

SOFTWARE RESELLER AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of

.....(day/month/year) (the "Effective Date") by and between

the developers of SKALP, Guy Wydouw and Jeroen Theuns, residing under the laws of Belgium and maintaining its principal place of business in Belgium, Hoevensebaan 238, 2950 Kapellen ("SKALP"),

and, a company organized and existing under

the laws of and maintaining its principal place of

business at ("RESELLER").

WHEREAS, SKALP represents the developers as owner and licensor of the software; and

WHEREAS, RESELLER is engaged in the business of marketing and selling computer software solutions; and

WHEREAS, the parties desire that RESELLER, on the terms and conditions set out herein, shall serve as a non-exclusive RESELLER of SKALP Products.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties hereto agree as follows:

1. DEFINITIONS.

1.1 Products. "Products" shall mean the object code copies of the software product, Skalp for SketchUp, and any subsequent updates and upgrades thereto, and all accompanying and associated Documentation, which RESELLER shall market and distribute.

1.2 Customer. "Customer" shall mean an end--user of a Product.

1.3 Documentation. "Documentation" shall mean program documentation, user manuals, video tutorials and other materials describing the use, design, installation, operation and maintenance of the Products.

1.4 Trademarks. "Trademarks" shall mean the trademarks, service marks, trade names and logotypes authorized from time to time by SKALP.

2. APPOINTMENT

2.1 Appointment. SKALP hereby appoints RESELLER, and RESELLER hereby accepts appointment, as SKALP's non-exclusive reseller of the Products during the term of this Agreement.

2.2 License Grant. Subject to all the other terms and conditions of this Agreement, SKALP hereby grants to RESELLER a non-exclusive and non-transferable right and license during the term of this Agreement (i) To market, promote, advertise, sell and distribute the Products directly to Customers; (ii) to market, promote, advertise, sell and perform support and maintenance services related to the Products only under RESELLER's own name and not as a subcontractor of SKALP; (iii) to use one copy of the Product to provide demonstrations to prospective Customers, so long as such copy is at all times under the control of RESELLER and not left with the prospective

Customer; and (iv) distribute evaluation copies (14-day free trial license) of the Products free of charge to prospective customers. RESELLER shall not (a) modify the Products or create derivative works thereof; (b) merge the Products with other software; (c) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Products; (d) disclose to third parties the results of any bench tests performed on the Products without SKALP's prior written consent; or (e) otherwise use, copy or distribute the Products except as expressly allowed hereunder.

2.3 Trademark License. In connection with RESELLER's activities authorized pursuant to this Agreement, RESELLER is granted a non-transferable, non-exclusive right to use the Trademarks in accordance with instructions given from time to time by SKALP. RESELLER shall not attach any additional trademarks, service marks, or trade names to any Products and shall not use SKALP's trademarks as part of RESELLER's trademarks, service marks or trade names or in any other manner that would tend to imply that RESELLER has an affiliation with SKALP other than as set forth in this Agreement

2.4 Title. SKALP and its suppliers retain the ownership of all right, title and interest in and to the Products, Documentation, Trademarks, and all patents, copyrights and other proprietary rights therein, and RESELLER shall acquire no rights therein except as expressly set forth in this Agreement. SKALP shall own all rights, title and interest in all developments of and enhancements to the Products. RESELLER shall take no action, which may adversely affect or impair SKALP's ownership of such materials and rights.

3. RESELLER'S GENERAL OBLIGATIONS.

3.1 Distribution Rights. RESELLER is authorized to distribute and deliver Products to Customers in the Designated Market in the Territory under the terms hereof and to identify itself in the market place as a "SKALP authorized reseller".

3.2 Marketing. RESELLER shall be responsible for the promotion and marketing of the Products. RESELLER will use its best efforts to further the interests of SKALP and to maximize the markets for the Products in the Territory, including all local advertising. Furthermore, RESELLER shall use due diligence in safeguarding the interests of SKALP and shall keep SKALP informed of its activities as well as market conditions within the Territory.

3.3 Pricing. Pricing of Products to Customers shall be at the discretion of RESELLER.

3.4 End-User License Agreements and Evaluation Agreements. (a) RESELLER shall be responsible for entering into a binding end-user license agreement with Customer ("EULA"), which complies in all respects with the language, copyright and other laws of the country of distribution. The terms and conditions of the EULA, including but not limited to the warranties, limitations of liability and grant of license, and intellectual property provisions, shall be at least as restrictive as SKALP's standard terms and conditions, a current example of which is attached hereto as APPENDIX A, and shall specify (i) that RESELLER shall assume sole liability vis-à-vis the Customer for product performance; and (ii) that SKALP shall be a third-party beneficiary of the EULA. RESELLER shall maintain a copy of the EULA for each Customer, and shall, promptly following execution of such agreements, provide SKALP with a copy. (b) If RESELLER wishes to provide a prospective Customer with a copy of the Products for the sole purposes of evaluation, RESELLER may do so only under the terms of a binding agreement with the prospective Customer that (i) disclaims all performance warranties; (ii) is for a term of no more than 14 days, (iii) limits use to evaluation only, and (iv) is free of charge.

3.5 Enforcement of End User License Agreement and Evaluation Agreement . If RESELLER learns of any breach of a EULA or Evaluation Agreement that could damage SKALP (or its third party licensors), RESELLER shall take prompt, commercially reasonable corrective action at its

expense to remedy the breach and/or obtain all other appropriate relief and shall, in addition, immediately notify SKALP in writing of the breach and corrective action taken. The execution of these duties by RESELLER shall not preclude SKALP from also taking corrective action. In addition, if a breach of an EULA or an Evaluation Agreement occurs that would, in SKALP's opinion, result in irreparable harm to SKALP (and/or its third party licensors) unless injunctive or other equitable relief is granted to restrain the violation, RESELLER shall, as requested by SKALP, either (i) use its best efforts to obtain such equitable relief as promptly as reasonably possible or (ii) assign its rights under the EULA or Evaluation Agreement to SKALP to permit SKALP to seek such equitable relief. RESELLER's foregoing obligations to enforce the EULAs or Evaluation Agreements as necessary to protect the interest of SKALP and its third party licensors shall survive expiration or termination of this Agreement.

3.6 Compliance with Laws. At all times, RESELLER shall comply with all laws, rules, ordinances, decrees and regulations applicable to its activities under this Agreement. RESELLER shall indemnify SKALP for any costs, expenses, injury and damage caused to SKALP as a result of RESELLER's failure to comply with applicable laws, rules, ordinances, decrees and regulations.

3.7 Other Obligations. RESELLER shall have the following specific obligations with respect to the marketing and distribution of Products:

3.7.1 To use its best efforts to further the promotion, marketing, license and distribution of Products, including taking the necessary actions to protect against improper copying

3.7.2 To promptly respond to all inquiries from prospective Customers, including complaints.

3.7.3 To collect and provide SKALP with correct customer information: e-mail address, company name, country, first name, last name.

3.8 Competing Products. Unless otherwise agreed in writing, during the term hereof, RESELLER shall not adapt, manufacture, sell, rent, distribute, market, promote or solicit the sale of any product in the Territory which is competitive with the Products without prior written consent from SKALP.

3.9 Customer Satisfaction. RESELLER agrees that high Customer satisfaction is a condition of its continued authorization by SKALP. In addition, in order to help ensure high Customer satisfaction, RESELLER agrees:

- To report to SKALP promptly and in writing all suspected and actual problems with any Product;
- Assist SKALP, upon request, in tracing a product to a Customer in distributing critical product information, or in discovering unauthorized marketing or infringing acts;
- To conduct business in a manner that reflects favorably at all times on the products, goodwill and reputation of SKALP;
- To avoid deceptive, misleading or unethical practices that are or might be detrimental to SKALP or the SKALP Products;
- To refrain from making any false or misleading representations with regard to SKALP or the Products; and

To refrain from making any representations, warranties or guarantees to customers with respect to the specifications, features or capabilities of the Products that are inconsistent with the literature distributed by SKALP.

4. SKALP'S GENERAL OBLIGATIONS.

4.1 Documentation. The Documentation shall be the most recent version distributed by SKALP in the English language in the form of document files. RESELLER acknowledges that the Documentation is protected by copyright and may be reproduced or translated only as permitted in this Agreement. Any translations of Documentation are derivative works and are owned by SKALP.

4.2 Marketing Materials. SKALP agrees to provide, upon request, internally developed Product marketing communications materials via electronic media in the English language for translation and duplication, as appropriate, to RESELLER. SKALP hereby grants to RESELLER the non-exclusive, non-transferable right to reproduce and use any such materials during the term of this Agreement, but not to modify such materials without prior written permission from SKALP.

4.3 Delivery. SKALP shall deliver, upon request, not for resale copies of the Product to RESELLER.

5. SUPPORT AND MAINTENANCE; TRAINING

5.1 Support with respect to Customers. RESELLER shall be solely responsible for providing first tier technical support to Customers. SKALP shall provide RESELLER with second tier technical support. RESELLER shall be responsible for all communications with Customer.

5.2 Training. SKALP can provide training on request. RESELLER shall bear all expenses incurred by or on behalf of its own staff in connection with the training. If any training upon request by RESELLER takes place elsewhere than at SKALP's place of business, RESELLER shall bear all expenses incurred by SKALP and its staff in relation to the offsite training, including expenses related to accommodation, meals and travel.

5.3 Updates and Upgrades. SKALP will make Updates and Upgrades (as these terms are defined in SKALP's standard terms and conditions) available to RESELLER when they become commercially available. At such time as an Update or Upgrade is made available, RESELLER will cease marketing and distributing the previous version of the Product. SKALP may cease support of any version of the Product 6 months after a new version is made available.

6. REGISTRATION/ORDERING.

6.1 Product Registration. RESELLER is required to register all Customers of Products with SKALP in accordance with then current SKALP registration procedures.

6.2. Ordering. RESELLER shall order products from SKALP on a customer neutral basis, by means of the SKALP Productkeys bought and delivered through the SKALP Reseller Store.

7. PAYMENT TERMS.

7.1 SKALP shall make Products available to RESELLER at the rates determined in the Reseller price list, which prices may change from time to time on thirty days written notice to RESELLER. All payments, tax handling and invoices will be handled by FASTSPRING (8 E. Figueroa Street, Suite 240, Santa Barbara, CA 93101, US), a trusted reseller for SKALP. All FASTSPRING Terms and Conditions apply: <http://www.fastspring.com/purchasing-through-fastspring.php>

- 7.2 SKALP Productkeys are non refundable. However, if a new version of Skalp should become available (e.g. 2.0) your current productkey inventory investment will be convertible to equivalent value new version ProductKeys.

8. LIMITATION OF LIABILITY.

- 8.1 IN NO EVENT SHALL SKALP AND IT LICENSORS OR RESELLER BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, WHICH MAY ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF WHETHER EITHER PARTY HAS BEEN APPRISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING, OR WHETHER CLAIMS ARE BASED OR REMEDIES ARE SOUGHT IN CONTRACT OR TORT OR OTHERWISE.
- 8.2 EXCEPT AS SET FORTH IN SECTION 8.1, IN NO EVENT SHALL SKALP'S OR ITS LICENSORS' TOTAL CUMULATIVE LIABILITY FOR ANY DAMAGES TO RESELLER OR ANY OTHER ENTITY EVER EXCEED THE AGGREGATE FEES PAID BY RESELLER TO SKALP.

9. CONFIDENTIALITY.

- 9.1 Non Disclosure. The parties agree that any Confidential Information provided under this Agreement shall be held and maintained in strict confidence. Each party agrees to protect the confidentiality of such information in a manner consistent with the way a reasonable person would protect similar Confidential Information. "Confidential Information" means the information and materials noticed or marked by SKALP or RESELLER as confidential and proprietary, or which should reasonably be understood as confidential and proprietary given the nature of the information or materials. "Confidential Information" does not include information that (i) is already known to the receiving party at the time it is disclosed and has not been obtained wrongfully, (ii) becomes publicly known without fault of the receiving party, (iii) is independently developed by the receiving party, (iv) is approved for release in writing by the disclosing party, (v) is disclosed without restriction by the disclosing party to a third party, or (vi) is disclosed pursuant to legal obligations beyond the control of the disclosing and receiving parties.
- 9.2 Legal Action. At SKALP's request, RESELLER shall cooperate fully with SKALP in any and all legal actions taken by SKALP to protect its rights in the Products and in the SKALP Confidential Information.

10. TERM AND TERMINATION.

- 10.1 Term. This Agreement shall take effect on the Effective Date and shall continue in force for two years (the "Initial Term"). Thereafter it will be automatically renewed for one (1) year renewal terms unless terminated by either party with 60-day notice prior to the end of the initial or any renewal term.
- 10.2 Termination. Notwithstanding the provisions of the foregoing, this Agreement may be terminated in accordance with the following provisions:
- 12.2.1 Either party hereto may terminate this Agreement at any time by giving notice in writing to the other party, which notice shall be effective upon receipt, should the other party be in material breach of this Agreement and fail to cure such breach within thirty (30) days of written notice thereof, file a petition of any type as to its bankruptcy, be declared bankrupt, become insolvent, make an assignment for the benefit of creditors, or go into

liquidation or receivership or otherwise lose control over all or substantially all of its business.

12.2.2 Either party may terminate this Agreement for any reason only after the expiration of the Initial Term upon 90-day written notice to the other party.

12.3 Rights and Obligations on Termination or Expiration.

12.3.1 Termination or expiration of this Agreement shall not release either party from the obligation to make payment of all amounts then or thereafter due and payable.

12.3.2 Upon termination or expiration of this Agreement, RESELLER shall: (1) immediately return to SKALP or destroy (i) all media containing the Products; (ii) all originals and copies of the Products, manuals, Documentation, product literature, fee schedules, and other written materials provided by SKALP; or (iii) all Confidential Information and other property of SKALP, provided that such materials or information are in RESELLER's possession or under its control; (2) immediately discontinue holding itself out as a distributor of the Products, shall destroy all advertising and promotional materials in its possession or control bearing any Trademarks, and shall remove all signs bearing Trademarks or otherwise identifying RESELLER as a representative of SKALP; and (3) deliver to SKALP a document executed on behalf of RESELLER certifying RESELLER's compliance with this Section.

12.3.3 Termination or expiration of this Agreement does not affect any sublicenses granted by RESELLER to Customers in accordance with this Agreement. However, in the event of such termination or expiration, SKALP shall have the option of assuming first tier support for all then-current Customers, and RESELLER shall in such event refund to SKALP a prorata share of all maintenance and support fees collected from such Customers, based on the time remaining in such Customers' then-current maintenance and support term.

13. **GOVERNING LAW**

This Agreement shall be governed by, and interpreted and construed in accordance with, the substantive laws of Belgium, conflicts of law excluded Both parties hereby irrevocably submit any disputes under this Agreement to the jurisdiction of the state and Federal courts located in Antwerp, Belgium.

14. **MISCELLANEOUS.**

14.1 Relationship. This Agreement does not make either party the employee, franchisee, agent or legal representative of the other for any purpose whatsoever. Neither party is granted any right or authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the other party. In fulfilling its obligations pursuant to this Agreement each party shall be acting as an independent contractor.

14.2 Assignment. RESELLER shall not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of SKALP. Any prohibited assignment shall be null and void. SKALP may transfer its rights and obligations hereunder to any company or other legal entity that is controlled by, controls or is under common control with SKALP. This Agreement shall inure to the benefit of and shall be binding on the successors and permitted assigns of the parties.

14.3 Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and supersedes all previous agreements by and between the parties as

well as all proposals, oral or written and all negotiations, conversations or discussions heretofore had between the parties related to the subject matter of this agreement. The parties acknowledge that they have not been induced to enter into this agreement by any representations or statements, oral or written, not expressly contained herein.

- 14.4 Amendment. This Agreement shall not be deemed or construed to be modified, amended, rescinded, cancelled or waived, in whole or in part, except by written amendment signed by the parties hereto.
- 14.5 Severability. In the event that any of the terms of this Agreement are in conflict with any applicable rule of law or statutory provision or otherwise unenforceable under applicable laws or regulations of any government or subdivision thereof, such terms shall be deemed stricken from this Agreement, but such invalidity or unenforceability shall not invalidate any of the other terms of this Agreement and this Agreement shall continue in force, unless the invalidity or unenforceability of any such provisions hereof does substantial violence to, or where the invalid or unenforceable provisions comprise an integral part of, or are otherwise inseparable from, the remainder of this Agreement.
- 14.6 Counterparts. This Agreement shall be executed in two or more counterparts, and each such counterpart shall be deemed an original hereof. Any translation of this Agreement into any other language shall be for convenience purposes only and shall not be binding on any party.
- 14.7 Delay or Omission Not Waiver. No delay or failure by either party to take any action or assert any right hereunder shall be deemed to be a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right.
- 14.8 Export. RESELLER may not download or otherwise export or re-export any underlying software, technology or other information from the Product except in full compliance with all U.S. and other applicable laws and regulations. In particular, but without limitation, none of the underlying information or technology may be downloaded or otherwise exported or re-exported (i) into (or to a national or resident of) any country to which Norway or the U.S. has embargoed goods or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's or State Department's Table of Denial Orders.
- 14.9 No Third Party Beneficiaries. No entities not a party to this Agreement shall be deemed third party beneficiaries hereunder.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

SKALP,

_____	_____
By: _____	By: _____
Its: _____	Its: _____
Date: _____	Date: _____

APPENDIX A

SKALP'S Standard Terms and Conditions

SKALP END USER LICENSE AGREEMENT

This agreement supersedes any prior agreements.

NOTICE TO USERS:

CAREFULLY READ THE FOLLOWING LEGAL AGREEMENT. USE OF THE SOFTWARE PROVIDED WITH THIS AGREEMENT (THE "SOFTWARE") CONSTITUTES YOUR ACCEPTANCE OF THESE TERMS.

IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT ACTIVATE AND/OR USE THIS SOFTWARE.

USER'S USE OF THIS SOFTWARE IS CONDITIONED UPON COMPLIANCE BY USER WITH THE TERMS OF THIS AGREEMENT.

1. LICENSE GRANT

The creators of Skalp grant you a license to use this SOFTWARE in accordance with following terms.

You may use the SOFTWARE on one computer at any time. You may copy and activate the SOFTWARE on up to two computers. (e.g. your primary workstation + a laptop or a secondary computer)

To copy and register the SOFTWARE on one additional computer you have to purchase one additional license. You can transfer a license to another computer only by using the 'Deactivate on this computer' function first and then reactivate using your License Activation Code on another computer. 'You' means the company, entity or individual whose funds are used to pay the license or registration fee. 'Use' means storing, loading, installing, executing or displaying the SOFTWARE. You may not modify the SOFTWARE, disable or disassemble any licensing or control features of the SOFTWARE except as an intended part of the SOFTWARE's programming features. This license is not transferable to any other organization or individual.

The SOFTWARE includes its own additional clauses to this EULA, as stipulated in the 'Skalp for SketchUp Release Notes' that appends this agreement and makes an integral part of it. The 'Release Notes' will be appended with each update to the SOFTWARE, and you will need to read them and agree with the terms stipulated there each time before updating Skalp. Refund policy: since Free 14-day Trial versions are available, this period is considered as your opportunity to test and find out if the SOFTWARE satisfies your expectations, leaving the you the choice to purchase or not. This way by purchasing you confirm your agreement and disclaim your rights to a refund. INCLUDED EXTERNAL PRODUCT LICENSES may apply as shipped with the software.

2. OWNERSHIP

The SOFTWARE is owned and copyrighted by its creators. Your license confers no title or ownership in the SOFTWARE and should not be construed as a sale of any right in the SOFTWARE.

3. PRIVACY

The SOFTWARE may connect to our databases for update checking and error logging purposes. The data sent is anonymous and used for internal purposes only: e.g. to enhance or debug the SOFTWARE. You may opt out of the error logging feature by entering the following command on the ruby console inside SketchUp: 'Skalp.bugtracking = false'

4. COPYRIGHT

The SOFTWARE is protected by Belgian copyright law and international treaty provisions. You acknowledge that no title to the intellectual property in the SOFTWARE is transferred to you. You further acknowledge that title and full ownership rights to the SOFTWARE will remain the exclusive property of the creators and you will not acquire any rights to the SOFTWARE except as expressly set forth in this license. You agree that any copies of the SOFTWARE will contain the same proprietary notices which appear on and in the SOFTWARE.

5. REVERSE ENGINEERING

You agree that you will not attempt to reverse engineer, compile, modify, translate, or disassemble the SOFTWARE in whole or in part.

6. NO OTHER WARRANTIES

The creators DO NOT WARRANT THAT THE SOFTWARE IS ERROR FREE. The creators DISCLAIM ALL OTHER WARRANTIES WITH RESPECT TO THE SOFTWARE, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT OF THIRD PARTY RIGHTS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY MAY LAST, OR THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.

7. SEVERABILITY

In the event of invalidity of any provision of this license, the parties agree that such invalidity shall not affect the validity of the remaining portions of this license.

8. NO LIABILITY FOR CONSEQUENTIAL DAMAGES

. IN NO EVENT SHALL the creator BE LIABLE TO YOU FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL OR INDIRECT DAMAGES OF ANY KIND ARISING OUT OF THE DELIVERY, PERFORMANCE OR USE OF THE SOFTWARE, EVEN IF the creator HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL the creator's LIABILITY FOR ANY CLAIM, WHETHER IN CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY, EXCEED THE LICENSE FEE PAID BY YOU, IF ANY.

9. GOVERNING LAW

This license will be governed by the laws of Belgium. The United Nations Convention on Contracts for the International Sale of Goods is specifically disclaimed.

10. ENTIRE AGREEMENT

This is the entire agreement between you and the creators which supersedes any prior agreement or understanding, whether written or oral, relating to the subject matter of this license.