

AKVIS™ END USER LICENSE AGREEMENT

NOTICE TO USER:

THIS IS A CONTRACT. THIS END USER LICENSE AGREEMENT IS A LEGALLY BINDING CONTRACT THAT SHOULD BE READ IN ITS ENTIRETY. THIS IS AN AGREEMENT GOVERNING YOUR USE OF THE PRODUCT (AS SUCH TERM DEFINED BELOW). AKVIS, THE AKVIS OF THE PRODUCT, IS WILLING TO PROVIDE YOU WITH ACCESS TO THE PRODUCT ONLY ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT. BELOW, YOU ARE ASKED TO ACCEPT THIS AGREEMENT AND CONTINUE TO INSTALL OR, IF YOU DO NOT WISH TO ACCEPT THIS AGREEMENT, TO DECLINE THIS AGREEMENT, IN WHICH CASE YOU WILL NOT BE ABLE TO INSTALL OR OPERATE THE PRODUCT. BY INSTALLING THIS PRODUCT YOU ACCEPT ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT.

THE SOFTWARE AND DOCUMENTATION THAT YOU OBTAINED HEREIN, ON ANY MEDIA OR IN ANY OTHER FORM ARE LICENSED, NOT SOLD, TO YOU BY AKVIS FOR USE ONLY UNDER THE TERMS OF THIS END USER LICENSE AGREEMENT, AND AKVIS RESERVES ALL RIGHTS NOT EXPRESSLY GRANTED TO YOU. THE RIGHTS GRANTED HEREIN ARE LIMITED TO AKVIS'S INTELLECTUAL PROPERTY RIGHTS IN THE PRODUCT AND DO NOT INCLUDE ANY OTHER PATENTS OR INTELLECTUAL PROPERTY RIGHTS. YOU OWN THE MEDIA ON WHICH THE PRODUCT IS RECORDED BUT AKVIS AND/OR AKVIS'S AKVIS(S) RETAIN OWNERSHIP OF THE PRODUCT AND SOFTWARE ITSELF.

This Electronic End User License Agreement (the "**Agreement**") is a legal agreement between you (either an individual or an entity), the licensee, and AKVIS Lab LLC ("**AKVIS**"), regarding the AKVIS's software titled **HDRFactory** that you about to download, downloaded, or otherwise obtained through other resources or media, such as CD-ROMs or through a network in object code form or other related services, including without limitation (a) all of the contents of the files, disk(s), CD-ROM(s) or other media with which this Agreement is provided (the "**Software**"); (b) all successor upgrades, revisions, patches, enhancements, fixes modifications, copies, additions or maintenance releases of the Software, if any, licensed to you by the AKVIS (collectively, the "**Updates**") provided that the Updates shall not include a new subsequent releases of the Software bearing a new first numeral such as 7.0 or 8.0 ("**New Releases**") but include any minor revisions of the Software version indicated by a change in the decimal numeral, such as 6.3 or 6.4; and (c) related user documentation and associated materials or files provided in written, "online" or electronic form (the "**Documentation**" and together with the Software and Updates, the "**Product**"). You are subject to the terms and conditions of this End User License Agreement whether you access or obtain the Product directly from the AKVIS, or through any other source. For purposes hereof, "**you**" means the individual person installing or using the Product on his or her own behalf; or, if the Product is being downloaded or installed on behalf of an organization, such as an employer, "**you**" means the organization for which the Product is downloaded or installed and you represent that you have authorized the person accepting this agreement to do so on your behalf. For purposes hereof the term "**organization**," without limitation, includes any partnership, limited liability company, corporation, association, joint stock company, trust, joint venture, labor organization, unincorporated organization, or governmental authority.

For the purposes of this Agreement, "**AKVIS Site**" shall mean the Internet website maintained by or on behalf of AKVIS from which the Software is available for download pursuant to a license from AKVIS. The AKVIS Site is currently located at: <http://akvis.com/>

By accessing, storing, loading, installing, executing, displaying, copying the Product into the memory of a Client Device, as defined below, or otherwise benefiting from using the functionality of the Product in accordance with the Documentation ("**Operating**"), you agree to be bound by the terms and conditions of this Agreement. If you do not agree to the terms and conditions of this Agreement, the AKVIS is unwilling to license the Product to you. In such event, you may not Operate or use the Product in any way.

BEFORE YOU CLICK ON THE "I ACCEPT THE AGREEMENT" BUTTON, PLEASE CAREFULLY READ THE TERMS AND CONDITIONS OF THIS AGREEMENT, AS SUCH ACTION IS A SYMBOL OF YOUR SIGNATURE AND BY CLICKING ON "I ACCEPT THE AGREEMENT" BUTTON, YOU ARE CONSENTING TO BE BOUND BY AND ARE BECOMING A PARTY TO THIS AGREEMENT AND AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN NEGOTIATED AGREEMENT SIGNED BY YOU. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, CLICK THE "CANCEL" BUTTON AND THE PRODUCT WILL NOT BE INSTALLED ON YOUR COMPUTER.

This Product will not install on your computer unless or until you accept the terms of this Agreement. You may receive a copy of this Agreement by contacting AKVIS at: info@akvis.com

1. **Proprietary Rights and Non-Disclosure.**

1.1. **Ownership Rights.** You agree that the Product and the authorship, systems, ideas, methods of operation, documentation and other information contained in the Product, are proprietary intellectual properties and/or the valuable trade secrets of the AKVIS or its suppliers and/or licensors and are protected by civil and criminal law, and by the law of copyright, trade secret, trademark and patent of the United States, and/or other countries and international treaties. You may use trademarks only insofar as to identify printed output produced by the Product in accordance with accepted trademark practice, including identification of trademark owner's name. Such use of any trademark does not give you any rights of ownership in that trademark. The AKVIS and/or its suppliers own and retain all right, title, and interest in and to the Product, including without limitations any error corrections, enhancements, Updates or other modifications to the Software, whether made by the AKVIS or any third party, and all copyrights, patents, trade secret rights, trademarks, and other intellectual property rights therein. Your possession, installation or use of the Product does not transfer to you any title to the intellectual property in the Product, and you will not acquire any rights to the Product except as expressly set forth in this Agreement. All

copies of the Product made hereunder must contain the same proprietary notices that appear on and in the Product. Except as stated herein, this Agreement does not grant you any intellectual property rights in the Product and you acknowledge that the License, as further defined herein, granted under this Agreement only provides you with a right of limited use under the terms and conditions of this Agreement. AKVIS reserves all rights not expressly granted to you in this Agreement.

1.2. Source Code. You acknowledge that the source code for the Product is proprietary to the AKVIS and constitutes trade secrets of the AKVIS. You agree not to modify, adapt, translate, reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Product in any way.

1.3. No Modification. You agree not to modify or alter the Product in any way. You may not remove or alter any copyright notices or other proprietary notices on any copies of the Product.

1.4. Confidential Information. You agree that, unless otherwise specifically provided herein the Product, including the specific design and structure of individual programs and the Product, constitute confidential proprietary information of the AKVIS or its suppliers and/or licensors. You agree not to transfer, copy, disclose, provide or otherwise make available such confidential information in any form to any third party. For purposes hereof, "License Key" shall mean a file or a unique sequence of digit and/or symbols provided to you by the AKVIS confirming the purchase of the license from the AKVIS, which may carry the information about the License, i.e. its type, the user name and the number of licenses purchased, and enabling the full functionality of the Product in accordance with the License granted under this Agreement. You agree to implement reasonable security measures to protect such confidential information provided however, that you may make and distribute unlimited copies of the trial version of Product in object code only, including copies for commercial distribution, as long as each copy that you make and distribute contains this Agreement subject to end user's acceptance before the first use, and the same copyright and other proprietary notices pertaining to the Product that appear in the Product, and further provided, that in connection with the distribution of the trial version of the Product you do not charge any fees without AKVIS's prior written consent. If you download the Software from the Internet or similar on-line source, you must include the copyright notices resident on the Software with any on-line distribution and on any media you distribute that includes the Software.

2. **Grant of License.**

2.1. License. The AKVIS grants you the non-exclusive and non-transferable license to store, load, install, execute, and display (to "**Use**") the specified version of the Software on a specified number of either a physical or virtual environments for which the Software was designed (each a "**Client Device**") pursuant to the terms and conditions of this Agreement ("**License**") and you hereby agree and accept such License as follows:

a). Trial Version. If you have received, downloaded and/or installed a trial version of the Product and are hereby granted an evaluation license for the Software and you may Use the Product only for evaluation purposes during the single applicable evaluation period of ten (10) days, unless otherwise indicated, from the date of the first Use of the Product. Any use of the Product for other purposes or beyond the applicable evaluation period is strictly prohibited, provided however that, subject to the restrictions contained herein, you may copy and distribute a trial version of the Product as provided in Section 1.3 hereof. The AKVIS shall not be required to provide any support and Updates, for the Trial Version of the Product.

b). Home License. If the Product is licensed under Home License you may use permitted functionality and utilization of the Product under the terms specified in the applicable Home License invoicing or packaging for the Product. For purposes hereof, "**Home License**" shall mean any Operation of the Product with specified in the applicable invoicing or packaging for the Product functionality for personal use only in accordance with the Documentation. One purchased Home License entitles Licensee to Operate one (1) copy of the Product licensed under the Home License on two (2) Client Devices, provided that if multiple or volume Home License is purchased, the number of the Client Devices and/or the number of permitted users shall be as provided and permitted by invoicing terms or applicable terms and conditions set forth in the Documentation or on the AKVIS Site at the time of purchase of the Home License.

c). Home Deluxe License. If the Product is licensed under Home Deluxe License you may use permitted functionality and utilization of the Product under the terms specified in the applicable Home Deluxe License invoicing or packaging for the Product. For purposes hereof, "**Home Deluxe Version License**" shall mean any Operation of the Product with specified in the applicable invoicing or packaging for the Product functionality for personal use only in accordance with Documentation. One purchased specified in the applicable invoicing or packaging for the Home Deluxe Licensee entitles Licensee to Operate one (1) copy of the Product licensed under the specified in the applicable invoicing or packaging for the Product on two (2) Client Devices, provided that if multiple or volume specified in the applicable invoicing or packaging for the Home Deluxe License is purchased, the number of the Client Devices and/or the number of permitted users shall be as provided and permitted by invoicing terms or applicable terms and conditions set forth in the Documentation or on the AKVIS Site at the time of purchase of the Home Deluxe License.

d). Business Version License. If the Product is licensed under Business Version License you may use permitted functionality and utilization of the Product under the terms specified in the applicable Business Version License invoicing or packaging for the Product. For purposes hereof, "**Business Version License**" shall mean any Operation of the Product with specified in the applicable invoicing or packaging for the Product functionality for personal use, legal business, commercial, or government purpose in accordance with Documentation. One purchased specified in the applicable invoicing or packaging for the Business Version Licensee entitles Licensee to Operate one copy of the Product licensed under the specified in the applicable invoicing or packaging for the Product on two (2) Client Devices, provided that if multiple or volume specified in the applicable invoicing or packaging for the Business Version License is purchased, the number of the Client Devices and/or the number of permitted users shall be as provided and permitted by invoicing terms or applicable terms and conditions set forth in the Documentation or on the AKVIS Site at the time of purchase of the Business Version License.

e). Additional (non-profit) Purpose License: Educational License: Press License and Non-profit License. If the Product is licensed to you under an Educational License, Press License or Non-profit License upon the terms specified in the applicable invoicing or packaging for the Product, you may make use of the Product solely for the following purposes, respectively:

i. "Educational Purpose" means that you may make use of the Product solely for non-commercial study or research that is undertaken solely in furtherance of one's education, whether or not completed by a student in pursuit of an educational degree, certificate or diploma and as used by teachers or facilitates teaching of a class, and all administrative staff, faculty and employees, of any college, university, trade school or other school ("**Educational Institution**"). Under "Educational Purpose" Licensee may install and Operate the Product by a number of users determined by the applicable invoicing terms within one Educational Institution. Educational License may be granted exclusively at the discretion of the Licensor upon your submission of a written request discussing your and your employer/employees activities, when applicable, and your reasons for and purposes of Operating the Product.

ii. "Press Purpose" means any non-commercial journalistic activity that is undertaken solely as investigation and reporting of events, issues, and trends to a broad audience, including without, limitation, covering organizations and institutions such as government and business, and cultural aspects of society such as arts and entertainment; and

iii. "Non-profit Purpose" means any non-commercial activity or research that is undertaken solely in furtherance of one's duties as part of the non-profit organization purposes narrowly interpreted.

Educational License: Press License and Non-profit License may be granted exclusively at the discretion of the AKVIS upon your submission of a written request discussing your and your employer/employees activities, when applicable, and your reasons for and purposes of Operating the Product.

f). Notwithstanding anything contrary herein, you hereby agree and acknowledge that if you cease to Operate the Product on any original Client Device you may transfer, install and Operate the same copy of the Product on another Client Device, provided that (i) the copy of the Product is not installed and/or Operated on any other Client Device; (ii) the Product is not transferred to another Client Device unless all copies of the Product on a Client Device are also transferred to such other Client Device; and (iii) you comply with the terms and conditions of this End User License Agreement.

g). Grant of Multiple Licenses. If you have purchased multiple licenses for the Product, as reflected the License Key granted to you by the AKVIS, then the number of multiple licenses and the licensing terms reflected in the License Key shall determine the number of copies of the Product you may have, the permitted uses, and the number of Client Devices on which you may Use the Product provided that unless the type of the License and explicit licensing terms, i.e. Trial Version, Home Version etc, and the License Key provides otherwise, each purchased license entitles you to install and Use one (1) copy of the Product on two (2) Client Devices. The AKVIS reserves all rights not expressly granted herein.

2.2. Support and Maintenance Services: Updates. AKVIS will provide you with Support and Maintenance Services in accordance with the terms and conditions set forth on the AKVIS Site as may be changed by AKVIS from time to time solely at its own discretion.

2.3. Upgrade. If this copy of the Product is a New Release as defined herein and provided to you, along with the new or existing License Key, as an upgrade from any prior versions of the AKVIS's product, you must possess a valid full license to the original software in order to Operate the upgrade copy of the Product.

2.4. Feedback. You may from time to time provide suggestions, specifications, comments or other feedback to AKVIS with respect to the Software (hereinafter "**Feedback**"). You agree that all Feedback is and shall be entirely voluntary and (i) shall be deemed a derivative work based on the Software, (ii) shall be owned by AKVIS, and (iii) shall not create any confidentiality obligation for AKVIS. However, AKVIS shall not disclose the source of any Feedback without your consent. Except as otherwise provided herein, AKVIS shall be free to disclose and use such Feedback as it sees fit, entirely without obligation of any kind to you.

2.5. Term and Termination. The term of this Agreement ("**Term**") shall begin when you purchase or otherwise legally receive the Product until the termination of the Agreement as provided herein. This Agreement may be terminated by a superseding agreement, offered by the AKVIS and accepted by you, for the Product, Update or any replacement or modified version of or upgrade or New Release of the Product and conditioning your continued use of the Product or such replacement, modified or upgraded version or New Release on your acceptance of such superseding Agreement. Without prejudice to any other rights, this Agreement will terminate automatically if you fail to comply with any of the limitations or other requirements described herein. Upon any termination or expiration of this Agreement, you must immediately cease Use of the Product and permanently destroy and/or delete all copies of the Product.

2.6. Back-up Copies. You can make two (2) copies the Product for backup and archival purposes, provided, however, that the original and each copy is kept in your possession or control, and that your installation and use of the Product does not exceed that which is allowed in this Section 2.

2.7. No Rights Upon Termination. Upon termination of this Agreement you will no longer be authorized to Operate or use the Product in any way.

2.8. Material Terms and Conditions. You specifically agree that each of the terms and conditions of this Section 2 are material and that failure of you to comply with these terms and conditions shall constitute sufficient cause for AKVIS to immediately terminate this Agreement and the License granted under this Agreement. The presence of this Section 2.8 shall not be relevant in determining the materiality of any other provision or breach of this Agreement by either party hereto.

3. **Restrictions.**

3.1. **No Transfers.** Under no circumstances you shall sell, loan, rent, lease, license, sublicense, publish, display, distribute, or otherwise transfer to a third party the Product, any copy or use thereof, in whole or in part, without AKVIS's prior written consent, provided that if such non-waivable right is specifically granted to you under applicable law in your jurisdiction you may transfer your rights under this Agreement permanently to another person or entity, provided that (a) you also transfer this Agreement, the Product, all accompanying printed materials, and all other software or hardware bundled or pre-installed with the Product, including all copies, Updates and prior versions, to such person or entity; (b) retain no copies, including backups and copies stored on a Client Device; and (c) the receiving party accepts the terms and conditions of this Agreement and any other terms and conditions upon which you legally purchased a license to the Product. Notwithstanding the foregoing, you may not transfer education, press, non-profit, pre-release, or "not for resale" copies of the Product. In no case you may permit third parties to benefit from the use or functionality of the Product via a timesharing, service bureau or other arrangement, except to the extent such use is specified in the application price list, purchase order or product packaging for the Product.

3.1. **Prohibitions.** Except as otherwise specifically provided for in this Agreement, you may not use, copy, emulate, clone, rent, lease, sell, modify, decompile, disassemble, otherwise reverse engineer, or otherwise reduce any part of the Product to human readable form or transfer the licensed Product, or any subset of the licensed Product, nor permit any third party to do so, except to the extent the foregoing restriction is expressly prohibited by applicable law. Notwithstanding the foregoing sentence, decompiling the Software is permitted to the extent the laws of your jurisdiction give you the non-waivable right to do so to obtain information necessary to render the Software interoperable with other software; provided, however, that you must first request such information from the AKVIS and the AKVIS may, in its discretion, either provide such information to you (subject to confidentiality terms) or impose reasonable conditions, including a reasonable fee, on such use of the Software to ensure that the AKVIS's and its suppliers and/or licensors proprietary rights in the Software are protected. You may not modify, or create derivative works based upon the Product in whole or in part. Any such unauthorized use shall result in immediate and automatic termination of this Agreement and the License granted hereunder and may result in criminal and/or civil prosecution. Neither Product's binary code nor source may be used or reverse engineered to re-create the program algorithm, which is proprietary, without written permission of the AKVIS. All rights not expressly granted here are reserved by AKVIS and/or its suppliers and licensors, as applicable.

3.3. **Proprietary Notices.** You may not remove any proprietary notices or labels on the Product.

3.4. **License Key.** You may not give, make available, give away, sell or otherwise transfer your registration License Key or any copy thereof to a third party. Product's License Key may not be distributed, except as provided herein, outside of the area of legal control of the person or persons who purchased the original License, without written permission of the AKVIS. Doing so will result in an infringement of copyright. The AKVIS retains the right of claims for compensation in respect of damage which occurred by your giving away the License Key or registration code contained therein. This claim shall also extend to all costs which the AKVIS or its licensors incur in defending themselves.

3.5. **Indemnification.** You agree to indemnify, defend and hold harmless AKVIS and its respective officers, directors, employees, agents, successors, and assigns from any and all losses, liabilities, damages and claims, and all related expenses (including reasonable legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties) and costs related to, arising from, or in connection with any third-party claim related to, arising from, or in connection with the actual or alleged: (i) infringement by you (except when such breach is exclusively attributable to Product) of any third-party intellectual property and/or proprietary right, including, but not limited to, patent, trademark, copyright, trade secret, publicity and/or privacy; (ii) personal injury (including death) or property damage due to your gross negligence or intentional misconduct; and/or (iii) breach by you of any of its representations, warranties, obligations, and/or covenants set forth herein.

3.6. **Compliance with Law.** You agree that in Operating the Product and in using any report or information derived as a result of Operating this Product, you will comply with all applicable international, national, state, regional and local laws and regulations, including, without limitation, privacy, copyright, export control and obscenity law.

3.7. **No Transfer of Rights.** Except as otherwise specifically provided herein, you may not transfer or assign any of the rights granted to you under this Agreement or any of your obligations pursuant hereto.

3.8. **Additional Protection Measures.** Solely for the purpose of preventing unlicensed use of the Product, the Software may install on your Client Device technological measures that are designed to prevent unlicensed use, and the AKVIS may use this technology to confirm that you have a licensed copy of the Product. The update of these technological measures may occur through the installation of the Updates. The Updates will not install on unlicensed copies of the Product. If you are not using a licensed copy of the Product, you are not allowed to install the Updates. The AKVIS will not collect any personally identifiable information from your Client Device during this process.

4. **DISCLAIMERS.**

4.1. **Limited Warranty.** The AKVIS warrants that for the larger of (x) sixty (60) days and (y) the minimum warranty period required by non-waivable provision of applicable law (the "*Warranty Period*"), from the earlier of (i) original purchase of the media on which the Product is contained, or (ii) the date the License Key is provided to you by AKVIS, the Product will be free from defects in materials and workmanship and that the Product will perform substantially in accordance with the Documentation or generally conform to the Product's specifications published by the AKVIS. Non-substantial variations of performance from the Documentation do not establish a warranty right. THIS LIMITED WARRANTY DOES NOT APPLY TO TRIAL AND EVALUATION VERSIONS, UPDATES, PRE-RELEASE, TRYOUT, PRODUCT SAMPLER, OR NOT FOR RESALE (NFR) COPIES OF PRODUCT. To make a

warranty claim, you must return the Product to the location where you obtained it along with proof of purchase within the applicable Warranty Period of the license fee you paid for the Product. THE LIMITED WARRANTY SET FORTH IN THIS SECTION GIVES YOU SPECIFIC LEGAL RIGHTS. YOU MAY HAVE ADDITIONAL RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.

4.2. Customer Remedies. The AKVIS and its suppliers' entire liability and your exclusive remedy for any breach of the foregoing warranty shall be at the AKVIS's option: (i) return of the purchase price paid for the license, if any, (ii) replacement of the defective media in which the Product is contained, or (iii) correction of the defects, "bugs" or errors within reasonable period of time. You must return the defective media to the AKVIS at your expense with a copy of your receipt. This limited warranty is void if the defect has resulted from accident, abuse, or misapplication. Any replacement media will be warranted for the remainder of the original warranty period.

4.3. NO WARRANTIES. EXCEPT FOR ANY WARRANTY, CONDITION, REPRESENTATION OR TERM TO THE EXTENT TO WHICH THE SAME CANNOT OR MAY NOT BE EXCLUDED OR LIMITED BY LAW APPLICABLE TO YOU IN YOUR JURISDICTION, THE PRODUCT IS PROVIDED "AS-IS" WITHOUT ANY WARRANTY WHATSOEVER AND THE AKVIS MAKES NO PROMISES, REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESSED OR IMPLIED, WHETHER BY STATUTE, COMMON LAW, CUSTOM, USAGE OR OTHERWISE, REGARDING OR RELATING TO THE PRODUCT OR CONTENT THEREIN OR TO ANY OTHER MATERIAL FURNISHED OR PROVIDED TO YOU PURSUANT TO THIS AGREEMENT OR OTHERWISE. YOU ASSUME ALL RISKS AND RESPONSIBILITIES FOR SELECTION OF THE PRODUCT TO ACHIEVE YOUR INTENDED RESULTS, AND FOR THE INSTALLATION OF, USE OF, AND RESULTS OBTAINED FROM THE PRODUCT. THE AKVIS MAKES NO WARRANTY THAT THE PRODUCT WILL BE ERROR FREE OR FREE FROM INTERRUPTION OR FAILURE, OR THAT IT IS COMPATIBLE WITH ANY PARTICULAR HARDWARE OR SOFTWARE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AKVIS DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, INTEGRATION, SATISFACTORY QUALITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THE PRODUCT AND THE ACCOMPANYING WRITTEN MATERIALS OR THE USE THEREOF. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. YOU HEREBY ACKNOWLEDGE THAT THE PRODUCT MAY NOT BE OR BECOME AVAILABLE DUE TO ANY NUMBER OF FACTORS INCLUDING WITHOUT LIMITATION PERIODIC SYSTEM MAINTENANCE, SCHEDULED OR UNSCHEDULED, ACTS OF GOD, TECHNICAL FAILURE OF THE SOFTWARE, TELECOMMUNICATIONS INFRASTRUCTURE, OR DELAY OR DISRUPTION ATTRIBUTABLE TO VIRUSES, DENIAL OF SERVICE ATTACKS, INCREASED OR FLUCTUATING DEMAND, AND ACTIONS AND OMISSIONS OF THIRD PARTIES. THEREFORE, THE AKVIS EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY REGARDING SYSTEM AND/OR SOFTWARE AVAILABILITY, ACCESSIBILITY, OR PERFORMANCE. THE AKVIS DISCLAIMS ANY AND ALL LIABILITY FOR THE LOSS OF DATA DURING ANY COMMUNICATIONS AND ANY LIABILITY ARISING FROM OR RELATED TO ANY FAILURE BY THE AKVIS TO TRANSMIT ACCURATE OR COMPLETE INFORMATION TO YOU.

4.4. LIMITED LIABILITY: NO LIABILITY FOR CONSEQUENTIAL DAMAGES. YOU ASSUME THE ENTIRE COST OF ANY DAMAGE RESULTING FROM YOUR USE OF THE PRODUCT AND THE INFORMATION CONTAINED IN OR COMPILED BY THE PRODUCT, AND THE INTERACTION (OR FAILURE TO INTERACT PROPERLY) WITH ANY OTHER HARDWARE OR SOFTWARE WHETHER PROVIDED BY THE AKVIS OR A THIRD PARTY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE AKVIS OR ITS SUPPLIERS OR LICENSEES BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, LOSS OF GOODWILL, WORK STOPPAGE, HARDWARE OR SOFTWARE DISRUPTION IMPAIRMENT OR FAILURE, REPAIR COSTS, TIME VALUE OR OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OR INABILITY TO USE THE PRODUCT, OR THE INCOMPATIBILITY OF THE PRODUCT WITH ANY HARDWARE SOFTWARE OR USAGE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL AKVIS'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES IN ANY ONE OR MORE CAUSE OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE EXCEED \$10. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY FOR DEATH OR PERSONAL INJURY TO THE EXTENT THAT APPLICABLE LAW PROHIBITS SUCH LIMITATION. FURTHERMORE, BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

5. **U.S. Government-Restricted Rights.**

5.1. Notice to U.S. Government End Users. The Product and accompanying Documentation are deemed to be "Commercial Items," as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," respectively, as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights, including any use, modification, reproduction, release, performance, display or disclosure of the Product and accompanying Documentation, as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States.

5.2. Export Restrictions. You acknowledge and agree that the Product may be subject to restrictions and controls imposed by the Export Administration Act and the Export Administration Regulations of the United States (the "Acts"). You agree and certify that neither the Product nor any direct product thereof is being or will be used for any purpose prohibited by the Acts. You may not Operate, download, export, or re-export the Product (a) into, or to a national or resident of, any country to which the United States has embargoed goods, or (b) to anyone on the United States Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders. By downloading or using the Product, you are representing and warranting that you are not located in, under the control of, or a national or resident of any such country or on any such list. You acknowledge that it is your sole responsibility to comply with any and all government export and other applicable laws and that the AKVIS has no further responsibility for such after the initial license to you. You warrant and represent that

neither the U.S. Commerce Department, Bureau of Export Administration nor any other U.S. federal agency has suspended, revoked or denied your export privileges.

6. **Your Information and the AKVIS's Privacy**

6.1. Privacy Policy. You acknowledge receipt of and agree to the AKVIS's privacy statement which is made available to you in connection with installation and is set forth in full at akvis.com. You hereby expressly consent to the AKVIS's processing of your personal data (which may be collected by the AKVIS or its distributors) according to the AKVIS's current privacy policy as of the date of the effectiveness hereof which is incorporated into this Agreement by reference. By entering into this Agreement, you agree that the AKVIS may collect and retain information about you, including your name, email address. The AKVIS employs other companies and individuals to perform certain functions on its behalf. Examples include delivering packages, sending postal mail and e-mail, removing repetitive information from customer lists, analyzing data, providing marketing assistance, and providing customer service. They have access to personal information needed to perform their functions, but may not use it for other purposes. The AKVIS publishes a privacy policy on its web site and may amend such policy from time to time in its sole discretion. You should refer to the AKVIS's privacy policy prior to agreeing to this Agreement for a more detailed explanation of how your information will be stored and used by the AKVIS. If "you" are an organization, you will ensure that each member of your organization (including employees and contractors) about whom personal data may be provided to the AKVIS has given his or her express consent to the AKVIS's processing of such personal data. Personal data will be processed by the AKVIS or its distributors in the country where it was collected. Such country's laws regarding processing of personal data may be less or more stringent than the laws in your jurisdiction.

6.2. Consent to Use of Non-Personal Data. You agree that AKVIS and its subsidiaries may collect and use technical and related information, including but not limited to technical information about your computer, system and application software, and peripherals, that is gathered periodically to facilitate the provision of Updates, Product Maintenance and Support and other services to you (if any) related to the Product, and to verify compliance with the terms of this Agreement. AKVIS may use this information, as long as it is in a form that does not personally identify you, to improve our products or to provide services or technologies to you.

7. **Miscellaneous**

7.1. Governing Law: Jurisdiction and Venue. This Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Virginia without reference to conflicts of law rules and principles. To the extent permitted by law, the provisions of this Agreement shall supersede any provisions of the Uniform Commercial Code as adopted or made applicable to the Products in any competent jurisdiction. 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 disclaimed and excluded. The federal and state courts within the Commonwealth of Virginia shall have exclusive jurisdiction to adjudicate any dispute arising out of this Agreement. You agree that this Agreement is to be performed in the Commonwealth of Virginia and that any action, dispute, controversy, or claim that may be instituted based on this Agreement, or arising out of or related to this Agreement or any alleged breach thereof, shall be prosecuted exclusively in the federal or state courts in of the Commonwealth of Virginia and you, to the extent permitted by applicable law, hereby waive the right to change venue to any other state, county, district or jurisdiction; *provided, however*, that the AKVIS as claimant shall be entitled to initiate proceedings in any court of competent jurisdiction.

7.2. Period for Bringing Actions. No action, regardless of form, arising out of the transactions under this Agreement, may be brought by either party hereto more than one (1) year after the cause of action has occurred, or was discovered to have occurred, except that an action for infringement of intellectual property rights may be brought within the maximum applicable statutory period.

7.3. Entire Agreement: Severability: No Waiver. This Agreement is the entire agreement between you and AKVIS and supersedes any other prior agreements, proposals, communications or advertising, oral or written, with respect to the Product or to subject matter of this Agreement. You acknowledge that you have read this Agreement, understand it and agree to be bound by its terms. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable for any reason, in whole or in part, such provision will be more narrowly construed so that it becomes legal and enforceable, and the entire Agreement will not fail on account thereof and the balance of the Agreement will continue in full force and effect to the maximum extent permitted by law or equity while preserving, to the fullest extent possible, its original intent. No waiver of any provision or condition herein shall be valid unless in writing and signed by you and an authorized representative of AKVIS provided that no waiver of any breach of any provisions of this Agreement will constitute a waiver of any prior, concurrent or subsequent breach. AKVIS's failure to insist upon or enforce strict performance of any provision of this Agreement or any right shall not be construed as a waiver of any such provision or right.

7.4. Contact Information. Should you have any questions concerning this Agreement, or if you desire to contact the AKVIS for any reason, please contact us at <http://akvis.com/en/company/contacts-developers.php>