

## TERMS OF USE

Effective Date: \_\_\_\_\_, 2016.

### 1. INTRODUCTION AND OVERVIEW

These Terms of Use (“**Terms**”) set forth a legally binding agreement between you and EPSON America, Inc. (“**EPSON**,” “**we**,” “**our**,” or “**us**”), and govern your use of any online service location (e.g., website or mobile app) that posts a link to these Terms and all features, content, and other services that we own, control and make available through such online service location (collectively, the “**Service**”).

By using our Service, you agree to these Terms and consent to our collection, use and disclosure practices, and other activities as described in our [Privacy Policy](#). In some instances, both these Terms and separate terms will apply to your use of the Service, which are incorporated herein (“**Additional Terms**”). To the extent there is a conflict between these Terms and any Additional Terms, the Additional Terms will control unless they expressly state otherwise. If you do not agree and consent, discontinue use of the Service.

### 2. ACCOUNTS

Certain features of the Service may require you to register an account. When you register an account, and each time you log-in to the Service thereafter, you agree that: (i) you agree to these Terms and consent to our collection, use and disclosure practices, and other activities as described in our [Privacy Policy](#); (ii) you are at least thirteen (13) years of age; (iii) you will provide and keep accurate, current, and complete information about yourself; (iv) you will not use an email address that violates the intellectual property or other right of any third party, or is offensive; (v) you are solely responsible for all activities that occur under your account— whether or not you authorized the activity; (vi) you will abide by the Service and Content (defined below) use restrictions set out in Section 3; (vii) you are solely responsible for maintaining the confidentiality of any username password you provide and will not transfer or share your username or password with any third party; (viii) you will immediately notify us if your username or password is lost or stolen, of any unauthorized use of your account, or of any other breach of security; and (ix) we will not be liable for any loss or damage to you or any third party arising from your failure to comply with any of the foregoing obligations.

### 3. LIMITED LICENSE; CONTENT AND SERVICE USE RESTRICTIONS

#### A. Content.

The Service contains: (i) materials and other items relating to EPSON and its products and services, and similar items from our licensors, application partners and other third parties, including all layout, information, databases, articles, posts, text, data, files, images, scripts, designs, graphics, instructions, illustrations, photographs, sounds, pictures, videos, advertising copy, URLs, technology, software, interactive features, the “look and feel” of the Service, and the compilation, assembly, and arrangement of the materials of the Service and any and all copyrightable material; (ii) trademarks, logos, trade names, trade dress, service marks, and trade identities of various parties, including those of EPSON; and (iii) other forms of intellectual property (all of the foregoing, collectively “**Content**”). All right, title, and interest in and to the Service and the Content is the property of EPSON or our licensors, application partners or certain other third parties, and is protected by U.S. and international copyright,

trademark, trade dress, patent and/or other intellectual property and unfair competition rights and laws to the fullest extent possible.

## **B. Limited License.**

Subject to your strict compliance with these Terms and the Additional Terms, EPSON grants you a limited, non-exclusive, revocable, non-assignable, personal, and non-transferable license to download, display, view, use, play the Content on a personal computer, browser, laptop, tablet, mobile phone or other Internet-enabled device (each, a “**Device**”) and/or print one copy of the Content as it is displayed to you, and to create hyperlinks to the Service, in each case for your personal, non-commercial use only. The foregoing limited license (i) does not give you any ownership of, or any other intellectual property interest in, any Content, and (ii) may be immediately suspended or terminated for any reason, in EPSON’s sole discretion, and without advance notice or liability. Your unauthorized use of the Content may violate copyright, trademark, privacy, publicity, communications, and other laws, and any such use may result in your personal liability, including potential criminal liability.

## **C. Restrictions.**

If you are under thirteen (13) years of age, then you are not permitted to use the Service or Content. You agree to comply with all local, state, federal, national, foreign, supranational, and international laws, statutes, ordinances, regulations, treaties, directives, and agreements that apply to your use of the Service and Content. You further agree that you will not: (i) use the Service or Content for any political or commercial purpose; (ii) download, copy, reproduce, transfer, re-license, reverse engineer, decompile, disassemble, translate, publish, transmit, exhibit, distribute, display, publicly display, broadcast, re-broadcast, re-distribute, modify, create derivative works from, market, rent, sell, lease, sub-license, or participate in any sale of or exploit in any way, in whole or in part, directly or indirectly, the Service or Content; (iii) harvest any information from the Service; (iv) reverse engineer or modify the Service; (v) interfere with the proper operation of or any security measure used by the Service; (vi) infringe any intellectual property or other right of EPSON or any third party; (vii) use the Content in a manner that suggests an unauthorized association or is beyond the scope of the limited license granted to you; (viii) engage in any activity in connection with the Service or Content that is unlawful, harmful, offensive, obscene, violent, threatening, harassing, abusive, or otherwise objectionable to EPSON; or (ix) otherwise violate these Terms or any applicable Additional Terms.

## **D. Availability, Termination, and Survival.**

EPSON may immediately suspend or terminate the availability of the Service and Content, in whole or in part, to any individual user or all users, for any reason, in EPSON’ sole discretion, and without advance notice or liability. Upon suspension or termination of your access to the Service, or upon notice from EPSON, all rights granted to you under these Terms or any Additional Terms will cease immediately, and you agree that you will immediately discontinue use of the Service. The provisions of these Terms and any applicable Additional Terms, which by their nature should survive your suspension or termination, will survive.

## **E. Reservation of All Rights.**

All rights not expressly granted to you are reserved by EPSON and its licensors and other third parties. No right or license may be construed, under any legal theory, by implication, estoppel, industry custom, or otherwise. *Any unauthorized use of any Content or the Service for any purpose is prohibited.*

## **4. SUBMISSIONS**

The Service may allow you to submit content to us via the Service, or by means other than the Service (such as by email) (“**Submissions**”). You grant us a non-exclusive, unrestricted, unconditional, unlimited, worldwide, irrevocable, perpetual, transferable and cost-free right and license to use, copy, record, distribute, reproduce, disclose, sell, re-sell, sublicense, display, publicly perform, transmit, publish, broadcast, translate, make derivative works of, and otherwise use and exploit in any manner whatsoever, all or any portion of your Submissions and derivative works thereof, for any purpose whatsoever in all formats, on or through any means or medium now known or hereafter developed, and with any technology or devices now known or hereafter developed, and to advertise, market, and promote the same. You also irrevocably consent to our use and association of your name in connection with your Submissions and derivatives thereof. You agree to waive any moral rights that you may have in any Submissions, even if it is altered or changed in a manner not agreeable to you. To the extent not waivable, you irrevocably agree not to exercise such rights in a manner that interferes with any exercise of the granted rights. You understand that you will not receive any fees, sums, consideration, or remuneration for any of the rights granted in this Section. Our receipt of your Submissions is not an admission of their novelty, priority, or originality, and it does not impair our right to contest existing or future intellectual property rights relating to your Submissions. You agree that your Submissions will not: (i) promote any political or commercial purpose; (ii) defame, abuse, harass, stalk, or threaten others; (iii) use racially or ethnically offensive language; (iv) discuss or incite illegal activity; or (v) infringe any intellectual property or other right of ours or any third party.

## **5. COPYRIGHT INFRINGEMENT AND DMCA POLICY**

EPSON respects the intellectual property rights of others, and expects those who use the Service to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement in the U.S.A., please notify EPSON of your claim of infringement by sending the following written information to our Copyright Agent, designated as such pursuant to the Digital Millennium Copyright Act (“**DMCA**”), 17 U.S.C. § 512(c)(2), named below:

- Your physical or electronic signature.
- Identification of the copyrighted work you believe to have been infringed.
- Identification of the material you believe to be infringing in a sufficiently precise manner to allow us to locate that material.
- Adequate information by which we can contact you (including your name, postal address, telephone number and, if available, e-mail address).
- A statement that you have a good faith belief that use of the copyrighted material is not authorized by the copyright owner, its agent or the law.
- A statement that the information in the written notice is accurate.

- A statement, under penalty of perjury, that you are authorized to act on behalf of the copyright owner.

We will respond to notices of claimed copyright infringement in accordance with the DMCA. It is our policy in appropriate circumstances to disable and/or terminate the accounts of users who are repeat infringers. Our designated Copyright Agent to receive DMCA Notices is:

Atsushi Yamaji  
2070, Kotobuki Koaka  
Matsumoto-shi, Nagano  
399-8702, Japan  
Phone: +81-263-86-5046  
Fax: +81-263-86-5353  
Email: [omnilinkrewards@exc.epson.co.jp](mailto:omnilinkrewards@exc.epson.co.jp)

## 6. CUSTOMER SUPPORT

If you have any questions, please send an email to **INSERT EMAIL**. You acknowledge that the provision of support is at EPSON's sole discretion and that we have no obligation to provide you with customer support of any kind. All legal notices to us must be mailed to: **INSERT ADDRESS** (Attention: Legal Counsel). When you communicate with us electronically, you consent to receive communications from us electronically. You agree that all agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.

## 7. THIRD PARTIES

### A. Third Party Services and Content.

The Service may contain or may interact with third party content that is not owned, controlled or operated by EPSON (collectively, "**Third Party Services**"). We may also host our content on Third Party Services. EPSON neither endorses nor controls such Third Party Services, and you acknowledge and agree that we are not responsible or liable for the information, content, products, or services on or available from such Third Party Services, or for the results to be obtained from using them. If you choose to access any such Third Party Services, you do so at your own risk.

### B. Dealings with Third Parties.

Any interactions, transactions, and other dealings that you have with any third parties found on or through the Service are solely between you and the third party. You hereby agree to indemnify EPSON against all claims, injury and/or damages including attorneys' fees that arise out of your use of any Third Party Service, including from any material that you post on any forum or social networking site in connection with us and/or any other claim related to your use of social media.

## **8. WIRELESS AND MESSAGES**

### **A. Wireless Features.**

The Service may offer features that are available to you via your wireless Device including the ability to access the Service's features and upload content to the Service, receive messages from the Service, and download applications (collectively, "**Wireless Features**"). By using the Service, you agree that EPSON may collect information related to your use of the Wireless Features as described in our [Privacy Policy](#), and may change, alter, or modify the settings or configurations on your Device in order to allow for or optimize your use of the Service. Data rates and other carrier fees may apply.

### **B. E-mail Messages.**

You can opt out of receiving promotional e-mails from by following the instructions as provided in e-mails to click on the unsubscribe link or by changing your communication preferences by logging onto your account. We reserve the right to send you e-mails relating to your account or use of our Service, such as administrative and service announcements and these transactional account messages may be unaffected if you choose to opt-out from receiving our promotional e-mail.

## **9. DISPUTE RESOLUTION**

Certain portions of this Section 9 are deemed to be a "written agreement to arbitrate" pursuant to the Federal Arbitration Act. You and EPSON agree that we intend that this Section 9 satisfies the "writing" requirement of the Federal Arbitration Act. This Section 9 can only be amended by mutual agreement.

### **A. Binding Arbitration.**

If any controversy, allegation, or claim relates in any way to your use of the Service (collectively, "**Dispute**"), then you agree the Dispute shall be submitted to confidential arbitration in Los Angeles, California, except that, to the extent you have in any manner violated or threatened to violate our intellectual property rights, we may seek injunctive or other appropriate relief in any state or federal court in the State of California. You hereby consent to, and waive all defenses of lack of personal jurisdiction and forum non conveniens with respect to venue and jurisdiction in the state and federal courts of California. Arbitration under these Terms shall be conducted pursuant to the streamlined Arbitration Rules and Procedures of the Judicial Arbitration and Mediation Services Inc. ("JAMS"); this Agreement shall otherwise be construed in accordance with the internal laws of the State of California without regard to California's choice of law principles. The arbitrator's award shall be final and binding and may be entered as a judgment in any court of competent jurisdiction.

### **B. Limited Time to File Claims.**

You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of, related to or connected with the use of the Service must be filed within one (1) year after such claim or cause of action arose or be forever barred.

### **C. Class Action Waiver.**

DISPUTES WILL BE ARBITRATED ONLY ON AN INDIVIDUAL BASIS AND WILL NOT BE JOINED OR CONSOLIDATED WITH ANY OTHER ARBITRATIONS OR OTHER PROCEEDINGS THAT INVOLVE ANY CLAIM OR CONTROVERSY OF ANY OTHER PARTY. YOU AND EPSON AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.

### **10. DISCLAIMER OF REPRESENTATIONS AND WARRANTIES**

THE SERVICE IS PROVIDED TO YOU ON AN "AS IS," "AS AVAILABLE," AND "WITH ALL FAULTS" BASIS. NEITHER EPSON NOR ANY OF ITS OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES OR AGENTS (COLLECTIVELY, THE "EPSON PARTIES") MAKE ANY REPRESENTATIONS, WARRANTIES OR ENDORSEMENTS OF ANY KIND WHATSOEVER AS TO THE CONTENT OR OTHER SERVICES, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, OR ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE, INCLUDING THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT AND FREEDOM FROM COMPUTER VIRUS. BY ACCESSING OR USING THE SERVICES YOU REPRESENT AND WARRANT THAT YOUR ACTIVITIES ARE LAWFUL IN EVERY JURISDICTION WHERE YOU ACCESS OR USE THE SERVICE.

### **11. LIMITATIONS OF OUR LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL THE EPSON PARTIES BE LIABLE TO YOU FOR ANY LOSS, DAMAGE OR INJURY OF ANY KIND INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE LOSSES OR DAMAGES, OR DAMAGES FOR SYSTEM FAILURE OR MALFUNCTION OR LOSS OF PROFITS, DATA, USE, BUSINESS OR GOODWILL, ARISING OUT OF OR IN CONNECTION WITH (A) THE SERVICE, (B) THESE TERMS OR (C) YOUR USE OF, OR INABILITY TO ACCESS OR USE, THE SERVICE OR ANY CONTENT AVAILABLE ON OR THROUGH THE SERVICE, EVEN IF SUCH DAMAGES WERE FORESEEABLE OR EPSON HAS BEEN ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL THE EPSON PARTIES' TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES OR CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR YOUR USE OF THE SERVICES EXCEED THE GREATER OF (A) THE AMOUNTS, IF ANY, PAID BY YOU TO EPSON FOR THE SERVICE IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO YOUR CLAIM OR (B) FIFTY UNITED STATES DOLLARS (\$50.00). THE LIMITATIONS SET FORTH IN THIS SECTION SHALL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER THE ASSERTED LIABILITY OR DAMAGES ARE BASED ON CONTRACT, INDEMNIFICATION, TORT, STRICT LIABILITY, STATUTE OR ANY OTHER LEGAL OR EQUITABLE THEORY.

## **12. WAIVER OF INJUNCTIVE OR OTHER EQUITABLE RELIEF**

YOU AGREE THAT YOU WILL NOT BE PERMITTED TO OBTAIN AN INJUNCTION OR OTHER EQUITABLE RELIEF OF ANY KIND, SUCH AS ANY COURT OR OTHER ACTION THAT MAY INTERFERE WITH OR PREVENT THE DEVELOPMENT OR EXPLOITATION OF ANY WEBSITE, APPLICATION, CONTENT, SUBMISSIONS, PRODUCT, SERVICE, OR INTELLECTUAL PROPERTY OWNED, LICENSED, USED OR CONTROLLED BY EPSON OR AN APPLICATION PARTNER OR LICENSOR OF EPSON.

## **13. INDEMNIFICATION**

You agree to defend, indemnify and hold harmless EPSON, its affiliates, and its and their respective directors, officers, employees, agents, licensors from and against any and all claims, liabilities, damages, losses, costs and expenses (including, reasonable attorneys' fees and costs) arising out of or in connection with any of the following: (i) your breach or alleged breach of these Terms; (ii) your Submissions; (iii) your use of the Service; (iv) your violation of any laws, rules, regulations, codes, statutes, ordinances or orders of any governmental or quasi-governmental authorities; (v) your violation of the rights of any third party, including any intellectual property right, publicity, confidentiality, property or privacy right; or (vi) any misrepresentation made by you. EPSON reserves the right to assume, at your expense, the exclusive defense and control of any matter subject to indemnification by you. You agree to cooperate with EPSON's defense of any claim. You will not in any event settle any claim without the prior written consent of EPSON.

## **14. CHANGES TO THESE TERMS**

We reserve the right, at any time in our sole discretion, to modify or replace any part of these Terms and any applicable Additional Terms, without prior notice. You agree that we may notify you of any updated Terms and any applicable Additional Terms by posting them on the Service so that they are accessible via a link from the home page, and/or to send you an email to the last email address you provided to us. All such changes are effective immediately when we post them, or such later date as may be specified in the notice of updated Terms and any applicable Additional Terms. Your continued use of the Service following the posting of revised Terms and any applicable Additional Terms shall indicate your acknowledgement of such changes and your agreement to be bound by the terms and conditions of such changes. If you object to any such changes, your sole recourse is to cease using the Service.

## **15. GENERAL PROVISIONS**

### **A. Consent or Approval.**

No EPSON consent or approval may be deemed to have been granted by EPSON without being in writing and signed by an officer of EPSON.

### **B. Severability; Interpretation; Assignment.**

If any provision of these Terms, or any Additional Terms, is for any reason deemed invalid, unlawful, void, or unenforceable, then that provision will be deemed severable from these Terms or the

Additional Terms, and the invalidity of the provision will not affect the validity or enforceability of the remainder of these Terms or the applicable Additional Terms. You hereby waive any applicable statutory and common law that may permit a contract to be construed against its drafter. The summaries of provisions and section headings are provided for convenience only and shall not limit the full Terms. EPSON may assign its rights and obligations under these Terms and any applicable Additional Terms, in whole or in part, to any party at any time without any notice. These Terms and any applicable Additional Terms may not be assigned by you, and you may not delegate your duties under them, without the prior written consent of an officer of EPSON.

**C. Complete Agreement; No Waiver.**

These Terms, and any applicable Additional Terms, reflect our complete agreement regarding the Service and supersede any prior agreements, representations, warranties, assurances or discussion related to the Service. Except as expressly set forth in these Terms or any applicable Additional Terms, (i) no failure or delay by you or EPSON in exercising any of rights, powers, or remedies under will operate as a waiver of that or any other right, power, or remedy, and (ii) no waiver or modification of any term of these Terms or any applicable Additional Terms will be effective unless in writing and signed by the party against whom the waiver or modification is sought to be enforced.

**D. International Issues.**

EPSON controls and operates the Service from the U.S.A., and EPSON makes no representation that the Service is appropriate or available for use beyond the U.S.A. You agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to these Terms or to any sale of goods carried out as a result of your use of the Service. Software related to or made available by the Service may be subject to export controls of the U.S.A, and, except as authorized by law, you agree and warrant not to export or re-export the software to any county, or to any person, entity, or end-user subject to U.S. export controls or sanctions.

**E. Investigations; Cooperation with Law Enforcement.**

EPSON reserves the right to investigate and prosecute any suspected breaches of these Terms or the Service. EPSON may disclose any information as necessary to satisfy any law, regulation, legal process or governmental request.