

# License

## Kaleido LICENSE

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BY USING THE SOLUTION, YOU ARE INDICATING THAT YOU HAVE READ, AND AGREE TO BE BOUND BY, THE POLICIES, TERMS, AND CONDITIONS SET FORTH BELOW IN THEIR ENTIRETY WITHOUT LIMITATION OR QUALIFICATION, AS WELL AS BY ALL APPLICABLE LAWS AND REGULATIONS, AS IF YOU HAD HANDWRITTEN YOUR NAME ON AND SIGNED THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT, YOU MAY NOT USE THE SOLUTION.

### 1. GRANT OF RIGHTS

*1.1 Grant of License.* The Solution is licensed by Kaleido and its licensors, it is not being sold. Subject to the terms and conditions of this Agreement, Kaleido hereby grants you a non-exclusive, non-sublicensable, non-transferable license to use the Solution (the “*License*”). You may also use the Kaleido Services to create derivative works; provided, that in no event may you create derivative works for use with products or services other than those provided to you by or on behalf of Kaleido. This Agreement applies to the parts of the Solution developed by Kaleido. The Solution may also incorporate externally maintained libraries and other open software, which may be governed by third-party licenses.

*1.2 Restrictions.* The License is granted solely to you and not, by implication or otherwise, to any of your parents, subsidiaries or affiliates, unless otherwise agreed

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*1.3 Ownership.* Except for the rights and licenses explicitly granted herein, as between you and Kaleido, Kaleido and/or its licensors own and shall retain all right, title, and interest in and to the Solution, including any and all technology embodied therein, including all copyrights, patents, trade secrets, trade dress and other proprietary rights associated therewith, and any derivative works created therefrom.

## *2. LIMITATION OF LIABILITY*

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## *3. CONFIDENTIALITY*

It may be necessary during the set-up and performance of the Solution for you and Kaleido to exchange Confidential Information. "Confidential Information" as used in this Agreement means any information whether oral, or written, of a private, secret, proprietary or confidential nature, concerning either party or its business operations,

including without limitation: (i) your data; and (ii) Kaleido's access control systems, specialized network equipment, techniques related to the Solution, and use policies, any of which may include trade secrets of Kaleido and its licensors. Each party agrees to use the same degree of care to protect the confidentiality of the Confidential Information of the other party and to prevent its unauthorized use or dissemination as it uses to protect its own Confidential Information of a similar nature, but in no event shall exercise less than due diligence and reasonable care. Each party agrees to use the Confidential Information of the other party only for purposes related to the performance of this Agreement. All Confidential Information remains the property of the party disclosing the information and no license or other rights to Confidential Information are granted or implied hereby.

#### *4. TERM AND TERMINATION*

*4.1 Term.* This Agreement shall be effective upon download or installation of the Kaleido Software by you, and shall continue until terminated in accordance with Section 4.2 of this Agreement.

*4.2 Termination.* This Agreement may be terminated by Kaleido or its authorized representative if any of the following events occur: (i) you fail to pay any amounts due to Kaleido for the Kaleido Services and/or the Solution, and written notice of such non-payment has been provided to you; (ii) you are in material breach of any term, condition, or provision of this Agreement or any other agreement between you and Kaleido or its authorized representative (a "Related Agreement"); (iii) you terminate or suspend your business, becomes subject to any petition of bankruptcy or other proceeding related to insolvency, receivership, liquidation or assignment for the benefit of creditors; or (iv) a Related Agreement is terminated or expires.

*4.3 Effect of Termination.* Upon the termination of this Agreement for any reason: (i) all license rights granted hereunder shall terminate; and (ii) all Confidential Information shall be returned to the disclosing party or destroyed.

#### *5. MISCELLANEOUS*

*5.1 Assignment.* You may not assign any of your rights or delegate any of your obligations under this Agreement, whether by operation of law or otherwise, without the prior express written consent of Kaleido or its authorized representative. Any such assignment without the prior express written consent of Kaleido or its authorized representative shall be void. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

*5.2 Waiver and Amendment.* Kaleido may modify this Agreement upon written notice to you. No failure or delay by either party in exercising any right, power, or remedy under this Agreement, except as specifically provided herein, shall operate as a waiver of any such right, power or remedy.

*5.3 Governing Law.* This Agreement shall be governed by the laws of the State of North Carolina, without giving effect to any conflicts of laws principles that require the application of the law of a different jurisdiction, and excluding the United Nations Convention on Contracts for the International Sale of Goods.

*5.4 Notices.* All notices, demands or consents required or permitted under this Agreement shall be in writing. Notice shall be sent to you at the e-mail address provided by you to Kaleido or its authorized representative.

*5.5 Independent Contractors.* The parties to this Agreement are independent contractors. Neither party shall be deemed to be an employee, agent, partner or legal representative of the other for any purpose and neither shall have any right, power or authority to create any obligation or responsibility on behalf of the other.

*5.6 Severability.* If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions of this Agreement shall remain in full force and effect.

*5.7 Force Majeure.* Kaleido shall not be liable to you or any other party for any failure or delay in performance caused by reasons beyond its reasonable control.

*5.8 Complete Understanding.* This Agreement constitutes the final, complete and exclusive agreement between you and Kaleido with respect to the License and the Solution, and supersedes all previous written and oral agreements and communications related thereto. To the extent this Agreement and any Related Agreement conflict regarding the License or the Solution, this Agreement shall control.