONS MAY ALSO SEEK YOUR AFFIRMATIVE CONSENT TO BE BOUND BY SUCH MODIFIED TERMS. IF YOU AFFIRMATIVELY CONSENT TO BE BOUND BY SUCH MODIFIED TERMS, THEN SUCH UPDATED TERMS WILL BE EFFECTIVELY IMMEDIATELY UPON YOUR CONSENT. IF YOU DO NOT GIVE OR ARE NOT ASKED TO GIVE AFFIRMATIVE CONSENT TO ANY MODIFIED TERMS BUT CONTINUE TO USE THE SOFTWARE OR ONLINE SERVICES, OR DOWNLOAD, INSTALL, ACCESS OR COPY OR USE ALL OR ANY PORTION OF THE SOFTWARE, YOU ACKNOWLEDGE AND AGREE THAT YOU HAVE CONSENTED TO ALL SUCH MODIFIED TERMS AND SUCH MODIFIED TERMS WILL BE EFFECTIVE THIRTY (30) CALENDAR DAYS AFTER THE DATE UPON WHICH THEY ARE INITIALLY POSTED AT www.escher-innovations.com/legal. IF ESCHER INNOVATIONS INTENDS TO APPLY ANY CHANGES RETROACTIVELY TO THESE TERMS, ESCHER INNOVATIONS WILL PROVIDE YOU WITH NOTICE OF SUCH RETROACTIVE CHANGES BY EMAIL. NO MODIFICATION TO THESE TERMS SHALL APPLY TO ANY DISPUTE OF WHICH ESCHER INNOVATIONS HAD ACTUAL NOTICE BEFORE THE DATE OF THE MODIFICATION. IF ESCHER INNOVATIONS REVISES THESE TERMS AND SEEKS YOUR CONSENT TO BE BOUND BY SUCH REVISED TERMS AND YOU DO NOT AGREE TO BE BOUND BY SUCH REVISED TERMS BEFORE USING THE ESCHER INNOVATIONS SOFTWARE,

ONLINE SERVICES AGAIN, THEN NOTWITHSTANDING ANYTHING TO THE CONTRARY, ESCHER INNOVATIONS RESERVES THE RIGHT TO TERMINATE YOUR ACCOUNT AND USE OF THE ONLINE SERVICES. ESCHER INNOVATIONS MAY ALSO TERMINATE THIS AGREEMENT, EFFECTIVE IMMEDIATELY UPON NOTICE, OR MAY SUSPEND YOUR RIGHTS TO USE ANY OF THE ESCHER INNOVATIONS SOFTWARE AND ONLINE SERVICES IF YOU FAIL TO ACCEPT ANY MODIFIED TERMS TO THIS AGREEMENT AND ESCHER INNOVATIONS REASONABLY BELIEVES THAT YOUR CONTINUED EXERCISE OF RIGHTS UNDER THIS AGREEMENT WITHOUT SUCH MODIFICATIONS WILL CAUSE ESCHER INNOVATIONS OR YOU HARM, OR IS UNLAWFUL. IF AT ANY TIME YOU DO NOT AGREE TO ANY PROVISION OF THE THEN-CURRENT VERSION OF THESE TERMS, YOUR RIGHT TO USE THE ONLINE SERVICE WILL IMMEDIATELY TERMINATE, AND YOU MUST IMMEDIATELY STOP USING THE ONLINE SERVICES. FOR ADDITIONAL TERMS RELATING TO MODIFICATIONS TO OTHER ESCHER INNOVATIONS AGREEMENTS AND USAGE GUIDELINES, SEE SECTION 30.2, BELOW.

This End User License Agreement (the "Agreement"), together with any additional terms provided to you in connection with your use of the Hardware or Escher Innovations Software (collectively, "Additional Terms"), governs your access to, and use of, the Hardware and Escher Innovations Software. If there is a conflict between the terms in this Agreement and the Additional Terms, the Additional Terms will govern. This Agreement is between you and Escher Innovations, (hereinafter as "Escher Innovations," "we" or "our").

1. DEFINITIONS

- 1.1. **"Analytic Data"** means (1) data that is based upon analyzing or results from capturing, storing or processing User Generated Content; (2) metadata; (3) technical information; and (4) analytic, usage, diagnostic or demographic data.
- 1.2. **"Captured Analytic Data"** is a sub-category of Analytic Data and shall have the meaning set forth in Section 1.3 below.
- 1.3. **"Captured Content"** means all of the following: (i) any Analytic Data that is collected by Escher Innovations (everything in this Section 1.3(i) is "Captured Analytic Data") and (ii) any User Generated Content that is transmitted to Escher Innovations through a feature or service designed specifically for such transmission (everything in this Section 1.3(ii) is "Captured UGC").
- 1.4. **"Captured UGC"** is a sub-category of User Generated Content and shall have the meaning set forth in in Section 1.3 above.
- 1.5. **"Collected Content"** has the meaning set forth in Section 14 below.
- 1.6. **"Content"** means User Generated Content, and Captured Content.
- 1.7. **"Downloaded Software"** means any software provided by Escher Innovations that is designed to work with Hardware such as, by way of example and without limitation: (a) applications that run on the operating system for Hardware; and (b) updates or upgrades to Preinstalled Software or operating system for Hardware.

- 1.8. **"Fees"** has the meaning set forth in Section 7 below.
- 1.9. **"Hardware"** means phone, tablets, heads up display or other wearables device used for operating the Escher Innovations Software.
- 1.10. **"Mandatory Updates"** has the meaning set forth in Section 16 below.
- 1.11. **"Online Services"** means any services, online services, portal or website provided by or made available by Escher Innovations to assist, facilitate or be used in connection with your use of Software.
- 1.12. **"Open Source License"** means any of GNU General Public License ("GPL"), Affero General Public License ("AGPL"), Lesser General Public License ("LGPL"), European Union Public License ("EUPL"), Apple Public Source License ("APSL"), Common Development and Distribution License ("CDDL"), IBM Public License ("IPL"), Eclipse Public License ("EPL"), Mozilla Public License ("MPL") or any other license generally considered to be an open source license.
- 1.13. **"Open Source Software"** shall mean any software that is considered open source software or is licensed for use pursuant to an Open Source License.
- 1.14. **"Open Source Terms"** has the meaning set forth in Section 11 below.
- 1.15. **"Preinstalled Software"** means any software licensed by Escher Innovations that is pre-installed on Hardware or the Escher Innovations software for a personal computer, tablet or any other personal computing device but excluding any Third-Party Application.
- 1.16. **"Privacy Policy"** has the meaning set forth in Section 14.
- 1.17. **"Services Terms"** has the meaning set forth in Section 3.3 below.
- 1.18. **"Safety Guidelines"** has the meaning set forth in Section 2 below.
- 1.19. **"Escher Innovations Software"** means software (source code and object code), firmware, applications, simulators, tools, libraries, data and files that are part of any of (i) the Preinstalled Software; and (ii) the Downloaded Software.
- 1.20. **"Software"** means any software (source code and object code), firmware, applications, simulators, tools, libraries, data and files that are part of any of the Escher Innovations Software and/or Third-Party Applications, and intranet Admin Console
- 1.21. **"Suggestions and Feedback"** has the meaning set forth in Section 15 below.
- 1.22. **"Supplemental Terms"** has the meaning set forth in Section 30.2 below.
- 1.23. **"Support Services"** has the meaning set forth in Section 13 below.
- 1.24. **"Term"** has the meaning set forth in Section 17 below.
- 1.25. **"Third-Party Applications"** means any software licensed or provided to you by someone other than Escher Innovations or any of its affiliates that is built using the Escher Innovations Software API and specifically designed to work with the Escher Innovations Software.
- 1.26. **"Third-Party Services"** has the meaning set forth in Section 12 below.

- 1.27. **"Usage Guidelines"** means Safety Guidelines and any other guidelines for use of Hardware or Escher Innovations Software such as by example only and without limitation, guidelines around level of use, consumption of memory resources, consumption of services licensed or provided by a third party and other limits intended to allow for reasonable use of Hardware by you.
- 1.28. **"User Generated Content"** means the content that is not Analytic Data (such as photographs or videos) that you cause the Hardware to store or transmit through use of Escher Innovations Software.
- 1.29. **"User Portal"** means the Escher Innovations online portal accessible at <https://www.escher-innovations.com/escher-innovations/#/login/signin> or such other URL as Escher Innovations may designate, that is designed for use with the Escher Innovations Software.

2. SAFETY AND USE; EXPLICIT LIMITATIONS.

THE SOFTWARE AND HARDWARE SHOULD ONLY BE USED IN CONJUNCTION WITH YOU HAVING TAKEN ALL REASONABLE SAFETY PRECAUTIONS TO ENSURE THAT THE SOFTWARE AND HARDWARE CAN BE USED IN A SAFE MANNER. USE OF THE SOFTWARE OR HARDWARE MAY DISTRACT YOU FROM, INCLUDING BUT NOT LIMITED TO, VIEWING OR AVOIDING ENVIRONMENTAL HAZARDS, MOVING OBJECTS OR OTHER OBSTACLES. FURTHERMORE, SOFTWARE AND HARDWARE ARE NOT INTENDED TO BE USED WHILE DRIVING OR PARTICIPATING IN ANY OTHER ACTIVITIES WHERE YOU MAY NOT BE ABLE TO ADEQUATELY PROTECT YOURSELF AGAINST SUCH HAZARDS OR OBJECTS. THERE ARE IMPORTANT HEALTH AND SAFETY WARNINGS AND INSTRUCTIONS THAT YOU MUST READ BEFORE USING HARDWARE. THESE HEALTH AND SAFETY WARNINGS AND INSTRUCTIONS ACCOMPANY THE PRODUCT IN THE BOX IN WHICH IT WAS DELIVERED. THE MOST CURRENT VERSION OF THESE WARNINGS AND INSTRUCTIONS ALONG WITH OTHER SAFETY GUIDELINES THAT YOU AGREE TO MEET WHENEVER USING HARDWARE AND SOFTWARE ARE AVAILABLE ON ESCHER INNOVATIONS'S WEBSITE VIA A LINK AT www.escher-innovations.com/legal ("SAFETY GUIDELINES"). YOU ACKNOWLEDGE THAT YOU MUST COMPLY WITH SAFETY GUIDELINES AT ALL TIMES. SAFETY GUIDELINES MAY BE UPDATED FROM TIME TO TIME. BY USING ESCHER INNOVATIONS SOFTWARE WITH HARDWARE, YOU REPRESENT AND WARRANT THAT YOU HAVE READ AND UNDERSTAND THESE WARNINGS AND INSTRUCTIONS. ADDITIONAL HEALTH AND SAFETY WARNINGS AND INSTRUCTIONS MAY BE PROVIDED BY THIRD-PARTY LICENSORS OR THE HARDWARE MANUFACTURER IN RELATION TO THEIR PRODUCTS AND SERVICES.

3. License.

- 3.1. General License Grant. During the Term of this Agreement and subject to the terms and conditions of this Agreement, Escher Innovations grants to you a limited, revocable, non-sublicensable, non-transferable, non-exclusive license to (a) use the Preinstalled Software only as pre-installed in your Hardware, (b) to install and use Downloaded Software only in object code form on your computer or Hardware (for Downloaded Software intended to be downloaded onto Hardware); in each case only for commercial purposes in compliance with the current Safety Guidelines; and (c) access Online Services/User Portal for the limited purpose of facilitating use of Escher Innovations Software.
- 3.2. Downloaded Software Additional Terms. Certain Downloaded Software may require that You agree to be bound by additional terms and conditions in order to use such Downloaded Software and such additional terms and conditions may be presented to you in the form of a “click-through” license or through other means seeking your consent to be bound by such additional terms and conditions.
- 3.3. Portal Terms. If you obtained the rights to use the User Portal, you may use such User Portal if you obtain an account for such User Portal and agree to be bound by the terms at www.escher-innovations.com/legal (“Portal Terms”).

4. THIRD-PARTY APPLICATIONS.

Third-Party Applications may display, include, collect, or make available, content, data, information, applications or materials from third parties. You acknowledge and agree that:

- a. Escher Innovations is not responsible for the availability or performance of any Third-Party Application, and is not responsible or liable for any content, advertising, products, services, or other materials on or available from such application;
- b. Your use of any Third-Party Application is governed by such Third-Party Application provider’s terms of use, license agreement, privacy policy, and/or other such agreement; and that any such information or personal data you provide, whether knowingly or unknowingly, to a Third-Party Application provider, will be subject to such provider’s privacy policy, if such policy exists;
- c. Any claims you might have related to the Third-Party Application shall be against such third party and not against Escher Innovations;
- d. Additional health and safety warnings may be provided by a Third-Party Application provider through, or prior to, your use of a Third-Party

Application. You represent and warrant that you have read and understood any such warnings before using any Third-Party Application;

- e. Any use of a Third-Party Application is at your sole risk and that the entire risk of unsatisfactory quality, performance, accuracy and efforts is with you;
- f. You may be required to pay additional fees for use of Third-Party Applications and such fees may be payable to either Escher Innovations or the third-party licensing rights to use Third-Party Applications;
- g. Escher Innovations reserves the right to require that you purchase certain rights from Escher Innovations (such as by example only, the use of certain enabling software) in order to use certain Third-Party Applications or features of such Third-Party Applications; and
- h. Third-Party Applications may not provide any functionality, or certain functionality for Third-Party Applications may not be fully operational, unless you also obtain the rights to use other hardware or software;

ESCHER INNOVATIONS EXPRESSLY DISCLAIMS ANY RESPONSIBILITY WITH RESPECT TO CONTENT COLLECTED BY THIRD-PARTIES THROUGH A THIRD-PARTY APPLICATION.

5. INTELLECTUAL PROPERTY RIGHTS, ONLINE SERVICES AND CONTENT.

- 5.1. Ownership. Escher Innovations , its affiliates, and/or licensors own all title, copyright and other intellectual property rights in the Online Services and Escher Innovations Software (and all rights embodied therein), and reserve all rights not expressly granted to You in this Agreement. The Online Services and Escher Innovations Software are protected by copyright and other intellectual property laws and treaties.
- 5.2. Online Services. Online Services may be revised at any time. Use of any particular Online Services may require you to agree to additional terms or acknowledge additional warnings or disclaimers prior to using such Online Services. Escher Innovations may suspend access to, or use of, Online Services at any time for maintenance or security purposes. Online Services access may require use of a password or an account and you agree to take all reasonable measures to safeguard your password and to prevent unauthorized access to or use of any such account.
- 5.3. Software Licenses. You acknowledge and agree that the Escher Innovations Software is provided to you under license, and is not sold to you. You further acknowledge and agree that you have not acquired any ownership interest in the Escher Innovations Software or documentation under this Agreement, or any other rights thereto other than to use the Escher Innovations Software in accordance with the license granted, and subject to all terms, conditions and restrictions of this Agreement. Escher Innovations,

its affiliates, and licensors reserve and shall retain their entire right, title and interest in and to the Escher Innovations Software and all intellectual property rights in or arising out of or relating to the Escher Innovations Software, except as expressly granted to the you in this Agreement.

- 5.4. User Generated Content; License to Captured UGC. You may use features of your Escher Innovations Software to capture or store User Generated Content such as photographs or videos and such use is subject to the terms and conditions of this Agreement. You represent and warrant that you have all rights and licenses necessary to use Escher Innovations Software to input or store User Generated Content. You grant Escher Innovations and its affiliates and service providers a worldwide, non-exclusive, royalty-free, sublicensable and transferable license to use, reproduce, distribute, prepare derivative works of, and display the Captured UGC. You shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Captured UGC. Without limiting the foregoing, you represent and warrant that you have all rights necessary to distribute the Captured UGC to Escher Innovations and that all Captured UGC will comply with all applicable laws and regulations.
- 5.5. Analytic Data. You acknowledge that Escher Innovations owns all rights in Analytic Data and to the extent you have any rights or ownership in any Analytic Data, you assign all such rights title and interest in such Analytic Data to Escher Innovations. You hereby give all consents necessary for Escher Innovations to capture, use and collect Analytic Data.
- 5.6. Captured UGC. Escher Innovations may remove, delete or take steps to prevent Escher Innovations from handling or receiving any Captured UGC if Escher Innovations reasonably believes the collection or use of such Captured UGC is unlawful or will cause harm to Escher Innovations , You or our service providers.
- 5.7. Copyright Notices; Complaints. It is Escher Innovations's policy to respond to notices of alleged copyright infringement that comply with the Digital Millennium Copyright Act (the "DMCA"). To review Escher Innovations's DMCA procedures, please go to Escher Innovations's "Copyright Page" located at www.escher-innovations.com/legal . Escher Innovations reserves the right to terminate without notice any user's access to the Escher Innovations Software, Online Services, Support Services, and/or other or related services if that user is determined by Escher Innovations to be a "repeat infringer." In addition, Escher Innovations accommodates and does not interfere with standard technical measures used by copyright owners to protect their materials. Any notice submitted under this Section 5.7 must be submitted by the copyright owner or an agent authorized to act on the copyright owner's behalf.

6. ESCHER INNOVATIONS SOFTWARE LIMITATIONS.

You agree not to:

- 6.1. work around any technical limitations in the Online Services or Software to circumvent technical measures employed to control access to or the rights in the Online Services or Software or to control access to certain third-party software or services;
- 6.2. use the Online Services or Software in conjunction with any device, program or service to circumvent technical measures employed to control access to or the rights in the Online Services or Software;
- 6.3. reverse engineer, decompile, decipher, disassemble or otherwise attempt to access source code of the Online Services or Software, except and only to the extent that applicable law expressly permits, despite this limitation;
- 6.4. modify or make any derivative works of the Online Services or Software, in whole or in part;
- 6.5. remove, delete, alter or obscure any trademarks or any copyright, trademark, patent or other intellectual property or proprietary rights notices provided on or with the Online Services or Software, including any copy thereof;
- 6.6. capture or store User Generated Content in an unlawful manner;
- 6.7. capture or store User Generated Content that is infringing, obscene, pornographic, threatening, defamatory, libelous, violative of third-party privacy rights, or tortious;
- 6.8. use Online Services or the Software to infringe the rights of Escher Innovations, its affiliates or any third party, or in any way that does not comply with all applicable laws;
- 6.9. use Online Services, Hardware or Software in any manner that could disable, overburden, damage, or impair the use of Online Services, or interfere with any other party's use of the Hardware or Software;
- 6.10. use any robot, spider or other automatic device, process or means to access the Online Services;
- 6.11. introduce any viruses, Trojan horses, worms, logic bombs or other material which is malicious or technologically harmful to the Online Services, Hardware or Software;
- 6.12. distribute, transfer, disclose publish, rent, lease, lend, sublicense, or otherwise provide the Online Services or Software to any third party;
- 6.13. attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Online Services, Hardware or Software;
- 6.14. combine the Software or any part thereof with, or incorporate the Software or any part thereof in, any other programs unless approved by Escher Innovations in writing;

- 6.15. engage in use of the Escher Innovations Software on a personal computer, except for the sole purpose of downloading and installing such Software onto the Hardware;
- 6.16. use the Online Services or Software in, or in association with, the design, construction, maintenance or operation of any hazardous environments without doing the following: (a) complying with all legally required safety precautions that would govern the use of Online Services or Software in such environments; (b) adhering to all applicable industry standards for safety in the industry in which you operate; and (c) taking all commercially reasonable and customary actions to minimize risk of injury or harm when using Online Services or Software in such environments;
- 6.17. use the Escher Innovations Software in a manner inconsistent with Usage Guidelines;
- 6.18. use the Online Services or Software in violation of any law, regulation or rule, including but not limited to stalking, harassing, harming, threatening to harm, or invading the privacy of any individual. You are solely responsible for complying with any laws, orders, rules and regulations and laws of any jurisdiction applicable to your use of Hardware; and
- 6.19. make any use of the Online Services or Software in any manner not permitted by this Agreement.

7. FEES AND PAYMENT; SECURITY INTEREST.

Except for situations where you have obtained the rights to use Escher Innovations Software from an authorized third party (such as by example, an authorized Escher Innovations distributor), you agree to pay the applicable fees and amounts for use of the Escher Innovations Software, and Online Services set forth in the applicable purchase agreement or terms for the Escher Innovations Software and/or certain Online Services (the "Fees"). You acknowledge that any failure to pay applicable Fees may result in Escher Innovations limiting access to or not delivering certain Escher Innovations Software and/or Online Services. For clarification, nothing in this Section 7 requires you to pay amounts to Escher Innovations for the right to use Escher Innovations Software if such rights are lawfully obtained through the payment by you to a third party or a payment by a third party to Escher Innovations to obtain such rights on your behalf.

8. COMPLIANCE MEASURES.

You shall not, and shall not attempt to, remove, disable, circumvent or otherwise create or implement any workaround to any technological copy protection, usage limitation or other security features that may be contained in the Hardware, Online Services or Software and that are designed to prevent unauthorized use of any of the Hardware, Online Services or Software. If you become aware of any

actual or threatened activity prohibited by Section 6 or this Section 8, you will immediately: (a) take all reasonable and lawful measures within your control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to Hardware and Software and permanently erasing from your systems and destroying any data to which any of them have unauthorized access); and (b) notify Escher Innovations of any such actual or threatened activity.

9. TRADEMARKS AND IP NOTICES.

You will not remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in Escher Innovations Software and the Escher Innovations logo are trademarks or registered trademarks of Escher Innovations, LLC or its affiliates. All other trademarks, service marks, logos, trade names and any other proprietary designations are the trademarks or registered trademarks of their respective owners and may not be used without permission of the applicable trademark holder.

10. ADDITIONAL PAYMENT OBLIGATIONS AND FEATURES.

You acknowledge that you may need to pay additional fees based upon your level of use of certain Escher Innovations Software or Third-Party Applications if the rights to such use were not already obtained on your behalf by a third party. Failure to pay such additional fees may limit your ability to use or access certain features of Escher Innovations Software or Third-Party Applications.

11. OPEN-SOURCE SOFTWARE; OTHER THIRD-PARTY SOFTWARE; AND SOFTWARE USE RESTRICTIONS.

Escher Innovations Software may include Open Source Software that is subject to the terms of a respective Open Source License (collectively, "Open Source Terms"). Your use of the Software is subject to any Open Source Terms governing such Open Source Software included in the Software. Any Software that includes Open Source Software is provided to you on an "AS IS" basis to the maximum extent permitted by applicable law. In the event of any conflict between the terms of this Agreement (including any addenda) and the Open Source Terms, the Open Source Terms will control solely with respect to the Open Source Software governed by such Open Source Terms. The provisions of this section shall survive the termination of this Agreement. You acknowledge that any notices, licenses or materials that must be provided to you under Open Source Terms may be provided

by posting such notices, licenses or materials at a link referenced at www.escher-innovations.com/legal.

12. THIRD-PARTY SERVICES.

Any of the Escher Innovations Software and Hardware may allow, or require, the use of services that are provided by third parties, including but not limited to servers/cloud hosting services ("Third-Party Services"). You acknowledge and agree that such Third-Party Services are not under Escher Innovations's control, that Escher Innovations is not responsible or liable for the availability or accuracy of such Third-Party Services, and that you assume sole responsibility and all risk arising from your use of any such Third-Party Services. You may be required to agree to additional terms and conditions, pay additional amounts or be provided with certain notices before or as a condition of using or gaining access to Third-Party Services and any such additional terms and conditions and notices that Escher Innovations is required to provide to you will be posted or available for a viewing at a link referenced at www.escher-innovations.com/legal. It is your responsibility to review the privacy policies, terms of use and other terms and conditions that apply to any Third-Party Services. Any claims you might have with respect to Third-Party Services shall be against such third party and not against Escher Innovations. Additional health and safety warnings may be provided through or prior to your use of Third-Party Services. You represent and warrant that you have read and understood these warnings before using any Third-Party Services.

13. SUPPORT SERVICES AND YOUR DATA.

Escher Innovations may provide itself, or arrange for third parties to provide, technical support regarding use of Online Services or any of the Escher Innovations Software ("Support Services"), provided that you are not in breach of this Agreement. Notwithstanding the foregoing, if certain Support Services require Escher Innovations to have access to or receive any User Generated Content in order for Escher Innovations to provide Support Services, you grant Escher Innovations a worldwide, irrevocable, perpetual, non-exclusive, transferable, royalty-free and fully sublicensable right to use, reproduce, display, store, adapt and distribute any User Generated Content solely as necessary for Escher Innovations providing such Support Services to you. We have the right to remove any of your User Generated Content from any Hardware we may have access to while providing Support Services at our sole discretion. The nature and scope of Support Services may be changed by Escher Innovations at any time and no particular level of Support Services is promised herein.

14. COLLECTION AND USE OF INFORMATION[1].

You acknowledge that Escher Innovations may collect and store (a) Analytic Data, (b) Captured Content and (c) any data provided to or obtained by Escher Innovations in connection with ordering, registering, activating, updating, auditing, or monitoring installation of and access to the Escher Innovations Software (a), (b) and (c) collectively referred to herein as "Collected Content"). You agree that Escher Innovations and its affiliates may use Collected Content in accordance with Escher Innovations's the current privacy policy, which is located at www.escher-innovations.com/legal (the "Privacy Policy"), and for any purpose related to any use of the Escher Innovations Software, including, but not limited to (i) improving the performance of any aspect of the Escher Innovations Software or developing updates, and (ii) verifying your compliance with the terms of this Agreement and enforcing our rights. Information collected by us may be stored and processed in the United States or any other country in which we or our affiliates, agents or contractors maintain facilities. If you are (i) accessing the Software and/or Online Services from, or (ii) using the Escher Innovations Software in, the European Union or other regions with laws governing data collection and use, you agree to the transfer of data to the United States and to processing globally. You are solely responsible for securing any privacy-related rights and permissions from any users of the Escher Innovations Online Services and the Software as may be required by applicable law or by your internal policies. You agree that you will not collect any Content that relates to any child under thirteen (13) years old. Without limiting the generality of the foregoing, you acknowledge and agree that: (y) Escher Innovations may provide information and data, including, without limitation, information and data about your use of Hardware, Online Services, Support Services and/or the Software, or the Third-Party Services, to Escher Innovations affiliates and other third parties in connection with the provision, maintenance, administration or usage of the the Software or the Third-Party Services, or in connection with enforcement of any agreements relating thereto; and (z) Escher Innovations may make cross-border transfers of such information and data, including to jurisdictions with privacy or data protection laws that are less protective than the jurisdiction in which you are located. You acknowledge and agree that the foregoing policies may be changed from time to time by Escher Innovations. The provisions of this Section 14 may be superseded by the Escher Innovations Privacy Policy and in the event of any conflict between the terms of this Section 14 and the Escher Innovations Privacy Policy, the terms of the Escher Innovations Privacy Policy shall control.

15. PRODUCT SUGGESTIONS, REQUESTS AND FEEDBACK.

If you provide Escher Innovations with any information, enhancement requests, recommendations, help, bug-reports, results, comments or suggestions regarding any of any Escher Innovations Software (collectively, "Suggestions and Feedback"), Suggestions and Feedback shall not be deemed to be your confidential information. You hereby assign and agree to assign to Escher Innovations, all of your rights in Suggestions and Feedback, and You will take all actions reasonably requested by Escher Innovations to give effect to such assignment. You further acknowledge that no compensation will be provided with respect to the use of any Suggestions and Feedback you provide. The above provisions and rights granted regarding title and intellectual property rights associated with the Suggestions and Feedback shall survive termination of this Agreement.

16. UPDATES.

Escher Innovations Software and/or Online Services may be updated at any time and may periodically not be available for maintenance, safety or other reasons. You agree that Escher Innovations may automatically check your version of any of the Escher Innovations Software and may automatically send you updates to any Escher Innovations Software. Escher Innovations may develop and provide any Escher Innovations Software updates in its sole discretion. You will be given notice, such as an email message or messaging linked to the account of the Hardware and Escher Innovations Software that an update is available. In some situations, an update may be required for functionality, security or safety of certain Escher Innovations Software and/or Hardware. If Escher Innovations informs you that an update is required for any such reasons, you must install such updates ("Mandatory Updates"), and you must complete installation of Mandatory Updates in order to continue use of such Escher Innovations Software and Online Services and Hardware. In some instances, installation of Mandatory Updates may be automatic. If you block the installation of or fail to install any Mandatory Updates, Escher Innovations is permitted to cease providing certain Support Services and you acknowledge that certain features of certain Escher Innovations Software and/or the Hardware may not be available or operational. Mandatory Updates may include removing features or applications that are provided on a trial or limited time period basis. You further agree that all software updates will be deemed Software under this Agreement.

17. TERM AND TERMINATION.

- 17.1. Term. This Agreement and the license granted hereunder shall remain in effect until terminated as set forth herein (the "Term"). The Agreement may be terminated as follows:

- 17.1.1. This Agreement will terminate if you obtained the right to use any of the Software on a subscription basis or for a limited time period and such subscription time period or limited time period has expired.
 - 17.1.2. This Agreement will automatically terminate upon your breach of any of the terms and conditions of this Agreement.
 - 17.1.3. This Agreement will automatically terminate if you purchased the rights to use Escher Innovations Software on a subscription basis and your subscription has either expired or terminated.
 - 17.1.4. Escher Innovations may terminate this Agreement at any time, if Escher reasonably believes that your continued exercise of rights under this Agreement will cause Escher Innovations or you harm, or is unlawful, and such termination will be effective upon notice to you.
 - 17.1.5. Escher Innovations may terminate this Agreement, effective immediately, if you file or have filed a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, you make or seek to make a general assignment for the benefit of its creditors, or you apply for, or consent to, the appointment of a trustee, receiver or custodian for a substantial part of your property.
- 17.2. Effect of Termination. Upon expiration or termination of this Agreement:
- 17.2.1. All rights, licenses, and authorizations granted to You hereunder will immediately terminate and you will immediately cease all use of the Software and Online Services;
 - 17.2.2. If you paid for the rights to use Escher Innovations Software and/or Online Services on a subscription or periodic basis, you will immediately pay all amounts owed to Escher Innovations but not yet paid.

18. LIMITED WARRANTY.

[THIS IS A KEY BUSINESS POINT. DO WE WANT TO OFFER ANY SORT OF WARRANTY FOR PERFORMANCE OR NON-INFRINGEMENT? LET'S DISCUSS.]

19. DISCLAIMER OF WARRANTIES.

EXCEPT FOR THE LIMITED WARRANTIES EXPLICITLY GRANTED HEREIN, YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE USE OF THE ONLINE SERVICES AND ESCHER INNOVATIONS SOFTWARE ARE AT YOUR SOLE RISK. THE ONLINE SERVICES, ESCHER INNOVATIONS SOFTWARE, DOCUMENTATION AND SUPPORT SERVICES (IF ANY) ARE PROVIDED "AS IS" AND WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. TO THE

MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, ESCHER INNOVATIONS AND ITS AFFILIATES, LICENSOR(S), AND SERVICE PROVIDER(S) EXPRESSLY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. ESCHER INNOVATIONS DOES NOT REPRESENT OR WARRANT ANY OF THE FOLLOWING: (1) THAT THE FUNCTIONS CONTAINED IN THE ESCHER INNOVATIONS SOFTWARE WILL MEET YOUR REQUIREMENTS; (2) THAT THE OPERATION OR OFFERING OF THE SUPPORT SERVICES, ONLINE SERVICES OR ANY OF THE ESCHER INNOVATIONS SOFTWARE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE; (3) THAT ANY OF THE ESCHER INNOVATIONS SOFTWARE WILL OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM, OR DATA; (4) THAT THE SUPPORT SERVICES, ONLINE SERVICES OR ANY OF THE ESCHER INNOVATIONS SOFTWARE WILL ALWAYS BE AVAILABLE; (5) THAT THE SUPPORT SERVICES, ONLINE SERVICES, ESCHER INNOVATIONS SOFTWARE OR THE SERVER(S) USED TO OFFER THE SUPPORT SERVICES, ONLINE SERVICES OR ESCHER INNOVATIONS SOFTWARE AVAILABLE WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; (6) THAT DEFECTS IN THE ESCHER INNOVATIONS SOFTWARE OR DOCUMENTATION WILL BE CORRECTED; (7) CORRECTNESS, ACCURACY OR RELIABILITY OF ANY OF THE ONLINE SERVICES, SUPPORT SERVICES OR ESCHER INNOVATIONS SOFTWARE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ESCHER INNOVATIONS OR ITS AUTHORIZED REPRESENTATIVES SHALL CREATE ANY REPRESENTATION OR WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY EXPRESS WARRANTY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY OR MAY BE LIMITED.

20. CAPTURED UGC DISCLAIMER.

IF ESCHER INNOVATIONS OFFERS ANY SERVICES THAT REQUIRE ESCHER INNOVATIONS TO STORE OR KEEP COPIES OF CAPTURED UGC, ESCHER INNOVATIONS DOES NOT REPRESENT OR WARRANT OR MAKE ANY PROMISES, EXCEPT AS REQUIRED BY APPLICABLE LAW, THAT ESCHER INNOVATIONS WILL PREVENT UNAUTHORIZED ACCESS TO OR UNAUTHORIZED COPYING OF SUCH CAPTURED UGC.

21. WARNINGS AND NOTICES.

THE ESCHER INNOVATION SOFTWARE ARE NOT DESIGNED FOR USE WITH ANY UNAUTHORIZED SOFTWARE OR ACCESSORY. USE OF THE ESCHER INNOVATION SOFTWARE WITH UNAUTHORIZED SOFTWARE OR ACCESSORIES MAY CAUSE

PERFORMANCE ISSUES OR DAMAGE TO THE DEVICE OR THE SERVICES. ESCHER INNOVATION SOFTWARE ARE **NOT** MEDICAL DEVICES, AND THE DATA PROVIDED BY THEM IS NOT INTENDED TO BE UTILIZED FOR MEDICAL PURPOSES AND IS NOT INTENDED TO DIAGNOSE, TREAT, CURE, OR PREVENT ANY DISEASE.

22. LIMITATION OF LIABILITY.

TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, UNDER NO CIRCUMSTANCES, SHALL ESCHER INNOVATIONS, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WHETHER THEY ARISE FROM (A) LOSS OF CONTENT; (B) LOSS OR CORRUPTION OF DATA, CONFIDENTIAL INFORMATION, OR OTHER INFORMATION; (C) ANY VIRUS AFFECTING THE CUSTOMER'S USE OF THE SOFTWARE OR THE HARDWARE; (D) DELAYS OR FAILURES IN STARTING OR COMPLETING TRANSMISSIONS OR TRANSACTIONS; LOSS OF BUSINESS, GOODWILL, ANTICIPATED SAVINGS, OR USE; (E) CLAIMS FOR BREACH OF CONTRACT, WARRANTY, GUARANTEE, OR CONDITION; (F) BUSINESS INTERRUPTION; (G) PROPERTY DAMAGE; (H) CONSUMER PROTECTION; (I) DECEPTION; (J) UNFAIR COMPETITION; (K) STRICT LIABILITY, NEGLIGENCE, MISREPRESENTATION, OMISSION, OR OTHER TORT; (L) VIOLATION OF STATUTE OR REGULATION; OR (M) ANY USE OF, OR INABILITY TO USE, THE SOFTWARE AND/OR THE ESCHER INNOVATIONS HARDWARE, OR ANY OTHER PRODUCT OR SERVICES OFFERED BY ESCHER INNOVATIONS, IN EACH CASE EVEN IF ESCHER INNOVATIONS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY OR MAY BE LIMITED. THE ABOVE LIMITATIONS OF LIABILITY SHALL NOT APPLY TO ANY CLAIMS FOR BREACH OF THIS AGREEMENT BY ESCHER INNOVATIONS RESULTING FROM THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF ESCHER INNOVATIONS. IF APPLICABLE LAW PRECLUDES ESCHER INNOVATIONS FROM DISCLAIMING A PARTICULAR KIND OF DAMAGE OR TO CAP THE LIABILITY FOR CERTAIN TYPES OF ACTIONS OR CLAIMS, THEN THE APPLICABLE PROVISIONS IN THIS AGREEMENT WILL BE DEEMED AMENDED TO CONFORM WITH APPLICABLE LAW, AND THE BALANCE OF THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT. NOTWITHSTANDING ANYTHING TO THE CONTRARY AND FOR AVOIDANCE OF DOUBT, IN NO EVENT WILL THE AGGREGATE LIABILITY OF ESCHER INNOVATIONS FOR ANY AND ALL DAMAGES, LOSSES, CLAIMS AND CAUSES OF ACTIONS (WHETHER IN CONTRACT, TORT, INCLUDING NEGLIGENCE OR OTHERWISE) UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER,

UNDER ANY LEGAL OR EQUITABLE THEORY, EXCEED THE MAXIMUM AMOUNT PAID TO ESCHER INNOVATIONS UNDER THIS AGREEMENT. THE FOREGOING LIMITATION APPLIES NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. THE PARTIES HAVE FULLY CONSIDERED AND FIND REASONABLE THE FOREGOING ALLOCATION OF RISK, AND THE FOREGOING LIMITATIONS ARE AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

23. INDEMNIFICATION.

You agree to defend, indemnify and hold harmless ESCHER INNOVATIONS, and its affiliates, agents, partners, suppliers and licensors, and each of our and their respective directors, officers and employees ("Escher Innovations Parties"), from and against any and all claims, losses, demands, damages, costs, liabilities and expenses ("Claims") brought, imposed or claimed against any Escher Innovations Parties caused by, arising out of or relating to (a) your unauthorized use of any of the Software and/or the Hardware; (b) your use of the Software and/or the Hardware that is outside the purpose, scope or manner of use authorized by this Agreement; (c) your breach or violation of any of the terms and conditions of this Agreement; (d) your violation of any rights of any third party; (e) your violation of any applicable law; or (f) your User Generated Content and any Suggestions and Feedback you provide. Escher Innovations must approve any settlement of any Claims.

24. GOVERNING LAW.

This Agreement will be governed by the laws of the State of Delaware notwithstanding its conflict of laws provisions.

25. MANDATORY ARBITRATION.

If you are located in, based in, have offices in, or do business in a jurisdiction in which this section is enforceable, the following mandatory arbitration provisions apply to you.

- 25.1. Dispute Resolution and Arbitration. You and Escher Innovations agree that any dispute, claim, or controversy between you and Escher Innovations arising in connection with or relating in any way to this Agreement or to your relationship with Escher Innovations will be determined by mandatory binding individual arbitration. Arbitration is more informal than a lawsuit in court. THERE IS NO JUDGE OR JURY IN ARBITRATION, AND COURT REVIEW

OF AN ARBITRATION AWARD IS LIMITED. The arbitrator must follow this Agreement and can award the same damages and relief as a court (including attorney fees), except that the arbitrator may not award declaratory or injunctive relief benefiting anyone but the parties to the arbitration. This arbitration provision will survive termination of the Agreements.

- 25.2. Exceptions. Notwithstanding Section 25.1 above, you and Escher Innovations both agree that nothing herein will be deemed to waive, preclude, or otherwise limit either of our rights, at any time, to (1) bring an individual action in a U.S. small claims court (if claim is eligible for filing), (2) pursue enforcement actions through applicable U.S. federal, state, or local agencies where such actions are available, (3) seek injunctive relief in a court of law, or (4) to file suit in a court of law to address intellectual property infringement claims.
- 25.3. Arbitration Rules. You or Escher Innovations may start arbitration proceedings. If you are located in, are based in, have offices in, or do business in the United States, any arbitration between you and Escher Innovations will be finally settled under the Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes of the American Arbitration Association ("AAA") then in force (the "AAA Rules"), as modified by the Agreements. You and Escher Innovations agree that these Agreements affect interstate commerce, so the U.S. Federal Arbitration Act and federal arbitration law apply and govern the interpretation and enforcement of this provision (despite the choice of law provision above). Any arbitration hearings will take place at a location to be agreed upon Philadelphia, PA, provided that if the claim is for \$15,000 or less, you may choose whether the arbitration will be conducted (1) solely on the basis of documents submitted to the arbitrator; (2) through a non-appearance based telephonic hearing; or (3) by an in-person hearing as established by the AAA Rules in the county of Your billing address. If you are not located in, are not based in, do not have offices in, and do not do business in the United States, any arbitration between you and Escher Innovations will be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the "ICC") then in force (the "ICC Rules") by one or more arbitrators appointed in accordance with the ICC Rules and will be administered by the International Court of Arbitration of the ICC. Any arbitration will be conducted in the English language. Unless otherwise required by a mandatory law of a member state of the European Union or any other jurisdiction, the law to be applied in any arbitration shall be the law of the State of Pennsylvania, United States, without regard to choice or conflicts of law principles.
- 25.4. Time for Filing. Any arbitration must be commenced by filing a demand for arbitration within ONE (1) YEAR after the date the party asserting the claim

first knows or reasonably should know of the act, omission, or default giving rise to the claim; and there shall be no right to any remedy for any claim not asserted within that time period. If applicable law prohibits a one-year limitation period for asserting claims, any claim must be asserted within the shortest time period permitted by applicable law.

- 25.5. Enforceability. If the class action waiver in this section is found to be unenforceable in arbitration or if the entirety of this Section 25 is found to be unenforceable, then the entirety of this Section 25 shall be null and void and, in such case, the parties agree that the exclusive jurisdiction and venue described in Section 24 above shall govern any action arising out of or related to the Agreements.

26. CLASS ACTION WAIVER.

WHERE PERMITTED UNDER THE APPLICABLE LAW, YOU AND ESCHER INNOVATIONS AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION. Unless both you and Escher Innovations agree, no arbitrator or judge may consolidate more than one person's claims or otherwise preside over any form of a representative or class proceeding.

27. COMPLIANCE WITH LAW; EXPORT REGULATIONS.

You shall comply with all national and international laws, rules and regulations that apply to the Escher Innovations Software and your use of the Escher Innovations Software, including U.S. Export Administration Regulations European export law, as well as end-user, end-use and destination restrictions issued by the United States and other governments. You shall not, directly or indirectly, export, re-export or release the Escher Innovations Software to, or make the Escher Innovations Software accessible from, any jurisdiction or country to which export, re-export or release is prohibited by law, rule or regulation. You shall comply with all applicable laws, regulations and rules applicable to your use of the Escher Innovations Software.

28. RIGHT TO OPT OUT OF BINDING ARBITRATION AND CLASS ACTION WAIVER.

IF YOU DO NOT WISH TO BE BOUND BY THE BINDING ARBITRATION PROVISION AND/OR THE CLASS ACTION WAIVER UNDER THIS AGREEMENT, YOU MUST NOTIFY ESCHER INNOVATIONS IN WRITING WITHIN THIRTY (30) DAYS OF THE

DATE THAT YOU FIRST ACCEPT THIS AGREEMENT. YOUR WRITTEN NOTIFICATION MUST BE MAILED TO ESCHER INNOVATIONS TERMS ADMINISTRATOR, AT THE ADDRESS _____, AND SUCH NOTICE MUST INCLUDE: (1) YOUR NAME, (2) YOUR ADDRESS, (3) THE ACCOUNT NAME ASSOCIATED WITH THE ESCHER INNOVATIONS THAT ACCEPTED THE TERMS AND CONDITIONS OF THIS END USER LICENSE AGREEMENT, AND (4) A CLEAR STATEMENT THAT YOU DO NOT WISH TO (A) RESOLVE DISPUTES WITH ESCHER INNOVATIONS THROUGH ARBITRATION, AND/OR (B) NOT BE BOUND BY THE CLASS ACTION WAIVER.

29. UPDATE TO PRIVACY POLICY AND OTHER AGREEMENTS AND GUIDELINES; CONSENT; CONFLICT.

- 29.1. Right to Update Privacy Policy and Usage Guidelines. Except to the extent that Escher Innovations is expressly precluded by applicable law, Escher Innovations reserves the right, at our discretion, to modify all or part of our Privacy Policy at any time by posting the modified Privacy Policy at www.escher-innovations.com/legal and by providing you with conspicuous notice, such as by sending notice to the account registered with the Hardware of such modification. You may also be given additional notice of any modifications to our Privacy Policy, such as an email message, notice within Online Services or messaging linked to the account of the Hardware and Escher Innovations Software. You will be deemed to have accepted such changes by continuing to use the Online Services or the Escher Innovations Software after receipt of such additional notices. If Escher Innovations intends to apply any changes retroactively to the Privacy Policy, we will provide you with notice of such retroactive changes by email. All modified versions of this Privacy Policy shall automatically be effective thirty (30) calendar days after they are initially posted at www.escher-innovations.com/privacy-policy. Escher Innovations may also revise Usage Guidelines at any time and new versions will be available at www.escher-innovations.com/legal. No modification to the Privacy Policy shall apply to any dispute of which Escher Innovations had actual notice before the date of the modification. If you do not agree to certain modifications to the Privacy Policy or the Usage Guidelines, Escher Innovations may limit or prevent you from using certain functions of the Hardware or Software.
- 29.2. Seeking Consent. If Escher Innovations revises its Privacy Policy and seeks your consent to be bound by such revised Privacy Policy and you do not agree to be bound by such revised Privacy Policy before using Online Services or any of the Software again, then notwithstanding anything to the contrary, Escher Innovations reserves the right to terminate your Account and use of any of the Software, the Services, and Hardware.

- 29.3. Disagreement with Terms. If at any time you do not agree to any provision of the then-current version of the Privacy Policy or any other Escher Innovations policy, rule or code of conduct relating to your use of the Online Services, your right to use the Online Services will immediately terminate, and you must immediately stop using the Online Services. Escher Innovations may terminate this Agreement, effective immediately upon notice, or may suspend your rights to use any of the Escher Innovations Software and Online Services if you fail to accept any new terms to the Privacy Policy or any other Escher Innovations policy, rule or code of conduct relating to your use of the Online Services.
- 29.4. Conflict. To the extent this Agreement conflicts with any other Escher Innovations terms, policy, rule, or code of conduct, the provisions of this Agreement and the Privacy Policy will prevail. In the event of an apparent conflict between or among provision(s) of this Agreement, the Privacy Policy, Portal Terms and any other Escher Innovations terms, policy, rule, or code of conduct, such provisions shall be read in a mutually consistent way, or if no such reading is reasonably possible, the following order of precedence shall be as follows: (i) the Agreement; (ii) the Portal Terms; (iii) the Privacy Policy; and then (iv) any other Escher Innovations terms, policy, rule, or code of conduct.

30. GENERAL.

- 30.1. Entire Agreement. This Agreement, together with the quote or order form and all other documents and terms that are incorporated by reference herein, constitutes the sole and entire agreement between you and Escher Innovations with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.
- 30.2. U.S. Government Rights. The Escher Innovations Software provided under this Agreement utilizes commercial computer software as that term is described in 48 C.F.R. 252.227-7014(a)(1). If acquired by or on behalf of a civilian agency, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as specified in 48 C.F.R. 12.212 (Computer Software) and 12.211 (Technical Data) of the Federal Acquisition Regulations ("FAR") and its successors. If acquired by or on behalf of any agency within the Department of Defense ("DOD"), the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as

specified in 48 C.F.R. 227.7202-3 of the DOD FAR Supplement ("DFAR") and its successors.

- 30.3. Survival. Sections 5 – 9, 11 – 15, 18 – 28, and 30 – 31 of this Agreement shall survive any termination or expiration of this Agreement, along with term of this Agreement which expressly, or by its nature, is intended to survive expiration or termination of this Agreement.
- 30.4. No Waiver. Any failure by Escher Innovations to insist upon or enforce performance by you of any of the provisions of this Agreement or to exercise any rights or remedies hereunder or otherwise by law will not be construed as a waiver or relinquishment of any right to assert or rely upon the provision, right or remedy in that or any other instance; rather, the provision, right or remedy will be and remain in full force and effect.
- 30.5. Notices. All notices, consents, waivers, and other communications intended to have legal effect under this Agreement must be in writing and must be in English. You agree that Escher Innovations may provide written notice under this Agreement, having binding legal effect, by sending (1) an email to the email address to you provided during the registration process or subsequently updated by you in accordance with this section, or (2) by posting such notice on a part of User Portal. Without limiting the foregoing, the you agree that any notice Escher Innovations sends to the email address associated with your account will satisfy any legal notice requirement. Notices sent to Escher Innovations by you shall be sent by registered or certified mail, return receipt requested, to Escher Innovations, _____ ATTN: Legal Department, _____, and shall be effective upon receipt by Escher Innovations. Escher Innovations may change its address for receipt of notices by giving notice of the new address to you.
- 30.6. Severability. If a court of competent jurisdiction holds any term, covenant or restriction of this Agreement to be illegal, invalid or unenforceable, the remaining terms, covenants and restrictions will remain in full force and effect and will in no way be affected, impaired or invalidated.
- 30.7. Assignment. We may assign, transfer or otherwise dispose our rights and obligations under this Agreement, in whole or in part, at any time without notice to you. This Agreement will be binding upon all of Escher Innovations's successors and assigns. You may not assign this Agreement, or transfer or sublicense your rights under this Agreement.
- 30.8. Force Majeure. Escher Innovations will not be responsible or liable to you, or deemed in default or breach hereunder, by reason of any failure or delay in the performance of its obligations hereunder where such failure or delay is due to strikes, labor disputes, civil disturbances, riot, rebellion, invasion, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or non-availability of electrical

power, heat, light, air conditioning or your equipment, loss and destruction of property, or any other circumstances or causes beyond Escher Innovations's reasonable control.

- 30.9. Equitable Relief. Parties acknowledge and agree that a breach or threatened breach by each Party of any of its obligations of this Agreement would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including in a restraining order, an injunction, specific performance, and any other relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.
- 30.10. Attorney's Fees. If any legal action is necessary to enforce this Agreement, the prevailing party shall be entitled to reasonable attorney fees, costs and expenses in addition to any other relief to which it may be entitled after a final judgment is rendered.
- 30.11. No Control Over Testing. You acknowledge that, unless otherwise agreed in a signed writing, Escher Innovations has no control over the testing of your products or applications or the use of such products or applications with Escher Innovations products.
- 30.12. Translation. Any translation of this Agreement is provided to comply with local legal requirements only. In the event of a dispute between the English and any non-English versions, the English version of this Agreement shall govern to the extent not prohibited by local law in the applicable jurisdiction.

31. CANADIAN SALES.

If you obtained the Software in Canada, you agree to the following:

The parties hereto confirm that it is their wish that this Agreement, as well as other documents relating hereto, including notices, have been and shall be written in the English language only. Les parties aux présentes confirment leur volonté que cette convention de même que tous les documents y compris tout avis qui s'y rattache, soient rédigés en langue anglaise.