

SOFTWARE END-USER LICENSE AGREEMENT (EULA)

ATTENTION: YOU MAY NEED TO SCROLL DOWN TO THE END OF THIS EULA BEFORE YOU CAN AGREE TO THESE TERMS AND CONTINUE WITH THE SOFTWARE INSTALLATION.

IMPORTANT: THIS END USER LICENSE AGREEMENT (“EULA” or “AGREEMENT”) IS A LEGAL AGREEMENT BETWEEN THE PERSON, COMPANY, OR ORGANIZATION THAT HAS LICENSED THIS SOFTWARE (“YOU” OR “LICENSEE”) AND FEI SAS, A PART OF THERMO FISHER SCIENTIFIC LOCATED AT 39 RUE D’ARMAGNAC, IMM E2 - QUAI 8.2, 33800 BORDEAUX, FRANCE (“COMPANY”). READ IT CAREFULLY BEFORE COMPLETING THE INSTALLATION PROCESS AND USING THE SOFTWARE. BY INSTALLING AND/OR USING THE SOFTWARE, YOU ARE CONFIRMING YOUR ACCEPTANCE OF THE SOFTWARE AND AGREEING TO BECOME BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS, OR DO NOT HAVE AUTHORITY TO AGREE TO THESE TERMS, THEN DO NOT INSTALL OR USE THE SOFTWARE AND RETURN THE SOFTWARE TO YOUR PLACE OF PURCHASE.

1. Definitions.

- (a) “Software” means one or more versions of Open Inventor® and any extensions, ImageDev and its extensions, or one or more versions of Avizo, Avizo2D, Avizo Trueput and any extensions (other than AvizoToGo), or one or more versions of Amira, Amira2D and any extensions, or Visilog and any extensions, or PerGeos and any extensions supplied by Company, and corresponding documentation, associated media, printed materials, and online or electronic documentation. For purposes of this Agreement, Software includes any updates to the Software which you are entitled to receive.
- (b) “Licensee Network” means the network of computers owned, leased or otherwise controlled by Licensee, to which access is limited to authorized individuals or computers, such as a local area network, intranet or virtual private network.
- (c) “License Key”, code provided by Company to Licensee to activate the Software.
- (d) “Error Correction” means computer code which corrects an error in the Software but which cannot be executed independently of the Software.
- (e) “Software Update”, means major (new features) or minor (bug fixes) release of the same software for which you currently have a license.
- (f) “Software Upgrade” means: Different software of the Open Inventor product Family, more fully featured, than software for which you currently have license, as well as any purchase of additional license rights (e.g. a migration from a Node-locked License to a Floating License).
- (g) “SDK” (Software Development Kit) means a static, non-linkable version of the Software, embedded in an Application Software, only in a binary non-linkable form that is not directly accessible to either the sub users or the end users of the Application Software.
- (h) “Runtime” means a static, non-linkable version of the Software, embedded in an Application Software, only in a binary non-linkable form that is not directly accessible to either the sub users or the end users of the Application Software.
- (i) “Licensee Application Software” means executable computer program, built using an SDK, and embedding a Runtime, by means of linkage or binding with the user-proprietary code.
- (j) “Cloud Service” means an internet-accessible service maintained by Company or a third party contracted by Company by which Company may access certain information relating to maintenance and support of the Software.

2. License Grants

Company grants you the right to use the number of copies of the Software as specified on your contract or invoice, and for which you have paid the applicable license fees, under the following conditions:

- (a) **Academic License:** If Company identifies a Software license as an Academic License, the Licensee must be an academic institution or other qualifying non-profit organization and may use up to the maximum number of copies of the Software that have been validly obtained pursuant to the License. Software provided through an Academic License may only be used for “Academic Use,” which means use (i) by an individual employed by (or, with respect to academic institutions, enrolled in a course of study at) an accredited academic institution, organized and operated exclusively for the purpose of education or research, (ii) at the location of such academic institution, and (iii) solely for purposes directly related to teaching, training, degree-granting programs, and research and development that are part of the instructional functions of the institution. Without limiting the foregoing, Academic Licenses may not be used for commercial, professional or productive purposes, for commercial training or any other for-profit purposes.
- (b) **Node-locked License:** a license to the Software limited to use on the single computer owned, leased or otherwise controlled by Licensee on which the Software is initially installed and for which a license key has been issued. You may only install the Software for use on one platform or operating system.
- (c) **Floating License:** a license to the Software limited to use on the Licensee Network on which the Software is initially installed, connected to a server for which a Floating License Key has been issued for a specific maximum number of simultaneous users, or “Network License Seats.” Company will provide to Licensee a License Key that will unlock the usage of the Software for a specific maximum number of Network License Seats. Provided that such option is made available by Company or purchased by the Licensee, one or more Network License Seats may be allocated for use on a computer temporarily disconnected from the Licensee network, for remote use for up to 180 days (or 6 months), as long as the allocated seat is unavailable for use on the Licensee Network. Company provides options to use Floating License on a LAN (Local Area Network) or on a WAN (Wide Area Network).
- (d) **Trial Version:** a license of the Software, so identified, to be used only to review, demonstrate and evaluate the Software for a limited time period. The Trial Version may have limited features, may lack the ability for the end-user to save the end product, and will cease operating after a predetermined amount of time due to an internal mechanism within the Trial Version. You may not: (A) install or use more than one copy of a Trial Version of the Software; (B) download the Trial Version of the Software under more than one username; (C) alter the contents of a hard drive, operating system or computer system to enable the use of the Trial Version of the Software after the trial period expires; (D) disclose the results of software performance benchmarks obtained using the Trial Version to any third party without Company’s prior written consent; (E)

use the Trial Version of the Software for a purpose other than the sole purpose of determining whether to purchase a license to a commercial or academic version of the software; or (F) provide, install or use the Trial Version of the Software for any commercial training purpose.

(e) Developer or SDK License: a license of the Software, so identified, to be used for internal development of Licensee's own application software product created using the Software ("Licensee Application Software"). Licensee is solely responsible for reliability and accuracy of any program output, including Licensee Application Software developed with the Software.

(f) Developer Academic License: If you entered into a specific agreement with Company (e.g. "Open Inventor Academic Program"), which entitles you to a Developer Academic License the following additional terms apply to the above Academic License. (A) Non-commercial Distribution of Licensee Application Software and Runtimes under Developer Academic License. If Licensee is qualified as an Developer Academic License user, all the Licensee Application Software developed or otherwise created by the Licensee using the SDK, and which embed a Runtime must be distributed free of charge, only within the context of their use for educational or research purposes, and must not generate any commercial revenue or get deployed by a corporation for its in-house use or be used in any other commercial manner. (B) The Developer Academic License does not grant rights to the Licensee to distribute the Software otherwise than in the Runtime form. (C) If applicable, Licensee must enter into a commercial licensing agreement with Company prior to distributing the Licensee Application Software for in-house use within a commercial enterprise or for any commercial purpose, including without limitation revenue generation. (D) The Developer Academic License does not grant rights to any Update, Upgrade, Maintenance or Support service.

3. Third Party Licensor Rights.

The Software includes components provided by licensors to Company ("Third Party Licensors"), and may also include Open Source Software ("OSS") components. Licenses from Third Party Licensors may have enforceable rights in the components included in the Software and may be able to enforce such rights directly against Licensee. Company's warranty and indemnity obligations do not apply to third party components to the extent that (i) the third party license to Company requires that such software is distributed without warranty and/or (ii) the components are OSS.

4. Permitted Use.

(a) You may make one copy of the Software in machine-readable form solely for backup purposes. You must reproduce on any such copy all copyright notices and any other proprietary legends on the original copy of the Software. You may not sell or transfer any copy of the Software made for backup purposes.

(b) You agree that Company may audit your use of the Software for compliance with these terms at any time, upon reasonable notice. In the event that such audit reveals any use of the Software by you other than in full compliance with the terms of this Agreement, you shall reimburse Company for all reasonable expenses related to such audit in addition to any other liabilities you may incur as a result of such noncompliance.

(c) Your license rights under this EULA are nonexclusive, nontransferable, and non-assignable.

(d) Mandatory Product Activation. Any license rights granted under this Agreement may be limited to the first thirty (30) days after you first install the Software unless you supply information required to activate your licensed copy in the manner described during the setup sequence of the Software. You may need to activate the Software through the use of the Internet or telephone; toll charges or other provider charges may apply. There are technological measures in this Software that are designed to prevent unlicensed or illegal use of the Software. You agree to follow any requirements regarding such technological measures. You may also need to reactivate the Software if you modify your computer hardware, alter the Software, or install the Software on another computer. Product activation may be based on the exchange of information between your computer and Company. None of this information contains personally identifiable information nor can they be used to identify any personal information about you or any characteristics of your computer configuration.

5. Prohibited Actions.

(a) Other than as set forth in Section 2, you may not make or distribute copies of the Software, or electronically transfer the Software from one computer to another or over a network.

(b) You may not alter, merge, modify, adapt or translate the Software, or decompile, reverse engineer, disassemble, or otherwise reduce the Software to a human-perceivable form or modify the Enhanced Compressed Wavelet ("ECW") file format in any way, including file conversion application converting ECW files to any other file format.

(c) Unless expressly permitted by Company, you may not rent, lease, or sublicense the Software.

(d) Unless expressly permitted by Company, you may not modify the Software or create derivative works based upon the Software.

(e) Licensee may not use the SDK to develop Licensee Application Software that competes with the Software.

In the event that you fail to comply with this EULA, Company may terminate the license and you must destroy all copies of the Software. All other rights of both parties and all other provisions of this EULA will survive such termination.

6. Software Updates.

If this copy of the Software is an update from an earlier version of the Software, before you may install or use the Software Update, you must: i) possess a valid license of an earlier version of the Software to be updated; ii) your Software must be within the Maintenance Period or you must have a current Maintenance contract. You may continue to use each earlier version copy of the Software to which this update copy relates on your computer after you receive this update copy, provided that, (i) the updated copy and the earlier version copy are installed and/or used on the same computer only and the earlier version copy is not installed and/or used on any other computer; (ii) you comply with the terms and conditions of the earlier version's end user license agreement with respect to the installation and/or use of such earlier version copy; (iii) the earlier version copy or any copies thereof on any computer are not transferred to another computer unless all copies of this update copy on such computer are also transferred to such other computer; and (iv) you acknowledge and agree that any obligation Company may have to support and/or offer support for the earlier version of the Software may be ended upon availability of the update.

7. Software Upgrades.

If this copy of the Software is an upgrade from an earlier version of the Software, you must: (i) possess a valid full license of an earlier version of the Software used to upgrade to this upgrade copy ii) have your License covered by a Maintenance contract, in order to install and/or use this upgrade copy. You may NOT continue to use each earlier version copy of the Software to which this upgrade copy relates. The software upgrade

is considered as new Software and subject to the general terms of this Agreement or the End User License Agreement that accompanies the upgrade.

8. Reservation of Rights. Title to and ownership of Software, and all proprietary rights or intellectual property rights with respect to the Software, remains exclusively with Company or its licensors. The license does not constitute a sale of the Software or any portion or copy of it. Ownership of the source form of Licensee's Application Software that makes calls to but does not contain all or any portion of Software remains the property of Licensee.

9. Confidentiality. Software is a trade secret and is proprietary to Company. Licensee shall maintain Software in confidence and prevent disclosure of Software using at least the same degree of care it uses for its own similar proprietary information, but in no event less than a reasonable degree of care. Licensee shall not disclose Software or any part thereof to anyone for any purpose, other than to employees or authorized end users for the purpose of exercising the rights expressly granted under this Agreement. The obligation under this Section shall survive any termination of the Agreement.

10. Warranty. Company warrants that for a period of thirty (30) days following the date the Software is shipped to Licensee (the "Maintenance Period"), the Software will materially conform to the user manuals and other documentation issued by Company in conjunction with the Software. LICENSEE ACKNOWLEDGES AND AGREES THAT LICENSEE'S SOLE AND EXCLUSIVE REMEDY AND Company's SOLE AND EXCLUSIVE OBLIGATION FOR ANY BREACH OF THE FOREGOING WARRANTY IS THE MAINTENANCE OBLIGATIONS SET FORTH IN MAINTENANCE SECTION BELOW. EXCEPT FOR THE FOREGOING WARRANTY, COMPANY DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT OF THIRD PARTIES' RIGHTS, AND FITNESS FOR A PARTICULAR USE. WITHOUT LIMITING THE FOREGOING, COMPANY DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN SOFTWARE WILL OPERATE IN THE COMBINATION LICENSEE SELECTS OR THAT OPERATION OF SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE.

11. Liability Limitations. Company AND ITS LICENSORS SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES RESULTING FROM USE OF SOFTWARE OR FOR THE RESULTS OBTAINED THROUGH THE USE OF THE SOFTWARE, INCLUDING ANY LICENSEE APPLICATION SOFTWARE. COMPANY'S CUMULATIVE LIABILITY FOR DAMAGES HEREUNDER, WHETHER IN AN ACTION IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY, INDEMNITY, OR OTHERWISE, SHALL IN NO EVENT EXCEED THE AMOUNT OF LICENSE FEES PAID BY THE LICENSEE FOR THE SOFTWARE LICENSED UNDER THIS AGREEMENT. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

12. Defense. Company will defend or settle any action brought against Licensee to the extent based on a claim that Software, used within the scope of the license, infringes any U.S. copyright and will pay the cost of any final settlement or judgment attributable to such claim provided Licensee (i) gives notice to Company of such action within 10 days of Licensee being aware that such action has commenced or is threatened, (ii) allows Company to be in a position to control the defense at its discretion in relation to this action, and any settlement negotiations, and (iii) cooperates with Company in the defense or settlement of such action. If Company believes Software is likely to be the subject of an infringement claim, it may elect to obtain for Licensee a license to continue using Software, replace or modify it to make it non-infringing or terminate the Agreement on written notice to the Licensee. Company shall have no obligation to defend (or any other liability) to the extent any claim involves anything other than the current, unaltered Software release if such would have avoided infringement or use of Software in combination with non-Company programs or data. In addition, Company will have no obligations hereunder if Licensee continues using Software although it has been informed by Company of an allegation that Software is infringing the abovementioned copyright. The foregoing states the entire obligation and liability of Company with respect to any infringement by Software of any intellectual property rights or other proprietary rights of Licensee or a third party.

13. Termination. This Agreement and the license may be terminated without fee reduction (i) by Licensee without cause on 30 days notice; (ii) by Company, in addition to other remedies, if Licensee is in default and fails to cure within 30 days following notice; (iii) on notice by either party hereto if the other party ceases to do business in the normal course, becomes insolvent, or becomes subject to any bankruptcy, insolvency, or equivalent proceedings. Upon termination for any reason, Licensee shall immediately return Software and all copies to Company and delete all Software and all copies from the Designated Equipment.

14. Non-Waiver. The delay or failure of either party to exercise any right provided in the Agreement shall not be deemed a waiver. If any provision is held invalid, all others shall remain in force.

15. Choice of Law. This Agreement, interpretation of this Agreement and any claims or disputes arising out of this Agreement shall be governed by the laws of France, exclusive of its conflicts of laws provisions and without regard to the United Nations Convention on Contracts for the International Sale of Goods. Any suit arising out of or relating to this Agreement shall be exclusively brought in the Bordeaux Court, France. Any action against Company under this Agreement must be commenced within one year after such cause of action accrues.

16. Notice. All notices that are required under this Agreement will be in writing and will be considered effective upon receipt, provided that there is proof of delivery by a third party or written acknowledgement by the recipient. The notices addressed to Company shall be sent to its address set out above. The notices addressed to Licensee shall be sent to its address set forth in the applicable price quotation.

17. Government Restricted Rights. This provision applies to all Software acquired directly or indirectly by or on behalf of the United States Government. The Software is a commercial product, licensed on the open market at market prices, and was developed entirely at private expense and without the use of any U.S. Government funds. If the Software is supplied to the Department of Defense, the U.S. Government acquires only the license rights customarily provided to the public and specified in this Agreement. If the Software is supplied to any unit or

agency of the U.S. Government other than the Department of Defense, the license to the U.S. Government is granted only with restricted rights. Use, duplication, or disclosure by the U.S. Government is subject to the restrictions set forth in the Commercial Computer Software License clause of FAR 52.227-19. Manufacturer is FEI SAS, a part of Thermo Fisher Scientific, 39 rue d'Armagnac, Imm E2 - Quai 8.2., Bordeaux, F-33800, France.

18. Miscellaneous. This Agreement contains the entire understanding of the parties and supersedes all other agreements, oral or written, including purchase orders submitted by Licensee, with respect to the subject matter covered in this Agreement. Any other terms and conditions contained in a Licensee purchase order will not apply. This Agreement may be modified only by a writing executed by Company and Licensee. Licensee may not assign, pledge, or otherwise transfer this agreement, nor any rights or obligations hereunder in whole or in part to any entity. Paragraph headings are for convenience and shall have no effect on interpretation. In the event that it is necessary to undertake legal action to collect any amounts payable hereunder, Company shall be entitled to recover its costs and expenses including, without limitation, reasonable attorneys' fees.

19. Maintenance. During the Maintenance Period, Company or its authorized licensee or distributor, will provide standard Software maintenance services, as applicable. Software maintenance services consist of (a) the provision of Software updates, (b) the provision of error corrections for the Software, and (c) the provision of Hotline support in connection with the Software. Software maintenance services will be provided in accordance with the terms of any Maintenance Contract to those customers who have purchased maintenance services for the applicable Software. Software maintenance services are, and will continue to be, available under this Agreement only to the extent that these services are made available by Company with respect to the Software, or any portion of the Software, to its customer base in general. Any changes or additions to Software, except changes or additions authorized by Company, as applicable, shall immediately terminate any maintenance obligation to Licensee. At the end of the Maintenance Period, standard Software maintenance services may be provided, as available, in accordance then current terms and charges for Maintenance Services. All notices of Software malfunctions shall be in writing with details sufficient to diagnose or reproduce said failure. Licensee will be responsible for any installation of any Software Updates and Software Upgrades. This Maintenance service does not apply to the Developer Academic License.

20. Export Controls. Licensee acknowledges that the provision by Company of products (including components and spare parts), software, services (including warranty services), technology or intellectual property, including technical information supplied by Company or contained in documents (collectively Items), is subject to applicable export controls of the U.S. government and other jurisdictions, including but not limited to the European Union. These controls may require Company or Licensee to first obtain a license (or similar requirement) from the relevant authority, or regulatory body. Company shall not be liable to Licensee for any delay or failure to obtain the licenses or approvals that Company reasonably believes are necessary. Licensee shall comply with all applicable export laws and regulations. Licensee shall not, without first obtaining from the relevant authority or regulatory body any license required to do so lawfully, export or re-export any Item (either directly or indirectly), to: (i) any restricted or embargoed country or any person or organization whose privilege to participate in exports has been denied or restricted by the applicable authority; or (ii) any person or organization who is involved in improper development or use of nuclear weapons, or of chemical/biological weapons (CBW) or missiles, or in terrorist activities. Licensee agrees not to use any supplied Item in restricted or prohibited activities such as nuclear explosives, unsafeguarded nuclear activities, chemical or biological weapons development, restricted rocket or missile systems, or restricted military purposes. Licensee will, on request (i) promptly provide written information correctly identifying the end user and end use of any Items (including any information as it may relate to a subsequent transfer of such Items by Licensee); and (ii) cooperate fully with Company in any official or unofficial audit or inspection arising in respect of the Items under applicable export or import control laws or regulations. Licensee will ensure that the customers and end users to whom Licensee re-sells or transfers the Items agree in writing to the provisions of this Section and Licensee covenants to use its best efforts to enforce such provisions against customers and end users. Licensee shall indemnify and hold Company harmless from, or in connection with, any violation of this Section by Licensee or its employees, consultants, agents and/or representatives. In addition, failure of Licensee to comply with this Section shall be a material breach of this Agreement and shall entitle Company to immediately terminate this Agreement. Company shall be entitled to terminate this Agreement without prior notice if such termination is necessary in order to comply with applicable export laws and regulations.

21. Use of Collected Data. Company and our agents may monitor the Software and collect data regarding your use of and the performance and operation of the Software, associated equipment, devices and peripherals, and use such data to provide support to users, detect and address threats to the functionality, security, integrity and availability of the Software, detect and address violations of this Agreement, and improve the Software ("Collected Data"). Collected Data shall exclude any personal information and output data generated by the Software, associated equipment, devices and peripherals. We and our agents will only use Collected Data on your behalf to provide the Software as permitted by applicable law. You hereby grant to Company and our agents a worldwide, royalty-free, fully paid, non-exclusive, license to copy, modify, and distribute internally and to you Collected Data in furtherance of the purposes stated in this Agreement. This license ends when Collected Data is no longer stored with Company. In addition, Company shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the Software any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you relating to the features, functionality or operation of the Software.