

Humming Heads Software End User License Agreement
(Security Platform/Evolution DLP)

PLEASE READ THIS HUMMING HEADS SOFTWARE END USER LICENSE AGREEMENT (THIS "AGREEMENT") CAREFULLY BEFORE INSTALLING OR USING THE SOFTWARE OR THE TRIAL VERSION, AS DEFINED BELOW IN SECTION I-A AND B AND SECTION IV-A, RESPECTIVELY. BY CLICKING "YES" OR BY INSTALLING OR USING THE SOFTWARE OR THE TRIAL VERSION, YOU ("CUSTOMER") ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF CUSTOMER DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT CLICK "YES" AND DO NOT INSTALL OR USE THE SOFTWARE OR THE TRIAL VERSION. IF CUSTOMER DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, CUSTOMER SHALL RETURN THE SOFTWARE AND THE TRIAL VERSION TO HUMMING HEADS, INC. ("HUMMING HEADS") OR SHINOBI USA, INC. ("SHINOBI USA"), OR ITS SUPPLIER, RESELLER OR AGENT FROM WHICH CUSTOMER PURCHASED OR OTHERWISE PROCURED THE SOFTWARE OR THE TRIAL VERSION.

THIS AGREEMENT IS ENTERED INTO BY AND BETWEEN HUMMING HEADS AND CUSTOMER THAT HAS PURCHASED, RENTED OR OTHERWISE PROCURED THE SOFTWARE OR THE TRIAL VERSION FOR USE AS AN END USER. CUSTOMER SHALL ENSURE THAT ITS EXECUTIVES, EMPLOYEES, CONTRACTORS AND OTHER PARTIES WHO USE THE SOFTWARE OR THE TRIAL VERSION COMPLY WITH THE TERMS OF THIS AGREEMENT.

I. Software and Updates/Upgrades

A. Software

"Software" means Humming Heads software listed in this Section I-A or in the "Humming Heads Software License Certificate" or in other official writing separately provided to Customer by Humming Heads, along with documentation set forth in Section I-B.

B. Software (Documentation)

The Software as defined in Section I-A above includes all documentation accompanying this Agreement whether on disk, in read only memory, on any other media or in any other form (collectively the "Software").

C. Updates/Upgrades and This Agreement

The terms of this Agreement will govern any software updates or upgrades provided by Humming Heads that replace and/or supplement the original Software, unless such an update or upgrade is accompanied by a separate agreement in which case the terms of that agreement will govern. If the Software is an update or upgrade product, Customer agrees that this Agreement replaces the original agreement and is applied to the original Software by installing or using said update or upgrade Software.

II. License and Use

Subject to the terms and conditions of this Agreement, Customer is granted a limited, non-exclusive, non-transferable license for the License Period, as defined below, to install and use one (1) copy of the Software on a computer with a compliant operating system, as indicated by Humming Heads (the "License"). "License Period" means a time period (perpetual license or time-limited license) specifically stated in this Agreement or in the "Humming Heads Software License Certificate" or in other official writing which is separately provided to Customer by Humming Heads. Customer is required to obtain a License with respect to each copy of the Software installed. By way of example, without limitation, if Customer uses a single computer running multiple operating systems, Customer is required to purchase as many Licenses as the number of operating systems on which the Software is installed. Customer may make one (1) copy of the Software in machine-readable form for backup purposes only; provided that the backup copy must include all copyright or other proprietary notices contained on the original. If this Software is an update or upgrade product of the Software, only a valid Customer (licensee) of the original Software for which Customer entered into the equivalent of this Agreement in the original Software may use this Software under this Agreement.

III. Federal Government Customers

To the extent Customer is or is acting on behalf of a United States Federal Government entity or agency, or a prime contractor or subcontractor at any tier under any Federal Government contract, grant, cooperative agreement or other agreement type ("Federal Government Customer"), by accepting the terms of this Agreement or by installing or using the Software, Federal Government Customer agrees that the Software is "commercial" computer software within the meaning of the applicable Federal Acquisition Regulation (FAR) provision or clause and is subject to this commercial license Agreement. If this Agreement fails to meet the government's needs or is inconsistent in any respect with federal law or regulation, **DO NOT CLICK "YES" AND DO NOT INSTALL OR USE THIS SOFTWARE.** If Federal Government Customer clicks "Yes", installs or uses the Software, the terms and conditions of this Agreement are fully applicable to Federal Government Customer and any resulting use of the Software, and the terms of this Agreement shall supersede any conflicting terms or conditions which may be applicable under any United States federal law or contract. In the event that Federal Government Customer wishes to vary the terms of this Agreement, Federal Government Customer must contact Humming Heads and negotiate a mutually agreeable license or agreement. To the extent the United States Federal Government or a prime contractor or subcontractor at any tier under any Federal Government contract, grant, cooperative agreement or other agreement type is provided a copy(ies) of the Software without authorization hereunder, the following notice shall accompany such Software: "Notwithstanding any other agreement or license including, but not limited to, FAR 52.227-19 or DFARS 252.227-7013, the rights of Federal Government Customer and its prime contractors or subcontractors at any tier are governed exclusively by the terms of the standard commercial Humming Heads Software End User License Agreement unless and until Humming Heads has entered into a separate written license agreement governing the Software and the use thereof."

IV. Trial Version - Trial Version License, Restrictions on Use, Disclaimer or Warranties, and Limitation of Liability (Uninstallation of the Trial Version)

A. Trial Version License

Subject to the terms and conditions of this Agreement, Customer is granted a limited, non-exclusive, non-transferable license for the Trial Period, as defined below, to install and use one (1) copy of the Trial Version, as defined below, of the Software on a computer with a compliant operating system, as indicated by Humming Heads (the "Trial Version License"). "Trial Version" means a version of the Software which is used by Customer for the trial purpose only, during the Trial Period, and is, if provided in the form of CD, DVD, or other media, marked "Not-for-Sale" and/or "Trial Version". "Trial Period" means a time period (either thirty (30) days from the date Customer first installs the Trial Version or certain time period) specifically stated in this Agreement or in the "Humming Heads Trial Software License Certificate" or in other official writing which is separately provided to Customer by Humming Heads. Humming Heads does not grant a License, as defined by Section II (License and Use), to the Software during the Trial Period. If Customer wishes to continue the use of the Trial Version after its Trial Period expires, said Customer shall obtain the License as defined by Section II (License and Use).

B. Trial Version - Restrictions on Use

Except as expressly authorized, Customer shall not do, instruct another to do, or permit someone to do the following without the prior written consent of Humming Heads:

- i. make a copy of the Trial Version, in whole or in part, regardless of how such copy is made;
- ii. revise, change, modify, adapt, reverse engineer, reverse compile, disassemble or back analyze, or create derivative works of the Trial Version, in whole or in part, regardless of how such action is carried out;
- iii. sublicense, sell, assign, distribute, rent, lend, or lease the Trial Version to any third party or otherwise let any unauthorized third party use the Trial Version;
- iv. sell, assign, rent, lend, or lease a computer on which the Trial Version is installed or otherwise let any unauthorized third party use said computer;
- v. provide services to any third party by using the Trial Version;
- vi. use the Trial Version in excess of the number of Trial Version Licenses granted to Customer under this Agreement;
- vii. delete or in any manner alter the copyright, trademark, patent, or other proprietary rights notices appearing on the Trial Version; and
- viii. attempt to use the Trial Version after the termination of this Agreement.

C. Trial Version - Disclaimer of Warranties

WITHOUT LIMITING WHAT IS STATED IN SECTION IX (DISCLAIMER OF WARRANTIES), HUMMING HEADS OR SHINOBI USA, OR ITS SUPPLIERS, RESELLERS, OR AGENTS, IF ANY, PROVIDES NO REMEDIES OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, NOR ANY TECHNICAL SUPPORT OR ANY OTHER SERVICES, FOR THE TRIAL VERSION. THE TRIAL VERSION IS PROVIDED "AS IS" AND "AS AVAILABLE."

D. Trial Version - Limitation of Liability (Uninstallation of the Trial Version)

THE TRIAL VERSION WILL BE AUTOMATICALLY UNINSTALLED UPON THE EXPIRATION OF THE TRIAL PERIOD. FILES ENCRYPTED USING THE TRIAL VERSION CANNOT BE DECRYPTED AFTER THE AUTOMATIC UNINSTALLATION OR THE MANUAL UNINSTALLATION BY CUSTOMER.

IT IS CUSTOMER'S SOLE RESPONSIBILITY TO CONDUCT NECESSARY MEASURES, INCLUDING, BUT NOT LIMITED TO, MAKING DATA BACKUPS, TO AVOID ANY UNEXPECTED RESULTS, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA AND NOT BEING ABLE TO DECRYPT ENCRYPTED DATA, ARISING OUT OF THE AUTOMATIC UNINSTALLATION OR THE MANUAL UNINSTALLATION.

WITHOUT LIMITING WHAT IS STATED IN SECTION X (LIMITATION OF LIABILITY), IN NO EVENT SHALL HUMMING HEADS OR SHINOBI USA, OR ITS SUPPLIERS, RESELLERS, OR AGENTS, IF ANY, BE LIABLE TO CUSTOMER FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER ARISING OUT OF OR RELATED TO THE AUTOMATIC OR MANUAL UNINSTALLATION OF THE TRIAL VERSION.

V. Restrictions on Use of Software

Except as expressly authorized, Customer shall not do, instruct another to do, or permit someone to do the following without the prior written consent of Humming Heads:

- i. make a copy of the Software, in whole or in part, beyond the extent permitted in Section II (License and Use), regardless of how such copy is made;
- ii. revise, change, modify, adapt, reverse engineer, reverse compile, disassemble or back analyze, or create derivative works of the Software, in whole or in part, regardless of how such action is carried out;
- iii. sublicense, sell, assign, distribute, rent, lend, or lease the Software to any third party or otherwise let any unauthorized third party use the Trial Version;
- iv. sell, assign, rent, lend, or lease a computer on which the Software is installed or otherwise let any unauthorized third party use said computer;
- v. provide services to any third party by using the Software;
- vi. use the Software in excess of the number of Licenses granted to Customer under this Agreement;
- vii. delete or in any manner alter the copyright, trademark, patent, or other proprietary rights notices appearing on the Software; and
- viii. attempt to use or continue to use the Software after the termination of this Agreement.

VI. Export Controls and Use of Encryption Products

A. Compliance with Export Control Regulations

Customer shall comply with all applicable treaties, laws, and regulations in connection with the use of the Software and the Trial Version. Without limiting the foregoing, the Software and the Trial Version may be subject to export controls and economic or financial

sanctions under U.S. and other nations' or regions' export and sanctions laws and/or regulations. Customer shall not export, re-export, divert, ship, send electronically, disclose, or otherwise provide, directly or indirectly, the Software or the Trial Version without complying with all applicable U.S. and other applicable export requirements, including without limitation obtaining all required approvals or licenses from the U.S. Department of Commerce. To the extent that the Software or the Trial Version is subject to export controls and/or economic or financial sanctions under any U.S. and other applicable laws or regulations, Customer represents that Customer is not an ordinary resident in, located in, or organized under the laws of any country or region subject to economic or financial sanctions imposed, administered, or enforced by the U.S. and other applicable countries and regions; that Customer is not an individual or entity on the U.S. Department of the Treasury's Specially Designated Nationals and Blocked Persons List and Foreign Sanctions Evaders List and the US Department of Commerce's Denied Persons List, Entity List and Unverified List; and that Customer is not otherwise prohibited under any such laws or regulations from receiving the Software and the Trial Version.

B. Representation - Use of Encryption Products

Customer acknowledges that the Software and the Trial Version contain encryption features, among other features. In some countries and/or regions, the Software and the Trial Version may be subject to their local regulations on use of encryption products, including without limitation prohibition of use of foreign-made encryption products and requiring a government license or approval to use encryption products regardless of the manufactured location. Customer represents that Customer does not violate any applicable laws and regulations in connection with importing, purchasing or otherwise procuring and using the Software and the Trial Version within the country or region in which Customer is located. Furthermore, when Customer travels while possessing the Software and/or the Trial Version and/or machines containing the Software or the Trial Version internationally, Customer is solely responsible for complying with all applicable laws and regulations in the destination countries and/or regions.

VII. Intellectual Property Rights and Ownership

Humming Heads retains title to and ownership of, and all other rights with respect to the Software, the Trial Version, and all copies, improvements, enhancements, modifications and derivative works thereof, including without limitation any related copyrights, trademarks, trade secrets, patents, and other intellectual property rights. Customer has only the limited license (the License or the Trial Version License) granted with respect to the Software and the Trial Version expressly set forth in this Agreement, and Customer has no other rights, implied or otherwise. Customer acknowledges and agrees that the Software and the Trial Version is licensed, not sold or assigned, and that rights to install and use the Software and the Trial Version is acquired only under the applicable License or the Trial Version License from Humming Heads. Humming Heads reserves all rights not expressly granted to Customer. Any ambiguity in the scope of Customer's rights with respect to the Software and the Trial Version, and all copies, improvements, enhancements, modifications and derivative works thereof, shall be resolved in Humming Heads' favor.

VIII. Consent to Collection of Information

A. Collection of Information - The Software and the Trial Version

Humming Heads may collect, maintain, process and use diagnostic, technical, usage and related information, including (i) the Alert Panel information of the Software and the Trial Version, which is transmitted to Humming Heads through the automatic transmission function of the Software (Shinobi Defense System™ DeepWhite™ Server/Client (Japanese Name: Security Platform Server/Client Defense Option)) and the Trial Version (Shinobi Defense System™ DeepWhite™ Server/Client (Japanese Name: Security Platform Server/Client Defense Option)) and (ii) other information used for analysis or improvement of the functions of Humming Heads' products. Humming Heads does not link the collected information pursuant to this Section VIII-A with Customer's personal information. Humming Heads uses the information it collects for the improvement of the Software and to provide security risk alerts or compile statistical data. Customer gives permission and agrees that Humming Heads may collect, maintain, process and use such information for these purposes.

B. Privacy Policy - General

Customer otherwise gives permission and agrees that Humming Heads may collect, maintain, process and use personal information as set forth in its Privacy Policy. Humming Heads' Privacy Policy can be found online at:

<https://www.hummingheads.co.jp/company/privacy.html> (Japanese Version) and
<https://www.hummingheads.co.jp/english/terms-privacypolicy.pdf> (English Version).

IX. Disclaimer of Warranties

CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, USE OF THE SOFTWARE, THE TRIAL VERSION AND ANY SERVICES PERFORMED BY OR ACCESSED THROUGH THE SOFTWARE AND THE TRIAL VERSION IS AT CUSTOMER'S SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFECT IS WITH CUSTOMER.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE AND THE TRIAL VERSION IS PROVIDED "AS IS" AND "AS AVAILABLE", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND HUMMING HEADS HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE SOFTWARE AND THE TRIAL VERSION, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

HUMMING HEADS DOES NOT WARRANT, AGAINST INTERFERENCE WITH CUSTOMER'S ENJOYMENT OF THE SOFTWARE AND THE TRIAL VERSION, THAT THE FUNCTIONS CONTAINED IN, OR SERVICES PERFORMED OR PROVIDED BY THE SOFTWARE AND THE TRIAL VERSION WILL MEET CUSTOMER'S REQUIREMENTS,

THAT THE OPERATION OF THE SOFTWARE AND THE TRIAL VERSION WILL BE UNINTERRUPTED OR ERROR-FREE, THAT THE SOFTWARE AND THE TRIAL VERSION WILL BE COMPATIBLE OR WORK WITH ANY THIRD PARTY SOFTWARE, APPLICATIONS OR THIRD PARTY SERVICES, OR THAT DEFECTS IN THE SOFTWARE AND THE TRIAL VERSION WILL BE CORRECTED. INSTALLATION OF THE SOFTWARE OR THE TRIAL VERSION MAY AFFECT THE USABILITY OF THIRD PARTY SOFTWARE, APPLICATIONS OR THIRD PARTY SERVICES.

CUSTOMER FURTHER ACKNOWLEDGES THAT THE SOFTWARE AND THE TRIAL VERSION ARE NOT INTENDED OR SUITABLE FOR USE IN SITUATIONS OR ENVIRONMENTS WHERE THE FAILURE OR TIME DELAYS OF, OR ERRORS OR INACCURACIES IN, THE CONTENT, DATA OR INFORMATION PROVIDED BY THE SOFTWARE AND THE TRIAL VERSION COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE, INCLUDING WITHOUT LIMITATION THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, LIFE SUPPORT OR WEAPONS SYSTEMS.

NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY HUMMING HEADS OR SHINOBI USA, OR ITS SUPPLIERS, RESELLERS, OR AGENTS SHALL CREATE A WARRANTY. SHOULD THE SOFTWARE OR THE TRIAL VERSION PROVE DEFECTIVE, CUSTOMER ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION.

X. Limitation of Liability

A. Limitation of Liability - General

Customer acknowledges that the Software and the Trial Version are complicated and may have bugs and/or security holes. Customer acknowledges and agrees that it is Customer's responsibility, at Customer's own cost, to manage and maintain the Software and the Trial Version once installed, such as by making proper system and data backups. Humming Heads or Shinobi USA, or its suppliers, resellers, or agents, if any, will not be liable for any damages to Customer or other persons arising from the failure of such management or maintenance by Customer.

TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL HUMMING HEADS OR SHINOBI USA, OR ITS SUPPLIERS, RESELLERS, OR AGENTS, IF ANY, BE LIABLE TO CUSTOMER FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION COSTS TO PROCURE SUBSTITUTE OR REPLACEMENT GOODS AND SERVICES, DAMAGES FOR LOSS OF PROFITS, CORRUPTION OR LOSS OF DATA, FAILURE TO TRANSMIT OR RECEIVE ANY DATA OR INFORMATION, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO CUSTOMER'S USE OR INABILITY TO USE THE SOFTWARE, THE TRIAL VERSION OR SERVICES OR ANY THIRD PARTY SOFTWARE OR APPLICATIONS IN CONJUNCTION WITH THE SOFTWARE, THE TRIAL VERSION OR SERVICES, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF HUMMING HEADS OR

SHINOBI USA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

B. Limitation of liability - Workspace Folder Data Deletion

The Workspace Folder feature, if available, within the Software and the Trial Version includes, among other features, an automatic data deletion feature by which the data saved in workspace folders is automatically deleted at a specified time or by specified conditions (the “WF Automatic Deletion”) and a manual workspace folder deletion feature by which the administrator, by sending commands from the server, may delete the workspace folder itself of specified clients (the “Lost/Stolen Machine Countermeasure”). Files deleted by the WF Automatic Deletion and the workspace folder (including data saved in the workspace folder) deleted by the Lost/Stolen Machine Countermeasure cannot be recovered by post deletion operations. Customer acknowledges and agrees (i) that the files saved in the applicable workspace folder will be automatically deleted by the WF Automatic Deletion; (ii) that the applicable workspace folder(s) (including data saved in the workspace folder) will be deleted by execution of the Lost/Stolen Machine Countermeasure; and (iii) that the data and the workspace folder(s) (including data saved in the workspace folder) deleted by the foregoing (i) or (ii) cannot be recovered afterward. Customer further acknowledges and agrees that it is Customer’s sole responsibility to conduct necessary measures to avoid any unintended deletion or loss of data. The aforementioned measures include, but are not limited to, selecting appropriate settings (including without limitation, enabling/disabling the Workspace Folder feature, specifying and managing the client machines subject to the Workspace Folder feature, specifying the time and/or other conditions by which the WF Automatic Deletion is executed, and the Lost/Stolen Machine Countermeasure settings), managing the applied settings, and maintaining the data subject to deletion.

WITHOUT LIMITING WHAT IS STATED IN SECTION X-A (LIMITATION OF LIABILITY - GENERAL), IN NO EVENT SHALL HUMMING HEADS OR SHINOBI USA, OR ITS SUPPLIERS, RESELLERS, OR AGENTS, IF ANY, BE LIABLE TO CUSTOMER FOR ANY DAMAGES WHATSOEVER, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE), ARISING OUT OF OR RELATED TO THE DATA DELETION BY THE WF AUTOMATIC DELETION AND/OR THE LOST/STOLEN MACHINE COUNTERMEASURE AND/OR CUSTOMER’S FAILURE TO CONDUCT THE AFOREMENTIONED NECESSARY MEASURES TO AVOID ANY UNINTENDED DELETION OR LOSS OF DATA.

C. Maximum Liability

IF ANY LIMITATION, EXCLUSION, DISCLAIMER OR OTHER PROVISION CONTAINED IN THIS AGREEMENT IS HELD TO BE INVALID FOR ANY REASON BY A COURT OF COMPETENT JURISDICTION AND HUMMING HEADS OR SHINOBI USA BECOMES LIABLE THEREBY, HUMMING HEADS’ AND SHINOBI USA’S ENTIRE LIABILITY UNDER THIS AGREEMENT FOR ANY DAMAGES FROM ANY CAUSE WHATSOEVER, REGARDLESS OF FORM OF ACTION, WHETHER IN CONTRACT, NEGLIGENCE OR OTHERWISE, SHALL IN NO EVENT EXCEED AN AMOUNT EQUAL TO THE PURCHASE AMOUNT PAID BY CUSTOMER FOR THE SOFTWARE.

XI. Support Services

Humming Heads, only during the term of this Agreement, provides technical support services as stated in the “Application Form for SDS Technical Support Services” (the “Support Application”) to Customer who purchases the Software in the form of a time-limited license, provided that said Customer shall submit the Support Application and comply with the terms and conditions therein.

XII. Term of Agreement and Termination

This Agreement is effective (i) until expiration of the License Period or the Trial Period or (ii) until terminated, whichever comes earlier. Humming Heads may terminate this Agreement or Customer’s rights under this Agreement, without notice from Humming Heads, if Customer fails to comply with any term(s) of this Agreement. Upon termination of this Agreement, Customer must immediately cease all use of the Software and the Trial Version, immediately return the original copies of the Software and the Trial Version to Humming Heads and immediately delete all copies, full or partial, of the Software and the Trial Version at Customer’s own cost.

XIII. Survival

Sections I (Software and Updates/Upgrades), IV-B (Trial Version - Restrictions on Use), IV-C (Trial Version - Disclaimer of Warranties), IV-D (Trial Version - Limitation of Liability (Uninstallation of the Trial Version)), V (Restrictions on Use of Software), VI (Export Controls and Use of Encryption Products), VII (Intellectual Property Rights and Ownership), IX (Disclaimer of Warranties), X (Limitation of Liability), XIII (Survival), XIV (Compliance with Applicable Law) and XV (General Clauses) of this Agreement will survive any termination of this Agreement.

XIV. Compliance with Applicable Law

Customer is solely responsible for compliance with all applicable laws, rules, and regulations in connection with Customer’s use of the Software and the Trial Version. Without limiting the foregoing, Customer agrees that Customer will not use the Software and the Trial Version for any purposes prohibited by U.S. and any other applicable laws, including without limitation the development, design, manufacture or production of missiles, or nuclear, chemical or biological weapons.

XV. General Clauses

A. Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the use of the Software or the Trial Version licensed hereunder and supersedes all prior or contemporaneous understandings regarding such subject matter.

B. Amendment

No amendment to or modification of this Agreement will be binding unless in writing and signed by Humming Heads. Humming Heads may add to, change, or remove any part, term, or condition of this Agreement at any time without prior notice and liability to Customer. Any such additions, changes, or removals apply as soon as they are posted on Humming Heads' webpage at: <https://www.hummingheads.co.jp/> (as may be relocated by Humming Heads). If Customer continues to use the Software or the Trial Version after such change is posted on the aforementioned webpage, Customer has accepted the changes.

C. Headings

The headings of the clauses herein are for convenience only and do not affect in any way the scope, intent and meaning of the provision to which they refer.

D. Japanese Version and English Version of This Agreement

If there are any inconsistencies between the Japanese language version and the English language version of this Agreement, the Japanese language version shall prevail if Customer selected the Japanese language as the language to be used in the Software or the Trial Version and the English language version shall prevail if Customer selected the English language as the language to be used in the Software or the Trial Version.

E. No Assignment

Customer may not assign this Agreement or any rights hereunder, in whole or in part, whether by purchase of stock or assets, merger, change of control, operation of contract, law or otherwise, without Humming Heads' prior express written consent, which may be withheld in Humming Heads' sole and absolute discretion. Any unauthorized purported assignment by Customer will be void.

F. No Waiver

No term or provision of this Agreement will be considered waived, and no breach excused, unless such waiver is in writing signed on behalf of the party against which the waiver is asserted. A waiver (whether express or implied) of any breach or default under this Agreement shall not constitute a waiver of any other, different, or subsequent breach or default.

G. Controlling Law and Severability

Excluding conflict of laws rules, this Agreement shall be governed by and construed under (i) the laws of Japan if Customer purchased, rented or otherwise procured the Software or the Trial Version in any countries or regions other than the U.S. and (ii) the laws of the State of Washington, U.S. if Customer purchased, rented or otherwise procured the Software or the Trial Version in the U.S. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. If for any reason a court of competent jurisdiction finds any provision, or portion thereof, to be illegal or unenforceable, such provision shall be enforced to the maximum extent permissible, and the remainder of this Agreement shall continue in full force and effect.

H. Jurisdiction

Each party agrees that any claim, action or dispute arising under or relating to this Agreement will be brought exclusively in (and the parties will be subject to the exclusive jurisdiction of) (i) Tokyo District Court in Japan when the laws of Japan apply as determined in Section XV-G and (ii) King County Superior Court in the State of Washington, U.S. when the laws of the State of Washington apply as determined in Section XV-G.

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