

KITBASH3D LICENSE AGREEMENT

Last Revised March 18, 2025

This KITBASH3D LICENSE AGREEMENT (the **"Agreement"**) is entered into between you (on your own behalf and on behalf of any legal entity for which you are acting) (**"you"** or **"your"**) and KitBash3D LLC, a California limited liability company (**"KitBash3D"**).

IMPORTANT – THIS IS A LEGAL DOCUMENT BETWEEN YOU AND KITBASH3D. IT IS IMPORTANT THAT YOU CAREFULLY READ AND UNDERSTAND THIS AGREEMENT.

BY CLICKING TO ACCEPT THE TERMS AND CONDITIONS OF THIS AGREEMENT WHEN PROVIDED THE OPPORTUNITY TO DO SO OR BY OTHERWISE DOWNLOADING, INSTALLING, OR USING THE ASSETS (DEFINED BELOW) OR THE PLATFORMS (DEFINED BELOW), YOU: (I) SIGNIFY THAT YOU HAVE READ AND UNDERSTAND ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT; AND (II) EXPRESSLY AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT DOWNLOAD, INSTALL OR USE THE ASSETS.

If you agree to the terms and conditions of this Agreement, you have the following rights, obligations, and responsibilities:

1. Definitions.

In addition to any other capitalized terms set forth elsewhere in this Agreement, the following capitalized terms shall have the following meanings when used in this Agreement:

- 1.1. "Affiliate(s)"** means with respect to a party, any entity that at any time during the Term of this Agreement, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such party. The term "control" for purposes of this Agreement means the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract or otherwise, and "controlled by" and "under common control with" have correlative meanings.

- 1.2. “Asset(s)”** means three dimensional assets (including but not limited to, three dimensional models, three dimensional model Kits, materials, HDRI packs, etc.) downloaded, imported, or otherwise purchased or obtained by or through the Platforms.
- 1.3. “Documentation”** means the user manuals, documentation and other related materials regarding the proper installation, access to and use of the Platforms.
- 1.4. “Effective Date”** shall have the meaning set forth in [Section 6.1](#) below.
- 1.5. “Intellectual Property Rights”** means all rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (i) rights associated with works of authorship, including exclusive exploitation rights, copyrights, moral rights, and mask works; (ii) trademark and trade name rights and similar rights; (iii) trade secret rights; (iv) patents and industrial property rights; and (v) other proprietary rights in intellectual property of every kind and nature.
- 1.6. “KitBash3D IP”** means: (i) the Assets; (ii) the Platforms, including without limitation, any Platform Updates thereto; (iii) the Platform Data; (iv) any and all know-how, concepts, discoveries, data, formulae, ideas, improvements, materials, computer software, patentable and non-patentable inventions, and technologies developed, created and/or reduced to practice by or for KitBash3D either prior to or following the Effective Date hereof; and (v) any and all Intellectual Property Rights with respect to the foregoing.
- 1.7. “Larger Work(s)”** means images, videos, and/or interactive experiences which you create separate and apart from the Assets.
- 1.8. “Legal Requirements”** shall have the meaning set forth in [Section 7.1](#) below.
- 1.9. “Malicious Software”** means any virus, Trojan horse, worm, software lock, drop dead device, or any other limiting routine or harmful code.
- 1.10. “Personal Data”** means any of Your Data that: (i) relates to or is about any identified or identifiable individual or device; (ii) is a combination of information, or can be combined with other information in the recipient’s possession, where the combination may identify an individual or device, even if particular elements in the data combination alone do not; or (iii) is, in the form in which it is disclosed, protected under Legal Requirements governing the processing or use of “personal data.”
- 1.11. “Platform(s)”** means, either collectively or individually: (i) KitBash3D’s proprietary software platform known as Cargo (“Cargo”), which KitBash3D provides as a desktop application; or (ii) the Site.

- 1.12. “Platform Data”** means data, content and information relating to your use of the Platforms that has been sufficiently de-identified or aggregated with other data, content, and information such that it can no longer be identified or associated with you and/or any other user. “Platform Data” includes, without limitation, systems administrative data, statistical and demographic data, operational information, data derived from or based on Your Data, and other data generated by or characterizing the use by you of the Platforms.
- 1.13. “Site”** means the portion(s) of KitBash3D’s website located at <https://kitbash3d.com> (or any successor site thereto) that allows users to access, download or otherwise obtain Assets.
- 1.14. “Term”** shall have the meaning set forth in Section 6.1 below.
- 1.15. “Your Data”** means data obtained from you and processed by KitBash3D through the Platforms that does not constitute Platform Data.
- 1.16. “Your IP”** means: (i) your Larger Works; (ii) Your Data; (iii) any and all know-how, concepts, discoveries, data, formulae, ideas, improvements, materials, computer software, patentable and non-patentable inventions, and technologies developed, created and/or reduced to practice by or for you either prior to or following the Effective Date hereof; and (iv) any and all Intellectual Property Rights with respect to the foregoing. For purposes of clarity, Your IP does not include any KitBash3D IP.

2. Usage Rights.

- 2.1.** The license rights granted herein must be exercised in accordance with the usage rights you have purchased or obtained from KitBash3D (“**Usage Rights**”). Usage Rights are based on: (i) the applicable license tier (a “**License Tier**”); and (ii) whether you are purchasing license rights to an individual Asset (in which case the rights granted herein are limited to that particular Asset only), or whether you are purchasing a subscription to download, import or obtain multiple Assets over a period of time.

2.2.1. License Tiers. The pricing offered by KitBash3D will depend on your License Tier. KitBash3D offers the following License Tiers:

a. Individual Tier. Individual Tier users are single individual users and/or entities consisting of a single owner or principle. Users having multiple owners or principles and/or having multiple employees and/or independent contractors working on their behalf do not qualify as Individual Tier users.

b. Small Business Tier. Small Business Tier users are users having multiple owners or principles and/or having multiple employees and/or independent contractors working on their behalf. Small Business Tier users have more than one (1) but not more than fifty (50) employees working on their behalf.

c. Enterprise Tier. Enterprise Tier users are users having multiple owners or principles and/or having multiple employees working on their behalf. Enterprise Tier users have more than fifty (50) employees working on their behalf.

2.2.2. Perpetual License Versus Subscription License. Users may purchase rights to use the Assets in one of two ways: (i) users may purchase license rights in individual Assets by way of a perpetual license (a “Perpetual Asset License”); and (ii) users may purchase a subscription to KitBash3D’s KitBash3D Unlimited service offering that allows users to obtain license rights in multiple Assets over the period of the user’s subscription (a “Subscription”).

2.3 You will be asked to select the Usage Rights you are purchasing at the time of purchase. In selecting your Usage Rights, you will be asked to: (i) select your License Tier; and (ii) select whether you are purchasing a Perpetual License or a Subscription. You should, prior to completing your purchase, make sure that you fully understand the Usage Rights you are purchasing and ensure that such Usage Rights are appropriate for your desired use. If you have questions regarding which Usage Rights are appropriate for your desired use, please contact KitBash3D at info@kitbash3d.com.

- 2.4** If you are purchasing a Perpetual License, your License Tier will be fixed as of the date of purchase. Conversely, if you are purchasing a Subscription, your License Tier may change during the term of your Subscription, and you must promptly report any such change to KitBash3D and pay license fees to KitBash3D pursuant to your new License Tier. For example, if at the time of purchase you selected the Small Business Tier but during term of your Subscription you add employees or independent contractors such that you now qualify as an Enterprise Tier user, you must promptly self-report such change in status to KitBash3D and the pricing paid for your Subscription will automatically increase to the Enterprise Tier level. Note that KitBash3D does not offer reductions in License Tiers, so if during the term of your Subscription your License Tier decreases to a lower License Tier, your pricing will remain at the License Tier you selected as of the date of purchase.
- 2.5** You represent and warrant to KitBash3D that you qualify under the License Tier you select at the initial time of purchase. You further acknowledge and agree that KitBash3D reserves the right to review and assess the accuracy of your License Tier at any time. For example, KitBash3D may, at the time it bills you for a renewal Subscription term, request that you re-select your License Tier based on potential changes in your business. KitBash3D may further request, at any time, that you provide to KitBash3D with a written certification signed by your authorized representative verifying that you qualify under the License Tier currently selected. You agree to promptly respond to any such request by providing the written certification, or by informing KitBash3D that your License Tier has changed.
- 2.6** You may only access and/or use the Assets and/or the Platforms within the scope of your Usage Rights. KitBash3D has technical measures in place to restrict access to Assets and/or User Accounts that are being used in violation of a user's Usage Rights. KitBash3D reserves the right to: (i) use such technical measures to monitor each user's use of the Assets and/or the Platforms; and (ii) immediately and without prior notice to you suspend any access to or use of the Assets and/or the Platforms in the event that KitBash3D concludes that any use of the Assets and/or the Platforms exceeds your Usage Rights. However, it is your obligation to know and understand the scope and extent of your Usage Rights. If you exceed the scope of your Usage Rights, you agree: (a) that KitBash3D may invoice you for the additional fees commensurate with any such unauthorized use (at KitBash3D's then current fees and payment terms); (b) that you will pay such invoice within thirty (30) days of your receipt of the invoice; and (c) that such remedy is not exclusive of the other remedies available to KitBash3D in connection with such unauthorized use.

3. License Rights.

3.1. License Grants.

3.1.1. Assets. Subject to your compliance with the terms and conditions set forth in this Agreement, KitBash3D hereby grants you the following rights depending on the Usage Rights purchased:

a. If you have purchased a Subscription, a limited, terminable, nontransferable, nonsublicensable, nonexclusive, royalty-free (subject to your payment obligations set forth herein) license to modify and/or create derivative works of and display and incorporate any of the Assets that you download, import or otherwise obtain from the Platforms during the term of your Subscription (and any modifications or derivative works thereof) in your Larger Works (defined below), solely in accordance with your Usage Rights.

b. If you have purchased a Perpetual License, a limited, terminable, nontransferable, nonsublicensable, nonexclusive, royalty-free (subject to your payment obligations set forth herein) license to modify and/or create derivative works of and display and incorporate the single Asset that you download, import or obtain from the Platforms in your Larger Works, solely in accordance with your Usage Rights.

3.1.2. Platforms. During the Term and subject to your compliance with the terms and conditions set forth in this Agreement, KitBash3D hereby grants you a limited, terminable, nontransferable, nonsublicensable, nonexclusive, royalty-free (subject to your payment obligations set forth herein) license to: (i) install Cargo on a personal computer ("PC") owned or controlled by you in accordance with the applicable Documentation; (ii) once installed on your PC, access and use Cargo solely for purposes of browsing, downloading, importing and purchasing rights to use the Assets; and (iii) access and use the Site solely for purposes of browsing, downloading, importing and purchasing rights to use the Assets, in each case, (i.e., (i) through (iii) of the foregoing), solely in accordance with your Usage Rights.

You acknowledge and agree that the rights granted herein are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by KitBash3D regarding future functionality or features.

3.2. License Obligations, Restrictions and Limitations. You acknowledge and agree as follows:

3.2.1. The license rights granted in [Section 3.1](#) above are nonexclusive in nature, meaning that KitBash3D may grant to third parties the same rights granted to you in [Section 3.1](#), as KitBash3D deems fit in its sole and absolute discretion.

3.2.2. The Assets may be used by you as part of your Larger Works. You acknowledge and agree that Larger Works must include substantial additional content and/or imagery in addition to the Assets. Furthermore, for any Asset downloaded, imported or obtained from a Platform as part of a Subscription, the Asset may only be used in the Larger Work for which it was originally imported from the Platform; for Subscription users, the removal of an Asset from the original Larger Work to a new or different Larger Work is expressly prohibited. For clarity, a single Asset downloaded, imported, or obtained from a Platform pursuant to a Perpetual License may be used in multiple Larger Works or moved to new or different Larger Works.

3.2.3. The license rights in [Section 3.1.2](#) above are granted during the Term only. However, the duration of the license rights granted in [Section 3.1.1](#) above will depend on your Usage Rights. In particular:

a. If you have purchased a Subscription, the license rights granted in [Section 3.1.1](#) are granted during the Term only, provided that, for any Assets that you properly incorporated as part of a Larger Work in accordance with the license rights granted to you in [Section 3.1.1](#) above, you may, following the Term, continue to use and display those Assets as part of the Larger Work in the same manner in which those Assets were incorporated as part of the Larger Work prior to termination.

b. If you have purchased a Perpetual License, the license rights granted in [Section 3.1.1](#) above are perpetual in nature with respect to the single Asset, subject to KitBash3D's termination rights in [Section 6.2](#) below.

3.2.4. Although the license rights granted in [Section 3.1](#) above are nonsublicensable and nontransferable in nature, you may freely distribute and/or make available the Assets as part of the distribution and/or making available of a Larger Work to third parties, provided that, the Assets were properly incorporated as part of the Larger Work pursuant to the license rights granted to you in [Section 3.1](#) above. However, only Enterprise Tier users may distribute and/or make available Larger Works in which the Assets are included in an editable format that allows the recipient to access, copy and/or modify the Assets. Individual

Tier and Small Business Tier users seeking to distribute and/or make available Larger Works in which the Assets are included must ensure that the Larger Works are distributed and/or made available in a non-editable format that does not allow the recipient to access, copy and/or modify the Asset.

- 3.2.5.** For Enterprise Tier and Small Business Tier users, only individuals who actually access and/or use a Platform are required to have a license under this Agreement. Once the Assets are downloaded, imported, or obtained from the applicable Platform, those Assets may be used by your employees and contractors so long as such use is in accordance with the terms and conditions of this Agreement.
- 3.2.6.** The Assets are intended to be distributed and/or made available exclusively through one or more Platforms. For example, if you are a Subscription user, you may, during the term of your Subscription, download, import or obtain Assets from either the Site, or from Cargo, depending on your preference. Perpetual Licenses may also be purchased either through the Site or using Cargo. If an Asset cannot be downloaded or imported directly from the Site or from Cargo, KitBash3D will deliver the Asset to you electronically using the email address associated with your User Account. However, notwithstanding anything to the contrary in this [Section 3.2.6](#), KitBash3D has no obligation to provide or make available the Assets other than by or through the Platforms.
- 3.2.7.** The Assets may not be used as inputs in or as part of the training of artificial intelligence (“AI”) or machine learning models. For purposes of clarity, the foregoing prohibition includes, without limitation, use of the Assets for purposes of teaching AI to interpret data or information and learn from it in order to perform a specific task, or in or as part of generative AI, neural networks, deep learning algorithms, or as part of any other machine learning intended to create new digital assets similar to or competitive with the Assets.
- 3.2.8.** You acknowledge that except as expressly stated in this Agreement, KitBash3D does not grant to you any right or license to the Platforms and/or the Assets, and no license or other rights shall be created by implication, estoppel or otherwise. Except as otherwise expressly authorized herein, you shall not: (i) sublicense or otherwise permit access to or use of any Assets and/or the Platforms on a commercial time-sharing or service bureau basis; (ii) reassign or otherwise transfer your rights to access and use any Assets and/or the Platforms; or (iii) make, or permit or allow a third party to make, any modifications, alterations or changes to the Assets and/or the Platforms, or otherwise create any derivative works thereof. You agree not to use, reproduce,

distribute, make available, or otherwise permit access to and/or use of the Assets and/or the Platforms in any manner or for any purpose except as specifically permitted under this Agreement.

3.2.9. In order to protect KitBash3D's and/or its licensors' copyright rights and other Intellectual Property Rights in and to the Platforms and the Assets, you agree to not remove, conceal, alter, cover-up or obscure any proprietary rights notices displayed on the Assets, the Platforms, and/or any Documentation.

3.2.10. You acknowledge and agree that KitBash3D may, during the Term, make updates to the Platforms or any parts thereof ("**Platform Update(s)**"). KitBash3D will use commercially reasonable efforts to notify you in advance of such Platform Updates to the extent such Platform Updates are material. Where you are using Cargo, you will be required to install the Platform Update promptly upon delivery of the Platform Update by KitBash3D. Your failure to install a Platform Update pursuant to the preceding sentence may result in you no longer being able to access or use Cargo. If you decline to install a Platform Update as required by this Section 3.2.10, your sole and exclusive remedy will be to either download, import or otherwise obtain Assets (in accordance with your Usage Rights) using the Site, or terminate this Agreement by providing written notice to KitBash3D of such termination, such termination to be without fault or penalty to either party. In the event of such termination, KitBash3D shall, upon your written request, refund to you any Fees prepaid by you but unearned by KitBash3D as of the effective date of termination. Except as otherwise expressly set forth in this Section 3.2.10, KitBash3D shall have no liability of any kind to you with respect to any Platform Updates or any adverse effects or outcomes resulting from any such Platform Updates.

3.2.11. You acknowledge and agree that KitBash3D may, during the Term, update, modify or otherwise make changes to the Assets, remove certain Assets from availability on the Platforms, or make new Assets available on the Platforms ("**Asset Update(s)**"). KitBash3D will have no obligation to notify you in advance of any such Asset Updates, nor shall KitBash3D have any liability of any kind to you with respect to any such Asset Updates or any adverse effects or outcomes resulting from any such Asset Updates. Any such Asset Updates shall not affect any Assets you downloaded, imported, or obtained from the Platforms prior to the Asset Update being released or made available.

3.2.12. KitBash3D may, at any time, suspend and/or discontinue the Platforms as is reasonably necessary in order for KitBash3D and/or the Platform to comply with Legal Requirements and/or to address an exigent circumstance such as a security breach or other unauthorized access to or use of the Platforms ("**Exigent Circumstance**"). In the event of any suspension due to an Exigent Circumstance, KitBash3D will use commercially reasonable efforts to restore the availability of the Platform as soon as reasonably practicable under the circumstances. Any such suspension shall not relieve you of your obligation to make payments to KitBash3D pursuant to Section 5 below.

3.2.13. You may be provided or be required to register for a user account in order to access and use the Platforms ("**User Account(s)**"). You acknowledge and agree that:

a. In registering for your User Account, you must provide accurate, current and complete registration information (collectively, "**Registration Info**"). By submitting the Registration Info, you represent and warrant to KitBash3D that your Registration Info is accurate, current and complete. You agree to promptly update your Registration Info in the event there are any changes to your Registration Info.

b. You are fully responsible for all usage and activity on the Platforms under your User Account and shall be liable for all such use and activity. You are solely responsible for maintaining the confidentiality and security of your user logins and password(s), and you agree to immediately notify KitBash3D of any known or suspected unauthorized use(s) of your User Account, or any known or suspected breach of security, including loss, theft, or unauthorized disclosure of any login or password. You further agree to: (i) take reasonable efforts to resolve any unauthorized access to or use of the Platforms; and (ii) reasonably cooperate with KitBash3D in mitigating and/or resolving the unauthorized access. Each User Account is assigned to an individual user and is personal to that user. Under no circumstances will any user be permitted or allowed to use any User Account other than the User Account assigned to such user, nor will any such user permit or allow any third party to use his or her assigned User Account.

3.2.14. You are not permitted to use a Platform in any manner that does or could potentially undermine the security of that Platform or any of its associated IT systems or networks. In addition, you agree to not interfere with, modify or disable any features, functionality or security controls of the Assets and/or the Platforms, defeat, avoid, bypass, remove, deactivate or otherwise circumvent any protection mechanisms for

Assets and/or the Platforms, or reverse engineer, decompile, disassemble or derive source code, underlying ideas, algorithms, structure or organizational form from the Assets and/or the Platforms, or otherwise attempt to do any of the foregoing.

- 3.2.15.** You will not, and will not authorize or permit any third parties to: (i) upload, transmit, or otherwise publish any communication or content to or through the Platforms that contains Malicious Software; or (ii) use the Platforms in any manner that violates, infringes, or misappropriates the Intellectual Property Rights, publicity or privacy rights, or other rights of any third party.
- 3.2.16.** You will not, and will not authorize or permit any third parties to: (i) access or use the Assets and/or the Platforms for benchmarking or competitive use or analysis; or (ii) access or use the Assets and/or the Platforms in order to build any product or service that is competitive with the Assets and/or the Platforms, or that copies or emulates any features, functions or graphics of the Assets and/or the Platforms, in each case, without the express written permission of KitBash3D.
- 3.2.17.** You agree to not make any representations or warranties to third parties on behalf of KitBash3D, including without limitation, any representations or warranties concerning the Assets.
- 3.2.18.** You are solely responsible, at your sole cost and expense, for making all arrangements necessary for you to have access to the Platforms, including without limitation, your Internet connection.
- 3.2.19.** Except as otherwise expressly agreed to by KitBash3D in writing, you will be solely responsible for, and KitBash3D shall have no responsibility or liability of any kind in connection with, the collection, maintenance and/or transmission of Your Data and for ensuring that Your Data: (i) does not violate or infringe the Intellectual Property Rights of any third party; (ii) is not offensive, profane, obscene, libelous or otherwise illegal or in violation of Legal Requirements; and (iii) does not contain or introduce Malicious Software into the Platforms or any other KitBash3D IT systems or networks. KitBash3D shall have no liability or responsibility of any kind in connection with, the accuracy, legality, quality, and/or sufficiency of Your Data. You acknowledge and agree that any defects or inaccuracies in Your Data may delay, prevent, or otherwise detrimentally affect KitBash3D's provision of the Assets and/or the Platforms hereunder.
- 3.2.20.** The Platforms do not replace the need for you to maintain regular data backups or redundant data archives. While a Platform may backup or create redundant data archives as part of its normal operations, the Platforms are not data hosting services. Accordingly, you are solely

responsible for any data backups and/or redundant data archives of Your Data. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 3.2.20, KITBASH3D HAS NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION OR RECOVERY OF ANY OF YOUR DATA.

3.2.21. You may use the Platforms when and as available. Although KitBash3D generally intends for the Platforms to be available on an uninterrupted basis, the Platforms will not always be available (e.g., during maintenance, changes, outages and for other reasons). KitBash3D will not be liable to you if for any reason all or any part of the Platforms are unavailable at any time for any period.

3.2.22. KitBash3D may from time to time make available to you, at no cost, certain features and/or functions of the Assets and/or the Platforms for evaluation or testing purposes ("**Evaluation Use**"). With respect to such Evaluation Use, you acknowledge and agree that: (i) your use of such features and/or functions shall be limited to internal, non-commercial evaluation use only; (ii) KitBash3D does not provide any technical support in connection with such Evaluation Use; (iii) any risk associated with such Evaluation Use is solely with you; and (iv) such Evaluation Use shall be limited to the evaluation period authorized by KitBash3D, and KitBash3D reserves the right to terminate such Evaluation Use at any time upon written notice to you. IN NO EVENT SHALL KITBASH3D BE LIABLE TO YOU FOR ANY DAMAGES WHATSOEVER IN CONNECTION WITH SUCH EVALUATION USE, WHETHER OR NOT SUCH DAMAGES ARE DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE. IF NOTWITHSTANDING THE PRECEDING SENTENCE, KITBASH3D IS LIABLE TO YOU IN CONNECTION WITH ANY SUCH EVALUATION USE, KITBASH3D'S TOTAL AGGREGATE LIABILITY TO YOU IN CONNECTION WITH SUCH EVALUATION USE SHALL NOT EXCEED \$25 USD.

4. Intellectual Property Rights.

4.1. KitBash3D IP. As between you and KitBash3D, all right, title and interest in and to the KitBash3D IP, and all versions, copies, components, modifications, enhancements and derivatives thereof, and any and all other Intellectual Property Rights associated therewith, are and shall remain the sole and exclusive property of KitBash3D and/or its licensors, and under no circumstances will this Agreement be construed, by implication, estoppel, or otherwise, to confer any right in the KitBash3D IP or any other products, systems, methods or technology that are not explicitly identified herein, and you will not make use of the KitBash3D IP except as expressly authorized by this Agreement.

- 4.2. Your IP.** As between you and KitBash3D, all right, title and interest in and to Your IP, and all versions, copies, components, modifications, enhancements and derivatives thereof, and any and all other Intellectual Property Rights associated therewith, are and shall remain the sole and exclusive property of you and/or your licensors, and under no circumstances will this Agreement be construed, by implication, estoppel, or otherwise, to confer any right in Your IP that is not explicitly identified herein.
- 4.3. Your Data.** The use of the Platforms may result in KitBash3D's use and/or processing of Your Data by or through the Platforms. Your Data is deemed Your IP and owned by you pursuant to Section 4.2 above. However, during the Term and subject to the terms and conditions set forth herein, you hereby grant to KitBash3D a limited, nonexclusive, fully-paid, royalty-free, license to use and/or process Your Data for purposes of providing the Assets and the Platforms to you hereunder.
- 4.4. Further Assurances.** The parties shall cooperate and reasonably assist one another, at the requesting party's expense, in perfecting the parties' respective Intellectual Property Rights hereunder, including without limitation, by signing all relevant assignment documents and/or other documents with respect to the ownership of such Intellectual Property Rights.
- 4.5. Infringement.** You agree to promptly inform KitBash3D of any infringement or misappropriation of its Intellectual Property Rights with respect to the KitBash3D IP of which you become aware. You agree that: (i) KitBash3D shall have the sole and exclusive right, at its option, to enforce and/or defend its Intellectual Property Rights; and (ii) you will reasonably cooperate with KitBash3D in such enforcement efforts, as reasonably requested by KitBash3D and at KitBash3D's cost and expense.
- 4.6. Feedback.** You hereby grant to KitBash3D a nonexclusive, perpetual, irrevocable, royalty-free, worldwide license to use, reproduce, disclose, sublicense, distribute, modify, and otherwise exploit your Feedback, without your permission and consent, and without any payment obligation of any kind. "**Feedback**" means any comments, feedback, suggestions, or ideas you or any of your users provides to KitBash3D either through or independent of the Platforms or otherwise.

5. Payments.

5.1. Fees.

- 5.1.1.** You agree to pay to KitBash3D the usage and license fees displayed at the time of purchase (the “**Fee(s)**”). If you do not agree to pay the Fees, do not proceed with your transaction. Unless otherwise stated, all Fees are quoted in U.S. Dollars.
- 5.1.2.** KitBash3D reserves the right to increase the Fees at any time in its discretion. KitBash3D will provide you not less than thirty (30) days’ prior written notice of any such increase to the Fees. In the event you object to the increase, your sole and exclusive remedy is to terminate this Agreement pursuant to Section 6.2 below prior to the expiration of such thirty (30) day period. Your failure to terminate this Agreement as set forth in the preceding sentence means that you agree to the increase to the Fees.

5.2. Billing.

- 5.2.1. Perpetual Licenses.** The Fees for Perpetual Licenses must be paid at the time of purchase.
- 5.2.2. Subscriptions.** KitBash3D sells subscriptions for one (1) year periods. The Fees must be paid at the time of purchase, and on the same day each year thereafter. In the event that the date on which a user purchases a Subscription is not recurrent each year (i.e., February 29), the user will be billed on the date nearest in the calendar month (i.e., February 28).

5.3. Payment Terms.

- 5.3.1.** You are responsible for paying all Fees and applicable taxes associated with your use of the Assets and/or the Platforms in a timely manner with a valid payment method. You agree at all times to keep your payment information current and complete. Except as otherwise set forth in this Agreement, KitBash3D does not provide refunds.
- 5.3.2.** If your payment method fails or your account is past due, KitBash3D may suspend your access to the Assets and/or the Platforms immediately without notice to you, and will further have the right to collect fees owed using other collection mechanisms. This includes charging other payment methods on file with KitBash3D, or retaining collection agencies and legal counsel, in KitBash3D’s discretion. The remedies set forth in this Section 5.3.2 are in addition to any other remedies that KitBash3D may have under this Agreement or otherwise at law or in equity.

- 5.4. No Deductions or Setoffs.** All amounts payable to KitBash3D under this Agreement shall be paid to KitBash3D in full and without any setoff, recoupment, counterclaim, deduction, debit or withholding for any reason.

6. Term and Termination.

- 6.1. Term.** This Agreement shall commence as of the date you accept this Agreement and complete the registration process necessary to create your User Account (the “**Effective Date**”), and shall, unless earlier terminated as set forth in this Agreement, continue in effect until terminated as set forth herein (the “Term”).

- 6.2. Termination.** This Agreement may be terminated as follows:

- 6.2.1.** KitBash3D shall have the right to terminate this Agreement, upon written notice to you, in the event you fail to make any past due payment owed by you to KitBash3D hereunder within fifteen (15) days of KitBash3D’s written request therefor.
- 6.2.2.** KitBash3D may further terminate this Agreement: (i) immediately upon notice to you, in the event you breach or otherwise violate Section 2 or Section 3.2 above; or (ii) in the event you breach or otherwise violate any other material term or provision of this Agreement and such breach continues for a period of at least thirty (30) days following notice by KitBash3D to you specifying the breach, or effective immediately if the breach cannot be reasonably cured within such thirty (30) day period or you fail to diligently pursue a cure for such breach within such thirty (30) day period; or (iii) immediately upon written notice to you if you are named as a debtor in a petition for bankruptcy, make an assignment for the benefit of creditors, seek any other similar relief under any bankruptcy law or related statute, or otherwise cease to do business in the ordinary course.
- 6.2.3.** With respect to Subscription users, this Agreement will automatically terminate if your Subscription is not renewed. Subscriptions will automatically renew for one (1) year periods so long as you continue to pay to renew the Subscription pursuant to Section 5.2.2 above.
- 6.2.4.** You may terminate this Agreement pursuant to Section 3.2.10 above.

6.2.5. You may terminate this Agreement at any time by providing written notice to KitBash3D requesting that your User Account be deactivated. KitBash3D will deactivate your User Account within a reasonable period of time following KitBash3D's receipt of your request, and upon such deactivation, this Agreement shall be deemed terminated accordingly. If you purchased a Subscription but you thereafter provide written notice of deactivation and refund request to KitBash3D within three (3) days of the date on which you purchased your Subscription, KitBash3D will refund to you the Fees you paid for your Subscription. Any refund which KitBash3D is obligated to provide pursuant to this Section 6.2.5 will be processed within a reasonable period of time. Except as otherwise set forth in this Section 6.2.5, Fees paid by you to KitBash3D are non-refundable, and refunds, if any, will be provided if at all in KitBash3D's sole and absolute discretion.

6.3. Post Termination Rights and Responsibilities. The parties shall have the following rights, obligations and responsibilities following the termination of this Agreement:

6.3.1. Upon the termination of this Agreement, no matter the reason and except as otherwise expressly set forth herein, you will have no further rights to access and/or use the Platforms under this Agreement. With respect to the Assets: (i) for Subscriptions, upon the termination of this Agreement, you will have no further rights to access and/or use the Assets except as set forth in Section 3.2.3 above; and (ii) for Perpetual Licenses, the termination of this Agreement will not affect your license rights in the single Asset and you may continue to use the single Asset pursuant to the terms and conditions of this Agreement, unless KitBash3D is terminating this Agreement pursuant to Section 6.2.1 or 6.2.2 above, in which case, your license to the single Asset will terminate and you will have no further rights to access and/or use the single Asset. Except as otherwise expressly set forth in this Agreement, KitBash3D shall be entitled to retain any and all amounts paid by you to KitBash3D prior to the effective date of termination.

6.3.2. Except as otherwise set forth herein, for any of Your Data in KitBash3D's possession, custody, or control as of the effective date of termination of this Agreement, KitBash3D shall, at your cost and expense and provided that you are current on all amounts owed by you to KitBash3D hereunder, make available to you, for a period of thirty (30) days following such termination, all of Your Data in either electronic and/or tangible form convenient to KitBash3D. Upon the expiration of such thirty (30) day period, KitBash3D shall have no obligation or responsibility to further maintain or retain any of Your Data, and may destroy Your Data, as

determined by KitBash3D in its sole and absolute discretion.

Notwithstanding this Section 6.3.2: (i) KitBash3D shall not be obligated to provide to you or destroy any Platform Data, and you acknowledge and agree that any and all such Platform Data is and shall remain the sole and exclusive property of KitBash3D; and (ii) KitBash3D may retain any of Your Data that KitBash3D is required to retain pursuant to Legal Requirements or that is retained automatically as part of KitBash3D's usual and customary computer backup procedures, record retention and data archiving schedules.

- 6.3.3.** The termination of this Agreement for any reason will not release any party from any obligation that matured prior to the effective date of such termination.

7. Representations and Warranties; Disclaimer.

Each party represents and warrants as follows:

- 7.1. Mutual Representations and Warranties.** Each party represents, warrants and covenants to the other that: (i) if it is an entity, it is a duly organized business entity validly existing under the laws of its respective jurisdiction of organization; (ii) it will comply with all applicable national, state, regional and local laws and regulations in connection with the performance of its respective obligations and responsibilities hereunder ("**Legal Requirements**"); (iii) it has the full power and authority to enter into this Agreement and perform its obligations under this Agreement; (iv) this Agreement is a legal, valid, and binding obligation, enforceable in accordance with its terms; and (v) this Agreement and the performance by each party of its obligations under this Agreement will not: (a) breach any agreement with any third party, or give any person the right to accelerate any obligation; (b) violate any law, judgment, or order; or (c) require the consent, authorization, or approval of any person, including without limitation any governmental body.
- 7.2. KitBash3D Representations and Warranties.** KitBash3D represents and warrants to you that: (i) it owns all right, title and interest in and to the Assets and the Platforms, or otherwise has sufficient rights in the Assets and the Platforms so as to grant the license rights granted by KitBash3D to you hereunder; and (ii) to the knowledge of KitBash3D, the Assets, in the form provided by KitBash3D to users through the Platforms, do not infringe, violate or misappropriate the Intellectual Property Rights of any third party.

7.3. Your Representations and Warranties.

- 7.3.1.** You represent and warrant to KitBash3D that you are over the age of eighteen (18), or that if you are under the age of eighteen (18), your parent or legal guardian is entering into this Agreement on your behalf.
- 7.3.2.** You represent and warrant to KitBash3D that if you are using the Assets and/or accessing the Platforms on behalf of any entity, you represent and warrant that you are authorized to accept this Agreement on such entity's behalf.
- 7.3.3.** You represent and warrant to KitBash3D that: (i) you own your Larger Works or otherwise have sufficient rights in your Larger Works so as to incorporate the Assets in your Larger Works; (ii) you own Your Data or otherwise have sufficient rights in Your Data so as to grant the license rights granted by you to KitBash3D in Your Data hereunder; (iii) neither Your Data nor any of your Larger Works violate, infringe, or misappropriate the Intellectual Property Rights of any third party; and (iv) there are no claims currently pending or threatened, and you have not engaged in any acts or omissions likely to result in any such claims, as to: (a) your ownership of, use of, or rights in your Larger Works; (b) your violation, infringement or misappropriation of any third party intellectual property rights, publicity or privacy rights, or other proprietary rights with respect to your Larger Works; (c) your violation or breach of any obligation of confidentiality owed to any third party with respect to your Larger Works; or (d) the violation of your Larger Works of any Legal Requirements.

7.4. Disclaimer.

- 7.4.1.** EXCEPT AS OTHERWISE SET FORTH IN THIS SECTION 7 AND EXCEPT FOR ANY REPRESENTATIONS OR WARRANTIES THAT BY LAW CANNOT BE DISCLAIMED, THE PLATFORMS AND THE ASSETS ARE PROVIDED "AS IS" AND WITH ALL FAULTS. KITBASH3D DOES NOT MAKE, AND HEREBY EXPRESSLY DISCLAIMS, ANY AND ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND IN CONNECTION WITH THE PLATFORMS AND/OR THE ASSETS, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, VALIDITY, AND/OR NON-INFRINGEMENT, OR ANY REPRESENTATIONS OR WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, FOR PURPOSES OF CLARITY, KITBASH3D DOES NOT REPRESENT OR WARRANT THAT THE PLATFORMS OR THE ASSETS WILL PERFORM WITHOUT ERROR OR INTERRUPTION.
- 7.4.2.** THE DISCLAIMERS AND LIMITATIONS OF LIABILITY SET FORTH HEREIN SHALL APPLY NOTWITHSTANDING THE FAILURE OR ALLEGED FAILURE OF ANY ESSENTIAL PURPOSE.

8. Indemnity.

- 8.1.** You agree to defend, indemnify, and hold harmless KitBash3D, its Affiliates, successors and assigns, and each of the officers, directors, employees, members, shareholders, agents and representatives of the foregoing, for, from and against, any and all damages, losses, liabilities, claims, fines, penalties and expenses (including costs of investigation and defense and reasonable attorneys' fees), arising from or relating to any claims (actual or alleged), proceedings, actions, arbitrations, audits, hearings, investigations and suits, whether civil, criminal, administrative, investigative or informal, commenced, brought, conducted or heard by or before, or otherwise involving, any court, administrative agency, or other governmental body, or any arbitrator, to the extent resulting from or arising out of: (i) the breach by you of this Agreement, including without limitation, any breach by you of Sections 2 or 3.2 above; (ii) your negligence or more willful misconduct; (iii) any claim (actual or alleged) that any Larger Work or Your Data infringes any patent, copyright, trademark, or other third party Intellectual Property Right, constitutes a misappropriation of any trade secret, or violates any other intellectual or proprietary right of any third party; (iv) KitBash3D's authorized use of Your Data; or (v) the unauthorized use or misuse of the Platforms and/or the Assets.
- 8.2.** The foregoing indemnity obligations are subject to and conditioned upon: (i) KitBash3D promptly notifying you of any claim for which indemnity is owed (a "Claim"), provided that, the failure by KitBash3D to promptly notify you of the Claim will not relieve you of your duties under this Section 8 unless KitBash3D is materially prejudiced by the delay; (ii) you being granted the exclusive control of the defense and settlement (including all decisions relating to litigation, defense and appeal) of any such Claim; provided that, without KitBash3D's prior written consent, not to be unreasonably withheld, you may not settle such Claim in any manner that would: (a) not result in a full and complete release in favor of KitBash3D; (b) require payment by KitBash3D, unless fully indemnified hereunder; or (c) require any affirmative conduct (other than a payment for which KitBash3D is fully indemnified hereunder) or an admission of fault or liability on the part of KitBash3D; and (iii) KitBash3D providing you reasonable cooperation, at your cost and expense, in your defense and/or settlement of the Claim. KitBash3D may participate in, but not control, the defense of such Claim using attorneys of its choice and at its sole cost and expense.
- 8.3.** KitBash3D may, in its discretion, assume the defense of the Claim, in which case, KitBash3D will have the exclusive control of the defense and settlement of the Claim (including all decisions relating to litigation, defense and appeal). Such defense and settlement shall be at your cost and expense pursuant to Section

8.1 above and your obligations under this Section 8 shall otherwise remain unaffected.

9. Limitation of Liability.

- 9.1. Exclusion of Consequential Damages.** TO THE MAXIMUM EXTENT PERMITTED BY LEGAL REQUIREMENTS, IN NO EVENT WILL KITBASH3D BE LIABLE TO YOU UNDER THIS AGREEMENT FOR ANY PUNITIVE, SPECIAL, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR LOSS OF OR DAMAGE TO DATA, EVEN IF KITBASH3D HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE CAUSE OF ACTION FOR WHICH SUCH DAMAGES ARE SOUGHT.
- 9.2. Cap on Damages.** TO THE MAXIMUM EXTENT PERMITTED BY LEGAL REQUIREMENTS, IN NO EVENT SHALL THE TOTAL AGGREGATE LIABILITY OF KITBASH3D HEREUNDER EXCEED THE TOTAL AMOUNTS PAID BY YOU TO KITBASH3D UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE ACCRUAL OF THE CLAIM FOR WHICH SUCH DAMAGES ARE ALLEGED TO BE OWED.
- 9.3. Limitation on Claims.** To the maximum extent permitted by Legal Requirements and except for actions for non-payment or infringement of KitBash3D's Intellectual Property Rights, no action (regardless of form) arising out of this Agreement may be commenced by either party more than one (1) year after the cause of action has accrued.

10. Data Privacy and Security.

- 10.1.1.** KitBash3D shall implement and maintain appropriate administrative, physical, and technical safeguards that reasonably prevent any unauthorized collection, use or disclosure of, or access to, Your Data. KitBash3D shall notify you of any actual or "near miss" breaches of, and/or unauthorized access to, Your Data ("**Security Incident**"), as soon as reasonably practicable, or as required by Legal Requirements, upon KitBash3D becoming aware of any such Security Incident.
- 10.1.2.** KitBash3D shall process and/or use Your Data solely in connection with its rights, obligations, and responsibilities under this Agreement and for no other purpose. In particular, KitBash3D shall not sell, license, lease, or otherwise transfer any of Your Data to any third party except as necessary to exercise its rights or perform its obligations and responsibilities hereunder, or as otherwise expressly authorized by you in writing.

10.1.3. KitBash3D shall, during the Term of this Agreement, comply with all Legal Requirements concerning the processing and/or use of Your Data, including without limitation, Legal Requirements governing the access to, use, or processing of Personal Data.

10.2. Data Privacy. Your Data may include Personal Data. In addition to its obligations and responsibilities set forth in Section 10.1 above, KitBash3D further agrees as follows with respect to Personal Data:

10.2.1. KitBash3D will process Personal Data in accordance with its Privacy Notice, accessible at the following link:

<https://kitbash3d.com/pages/privacy-policy>.

10.2.2. In the event of any changes in Legal Requirements related to Personal Data that result in new requirements (including new physical, technical, organizational, security, or data privacy measures) or in the event that either party determines, in its reasonable, good faith discretion that additional requirements should be followed or implemented in order to comply with Legal Requirements related to Personal Data, the parties agree to reasonably cooperate with one another in designing a mutually agreed upon remedial response to implement such new or additional requirements, which may include, without limitation, entering into an appropriate data processing addendum.

11. Promotional Rights.

11.1. Use of Parties' Names. KitBash3D shall have the rights to use your name, trademarks, or logos as applicable, in order to refer to you as being a customer of KitBash3D in KitBash3D's marketing and promotional materials, including without limitation, on KitBash3D's website and social media channels.

11.2. Use of Larger Works. KitBash3D shall have the right to feature and/or display any of your Larger Works incorporating the Assets: (i) on KitBash3D's website and portfolio (print and digital) to promote and demonstrate the use of the of the Assets and/or the Platforms; (ii) in media publications; (iii) in social media channels; and (iv) in submissions for purposes of pursuing awards or recognition.

12. General.

- 12.1. Audit Rights.** During the Term and for a period of two (2) years thereafter, KitBash3D (or a third party auditor selected by KitBash3D to act on its behalf) shall have the right, at its cost and expense and upon reasonable prior written notice to you, to inspect your records and documentation relating to your use of the Assets and/or the Platforms. If any such audit shows any material breach by you of this Agreement, you agree to reimburse KitBash3D its costs and expenses incurred in connection with such audit.
- 12.2. Export Compliance.** You agree to comply with all Legal Requirements governing the export of licensed commodities and technical data. Such Legal Requirements may include, but are not limited to, the Export Administration Regulations (15 CFR 730-744), the International Traffic in Arms Regulations (22 CFR 120-130), and the various economic sanctions regulations administered by the U.S. Department of the Treasury (31 CFR 500-600).
- 12.3. Transfer of Rights and Obligations.** You will not assign or otherwise delegate your rights or obligations under this Agreement without the prior written consent of KitBash3D, such consent not to be unreasonably refused, withheld, conditioned, or delayed. Any attempted assignment or delegation in violation of this [Section 12.3](#) will be void. The restrictions on assignment or delegation set forth in this [Section 12.3](#) shall not prejudice or impair the rights granted to you in [Section 3.2.3](#) above.
- 12.4. Notices.**
- 12.4.1.** All notices, demands, or other written communications required or permitted to be given by you to KitBash3D under this Agreement will be in writing and will be considered given when delivered (or when delivery thereof is refused) via personal service; Certified Mail, Return Receipt Requested; or email, provided that you do not know or have reason to know that KitBash3D did not receive the email, addressed to KitBash3D at the address set forth in this [Section 12.4.1](#) (or at such other address as KitBash3D may specify by notice to you). Notices, demands, or other written communications that are sent to KitBash3D in any manner other than as described in this [Section 12.4.1](#) will be void and not binding on you or KitBash3D.

KitBash3D LLC
Attn: Legal Department
8605 Santa Monica Blvd PMB 90726
West Hollywood, CA 90069
Email: info@kitbash3d.com

12.4.2. KitBash3D may give you notice by any lawful method, including (without limitation) legal notices and notices of subpoenas. KitBash3D may provide the notices by posting them on the Platforms or by giving them by email or postal mail to any address that KitBash3D has on file for you. You agree to check the Platforms for any such notices and to update your email or postal address as part of your User Account.

12.5. No Joint Venture; No Agency. Nothing contained in this Agreement will constitute this arrangement to be that of employment, joint venture, or partnership. Except as specified in this Agreement, no party will have the right, power, or implied authority to create any obligation or duty, express or implied, on behalf of another party.

12.6. Severability. The provisions of this Agreement are independent of each other, and the invalidity or unenforceability of any term, clause, or provision of this Agreement will not affect the validity or enforceability of any other term, clause, or provision, and such invalid or unenforceable term, clause, or provision will be deemed to be removed from this Agreement.

12.7. Binding Effect. This Agreement will be binding upon and inure to the benefit of the parties and their respective Affiliates, parent or related companies, successors, permitted licensees, and/or permitted assigns.

12.8. Authority. Any person signing this Agreement in a representative capacity acknowledges his or her authority to do so and his or her authority to bind the entity on whose behalf the Agreement is signed.

12.9. Governing Law; Venue. This Agreement shall be controlled by and construed under the laws of the State of Oregon, USA (excluding its conflicts of laws principles) and not under the United Nations Convention on Contracts for the International Sales of Goods. The parties agree that all disputes, claims and legal proceedings in any way arising out of or relating to this Agreement shall be resolved and litigated exclusively in the state or federal courts located in Multnomah County, Oregon, USA. You hereby waive all defenses of lack of personal jurisdiction, improper venue, “forum non conveniens” and the like with respect to such courts. TO THE EXTENT ALLOWED UNDER LEGAL REQUIREMENTS, EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF ANY PARTY HERETO IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT HEREOF.

12.10. Modification; No Waiver.

12.10.1. This Agreement will not be amended or modified except in a writing signed by all parties. No waiver by a party of any breach or default of any of the provisions of this Agreement will be deemed a waiver as to any subsequent and/or similar breach or default.

12.10.2. Notwithstanding Section 12.10.1 above, KitBash3D reserves the right to update this Agreement from time to time in its sole discretion. If KitBash3D makes material changes to this Agreement that negatively impact your use of the Assets and/or the Platforms, KitBash3D will provide you not less than thirty (30) days' prior written notice of such changes along with the date on which such changes go into effect. Your continued use of the Assets and/or the Platforms following the effective date of any changes to this Agreement means that you accept and agree to the changes.

12.11. Force Majeure. In no event will KitBash3D be liable for, or be considered to be in breach of or in default under this Agreement on account of, any delay or failure to perform any obligation under this Agreement due to causes or conditions that are beyond KitBash3D's reasonable control and that KitBash3D is unable to overcome through the exercise of commercially reasonable diligence. If any force majeure event occurs, KitBash3D will give prompt written notice to you and will use commercially reasonable efforts to minimize the impact of the event.

12.12. Survival. The provisions of this Agreement that by their nature, terms, sense, or context are intended to survive the termination of this Agreement will survive such termination.

12.13. No Third Party Beneficiaries. Except as set forth in Section 8 above, the parties do not intend to confer any right or remedy on any third party.

12.14. Remedies. The parties acknowledge and agree that a breach of this Agreement by the other party will result in immediate, irreparable and continuing damage to the non-breaching party for which there will be no adequate remedy at law; and agree that in the event of any such breach or violation or any threatened or intended breach or violation of this Agreement, the non-breaching party, its successors and assigns, will be entitled to temporary, preliminary and permanent injunctive relief and/or restraining orders enjoining and restraining such breach or violation or such threatened or intended breach or violation and/or other equitable relief (without needing to post any bond or other security) in addition to such other and further relief as provided for at law and in equity.

- 12.15. Product of Negotiation.** This Agreement is the product of the negotiation of the parties. For convenience, this Agreement has been drafted initially in substantial part by legal counsel for one of the parties, but by agreement of the parties, this Agreement will be deemed to have been drafted by the parties jointly, and any ambiguity herein will not be construed for or against either party by virtue of the identity of the drafter or otherwise.
- 12.16. Entire Agreement.** This Agreement constitutes the entire agreement between the parties and there are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Any and all prior agreements or representations respecting the subject matter of this Agreement, whether written or oral, expressed, or implied, are terminated and of no further effect.
- 12.17. Trademarks.** KITBASH3D™, CARGO®, and KITBASH® are trademarks of KitBash3D LLC. All rights reserved.