

Philter License Agreement

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17. Entire Agreement. This Agreement contains the entire agreement between you and Mountain Fog with respect to the Software and supersedes all prior agreements and understandings of the parties (except for any written agreement between Mountain Fog and the Customer). Neither party has made any representations or promises in connection with this Agreement or the subject matter hereof not contained herein. The parties may enter into additional agreements regarding other aspects of their relationship, but no such agreement will serve to modify, amend or supersede this Agreement unless that intention is

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18. Interpretation. Neither party will be deemed to be the drafter of this Agreement. The headings herein do not define, limit, expand or describe the scope or intent of any term of this Agreement. This Agreement will not be construed to confer upon any person or entity other than the parties hereto any rights, remedies or other benefits under or by reason of this Agreement. As used herein, the terms “you” and “your” and similar words means the end user of the Software who has accepted this Agreement and/or who has accessed and/or used the Software. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision will be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and if no feasible interpretation will save such provision, it will be severed from this Agreement, and the remaining provisions will remain in full force and effect. The failure of either party to enforce any provision of this Agreement will in no way be construed to be a present or future waiver of such provision, nor in any way affect the right of either party to enforce such provision thereafter. No course of dealing, nor any conduct or custom, between any of the parties hereto or hereto will be effective to amend, modify or change any of the provisions of this Agreement.

19. Governing Law, Venue and Jurisdiction. This Agreement is entered into in the State of West Virginia and will be construed pursuant to the laws of the State of West Virginia without regard to conflicts of laws principles. Any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Software must be brought in the state and/or federal courts located in and for the State of West Virginia, and you irrevocably consent to the jurisdiction of and venue in such courts. You hereby waive all claims or defenses based on lack of personal jurisdiction, improper venue, forum non conveniens or the like with respect to any action brought in the state and federal courts located in and for the State of West Virginia.

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