

TANGRAM PRODUCT TERMS OF USE

Last Modified: June 22nd, 2021

1. Acceptance of the Terms of Use

These terms of use are entered into by and between You, as a user of Our software products (“**You**” and “**Your**”), and Tangram Flex, Inc. (“**Company**”, “**We**”, “**Our**” or “**Us**”). The following terms and conditions, together with any documents they expressly incorporate by reference (collectively, these “**Terms of Use**”), govern Your access to and use of, including any content and functionality on or through, Our Tangram Pro™ Software and associated documentation (the “**Product**”).

Please read these Terms of Use carefully before You start to use the Product. By using the Product or by clicking to accept or agree to the Terms of Use when this option is made available to You, You accept and agree to be bound and abide by these Terms of Use and Our Privacy Policy, incorporated herein by reference (the “**Privacy Policy**”). If You do not want to agree to these Terms of Use, You must not access or use the Product.

This Product is offered and available only to users who are eighteen (18) years of age or older and are a lawful permanent resident of the United States, as defined by 8 U.S.C. 1101(a)(20), or who is a protected individual, as defined by 8 U.S.C. 1324b(a)(3). By using the Product, You represent and warrant that You are of legal age to form a binding contract with Tangram and meet all of the foregoing eligibility requirements. If You do not meet all of these requirements, You must not access or use the Product.

2. Changes to the Terms of Use

We may revise and update these Terms of Use from time to time at Our sole discretion, and in such event We will make reasonable efforts to notify You of such changes, which may include a pop-up or banner within the Product, by sending an email to any address You may have used to register for an account, via posts at, or through other similar mechanisms. All such changes are effective upon publication. You will be responsible for reviewing and becoming familiar with any such modifications.

Your continued use of the Product following the posting of revised Terms of Use means that You accept and agree to the changes. You are expected to review the Terms of Use from time to time so You are aware of any changes, as they are binding on You.

3. License Terms

Being provided access to the Product does not convey ownership to You of any component of the Product, does not provide licenses to future versions of the Product, and does not grant any rights other than the ability to access and utilize the Product for the purposes of these Terms of Use. You are NOT authorized to re-sell, offer for sale, prepare derivatives, copy, distribute, publish, or otherwise provide access to the Product to any other entities.

3.1 If you are accessing Tangram Product as part of a free trial, the following applies: (i) The Term for a Trial is fourteen (14) days, which may be extended upon Tangram’s written consent; (ii) the Term for a Trial shall commence on the date that Tangram provides You with access to the Product that is the subject of the Trial; (iii) the features and functions You are entitled to use and the quantity of Resources You are allowed to consume during the Trial are determined at Tangram’s sole discretion and may be changed at any time; (iv) the Product may be used during the Trial for non-production, evaluation purposes only; (v) the Trial is provided “AS IS” without warranty of any kind, and Tangram disclaims all warranties, indemnities, and all other liabilities for Trials; (vi) You are not entitled to support services during the Trial, but may be provided with support at Tangram’s discretion; (vii) You will be provided access to Tangram’s [User Documentation](#) and [Community Forum](#), and must only utilize those resources

for the purposes described in these Terms of Use. Upon termination of this Trial Your access to the Product will be immediately terminated and all data, information, saved project, or other user artifacts will be permanently deleted.

4. Accessing the Product and Account Security

You shall not access the Product from outside the United States **We provide the Product for use only by lawful permanent residents of the United States or those considered protected individuals, (as defined by 8 U.S.C. 1324b(a)(3)), who are located in the United States.** We make no claims that the Product or any of their content is accessible or appropriate outside of the United States. Access to the Product may not be legal by certain persons or in certain countries. Section 19 of these Terms of Use provides additional detail.

The Product may contain technological measures designed to prevent unauthorized or illegal use. You acknowledge and agree that We may use these and other lawful measures to verify Your compliance with the terms of this Agreement and enforce Our rights, including all intellectual property rights, in and to the Product. We will not be liable if for any reason all or any part of the Product is unavailable at any time or for any period. From time to time, We may restrict access to some parts of the Product, or the entire Product, to users, including registered users.

You are responsible for making all arrangements necessary for You to have access to the Product. To access the Product or some of the resources it offers, You may be asked to provide certain registration details or other information. It is a condition of Your use of the Product that all the information You provide on the Product is correct, current and complete. You agree that all information You provide to install, register with, access, or use the Product or otherwise, including but not limited to through the use of any interactive features on the Product, is governed by Our Privacy Policy, and You consent to all actions We take with respect to Your information consistent with Our Privacy Policy.

To access the Product, You may be required to create a user account(s). Your user name, password, private key, access credentials, or any other piece of information must be treated as confidential, and You must not sell, transfer, sublicense, or disclose it to any other person or entity. In setting up an account, You agree, represent, and warrant that the information You provide is accurate and that You will keep it accurate at all times. You are responsible for maintaining the security and secrecy of Your credentials. We are not responsible for unauthorized access to Your account, except to the extent caused by Our breach of these Terms of Use.

You also acknowledge that Your account is personal to You and agree not to provide any other person with access to the Product or portions of it using Your user name, password, or other security information. You are solely responsible for all activities that occur under Your accounts. You agree to notify Us immediately of any unauthorized access to or use of Your user name or password or any other breach of security.

We have the right to disable any user, password, security key, access credentials, or other identifier, whether chosen by You or provided by Us, at any time in Our sole discretion for any or no reason, including if, in Our opinion, You have violated any provision of these Terms of Use.

If You discover any security vulnerability on the Product, You must not disclose it publicly. Public disclosure of a security vulnerability puts all users of the Product at risk. You agree to take reasonable steps to notify Us if You discover a security vulnerability on the Product. Such reasonable steps include notifying Us at.

5. Intellectual Property Rights

The Product and its entire contents, features and functionality (including but not limited to all information, software, text, displays, images, other file formats, and the design, selection and arrangement thereof),

are owned by Tangram, its licensors or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret and other intellectual property or proprietary rights laws. You acknowledge and agree that: (a) You do not have under or in connection with this Agreement any ownership interest in the Tangram Product or Documentation, or in any related Intellectual Property Rights; (b) Tangram is the sole and exclusive owners of all right, title and interest in and to the Tangram Product and Documentation, including all Intellectual Property Rights relating thereto, subject only to the rights of Third Parties in Open Source Components and the limited license granted to You under this Agreement; (c) You owns all right, title, and interest in and to Your content, and (d) You hereby unconditionally and irrevocably assigns to Tangram, Your entire right, title and interest in and to any Intellectual Property Rights that You may now or hereafter have in or relating to the Tangram Product or Documentation, whether held or acquired by operation of law, contract, assignment or otherwise.

You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store or transmit any of the material on the Products, except as follows:

- Your computer may temporarily store copies of such materials in RAM incidental to Your accessing and viewing those materials.
- You may store files that are automatically cached by Your Web browser for display enhancement purposes.
- You may print or download one copy of a reasonable number of pages of the Product for Your own use and not for further reproduction, publication or distribution.
- If We provide desktop, mobile, or other applications for download, You may print or download a single copy to Your computer or mobile device solely for Your own use, provided You agree to be bound by Our end user license agreement for such applications.

You must not:

- Modify copies of any materials from the Product.
- Hold out any materials from the Product as Your own.
- Use any illustrations, photographs, video or audio sequences or any graphics separately from the accompanying text.

You must not access or use for the Product or any services or materials available through the Product for any purpose other than those contemplated in these Terms of Use. If You wish to make any use of material on the Product other than that set out in this section, please address Your request to: support@tangramflex.com.

If You print, copy, modify, download or otherwise use or provide any other person with access to any part of the Product in breach of the Terms of Use, Your right to use the Product will cease immediately and You must, at Our option, return or destroy any copies of the materials You have made. No right, title or interest in or to the Product or any content on the Product is transferred to You by Your use of the Product, and all rights not expressly granted are reserved by Tangram. Any use of the Product not expressly permitted by these Terms of Use is a breach of these Terms of Use and may violate copyright, trademark and other laws.

6. Trademarks

Tangram name, the terms “Tangram”, “Flex”, “Tangram Flex”, “Tangram Flex®”, “Tangram Pro”, “Tangram Pro™”, the Tangram logo (depicted below, in this Section 5), and all related names, logos, products and service names, designs and slogans are trademarks of Tangram or its affiliates or licensors. You must not use such marks without the prior written permission of Tangram. All other names, logos, product and service names, designs and slogans on the Product are the trademarks of their respective owners.

7. Prohibited Uses

You may use the Product only for lawful purposes and in accordance with these Terms of Use. You agree not to use, or encourage, promote facilitate, or instruct others to use the Product:

- In any way that violates any applicable federal, state, local, or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
- For the purpose of exploiting, harming, or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise.
- To send, knowingly receive, upload, download, use, or re-use any material that does not comply with the Content Standards set out in these Terms of Use.
- To transmit, or procure the sending of, any advertising or promotional material without Our prior written consent, including any “junk mail”, “chain letter”, “spam”, or any other similar solicitation.
- To impersonate or attempt to impersonate Tangram, a Tangram employee, another user, or any other person or entity (including, without limitation, by using email addresses or screen names associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone’s use of the Product, or which, as determined by Us in Our sole discretion, may harm Tangram or users of the Product or expose them to liability.
- To engage in any deceptive practices (including, without limitation, disseminating, offering any fraudulent goods or services).
- In any manner that could disable, overburden, damage, or impair the Product or interfere with any other party’s use of the Product, including their ability to engage in real time activities through the Product.
- Introduce any viruses, trojan horses, worms, logic bombs or other material which is malicious or technologically harmful.
- To violate the security or integrity of any network, computer, communication system, software application, or network or computing device.
- Attempt to gain unauthorized access to, interfere with, damage or disrupt any parts of the Product, the server on which the Product is stored, or any server, computer or database connected to the Product.
- Attack the Product via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of the Product.

Further, You agree not to:

- Use any automatic device, means, process, program, algorithm, or methodology (including, without limitation, any “robot”, “page-scrape”, “spider”, or artificial intelligence) to access, acquire, copy, or monitor the Product (or any portion of the Product) for any purpose.
- Use any manual process to monitor or copy any of the material on the Product or for any other unauthorized purpose without Our prior written consent.
- Use any device, software or routine that interferes with the proper working of the Product, whether intentionally or accidentally done.

- Modify, correct, adapt, translate, enhance, or otherwise prepare derivative works or improvements, whether or not patentable, of the Product.
- Reverse engineer, disassemble, decompile, decode, or adapt the Product, or otherwise attempt to derive or gain access to the source code of the Product or any part thereof.
- Rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Product, or any features or functionality of the Product, to any third party for any reason, including by making the Product available on a network that is not licensed or authorized.
- Remove, bypass, breach, disable, circumvent, or otherwise create or implement any workaround to any copy protection, rights management, or security features in or protecting the Product.
- Remove, delete, efface, alter, obscure, translate, combine, supplement, or otherwise change any trademarks, terms of the associate documentation, warranties, disclaimers, or intellectual property rights, proprietary rights or other symbols, notices, marks, or serial numbers on or relating to any copy of the Product.
- Use the Product in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.
- Use the Product for purposes of benchmarking or competitive analysis of the Product, developing, using or providing a competing software product or service, or any other purpose that is to Tangram's detriment or commercial disadvantage, including building a product or service using similar ideas, features, functions, or graphics.
- Use the Product in any manner or for any purpose or application not expressly permitted by these Terms of Use.
- Use any Open Source Components in any manner or for any purpose or application not expressly permitted by the controlling Open Source License.
- Disclose the personal license password and/or license file to any third party or allow the same to be used for any purpose other than to install, access, and/or use of the Product in accordance with these Terms of Use.

8. User Contributions.

The Product may contain message boards, comment sections, user profiles, support forums, feedback options, and other interactive features (collectively, "**Support Services**") that allow users to post, submit, upload, transmit, publish, or display to other users or other persons (hereinafter, "**post**") content or materials (collectively, "**User Contributions**") on or through the Product.

All User Contributions must comply with the Content Standards set out in these Terms of Use. Tangram reserves the right to delete or remove any User Contribution in its sole discretion.

Unless otherwise agreed to by You and Us, any User Contribution You post to the Support Services will be considered non-confidential and non-proprietary. By providing any User Contribution on the Support Services, You grant Us and Our affiliates and service providers, and each of their and Our respective licensees, successors, and assigns the right to use, reproduce, modify, perform, display, distribute, and otherwise disclose to third parties any such material for purposes of internal tracking, support, and product development.

You represent and warrant that:

- You own or control all rights in and to the User Contributions and have the right to grant the license granted above to Us and Our affiliates and service providers, and each of their and Our respective licensees, successors, and assigns.
- All of Your User Contributions do and will comply with these Terms of Use, specifically including the Content Standards.

You understand and acknowledge that You are responsible for any User Contributions You submit or contribute, and you, not Tangram, have full responsibility for such content, including its legality, reliability, accuracy, and appropriateness.

We are not responsible or liable to any third party for the content or accuracy of any User Contributions posted by You or any other user of the Product.

9. Monitoring and Enforcement.

We have the right, but not the obligation, to:

- Take appropriate legal action, including without limitation, referral to law enforcement or government authorities, for any illegal or unauthorized use of the Product.
- Terminate or suspend Your access to all or part of the Product for any or no reason, including without limitation, any violation of these Terms of Use.

Upon termination of Your access to the Product, all rights granted to You hereunder also will terminate and You must cease all use of the Product and delete all copies of the Product from Your device and account.

Without limiting the foregoing, We have the right to fully cooperate with any law enforcement or government authorities or court order requesting or directing Us to disclose the identity or other information of anyone posting any materials on or through the Product. **YOU WAIVE AND HOLD HARMLESS TANGRAM AND ITS AFFILIATES, LICENSEES AND SERVICE PROVIDERS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY ANY OF THE FOREGOING PARTIES DURING OR AS A RESULT OF ITS INVESTIGATIONS AND FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY EITHER TANGRAM OR LAW ENFORCEMENT OR GOVERNMENT AUTHORITIES.**

We assume no liability for any action or inaction regarding transmissions, communications or content provided by any user or third party. We have no liability or responsibility to anyone for performance or nonperformance of the activities described in this section.

10. Content Standards.

These content standards apply to any and all User Contributions and use of Support Services. User Contributions must in their entirety comply with all applicable federal, state, local, and international laws and regulations. Without limiting the foregoing, User Contributions must not:

- Contain any material that is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory, or otherwise objectionable.
- Promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age.
- Infringe any patent, trademark, trade secret, copyright, or other intellectual property or other rights of any other person.
- Violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these Terms of Use and Our Privacy Policy.
- Be likely to deceive any person.
- Promote any illegal activity, or advocate, promote, or assist any unlawful act.
- Impersonate any person, or misrepresent Your identity or affiliation with any person or organization.

11. Reliance on Information Posted

The information presented on or through the Product is made available solely for general information purposes. We do not warrant the accuracy, completeness or usefulness of this information or the research behind the information and statements contained on the Product. Any reliance You place on such information is strictly at Your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by You to the Product, or by anyone who may be informed of any of its contents.

The Product may include content provided by third parties, including materials provided by other users, and/or third-party licensors. Any or all information contained in these materials, and associated data and other content, other than the content provided by Tangram, are solely the responsibility of the person or entity providing those materials. These materials do not necessarily reflect the opinion of Tangram. We are not responsible, or liable to You or any third party, for the content or accuracy of any materials provided by any third parties.

12. Changes to the Product

We may update the content on the Product from time to time, but its content is not necessarily complete or up-to-date. Any of the material on the Product may be out of date at any given time, and We are under no obligation to update such material.

13. Information About You and Your Use to the Product

All information We collect on the Product is subject to Our Privacy Policy. By using the Product, You consent to all actions taken by Us with respect to Your information in compliance with the Privacy Policy.

14. Other Terms and Conditions

Additional terms and conditions may also apply to specific portions, services, or features of the Product. All such additional terms and conditions are hereby incorporated by this reference into these Terms of Use.

15. Links from the Site

If the Product contain links to other sites and resources provided by third parties, these links are provided for Your convenience only. If You decide to access any of the third party sites linked to the Product, such as third party sites which are for Support Services, You do so entirely at Your own risk and subject to the terms and conditions of use for such sites.

16. Disclaimer of Warranties

You understand that We cannot and do not guarantee or warrant that files available for downloading from the internet or the Product will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy Your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to Our Product for any reconstruction of any lost data.

THE PRODUCT AND ALL ASSOCIATED DOCUMENTATION AND OTHER PRODUCTS, INFORMATION, MATERIALS, AND SERVICES PROVIDED BY TANGRAM ARE PROVIDED "AS IS." TANGRAM SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, TANGRAM MAKES NO WARRANTY OF ANY KIND THAT THE PRODUCT OR ITS ASSOCIATED DOCUMENTATION, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET YOUR OR ANY OTHER PERSONS' REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEMS, OR OTHER SERVICES, OR BE ACCURATE, COMPLETE OR ERROR FREE. ALL OPEN SOURCE

COMPONENTS AND OTHER THIRD-PARTY MATERIALS ARE PROVIDED “AS IS” AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN YOU AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF SUCH OPEN SOURCE COMPONENTS AND THIRD-PARTY MATERIALS. TANGRAM IS NOT RESPONSIBLE OR LIABLE FOR THE DELETION OF OR FAILURE TO STORE ANY CONTENT AND OTHER COMMUNICATIONS MAINTAINED OR TRANSMITTED THROUGH USE OF THE PRODUCT. YOU ARE SOLELY RESPONSIBLE FOR SECURING AND BACKING UP APPLICATION AND USER DATA, EXCEPT WHERE BACKUP OR SECURITY CONTROLS ARE EXPRESSLY PROVIDED AS FEATURES OF THE PRODUCT.

WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE PRODUCT OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE PRODUCT OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY SITE LINKED TO THE PRODUCT.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

17. Limitation on Liability

IN NO EVENT WILL TANGRAM, ITS AFFILIATES OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE PRODUCT, ANY SITES LINKED TO THE PRODUCT, ANY CONTENT ON THE PRODUCT OR SUCH OTHER SITES OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE PRODUCT OR SUCH OTHER SITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE. THE FOREGOING DOES NOT AFFECT ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

18. Indemnification

You agree to indemnify, defend, and hold harmless Tangram, its affiliates, licensors and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors and assigns (each, a “**Tangram Indemnitee**”) from and against any and all claims, liabilities, damages, judgments, awards, losses, costs, expenses or fees (including reasonable attorneys’ fees) resulting from any third-party claim based on Your: (a) negligence or willful misconduct; (b) use of the Product in a manner not authorized by these Terms of Use; (c) use of the Product in combination with data, software, hardware, equipment or technology not provided by Us or authorized by Us in writing; (d) modifications to the Product not made or authorized by Us; or (e) use of any version other than the most current version of the Product delivered to You.

19. Export Regulation.

The Product may be subject to US export control laws, including the US Export Administration Act, the U.S. Export Administration Regulations (EAR), the U.S. International Traffic in Arms Regulations (ITAR), the U.S. Foreign Trade Regulations (FTR), and their associated regulations. You shall not, directly or indirectly, export, re-export, or release the Product to, or make the Product accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. You shall comply with all applicable federal laws, regulations, and rules, and complete all required

undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Application available outside the US. You acknowledge that remote access to Product may, in certain circumstances, be considered a re-export of such Product, and accordingly, may not be granted in contravention of U.S. export control laws and regulations.

20. Governing Law and Jurisdiction

All matters relating to the Product and these Terms of Use and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the state of Ohio without giving effect to any choice or conflict of law provision or rule.

21. Arbitration

At Tangram's sole discretion, it may require You to submit any disputes arising from the use of these Terms of Use or the Product, including disputes arising from or concerning their interpretation, violation, invalidity, non-performance, or termination, to final and binding arbitration under the Rules of Arbitration of the American Arbitration Association applying Ohio law.

22. Limitation on Time to File Claims

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR THE PRODUCT MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

23. Confidentiality.

Both parties acknowledge that, in the course of this Agreement, they may obtain information relating to products (such as goods, services, and software) of the other party, or relating to the parties themselves, which is of a confidential and proprietary nature ("Confidential Information"). Confidential Information includes materials and all communications concerning Tangram's business, including but not limited to employee lists, product strategies, information security policies and procedures (and reports relating thereto), development activities, design and coding, and anything provided by Tangram including, without limitation, computer programs, technical drawings, algorithms, know-how, formulas, processes, ideas, inventions (whether patentable or not), schematics and other technical plans and other information which by its nature can be reasonably expected to be proprietary and confidential, whether it is presented in oral, printed, written, graphic or photographic or other tangible form (including information received, stored or transmitted electronically) even though specific designation as Confidential Information has not been made. Confidential Information also includes any notes, summaries, analyses of the foregoing that are prepared by the receiving party.

The parties shall at all times, both during the term of this Agreement and thereafter keep in trust and confidence all Confidential Information of the other party using commercially reasonable care (but in no event less than the same degree of care that the receiving party uses to protect its own Confidential Information) and shall not use such Confidential Information other than as necessary to carry out its duties under this Agreement, nor shall either party disclose any such Confidential Information to third parties without the other party's prior written consent.

The obligations of confidentiality shall not apply to information which (i) has entered the public domain or is otherwise publicly available; (ii) prior to disclosure hereunder was already in the receiving party's possession without restriction as evidenced by appropriate documentation; (iii) subsequent to disclosure hereunder is obtained by the receiving party on a non-confidential basis from a third party who has the right to disclose such information; or (iv) was developed by the

receiving party without any use of any of the Confidential Information as evidenced by appropriate documentation.

Notwithstanding anything to the contrary herein, each party may disclose the other party's Confidential Information in order to comply with applicable law and/or an order from a court or other governmental body of competent jurisdiction, and, in connection with compliance with such an order only, if such party: (i) unless prohibited by law, gives the other party prior written notice to such disclosure if the time between that order and such disclosure reasonably permits or, if time does not permit, gives the other party written notice of such disclosure promptly after complying with that order and (ii) fully cooperates with the other party, at the other party's cost and expense, in seeking a protective order, or confidential treatment, or taking other measures to oppose or limit such disclosure. Each party must not release any more of the other party's Confidential Information than is, in the opinion of its counsel, reasonably necessary to comply with an applicable order.

24. Waiver and Severability

No waiver by Tangram of any term or condition set forth in these Terms of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of Tangram to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

If any provision of these Terms of Use is held by a court or other tribunal of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

25. Entire Agreement

These Terms of Use, the Privacy Policy, and the other terms and conditions described in Section 14 constitute the sole and entire agreement between You and Tangram Flex, Inc. with respect to the Product and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the Product. In the event of a conflict between the terms hereof and any separate written agreement between Tangram and You governing the Product, the terms contained in the separate written agreement shall govern and supersede.

26. Your Comments and Concerns

The Product is owned and operated by Tangram Flex, Inc., 607 E 3rd Street, Suite 500, Dayton, OH 45402.

All other feedback, comments, requests for technical support and other communications relating to the Product should be directed to: support@tangramflex.com. You acknowledge that feedback on the Product and Your experiences are fundamental to Our ability to deliver top-quality software products. Accordingly, You hereby assign to Us all right, title, and interest in, and We are free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the feedback, for any purpose whatsoever, although We are not required to use any feedback.