

# End-User License Agreement ("EULA")

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Regardless of the basis on which You may be entitled to claim damages from Licensor, (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), Licensor is liable for no more than: 1) damages for bodily injury (including death) and damage to real property and tangible personal property, and 2) the amount of any other actual direct damages up to the charges for the Program that is the subject of the claim. This limitation of liability also applies to the Program developers and suppliers. It is the maximum for which they and Licensor are collectively responsible.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES IS LICENSOR, THE PROGRAM DEVELOPERS OR SUPPLIERS LIABLE FOR ANY OF THE FOLLOWING, EVEN IF INFORMED OF THEIR POSSIBILITY:

1. LOSS OF, OR DAMAGE TO, DATA;
2. SPECIAL, INCIDENTAL, PUNITIVE OR INDIRECT DAMAGES, OR FOR ANY CONSEQUENTIAL ECONOMIC DAMAGES; OR
3. LOST PROFITS, BUSINESS, REVENUE, GOODWILL, OR ANTICIPATED SAVINGS.

## **5. Registration**

As a condition to using the Product, each administrative User may be required to register and select a unique password and user name ("User ID"). Reseller or customer will ensure that each of such Users provides accurate, complete, and updated registration information. A User may not ( i ) select or use as a User ID a name of another person with the intent to impersonate that person; or (ii) use as a User ID a name subject to any rights of a person other than such user without appropriate authorization. If you become aware of any unauthorized use of your password or of your account, you agree to notify Licensor immediately at [SECURITY@EyeSeal.com](mailto:SECURITY@EyeSeal.com).

## **6. Applicable Laws**

User will not use the Product in any manner that (a) infringes the intellectual property rights, rights of publicity or privacy or other proprietary rights of others, including Licensor's trademarks, (b) violates any applicable law, statute, ordinance or regulation, including but not limited to laws and regulations related to export/import, spamming, privacy, consumer and child protection, obscenity or defamation, or (c) is harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, or similarly offensive.

## **7. Security**

User will not violate or attempt to violate the security features of the Product, including, without limitation, (a) accessing data not intended for such User or logging into a server or account which such User is not authorized to access, (b) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization, (c) attempting to interfere with, disrupt or disable Product to any User, host or network, including, without limitation, via means of overloading, "flooding", "mail-bombing" or "crashing", (d) forging any TCP/IP packet header or any part of the header information in any e-mail, (e) taking any action in order to obtain Product to which such User is not entitled or (f) sending any virus, worm, Trojan horse or other harmful code or attachment. Violations of system or network security may result in civil or criminal liability. Licensor reserves the right to monitor the Product at any and all times to facilitate compliance with these Terms of Use but is not obligated to do so. Each User consents to the processing of information necessary to provide the Product at Licensor's data centers in the United States.

## **8. Intellectual Property**

Except to the extent otherwise mandated by applicable law, User will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover

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## **10. Privacy and your personal information**

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## **11. General**

Nothing in this Agreement affects any statutory rights of consumers that cannot be waived or limited by contract.

In the event that any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this agreement remain in full force and effect.

You agree to allow Licensor to store and use Your contact information, including names, phone numbers, and e-mail addresses, anywhere they do business. Such information will be processed and used in connection with our business relationship, and may be

provided to contractors, Business Partners, and assignees of Licensor for uses consistent with their collective business activities, including communicating with You (for example, for processing orders, for promotions, and for market research).

Neither You nor Licensor will bring a legal action under this Agreement more than two (2) years after the cause of action arose unless otherwise provided by local law without the possibility of contractual waiver or limitation.

Neither You nor Licensor is responsible for failure to fulfill any obligations due to causes beyond its control.

This Agreement will not create any right or cause of action for any third party, except that EyeSeal, CORP, a supplier to Licensor and the owner of the intellectual property rights related to certain parts of the Program, shall have the right to claim against YOU for any violation of this Agreement which affects the intellectual property rights owned by EyeSeal, CORP. Licensor will not be responsible for any third party claims against You except, as permitted by the Limitation of Liability section above, for bodily injury (including death) or damage to real or tangible personal property for which Licensor is legally liable.

Access to the service portion of the Product may be terminated for non-payment. Licensor reserves the right to modify these Terms of Use as they are reasonably, generally and prospectively applied at any time by posting a notice on the Management Portal or by other reasonable notice. Typically, this would only be necessary to comply with changes in law, telecommunications operator requirements or applicable custom.

## **12. Export Law Assurance**

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Both You and Licensor consent to the application of the laws of the country in which You acquired the Program license to govern, interpret, and enforce all of Your and Licensor's rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this Agreement, without regard to conflict of law principles. All of Licensor's rights, duties, and obligations are subject to the courts of the country in which You acquired the Program license.

If the Program is acquired in the United States of America, this Agreement shall be construed in accordance with the substantive laws of the State of New York (without reference to Florida's rules regarding conflict of laws). The parties consent to the jurisdiction of the state and federal courts sitting in Palm Beach County, Florida and

agree that such courts shall have exclusive jurisdiction over any dispute arising under or relating to the Agreement.

The United Nations Convention on Contracts for the International Sale of Goods does not apply.

#### **14. Support**

Support and upgrades for the Program may be available from Licensor or the distributor who provided the Program to You. Access to such support and upgrades may require payment of a fee and agreement to additional terms and conditions. Licensor does not warrant or guarantee that the operability of any of Your applications running with the Program will be maintained with any subsequent or generally available versions of the Program. Although Licensor may try to answer technical support questions You may have regarding Your use of the Program, any such assistance does not obligate Licensor to provide support or maintenance services for the Program. You agree that any information or feedback You may provide to Licensor or its suppliers related to the Program or this Agreement is non-confidential and You grant Licensor and its suppliers a non-exclusive, worldwide, fully paid up, perpetual and irrevocable license to use this information/feedback in Licensor's and its suppliers' business activities without restriction and without payment or accounting to You or any third party.

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