

WRAP REALITY END USER LICENSE AGREEMENT

This End User License Agreement (“Agreement”) is entered into as of the date of the last signature below (“Effective Date”) by and between the End User accepting this Agreement (“End User”) and Wrap Reality Inc. (“Licensor”).

LICENSOR IS WILLING TO PROVIDE END USER WITH ACCESS AND USE OF ITS SERVICES ON THE CONDITION THAT END USER ACCEPTS ALL OF THE TERMS IN THIS AGREEMENT. BY ACCESSING AND/OR USING THE SERVICES, INCLUDING ANY UPDATES, UPGRADES, OR NEWER VERSIONS, END USER ACKNOWLEDGES THAT IT HAS READ AND UNDERSTAND THIS AGREEMENT, IN ITS ENTIRETY, AND AGREES TO BE LEGALLY BOUND BY ITS TERMS. IF AN INDIVIDUAL ACCEPTS THIS AGREEMENT AS AN AUTHORIZED REPRESENTATIVE OF END USER, SUCH INDIVIDUAL REPRESENTS THAT IT HAS THE AUTHORITY TO BIND END USER TO THIS AGREEMENT. IF END USER DOES NOT AGREE TO THIS AGREEMENT, END USER MAY NOT ACCESS OR USE THE SERVICES.

WARNING: LICENSOR RECOMMENDS THAT YOU CONSULT YOUR PHYSICIAN BEFORE USING THE SERVICES.

BELOW IS A LIST OF POTENTIAL ISSUES AND RISKS THAT MAY BE AFFECTED BY WHEN USING THE SERVICES AND WHICH CANNOT BE ELIMINATED ENTIRELY. PLEASE READ THEM CAREFULLY AND CONSIDER HOW THEY MAY AFFECT YOU BEFORE ACCEPTING THIS AGREEMENT:

- **DISCOMFORT: EYE STRAIN; BLURRED, ALTERED OR DOUBLE VISION; MOTION SICKNESS; NAUSEA; LOSS OF AWARENESS; DIZZINESS; LIGHT-HEADEDNESS; DROWSINESS; IMPAIRED BALANCE OR HAND-EYE COORDINATION; DISORIENTATION**
- **HEARING DAMAGE: LISTENING TO SOUND AT HIGH VOLUME CAN CAUSE IRREPARABLE DAMAGE TO YOUR HEARING. THERE IS A VOLUME CONTROL FEATURE TO REDUCE THE RISK OF HEARING DAMAGE**
- **SEIZURES: TRIGGERED BY FLICKERING SCREENS AND FLASHING IMAGES OR PATTERNS WHICH MAY OCCUR WHILE USING THE SERVICES**
- **INTERFERENCE WITH MEDICAL DEVICES: THE SERVICES MAY AFFECT THE OPERATION OF SOME MEDICAL DEVICES SUCH AS CARDIAC PACEMAKERS OR OTHER IMPLANTED MEDICAL DEVICES**
- **PRE-EXISTING HEALTH ISSUES: THE SERVICES AND CONTENT MAY AFFECT THOSE WITH PRE-EXISTING MEDICAL (SUCH AS A HEART AILMENT), MENTAL HEALTH CONDITIONS (SUCH AS ANXIETY OR POST-TRAUMATIC STRESS DISORDER), OR AGGRAVATE PHYSICAL INJURIES (SUCH AS BACK OR NECK CONDITIONS)**
- **PREGNANCY: USE OF THE SERVICES MAY ADVERSELY AFFECT PREGNANT WOMEN**
- **IMMERSION: IT IS POSSIBLE TO FEEL CLAUSTROPHOBIA, PANIC OR OTHER PHOBIAS WHEN USING THE SERVICES, WHICH MAY CAUSE PHYSICAL INJURY (SUCH AS RUNNING INTO WALLS OR OBJECTS)**

A VERY SMALL PERCENTAGE OF INDIVIDUALS MAY EXPERIENCE ADVERSE REACTIONS WHEN EXPOSED TO CERTAIN LIGHT PATTERNS OR FLASHING LIGHTS UTILIZED IN CONNECTION WITH THE SERVICES. THESE CONDITIONS MAY TRIGGER PREVIOUSLY UNDETECTED SYMPTOMS IN PERSONS WHO HAVE NO HISTORY OF ADVERSE REACTIONS. IMMEDIATELY DISCONTINUE USE AND CONSULT YOUR PHYSICIAN BEFORE RESUMING USE OF THE SERVICES IF YOU EXPERIENCE SEIZURES OR ANY INVOLUNTARY MOVEMENT.

WE RECOMMEND THAT YOU DO NOT USE THE SERVICES WHEN TIRED, OR ILL, UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, HUNG-OVER, IN PAIN, OR FEEL STRESSED OR ANXIOUS IN ANY WAY AS THESE FACTORS CAN INCREASE YOUR RISK OF POTENTIAL ISSUES. YOU MUST STOP USING THE SERVICES IMMEDIATELY IF YOU FEEL ANY DISCOMFORT WHATSOEVER. RESUME SERVICES ONLY ON APPROVAL OF YOUR PHYSICIAN.

AGREEMENT

1. Definitions

- 1.1. “Account” means Customer’s unique account where the Services and certain Data are made available to Customer and its End Users.
- 1.2. “Affiliate” means any company, corporation, partnership, or other business organization or entity which, directly or indirectly, controls, is controlled by, or is under common control with a party.
- 1.3. “Applicable Law” means any present and future national, supranational, regional, state and local laws, treaties, statutes, rules, regulations, administrative codes, guidance, ordinances, judgments, decrees, directives, injunctions, orders, permits (including marketing approvals) of or from any court, arbitrator, regulatory authority or governmental agency or authority that are applicable to the subject matter of this Agreement.
- 1.4. “End User Data” means Data that End User owns, creates and/or licenses.
- 1.5. “Confidential Information” means, other than Exempt Information, any and all non-public scientific, technical, financial, or business information in whatever form (written, oral or visual) owned or controlled by one party or its Representatives (“Disclosing Party”) (including, but not limited to, confidential information of third-parties in the possession of the Disclosing Party) and is either furnished to the other party or its Representatives (“Receiving Party”), directly or indirectly, or otherwise becomes known to the Receiving Party as a consequence of its relationship or access to the Disclosing Party through use or examination of Confidential Information or through observation (including during an inspection of Disclosing Party’s facilities), in each case other than Exempt Information. As used herein, “Confidential Information” includes, by way of example and not limitation, and whether or not patentable, trade secrets, know-how, show-how, designs, methods, unpublished trademarks, and the content of unpublished patent applications; information relating to partners, vendors, End Users, patients, products, developmental or experimental work, draft or final regulatory filings and the contents of any other draft or final filings with governmental authorities worldwide; and anything respecting management, finance or operations, including personnel information or lists and financial statements, in each case, inclusively, other than Exempt Information.
- 1.6. “Customer” means the entity entering into a Wrap Reality Master Subscription Agreement with Licensor.
- 1.7. “Data” refers to all data, information, text, content, metadata, information, results of testing and/or processing, analytics and/or reports, whether now existing or created in the future, arising out of or related to the Services.
- 1.8. “End User” means each Customer Representative who is authorized to access and use the Services during the Term.
- 1.9. “Exempt Information” means any portion of information which the Receiving Party can demonstrate by reasonable documentary evidence: (a) is now or later made known to the public through no improper action or inaction by the Receiving Party or any of its Representatives; (b) was in its lawful possession or known by it prior to disclosure by the Disclosing Party, as evidenced by written documents in its files, and that such information is not subject to any other obligation of confidentiality of which Receiving Party was aware; (c) is rightfully received by the Receiving Party from a third party having no obligation of confidentiality to the Disclosing Party of which Receiving Party has been made aware; (d) is disclosed by the Receiving Party after receipt of written permission from the Disclosing Party (and then only to the extent of such permission); or (e) is independently developed by the Receiving Party without reference to the materials comprising the Confidential Information disclosed under this Agreement.
- 1.10. “Intellectual Property Right(s)” means all intellectual property rights, worldwide, arising under Applicable Law, whether or not perfected, including all (a) patents, including (i) issued patents and patent applications, (ii) substitutions, divisions, continuations, continuations-in-part, reissues, renewals, registrations, confirmations, re-examinations, extensions, supplementary protection certificates and the like, and (iii) any foreign or international equivalent of any of the foregoing; (b) inventions; (c) rights associated with works of authorship, whether or not copyrightable or registered, including copyrights, copyright applications, copyright registrations, mask works, mask work applications and mask work registrations, and any derivatives thereto; (d) trademarks, trade dress and design marks, whether or not registered, and all goodwill associated therewith,

including any registrations and applications therefor and all common law rights therein, (e) Confidential Information and Data; (f) domain names and webpages, and (g) any right analogous to those specifically set forth in this definition and any other proprietary rights relating to such intellectual property.

- 1.11. “Licensor Data” means Data that Licensor owns, creates and/or licenses in connection with End User’s access and use of the Services, all output, reports, analytics, and presentation of Data contained in and/or arising out of the Services, and all suggestions and feedback related to this Agreement.
- 1.12. “Representatives” means a party’s directors, officers, employees, contractors, consultants, advisors and agents.
- 1.13. “Services” means all SaaS services, Software, Hardware, Licensor Data, professional services and other related products and services provided and made available to End User by or on behalf of Licensor hereunder, including any updates, upgrades, additions and/or replacements thereto.
- 1.14. “Software” means the Wrap Reality software code, programs, and modules, including any executable code, object code or source code created, developed, or otherwise owned by Licensor, and any related documentation.

2. Rights and Obligations

- 2.1. Use of Services. During the term of the applicable Wrap Reality Master Subscription Agreement between Customer and Licensor, and subject to End User’s compliance with this Agreement, Licensor hereby grants to End User nonexclusive, nontransferable, revocable, limited license to use and run the Services set forth in such Wrap Reality Master Subscription Agreement through Customer’s Account solely for Customer’s business use. End User acknowledges that, as between End User and Licensor, Licensor owns all right, title, and interest, including all Intellectual Property Rights, in and to the Services. All rights not granted are expressly reserved by Licensor. In addition to any other rights and remedies of Licensor hereunder, Licensor may immediately suspend End User’s access to the Services at any time, and Licensor will have no liability for any damage or liability for such suspension.
- 2.2. Use of Data. Licensor may monitor End User’s use of the Services and collect and compile aggregate and anonymized data and information related to End User’s use of the Services, including to compile statistical and performance information related to the provision and operation of the Services (“Aggregated Statistics”). End User hereby grants to Licensor a non-exclusive, royalty-free, perpetual, worldwide license to access, revise, reproduce, distribute, transfer, and otherwise use and display all End User Data and to perform all acts with respect to such End User Data as necessary for Licensor to provide the Services to End User, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to access, revise, reproduce, distribute, transfer, and otherwise use and display End User Data incorporated within the Aggregated Statistics to the extent and in the manner permitted under Applicable Law, provided that such Aggregated Statistics do not identify End User’s Confidential Information. As between Licensor and End User, all right, title, and interest in Aggregated Statistics, and all Intellectual Property Rights therein, belong to and are retained solely by Licensor.
- 2.3. End User Obligations. End User is responsible and liable for all uses of the Services resulting from access provided by End User, whether such access or use is permitted by or in violation of this Agreement. End User shall not, directly or indirectly, in whole or in part: (a) use the Services for any purposes beyond the scope granted in this Agreement; (b) copy, distribute, modify, reverse engineer, reverse assemble, reverse translate, decompile or reduce to source code form, create derivative works or otherwise attempt to derive or gain access to any Software or any component of the Services; (c) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services; (d) remove any proprietary notices from the Services; (e) use the Services in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Rights or other rights of any person, or that violates applicable law; (f) utilize the Services to create, develop, enhance, or modify any competing product or service; or (g) circumvent or disable any security or other technological features or measures of the Services, or attempt to probe, scan or test the vulnerabilities of a network or system, or to breach security or authentication measures.

3. Representations and Warranties

- 3.1. End User Representations and Warranties. End User hereby represents, warrants and covenants to Licensor that: (a) any Data provided to, made available and/or placed into the Services do not and shall not violate the rights of any third party; (b) it shall comply with all Applicable Laws applicable to the performance of its

obligations under, and use of the Services pursuant to, this Agreement, including those related to data privacy and the transmission of technical or personal data; (c) in using the Services it will not post, transmit, store, upload or distribute any documents, images or other materials which constitute advertising or marketing materials or which are defamatory, obscene, illegal or which contravene any Applicable Laws; (d) in using the Services it will not introduce any software, virus or other material which could interfere with the operation of the Services; (e) it shall retain a hard and electronic copy of any document, image, file or other information provided to Licensor during the Services so that if any such document, image, file or other information is lost, damaged or destroyed during the Services, the End User will be able to provide a replacement; and (f) it has all rights, consents and permissions required for End User Data to be disclosed to and used by and on behalf of Licensor in connection with the Services.

3.2. Open Source Components. End User acknowledges and agrees that the Services may contain certain open source code software and materials (“Open Source Software”) that are subject to their respective open source licenses (“Open Source Licenses”). By executing this Agreement, End User undertakes to strictly comply with the terms and condition of the Open Source Licenses. In the event of any inconsistencies or conflicting provisions between the provisions of the Open Source Licenses and the provisions of this Agreement, the provisions of the Open Source Licenses shall prevail. For the avoidance of doubt, any Open Source Software is provided on an “AS IS” basis, without indemnity or warranty of any kind, whether express or implied.

3.3. Disclaimer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SERVICES ARE PROVIDED “AS IS” AND LICENSOR HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. LICENSOR SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. LICENSOR MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES, OR ANY DATA, REPORTS AND/OR RESULTS OF ITS USE, WILL MEET END USER’S OR ANY OTHER PERSON’S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. END USER ACKNOWLEDGES THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS, AND LICENSOR SHALL NOT BE RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

4. Confidential Information.

4.1. Use of Confidential Information. During the term of this Agreement and for a period of five (5) years thereafter (and in the case of trade secrets, until such time as Disclosing Party no longer treats such information as a trade secret), the Receiving Party shall treat any and all Confidential Information received from the Disclosing Party during the term of this Agreement as strictly confidential in accordance with the terms and conditions of this Agreement. In this regard, the Receiving Party shall take all reasonable measures and use at least the same degree (but no less than a reasonable degree) of care and protection to prevent the unauthorized use or disclosure of any Confidential Information of the Disclosing Party as it uses to protect its own confidential, proprietary or trade secret information.

4.2. Non-Disclosure Obligations. Except as otherwise expressly permitted in writing by a Representative of the Disclosing Party, the Receiving Party may not, directly or indirectly, disclose or otherwise grant access to the Disclosing Party’s Confidential Information to any third party other than the Receiving Party’s Representatives who (a) have a legitimate need to know such Confidential Information in connection with this Agreement, (b) have been advised of the Confidential Information’s confidential status, and (c) are subject to legally binding obligations of confidentiality as to such Confidential Information, which are no less restrictive than those contained in this Agreement; provided, that the Receiving Party shall at all times remain fully responsible to the Disclosing Party for compliance with this Agreement by its Representatives. Except as otherwise expressly permitted in writing by a Representative of the Disclosing Party, the Receiving Party shall use the Confidential Information solely for the Purpose and not exploit it or otherwise apply or make use of it in any way or form. In no event will the Receiving Party, directly or indirectly, other than as expressly permitted hereunder in writing, attempt to (a) analyze, reverse-engineer, or disassemble any product, material, sample, component,

software, or other deliverable provided by the Disclosing Party, (b) attempt to discover the trade secrets in any such deliverable or (c) circumvent any technological measure that controls access to any such deliverable.

4.3. Legally Required Disclosures. Anything to the contrary contained herein notwithstanding, the Receiving Party or its Representatives (as the case may be) shall be permitted to disclose any of the Disclosing Party's Confidential Information if the Receiving Party or any of its Representatives becomes legally compelled under applicable law in connection with a legal or administrative proceeding brought against the Receiving Party or any of its Representatives to disclose such Confidential Information; provided, however, that the Receiving Party shall first (to the extent feasible, consistent with legal requirements) (a) promptly notify the Disclosing Party of any such disclosure requirement in writing; (b) provide adequate opportunity to the Disclosing Party to object to, or restrict, such disclosure or request confidential treatment thereof and cooperate with the Disclosing Party if the Disclosing Party seeks a protective order or other remedy in respect of any such disclosure; (c) take all reasonable measures in an effort to ensure that the Confidential Information in question will be disclosed to such competent legislative or judicial authorities in a manner that protects such Confidential Information from public disclosure, and (d) furnish only that portion of Confidential Information that the Receiving Party is legally required to disclose (per the reasonable advice of its legal counsel). To the extent any such disclosures are made, the Receiving Party must first mark such materials as "Confidential & Proprietary Information."

4.4. Remedies. Each Party acknowledges that the Confidential Information disclosed and/or made available to the Receiving Party hereunder is valuable to the Disclosing Party and that any threatened or actual breach of this Agreement may cause irreparable injury to the Disclosing Party for which monetary damages would be inadequate. Accordingly, in the event of a breach or threatened breach of this Agreement, the Disclosing Party will be entitled to seek equitable relief, including without limitation, injunction and specific performance. Each Party hereby waives any requirements for security or posting of any bond in connection with such relief.

5. Indemnification.

5.1. Indemnification by Licensor. Licensor will indemnify, defend and hold harmless End User, its Affiliates and each of its and their respective Representatives, successors and assigns (collectively, the "End User Indemnitees") from and against any and all liabilities, expenses, damages or costs, including, without limitation, reasonable attorney's fees and legal costs ("Losses") incurred in connection with any third party claim, complaint, suit, proceedings or cause of action ("Claim") alleging infringement, misappropriation or violation of such third party's Intellectual Property Rights in connection with the Services or End User's or use thereof in accordance with this Agreement. Notwithstanding the foregoing, Licensor's indemnification obligations will not apply to the extent that a Claim arises out of or relates to (a) use of the Services in combination with data, software, hardware, equipment, or technology prohibited by the applicable Document; (b) Licensor's actions or omissions taken at the direction of End User; (c) Claims for which End User is required to indemnify Licensor Indemnitees as set forth in Section 5.2; and (d) Claims to the extent arising out of any negligence, misconduct or violation of Applicable Law of any End User Indemnitee. If a Services becomes the subject of a Claim such that further use of such Service is enjoined, Licensor shall promptly at its sole cost, either: (1) secure the right for End User to continue using such Service to the extent commercially practicable; (2) replace or modify the Service to make it non-infringing or without misappropriation. **THIS SECTION 5.1 SETS FORTH END USER'S SOLE REMEDIES AND LICENSOR'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES INFRINGE, MISAPPROPRIATE, OR OTHERWISE VIOLATE ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.**

5.2. Indemnification by End User. End User will indemnify, defend and hold harmless Licensor, its Affiliates, and its and their respective Representatives, successors and assigns (collectively, the "Licensor Indemnitees") against any and all Losses incurred in connection with any Claim alleging: (a) a breach by End User of any obligation, representation, warranty, covenant or agreement hereunder; (b) the negligence, willful misconduct, and/or violation of Applicable Law by any End User Indemnitee; (c) a violation by any End User Indemnitee of Applicable Law, or (d) infringement, misappropriation or violation of a third party's Intellectual Property Rights in connection with the use of any End User Data.

5.3. Indemnification Procedures. Each party must promptly notify the other party within thirty (30) days after receipt of any claims made for which the other party might be liable. The indemnifying party will have the sole right to defend, negotiate, and settle such Claims. The indemnified party will be entitled to participate in the

defense of such matter and to employ counsel at its expense to assist in such defense; provided, however, that the indemnifying party will have final decision-making authority regarding all aspects of the defense of the Claim; further provided, that neither party will be responsible for or bound by any settlement of any Claim without its prior written consent, which shall not be unreasonably withheld or delayed. The indemnified party will provide the indemnifying party with such information and assistance as the indemnifying party may reasonably request, at the expense of the indemnifying party.

6. Limitations of Liability; Insurance.

- 6.1. LIMITATIONS OF LIABILITY.** IN THE EVENT OF ANY LOSS, DAMAGE OR DESTRUCTION OF END USER DATA, CAUSED BY ANY ACT, ERROR, OMISSION, NEGLIGENCE OR OTHER CAUSE BY LICENSOR OR ANY OF ITS AFFILIATES, AGENTS, VENDORS OR SUBCONTRACTORS, LICENSOR'S LIABILITY SHALL BE LIMITED TO THE COST OF DUPLICATION OF SUCH END USER DATA FROM BACKUP COPIES MAINTAINED BY END USER AND THE COST OF REPLACEMENT MEDIA. UNDER NO CIRCUMSTANCES WILL LICENSOR, ITS AFFILIATES, EMPLOYEES, AGENTS, OR ANY THIRD PARTY CONNECTED WITH THE SERVICE BE LIABLE FOR THE COST OF RECREATING END USER DATA FOR WHICH NO BACKUP COPIES HAVE BEEN RETAINED BY END USER. LICENSOR, ITS AFFILIATES, EMPLOYEES, AGENTS, OR ANY THIRD PARTY CONNECTED WITH THE SERVICES SHALL HAVE NO LIABILITY TO END USER, ANY END USER AFFILIATE OR USER FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES OR LOST PROFITS, LOST REVENUE OR LOSS OF OPPORTUNITY, WHETHER FORESEEABLE OR UNFORESEEABLE, BASED ON CLAIMS OF END USER, ITS AFFILIATES OR USERS (INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR WASTED COSTS, LOSS OF GOODWILL, USE OF OR RELIANCE ON THE SERVICES, STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OR DIMINUTION IN VALUE OF OTHER ASSETS/TRANSACTIONS), ARISING OUT OF BREACH OR FAILURE OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE AND EVEN IF A LIMITED REMEDY PROVIDED IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF LICENSOR, ITS AFFILIATES, EMPLOYEES, AGENTS, OR ANY THIRD PARTY CONNECTED WITH THE SERVICES PROVIDED TO END USER, ITS AFFILIATES OR USERS OR ANY OTHER PARTY (INCLUDING LIABILITY FOR ANY INDEMNITY OBLIGATION, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHERWISE, REGARDLESS OF FORM OF ACTION), EXCEED, IN THE AGGREGATE, THE TOTAL FEES ACTUALLY PAID BY END USER TO LICENSOR FOR THE RELEVANT SERVICES OUT OF WHICH ANY ASSERTED CLAIM WITH RESPECT TO THE SERVICES ARISES. THE FOREGOING LIMITATION IS A FUNDAMENTAL PART OF THE BASIS OF THE BARGAIN HEREUNDER AND IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE BEEN HELD TO BE INVALID OR INEFFECTIVE. NO ACTION, REGARDLESS OF FORM, ARISING OUT OF OR RELATED TO THE USE OF THE SERVICES PURSUANT TO THIS AGREEMENT MAY BE BROUGHT BY END USER MORE THAN TWELVE (12) MONTHS AFTER THE CAUSE OF ACTION FIRST AROSE. NOTWITHSTANDING THE FOREGOING, LICENSOR DOES NOT EXCLUDE OR LIMIT ITS LIABILITY IN RESPECT OF CLAIMS FOR DEATH OR PERSONAL INJURY CAUSED BY LICENSOR'S GROSS NEGLIGENCE, FRAUD, WILLFUL MISCONDUCT, OR VIOLATION OF APPLICABLE LAW; OR VIOLATION, INFRINGEMENT OR MISAPPROPRIATION BY LICENSOR OF END USER'S INTELLECTUAL PROPERTY RIGHTS.

7. Term and Termination.

- 7.1. Term.** The initial term of this Agreement begins on the Effective Date and, unless terminated earlier pursuant to any of the Agreement's express provisions, will continue in effect for as long as the Wrap Reality Master Subscription Agreement remains in effect ("Term"). Notwithstanding anything else herein, Licensor may terminate this Agreement effective on written notice if End User breaches any of its obligations hereunder.
- 7.2. Effect of Termination or Expiration.** Upon termination or expiration of this Agreement, neither Licensor nor End User will have any further obligations under this Agreement, except that (a) each Receiving Party will promptly return to the Disclosing Party all of Disclosing Party's Confidential Information (including all copies)

provided to Receiving Party under this Agreement which has been terminated or has expired, except for one (1) copy which Receiving Party may retain solely to monitor Receiving Party's surviving obligations of confidentiality and non-use and, in the case of End User, to exercise all surviving rights of End User under this Agreement; and (b) the terms and conditions under Section 3 and any other provision that should survive will survive any such termination or expiration.

8. Miscellaneous.

- 8.1. Governing Law and Dispute Resolution.** This Agreement and any disputes arising out of or relating to this Agreement will be governed by, construed and interpreted in accordance with the internal laws of the State of Arizona, without regard to any choice of law principle that would require the application of the law of another jurisdiction. Any legal action shall be brought in any State or Federal court located in Maricopa County, Arizona. In the event that any action, suit, arbitration or other legal or administrative proceeding is instituted or commenced by either Party hereto against the other Party arising out of or related to this Agreement, the prevailing Party shall be entitled to seek to recover the costs of the arbitration and its actual attorneys' fees and court costs from the non-prevailing Party.
- 8.2. Independent Contractor.** Licensor is an independent contractor and not an agent or employee of End User. Licensor will not in any way represent itself to be an agent, employee, partner or joint venturer of or with End User, and Licensor has no authority to obligate or bind End User by contract or otherwise.
- 8.3. Third Party Beneficiaries.** Except for the rights afforded to End User Indemnitees and Licensor Indemnitees and the rights that may be conferred on each of the party's respective successors and permitted assigns, this Agreement is for the sole benefit of the parties hereto and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.
- 8.4. Force Majeure.** Licensor does not and cannot control internet services and software provided or controlled by or on behalf of End User and/or other third parties and on the public internet infrastructure, as well as other events beyond Licensor's control. End User acknowledges and agrees that at times, action, inaction and/or events of parties other than Licensor or events beyond Licensor's reasonable control can impair or disrupt Licensor's ability to provide the Services or End User's ability to access the Services, and End User shall not hold Licensor responsible for, any and all liability resulting from or related to any such actions, inactions and/or events. Notwithstanding any other provision of this Agreement, neither Party shall be deemed in default or breach of this Agreement or liable for any loss or damages or for any delay or failure in performance (except for the payment of money) due to any cause beyond the reasonable control of, and without fault or negligence by, such party or its officers, directors, employees, agents or contractors. Without limiting the foregoing, the following shall constitute events of force majeure: acts of State or governmental action, riots, war, terrorism, strikes, lockouts, prolonged shortage of energy supplies, epidemics, fire, flood, hurricane, typhoon, earthquake, lightning, explosion, any other acts of God or any third party, the failure of telecommunications equipment or other hardware, any third party software or any third party services.
- 8.5. Notices.** Licensor may provide End User with general notices from time to time by means of a general notice on Customer's Account, by way of email to End User's address on record, or by written communication. All other notices regarding enforcement of a party's rights and/or obligations under this Agreement must be in writing and sent to the address for the recipient set forth below or at such other address as the recipient may specify in writing under this procedure. All notices must be given (a) by personal delivery, with receipt acknowledged; or (b) by prepaid certified or registered mail, return receipt requested; or (c) by prepaid recognized express delivery service. Notices will be effective upon receipt if personally delivered, three (3) business days after mailing if sent via (b) or (c), or at a later date stated in the notice.
- 8.6. Assignment.** End User may not by operation of law or otherwise assign, sublicense, or otherwise transfer any of its right or obligations under this Agreement without the prior written consent of Licensor. Any prohibited assignment, sublicense, or transfer shall be null and void. Licensor may assign this Agreement at any time. This Agreement shall bind, benefit, and be enforceable by and against both parties and their respective successors and permitted assigns.
- 8.7. Entire Agreement; Modification.** This Agreement, together with the Wrap Reality Master Subscription Agreement referenced herein, represents the entire agreement between the parties concerning the subject matter

hereof and supersedes all prior representations, understandings and agreements whether written or oral. Licensor reserves the right to modify this Agreement and to add new or additional terms or conditions regarding use of the Services from time to time in its sole discretion. Such modifications and/or additional terms and conditions will be effective immediately and incorporated into this Agreement. End User's continued use of the Services will be deemed acceptance thereof.

- 8.8. Severability; Reformation.** Each provision in this Agreement is independent and severable from the others, and no provision will be rendered unenforceable because any other provision is found by a proper authority to be invalid or unenforceable in whole or in part. If any provision of this Agreement is found by such an authority to be invalid or unenforceable in whole or in part, such provision will be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision and the intent of the parties, within the limits of Applicable Law.
- 8.9. Waivers.** Any delay in enforcing a party's rights under this Agreement, or any waiver as to a particular default or other matter, will not constitute a waiver of such party's rights to the future enforcement of its rights under this Agreement, except with respect to an express written waiver relating to a particular matter for a particular period of time signed by a Representative of the waiving party, as applicable.