## Frandzel3D - End User License Agreement

[Last revision: Sep 19, 2017]

By purchasing, downloading, installing, reinstalling or using FlexTools, or any other SketchUp Extension created or developed by Frandzel3D including any Updates as defined below (an "Extension" or the "Software"), you agree to the terms and conditions of this End User License Agreement ("EULA"). By agreeing to this EULA, you represent that you are capable of entering into a legally binding agreement. If you are a business entity, you also represent that you are duly authorized to do business in the country or countries where you operate and that your employees, officers, representatives, and other agents accessing the Software are duly authorized to access the Software and to legally bind you to this EULA. In this EULA, "Services" means any of Frandzel3D's products, software, services and web sites.

Terms of this EULA may be changed, and or updated, at any time at Frandzel3D's discretion, without prior notice.

#### 1. DISCLAIMER OF WARRANTIES

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

- a) YOUR USE OF THE SOFTWARE IS AT YOUR SOLE RISK. THE SOFTWARE IS PROVIDED ON AN "AS IS" BASIS AND WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY LAW, FRANDZEL3D EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.
- b) Frandzel3d Makes no Warranty (i) That the Software will meet your requirements, (ii) that the Software will be error-free or bug-free, (iii) regarding the security, reliability, timeliness, or performance of the Software, (iv) that any errors in the Software will be corrected, (v) regarding the results or output of the Software, or (vi) that the Software will interact with Software products other than those (if any) specified in the System requirements accompanying the Software.
- c) ANY CONTENT OR MATERIAL DOWNLOADED OR OTHERWISE OBTAINED OR ACCESSED THROUGH THE USE OF THE SOFTWARE IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY USE OF SUCH CONTENT OR MATERIAL AND ANY DAMAGE TO YOUR COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM THE

DOWNLOAD, ACCESS OR USE OF ANY SUCH CONTENT OR MATERIAL. FRANDZEL3D AND ITS SUPPLIERS DO NOT WARRANT THAT ANY CONTENT WILL BE ACCURATE OR COMPLETE OR MEET YOUR REQUIREMENTS AND FRANDZEL3D DOES NOT ENDORSE ANY THIRD PARTY CONTENT.

- d) NONE OF THE SOFTWARE IS INTENDED FOR USE IN THE OPERATION OF NUCLEAR FACILITIES, LIFE SUPPORT SYSTEMS, EMERGENCY COMMUNICATIONS, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL SYSTEMS, OR ANY OTHER SUCH ACTIVITIES IN WHICH CASE THE FAILURE OF THE SOFTWARE COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.
- e) NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM FRANDZEL3D OR ANY THIRD PARTY OR THROUGH THE SOFTWARE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS EULA.

#### 2. LIMITATION OF LIABILITY

YOU EXPRESSLY UNDERSTAND AND AGREE THAT FRANDZEL3D SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF FRANDZEL3D HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE SOFTWARE; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; OR (iv) ANY OTHER MATTER RELATING TO THE SOFTWARE. THE FOREGOING LIMITATIONS SHALL APPLY NOTWITHSTANDING A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND TO THE FULLEST EXTENT PERMITTED BY LAW.

THESE LIMITATIONS AND EXCLUSIONS APPLY WITHOUT REGARD TO WHETHER DAMAGES ARISE FROM BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE OR ANY OTHER CAUSE OF ACTION. TO THE EXTENT THAT APPLICABLE LAW DOES NOT PROHIBIT SUCH EXCLUSIONS AND LIMITATIONS, IN NO EVENT WILL FRANDZEL3D'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION, WHETHER IN CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AMOUNT YOU PAID FRANDZEL3D FOR THE SOFTWARE.

# 3. USE OF THE PRODUCTS; CONTENT IN THE PRODUCTS

Subject to the terms and conditions of this EULA, Frandzel3D and/or its affiliates give you a limited, worldwide, non-transferable, non-assignable and non-exclusive license to download, install, reinstall and use the Software for your internal use only.

## 3.1. Restrictions (Commercial License)

You may not, and you may not permit anyone else to:

- (a) Use the Software on more computers or devices at a time than the number of licenses purchased, or use or host the Software in a virtual server environment. An additional license must be purchased for each computer or device that may use the software simultaneously. Installation and use of the Software on both personal desktop and personal laptop computers are permitted under a single license as long as they are not used simultaneously.
- (b) copy, modify, adapt, translate, create a derivative work of the Software or use it for any public display or performance, except as expressly authorized in this EULA;
- (c) reverse engineer, decompile, disassemble or otherwise attempt to derive the source code of the Software, unless this is expressly permitted or required by law (and then only with reasonable advance notice to FRANDZEL3D), or unless you have been specifically told that you may do so by FRANDZEL3D, in writing;
- (d) assign (or grant a sublicense of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software;
- (e) use the Software in any manner that could damage, disable, overburden, or impair the Services (e.g., you may not use the Software in an automated manner), nor may you use Software in any manner that could interfere with any other party's use and enjoyment of the Services:
- (f) distribute, sell, sublicense, rent, lease, or use the Software (or any portion thereof) for time sharing, hosting, service provider, or like purposes;
- (g) remove, obscure or alter any product identification, proprietary, copyright, trademark or other notices contained in the Software or accessed in conjunction with or through the Software; or
- (h) take any action to circumvent or defeat the security or content usage rules provided, deployed or enforced by any functionality (including without limitation digital rights management functionality) contained in the Software.

#### 3.2. Restrictions and Use of Trial Licenses

In addition to the restrictions listed in section 3.1 (Commercial License), the following restrictions apply to the use of Trial licenses. You may not, and you may not permit anyone else to:

a) use the Software longer than the designated trial period.

The remaining trial period will be identified by the Software's License Information feature (accessible from the Software's menu). You acknowledge and agree that the trial period begins when the Trial license is ordered and processed by the FRANDZEL3D license server and not when the license is activated by the user. Therefore, it is possible for the trial license to expire without ever being used.

You also acknowledge and agree that discrepancies between the timezone of the license server and the timezone of the user may result in a trial period that is shorter or longer than the advertised trial period by up to 24 hours.

# 3.2. Frandzel3D and Third Party Content

The Software may allow you to access and view certain content owned by FRANDZEL3D or its licensors ("Content"). By using the Software, you do not receive any ownership rights, and FRANDZEL3D and/or its licensors retain all ownership rights, in such content. You may not use, access or allow others to use or access such content in any manner not permitted under this EULA, unless you have been specifically permitted to do so by FRANDZEL3D or by the owner of the content in a separate agreement.

## 4. PRIVACY POLICY

As a condition of downloading, installing and using the Software, you agree that your name and email address may be collected and stored in the United States or any other country in which FRANDZEL3D or its agents maintain facilities. Accordingly, by using the Software you consent to any transfer of such information outside of your country. FRANDZEL3D may use the information collected to provide the Software and related services to you and otherwise to improve the Services. You further acknowledge and agree that FRANDZEL3D may access, preserve, and disclose your account information if required to do so by law or in a good faith belief that such access, preservation or disclosure is reasonably necessary to:

- (a) satisfy any applicable law, regulation, legal process or governmental request;
- (b) enforce this EULA, including investigation of potential violations hereof;
- (c) detect, prevent, or otherwise address fraud, security or technical issues (including, without limitation, the filtering of spam);
- (d) respond to user support requests; or
- (e) protect the rights, property or safety of FRANDZEL3D, its users, and the public.

## 5. PROPRIETARY RIGHTS

The Software is licensed, not sold. You acknowledge and agree that (a) the Software contains proprietary and confidential information that is protected by applicable intellectual property

and other laws, and (b) FRANDZEL3D and its suppliers own all right, title and interest in and to the Software and any software provided through or in conjunction with the Software, including without limitation all Intellectual Property Rights therein. "Intellectual Property Rights" means any and all rights existing from time to time under patent law, copyright law, trade secret law, trademark law, and any and all other proprietary rights, and any and all applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide.

## 6. EXPORT RESTRICTIONS

The Software may be subject to export controls or restrictions by the United States or other countries or territories. You agree to (i) comply with the requirements of the U.S. Department of Commerce (DOC) Export Administration Regulations (EAR) (see <a href="http://www.bis.doc.gov">http://www.bis.doc.gov</a>) and all applicable international, national, state, regional and local laws, and regulations, including without limitation any applicable import and use restrictions, (ii) not export, or reexport, directly or indirectly, the Software to any country outlined in the EAR, nor to any person or entity on the DOC Denied Persons, Entities and Unverified Lists, the U.S. Department of State's Debarred List, or on the U.S. Department of Treasury's lists of Specially Designated Nationals, Specially Designated Narcotics Traffickers, or Specially Designated Terrorists, (iii) not export, or re-export the Software to any military entity not approved under the EAR, or to any other entity for any military purpose, and (iv) not license, sell, provide or distribute the Software for use in connection with chemical, biological, or nuclear weapons or missiles capable of delivering such weapons.

## 7. COMPLIANCE WITH LAWS

You agree to comply with all federal, provincial, state and local laws and regulations regarding the download, installation and/or use of the Software.

#### 8. TERMINATION

You may terminate this EULA at any time by manually deleting the Software from your computer or uninstalling the Software. Your rights automatically and immediately terminate without notice from FRANDZEL3D if you fail to comply with any provision of this EULA. In such event, you must immediately delete or uninstall the Software.

## 9. SURVIVAL

The provisions of Sections 5 (Proprietary Rights), 6 (Export Restrictions), 9 (Survival), 10 (Indemnity), 1 (Disclaimer of Warranties), 2 (Limitation of Liability), 11 (Exclusions and Limitations), shall survive any termination or expiration of this EULA.

## 10. INDEMNITY

You agree to hold harmless and indemnify FRANDZEL3D and its subsidiaries, affiliates, officers, agents, and employees from and against any claim, suit or action arising from or in

any way related to your use of the Software or your violation of this EULA, including any liability or expense arising from all claims, losses, damages, suits, judgments, litigation costs and attorneys' fees, of every kind and nature. In such a case, FRANDZEL3D will provide you with written notice of such claim, suit or action.

## 11. EXCLUSIONS AND LIMITATIONS

NOTHING IN THIS AGREEMENT IS INTENDED TO EXCLUDE OR LIMIT ANY CONDITION, WARRANTY, RIGHT OR LIABILITY WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR CONDITIONS OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR LOSS OR DAMAGE CAUSED BY NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF IMPLIED TERMS, OR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, ONLY THE ABOVE LIMITATIONS IN SECTIONS 2 AND 11 WHICH ARE LAWFUL IN YOUR JURISDICTION WILL APPLY TO YOU AND FRANDZEL3D'S LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

#### 12. MISCELLANEOUS PROVISIONS

- **12.1 Entire Agreement.** This EULA constitutes the entire agreement between you and FRANDZEL3D relating to the Software and governs your use of the Software, superseding any prior or contemporaneous agreements between you and FRANDZEL3D regarding the Software. The official language of this EULA is English.
- **12.2 Choice of Law and Forum.** If you obtained this Software in, or outside of the state of Israel, this Agreement is governed by the laws of the State of Israel, without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods. In such case the jurisdiction and venue for actions related to the subject matter hereof are the State of Israel courts located in Haifa, Israel, and both parties hereby submit to the personal jurisdiction of such courts.
- **12.3 Waiver and Severability of Terms.** The failure of FRANDZEL3D to exercise or enforce any right or provision of this EULA shall not constitute a waiver of such right or provision. If any provision of this EULA is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of this EULA shall remain in full force and effect.
- **12.4 Statute of Limitations.** You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Software or this EULA must be filed within one (1) year after such claim or cause of action arose or be forever barred.