

# User Agreement

Last Updated 04/2018

This Agreement (the "Agreement") is between you (hereinafter "you" or "Customer") and Virtual Robot, Biowiza S.A. ("Biowiza S.A.", "Virtual Robot," "we," "us," or "our") and applies to your use of the software application, including the Content (the "Application").

This Agreement includes the Terms and Conditions below, together with the Additional Terms. Please read all of these terms carefully before accepting this Agreement and using the Application. If you do not agree to this Agreement, do not install or use the Application.

If you are under the age of 18 (or the age of majority where you live), you must get your parent or legal guardian to accept this Agreement.

Our [Privacy Policy](#) explains how we use and protect your personal information when you use the Application. By using the Application you acknowledge that you have read our Privacy Policy.

## This Agreement

NOTE: TO THE FULLEST EXTENT PERMITTED BY LAW, THIS AGREEMENT CONTAINS A BINDING INDIVIDUAL ARBITRATION AND CLASS ACTION WAIVER PROVISION IN SECTION 17 THAT AFFECTS YOUR RIGHTS UNDER THIS AGREEMENT AND WITH RESPECT TO ANY "CLAIM" (AS DEFINED IN SECTION 17) BETWEEN YOU AND VIRTUAL ROBOT. YOU HAVE A RIGHT TO OPT OUT OF THE BINDING ARBITRATION AND CLASS ACTION WAIVER PROVISION PROVIDED THAT YOU FOLLOW THE PROCEDURE SET FORTH IN SECTION 17 WHICH, AMONG OTHER THINGS, REQUIRES YOU TO LINK YOUR VIRTUAL ROBOT ACCOUNT TO THE APPLICATION (SEE SECTION 7 REGARDING LINKED SERVICES AND SECTION 17 FOR MORE DETAILS).

### 1. Definitions

- 1.1. For the purposes of this Agreement, the following terms shall have the following definitions:
  - 1.1.1. "Additional Terms" means the terms we reference or link to within this Agreement, including, without limitation, those set forth at the end of this Agreement;
  - 1.1.2. "Content" collectively refers to all software (including, without limitation, Digital Items), documentation, music, data, downloadable content, updates and upgrades thereto, services, and other items that we make available to you through and in connection with the Application;
  - 1.1.3. "Digital Items" means content you purchase or otherwise acquire for use in the Application through the mechanisms we make available;
  - 1.1.4. "Linked Services" means the services (other than the Application) offered by Virtual Robot or its partners we make available for use with the Application,

including, without limitation, the Virtual Robot Account Service and Third Party Services;

- 1.1.5. "Virtual Robot Account" means the account created by a customer that is utilized with the Virtual Robot Account Service;
- 1.1.6. "Virtual Robot Account Service" means the services offered by Virtual Robot or its partners that are accessed through or offered in connection with a Virtual Robot Account, including, without limitation, Linked Services;
- 1.1.7. "Third Party Service(s)" means the services, applications, software, content, and data, including updates and upgrades thereto, offered by authorized third parties that are made available in connection with the Application;
- 1.1.8. "User-Generated Content" or "UGC" means user names, text, images, audio, video or other content you create, share, transmit, or otherwise make accessible or viewable by the public or other users of the Application.

## **2. Creating a Virtual Robot Account**

- 2.1. You may need to create a Virtual Robot Account and link it to the Application to utilize certain Application features, such as use of the Content on a different device. Please see Virtual Robot's website for information on how to create and use a Virtual Robot Account.

## **3. Use of the Application**

- 3.1. You must comply with each term and condition of this Agreement when you use the Application, including by providing complete and accurate registration information.
- 3.2. You are solely responsible for all costs arising in connection with your use of the device on which you use the Application, including, without limitation, costs associated with your Internet or mobile connection.
- 3.3. The Application may not be compatible with all devices, connection services, or service plans. Not all Application features are available to all customers. Availability may depend on a customer's location, device type, service plan, and other factors or restrictions.
- 3.4. If you change your country-of-residence setting within the Application, you will be required to accept the user agreement corresponding to your newly selected country. Application features may vary by country. Virtual Robot assumes no liability for any loss incurred in connection with a change to your country setting.
- 3.5. We may suspend, modify, or terminate all or a portion of the Application without notice or liability to you.

## **4. License to Use the Application**

- 4.1. Subject to the terms of this Agreement, Virtual Robot grants to you a nonexclusive, nontransferable, revocable license to use the Application as permitted by this Agreement solely for your personal and noncommercial use. The Application cannot be used for any other purpose. You are not permitted to lease, rent, sublicense, publish, copy, modify, adapt, translate, reverse engineer, decompile, or disassemble all or a portion of the

Application without Virtual Robot's prior written consent or unless otherwise expressly permitted by applicable law.

## **5. Digital Items**

- 5.1. By purchasing or otherwise acquiring Digital Items, you obtain a limited license (as set forth in Section 4) to utilize such Digital Items within the Application. Other than this limited license, you have no right or title in or to Digital Items. Digital Items cannot be sold or transferred to a third party (unless a transfer is permitted within the Application) and cannot be exchanged for or converted to cash or legal tender or for any goods or services outside of the Application.
- 5.2. Except as otherwise permitted by Virtual Robot, Digital Items are not returnable or refundable.
- 5.3. If you use the Application on multiple devices that work on different operating systems (hereinafter "OS"), it may not be possible for Digital Items acquired through the Application on one OS to be used in the Application on a different OS.

## **6. User-Generated Content / Use of Information**

- 6.1. The Application may permit you to send, receive, or otherwise share User-Generated Content with others.
- 6.2. Except for any Virtual Robot Intellectual Property (as defined in Section 8) therein, you own your UGC. By entering into this Agreement, you grant Virtual Robot (where used in this Section 6, Virtual Robot includes Virtual Robot's subsidiary and affiliated companies) a worldwide, royalty-free, irrevocable, perpetual, nonexclusive, and sublicenseable license to use, reproduce, modify, adapt, publish, translate, distribute, perform, and display User-Generated Content, in whole or in part, and to incorporate your User-Generated Content in other works, in any form, media, or technology now known or later developed, including for promotional or marketing purposes, without any payment to you. You acknowledge that your User-Generated Content may be viewed, reproduced, published, and/or modified by Virtual Robot or third parties. You acknowledge that Virtual Robot may delete any User-Generated Content from the Application and/or Virtual Robot servers at any time, for any reason, in its sole discretion without notice or liability to you. Virtual Robot reserves the right to not post or publish User-Generated Content and is not obligated to store any User-Generated Content.
- 6.3. Virtual Robot assumes no responsibility for any User-Generated Content made available by you or any third party in connection with the Application. Virtual Robot is not responsible for any loss of or damage to any User-Generated Content, nor is Virtual Robot liable for any incorrect, defamatory, libelous, false, obscene, or offensive content you may encounter in connection with User-Generated Content. User-Generated Content is the sole responsibility of the user that made it available in connection with the Application.
- 6.4. User-Generated Content you make available through the Application must comply with the Virtual Robot Code of Conduct (as set forth in Section 9).

- 6.5. By making User-Generated Content available through the Application, you represent that you are entitled to do so and agree that Virtual Robot is not obligated to monitor or protect your rights in any User-Generated Content.
- 6.6. Virtual Robot may scan, access, use, monitor, disclose, or preserve information associated with your use of the Application (including, without limitation, User-Generated Content) as is necessary, in Virtual Robot's discretion, (a) to comply with applicable law or to respond to legal process from competent authorities; (b) to enforce this Agreement or protect the rights of Virtual Robot, its customers, or the public; (c) to help prevent a loss of life or serious physical injury to anyone; (d) to prevent potentially illegal or offensive activities; and (e) to provide and improve features of the Application.

## **7. Linked Services**

- 7.1. We are not responsible for any Third Party Services. Third Party Services are not reviewed or monitored by us and may be subject to separate terms and conditions. Your access and use of Third Party Services is at your own risk.
- 7.2. In the event you disconnect a Linked Service, such disconnection may result in the loss of rights and benefits conferred to you in connection with such Linked Services, including, without limitation, rights or benefits under the Application. Virtual Robot is not responsible to you for any loss resulting from your disconnection of a Linked Service.
- 7.3. You must comply with the terms and conditions applicable to Linked Services.
- 7.4. If you link your Virtual Robot Account to the Application, the two cannot be unlinked. If your linked Virtual Robot Account is terminated or you delete it for any reason, you will lose access to all or a portion of the Application's save data, including but not limited to Digital Items.

## **8. Intellectual Property Rights**

- 8.1. Except for the limited license granted to you in Section 4, Virtual Robot retains and reserves all rights, titles, and interest in and to all Virtual Robot-owned or licensed intellectual property utilized in and in connection with the Application, including, without limitation, Content, registered and unregistered trademarks, service marks, logos, registered and unregistered designs, copyrights, database rights, inventions, patents, trade secrets, know-how, and other confidential and proprietary information of Virtual Robot, and all other proprietary or intellectual property rights of any kind in any country (collectively, the "Virtual Robot Intellectual Property").

## **9. Code of Conduct**

- 9.1. To help keep the Application friendly and safe for all users, you agree that you will adhere to Virtual Robot's Code of Conduct found [here](#).

## **10. Customer Responsibility**

- 10.1. You agree to indemnify Virtual Robot and its partners from and against any loss or damage resulting from your wrongful use of the Application or any other breach of this Agreement.

## **11. Disclaimer of Warranties and Limitation of Liability**

- 11.1. USE OF THE APPLICATION IS AT YOUR SOLE RISK. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY VIRTUAL ROBOT OR ITS REPRESENTATIVES CREATES A WARRANTY. THE APPLICATION, INCLUDING, WITHOUT LIMITATION, ALL CONTENT IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, VIRTUAL ROBOT DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE APPLICATION EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, VIRTUAL ROBOT WILL NOT BE LIABLE TO YOU FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY, OR ANY OTHER LEGAL THEORY, ARISING OUT OF OR RELATING TO YOUR ACCESS, USE, MISUSE, OR INABILITY TO USE THE APPLICATION, EVEN IF VIRTUAL ROBOT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY CASE, VIRTUAL ROBOT'S AGGREGATE LIABILITY TO YOU IN CONNECTION WITH ANY CLAIMS ARISING OUT OF OR RELATING TO THE APPLICATION IS LIMITED TO THE AMOUNT YOU ACTUALLY PAID FOR THE APPLICATION. IF A LAW RESTRICTS OUR ABILITY TO LIMIT LIABILITY OR DISCLAIM WARRANTIES, THE LIMITATIONS LISTED ABOVE MAY NOT APPLY TO YOU. IN THAT CASE, WE LIMIT OUR LIABILITY AND DISCLAIM WARRANTIES TO THE GREATEST EXTENT PERMITTED BY LAW.

## **12. Updates to the Application**

- 12.1. You acknowledge and agree that some devices may be configured to automatically receive updates. If you enable such an auto-update feature on your device, updates to the Application may be automatically downloaded and installed on your device. These auto-update features are not a part of our Application, so you should consult with the manufacturer of your device for more information regarding these features. Updates may be used to deliver features and services (including software, content, and data) and may be required for you to fully enjoy all features of the Application or for continued access to and use of the Application. All such updates are subject to this Agreement unless other terms accompany them, in which case those other terms apply.

## **13. Changes to This Agreement**

- 13.1. We may update this Agreement from time to time. When we do, we will post the current version in the Application. If you do not agree to such an update, you must immediately stop using the Application. By continuing to access or use the Application, you confirm your acceptance of the updated Agreement.

## **14. Termination of This Agreement**

- 14.1. You may terminate this Agreement by uninstalling the Application from your device(s). Your termination does not eliminate any obligations you have to Virtual Robot or its partners under this Agreement.
- 14.2. Virtual Robot may suspend or disable your access to all or a portion of the Application or terminate this Agreement or any part of it if you fail to comply with the terms and conditions of this Agreement, including, without limitation, the Code of Conduct set forth in Section 9. Upon any such termination, you must immediately cease all use of the Application. Virtual Robot may also terminate all or a portion of this Agreement at any time.

## **15. Assignment of Rights**

- 15.1. Except as otherwise permitted by Virtual Robot in writing, you may not assign, lend, delegate, or otherwise dispose of this Agreement or your rights hereunder without Virtual Robot's prior written consent.

## **16. Severability**

- 16.1. If any provision of this Agreement is deemed void or unenforceable, the remainder of the Agreement shall remain in full force and effect.

## **17. Dispute Resolution; Binding Individual Arbitration; Class-Action Waiver**

- 17.1. PLEASE READ THIS CAREFULLY. IT AFFECTS YOUR RIGHTS. BY ENTERING INTO THIS AGREEMENT YOU AND VIRTUAL ROBOT EXPRESSLY WAIVE THE RIGHT TO TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.
  - 17.1.1. Please contact us using the method described in Section 19 with any questions or concerns you may have regarding the Application. We can typically solve most concerns to our customer's satisfaction.
  - 17.1.2. Section 17(a) does not apply to any Claim (i) in which a party is attempting to protect its intellectual property rights (such as its patent, copyright, trademark, trade secret, or moral rights, but not including its privacy or publicity rights) or (ii) that may be brought in small-claims court.
  - 17.1.3. 30-Day Right to Opt Out. You have the right to opt out of the provisions of this Section 17 by sending written notice of your decision to opt out to the following email address: [legal@virtualrobotstud.io](mailto:legal@virtualrobotstud.io) within 30 days of installing the Application. You must link the Application to your Virtual Robot Account prior to opting out. Your notice must include your name, contact information and the email address registered to your Virtual Robot Account. If you send this notice including the information required, then Section 17 will not apply to either party. If you do not send this notice, then you agree to be bound by this Section 17.

## **18. Applicable Law and Jurisdiction**

- 18.1. The laws of San José, Costa Rica, without regard to its conflict of laws and provisions, governs this Agreement and any dispute of any sort pertaining to this Agreement or the Application that might arise between you and Virtual Robot.
- 18.2. If Section 17 is held to be invalid or unenforceable, then for any Claims, the parties consent to the exclusive jurisdiction of the courts located in San José, Costa Rica.

## **19. Contact Information**

- 19.1. If you wish to contact Virtual Robot concerning the Application, you must fill out and send the inquiry form on the Application or such other method provided by Virtual Robot.

## **ADDITIONAL TERMS**

Customers Using OS Smart Devices from Apple, Inc.

This Article applies to users who use the Application on OS smart devices provided by Apple, Inc. (hereinafter "Apple"). In the event of conflict between this Article and the Agreement, this Article shall apply.

1. Virtual Robot grants a license to you only, for the nonexclusive, nonassignable right to download and use the Application for your personal, noncommercial purposes, according to the terms of the iTunes Store Service User Agreement.
2. Apple bears no responsibility for any claims by you or a third party related to your possession or use of the Application, including the following:
  1. A claim of product liability;
  2. A claim that the Application does not comply with applicable law and regulations;
  3. A claim based on any consumer protection act or similar laws and regulations;
  4. A claim by you or a third party that the Application or the use of the Application by you infringes the intellectual property rights of you or a third party.
3. You acknowledge and agree that Apple has no responsibility to provide maintenance or support services for the Application.
4. The Application is provided by Biowiza S.A., headquartered at Tibás, San José, Costa Rica. Please see Article 19 of this User Agreement for contact information concerning the App.
5. You represent and warrant that you do not live in a US export-embargoed country or a country designated as a State Sponsor of Terrorism by the United States government and that you are not on the list of people barred or excluded from the United States.
6. You acknowledge and agree that Apple and Apple's subsidiaries are third-party beneficiaries to this Agreement, and that, by acknowledging the provisions of this Agreement, you acknowledge that Apple has the right (or is deemed to have acknowledged the right) to enforce this Agreement against you as third-party beneficiary.

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