

**EUROPRACTICE
ACADEMIC AND RESEARCH LABORATORY
END USER AGREEMENT**

This Agreement is made the _____ day of _____ (“Effective Date”) or if no date specified, the last signature date.

BETWEEN:

SkillCAD Inc.

located at

Suite C208
1580 Oakland Road
San Jose, CA 95131
USA

(hereafter referred to as “SkillCAD”)
AND

_____ (Official Institution Full Name)

_____ (Official abbreviated name [if any])

(hereafter referred to as “End User”)

_____ (Address of End User)

_____ (Responsible Person)

_____ (Telephone Number)

_____ (EUROPRACTICE Academic Subscription Number)

TERMS AND CONDITIONS

This legal document is an agreement between the End User and SkillCAD. United Kingdom Research and Innovation (UKRI) at Rutherford Appleton Laboratory (RAL), Harwell Campus, Didcot, Oxon., OX11 0QX, United Kingdom (hereinafter referred to as “RAL”), will be responsible for arranging the issue and signature of this EUROPRACTICE Academic and Research Laboratory End User Agreement.

PREAMBLE:

SkillCAD has authorised RAL under the EUROPRACTICE project ("EUROPRACTICE") to supply its Products to EUROPRACTICE Member establishments who have been granted an End User licence in the form of this End User Agreement to use these Products for educational and non-commercial research purposes.

The End User has requested SkillCAD to authorise the supply to it of a copy of the Products and to provide it with a Licence to use the Product for the End User's educational and non-commercial research purposes only. The End User confirms that it will remain a fully paid up subscriber of the EUROPRACTICE Project during the term of this End User Agreement.

The End User is an educational establishment or a publicly funded research laboratory that is an academic or research laboratory subscriber to the EUROPRACTICE Project. RAL has concluded a Master Agreement with SkillCAD in order to enable the use of the Products on special conditions.

The use of the Product requires this End User Agreement.

1. GRANT OF LICENCE

Subject to the terms and conditions of this End User Agreement, SkillCAD hereby grants End User a non-exclusive, non-transferable licence to use a copy of their electronic design automation tools and/or software programs (hereinafter the "Product") on the computer network installed in End User's organisation. SkillCAD reserves all rights not expressly granted to the End User.

This licence is restricted to a non-commercial (a) educational use and (b) Fundamental Research use. The Product may only be accessed and used at the location of the End User stated above (the "Site") and excludes the right of sublicensing. "Educational use" means the use of the Product by the End User only for undergraduate teaching, research purposes and other educational purposes which are not intended for commercial exploitation provided always that any such use by the End User, its employees, undergraduates, or postgraduates hereby authorised to use the Product shall not include its or their use of the Product directly or indirectly for any commercial purpose or purposes (including any joint venture for the design or validation of commercial products). "Fundamental Research" means basic or applied research in science and engineering, where the resulting research (excluding any SkillCAD confidential information) is published and shared broadly within the scientific community. End User shall not disclose any SkillCAD confidential information in connection with creating, performing or publishing Fundamental Research.

Use of the Product for other purposes or subsequent commercialisation of the circuits, designs, intellectual property or devices arising from education or research projects designed or validated using the Product may not be made without the prior written consent of SkillCAD which should be requested through RAL.

"Site" means a single geographical site as specified on page 1 of this Agreement that End User owns or occupies which may consist of one or more buildings located within 5 miles of one another, and in which the Product is securely located and used. Additionally, the Product installed in End User's computer network at the Site may be accessed remotely by End User's employees, undergraduates, or postgraduates authorised to use the Product through a secure network connection that requires protective security safeguards no less than those in place at the Site and no less than those considered reasonable in light of general industry practice.

The End User acknowledges and agrees that the Product and the Documentation contains trade secrets or confidential information of SkillCAD or its licensors; therefore save as permitted by this End User Agreement, the End User agrees to keep confidential and not to permit access to the Product or the Documentation or disclose any confidential information relating to the Product, the Documentation or SkillCAD to any third party except to its employees or agents required to know the same for the purposes of carrying out their obligations hereunder or to any student or employee wishing to use the Product for bona fide educational purposes.

For avoidance of doubt, no circuit, design, intellectual property or device created, developed, verified or validated using SkillCAD's Product may be transferred, assigned or sold to any third party for any reason without the prior written consent of SkillCAD which should be requested through RAL. The only exception to this is where the circuit, design, intellectual property or device created in netlist or GDSII format is made available to a third party that provides foundry services to the End User, solely for the purpose of having that foundry make a physical implementation, as long as this third-party is subject to confidentiality obligations that are no less restrictive than the confidentiality obligations in this agreement, and provided that the physical implementation is used only for End User's Educational and non-commercial research Use and is not transferred, assigned or sold to any third party.

The End User shall take all reasonable precautions to protect the confidentiality of the Product and the Documentation and to ensure that any person permitted access to the Product or Documentation does not provide it to others and are made fully aware of the acceptable use of the Product and obligations of confidentiality as defined by this Agreement. The End User shall keep full and accurate records of all persons who have been allowed access to SkillCAD's Product or Documentation under this Agreement. In no event shall the standard of care required by this paragraph be less than the care used by End User to protect similar confidential information of its own or as deemed reasonable in light of general industry practice.

The End User shall allow SkillCAD and or RAL access to its premises (including without limitation a right of access to the location of the End User) at reasonable times and with twenty four (24) hours notice to make such inspection and interview such persons on the premises that SkillCAD or RAL reasonably requires to satisfy itself that the use of the Product does not breach any of the End User's obligations under this End User Agreement. The End User shall comply fully with any such inspection.

The Products may be provided with Open Source Software subject to separate terms identified in a text file or about box or in a file or files referenced thereby (and shall include any associated license agreement, notices and other related information therein), or may be accompanied by its own license agreement. End User's use of the Open Source Software will be subject to the terms and conditions of such other license agreement and are not considered part of the Product subject to the terms and conditions of this End User Agreement. By using such Open Source Software, End User shall be bound by all such license agreements, notices, and information. "Open Source Software" means any software or derivative work thereof that is subject to terms imposing on End User: (i) a requirement that it is to be distributed or made available in source code; (ii) a requirement that any patents related to the software are either licensed to or may not be asserted against, recipients of the software; or (iii) any license meeting the Open Source Definition (as promulgated by the Open Source Initiative) or the Free Software Definition (as promulgated by the Free Software Foundation, or any substantially similar license, including the GNU General Public License (GPL), Lesser/Library GPL (LGPL), the Mozilla Public License (MPL), the Apache License, the BSD license or the MIT license).

2. FEES

The End User shall pay the Fees as published at <http://www.europractice.stfc.ac.uk> to RAL within thirty days of signing this End User Agreement. No licence will be granted until the Fee has been received by RAL and a license key for the Product has been provided to the End User by RAL or SkillCAD.

Subsequent Fees which are mandatory for every period of continued use, will be invoiced by RAL to End User and shall be paid within thirty days after the date of RAL's invoice.

3. OWNERSHIP OF THE PRODUCT

The licence is not a sale of the original Product, and Documentation or any copy of the foregoing. Title to the intellectual property rights to the Product, the Documentation and any copies of the foregoing made by End User remain with SkillCAD.

SkillCAD warrants that it has the right to grant the rights granted pursuant to this End User Agreement.

The End User acknowledges and agrees that the Product and the Documentation may be subject to Export Laws. End User warrants that it is and will remain in compliance with all such Export Laws with respect to the Product and the Documentation, and acknowledges that Export Laws may change over time. End User hereby gives assurance that the End User will not knowingly re-export, directly or indirectly, any Product or any technical data transferred by SkillCAD to End User to any destination or person or entity in violation of the Export Laws or this Agreement.

4. TECHNICAL ENHANCEMENTS AND CUSTOMER SUPPORT.

Customer Support shall be available from RAL and will only be available if the Fee as defined in clause 2 has been paid to RAL. SkillCAD shall have no obligation to provide Customer Support to End User.

From time to time SkillCAD may, at its discretion and mutual agreement of RAL, issue to RAL updates, bug fixes or patches to the Products (the "Updates"). Such Updates will be provided to End User by RAL. SkillCAD shall have

no obligation to supply Updates to End User. End User shall treat any and all Updates in the same manner as agreed upon in the End User Agreement covering the original copy of Product provided to End User.

5. COPY RESTRICTIONS

The Product and the Documentation are protected by copyright. Unauthorised copying of the Product, including Product as modified, merged, or included with other software, or of the Documentation, is expressly forbidden. The End User will be held legally responsible for any copyright infringement that is caused or encouraged by its failure to abide by the terms of this licence. Any alteration, change or removal of any identifications from the Product, including but not limited to copyright, trademark or other notices or proprietary legends is forbidden.

Subject to these restrictions, and if the Product is not copy protected, one (1) copy of the Product may be made solely for backup purposes unless the End User has obtained an additional licence or licences which authorise in writing the use of this Product in connection with other designated computers. In any case the End User is obliged to reproduce the copyright notice on the backup copy.

End User shall maintain a record of the number and location of all copies made of the Product and the Documentation and make such record available to SkillCAD or RAL upon request.

6. USE RESTRICTIONS.

The End User may not rent or lease the Product. The End User will not (and will not attempt to nor allow any third party to or attempt to) modify, adapt, translate, reverse engineer, decompile, disassemble or create derivative works based on the Product except where such decompilation is indispensable to obtain the information necessary to achieve the interoperability of an independently created computer programme with other programmes if the conditions of Article 6.1 of the European Union Council Directive dated May 14,1991, relating to the legal protection of computer programmes are met.

End User may not use, copy, modify or transfer the Product, the Documentation or any copy of the foregoing in whole or in part, or grant any rights in the Product or Documentation, except as expressly provided in the End User Agreement. All rights not expressly granted are reserved by SkillCAD or its licensors.

7. TRANSFER RESTRICTIONS.

This Product and Documentation are licensed only to the End User, and may not be sublicensed, transferred or assigned to anyone without the prior written consent of SkillCAD. Any authorised transfer of the Product or Documentation shall be subject to the terms and conditions of this End User Agreement. In no event shall the End User transfer, assign, rent, lease, sell, timeshare or otherwise dispose of the Product or Documentation on a temporary or permanent basis except as expressly provided herein.

8. LIMITED WARRANTY.

SkillCAD warrants that the Product will conform substantially to the Documentation as it is in effect for the Product when delivered, for a period of ninety (90) days from the date of delivery to the End User.

SkillCAD warrants that it has the right to grant this licence. SkillCAD makes no other warranties, express or implied, including but not limited to all implied warranties of merchantability and fitness for a particular purpose.

With regard to the special circumstances of the EURO PRACTICE Project as a whole, RAL makes no warranties.

In no event will SkillCAD or RAL be liable for any indirect, special or consequential damages arising out of this End User Agreement or the installation and use of the Products or the Documentation.

9. LIMITATION OF LIABILITY

SkillCAD's entire liability to the End User for any cause of action whatsoever is limited to the amount paid for the Product that is the subject matter of the cause of action. In no event shall SkillCAD or its SkillCADs be liable for damages for loss of data, profits or use of the Product or for special, indirect, incidental or consequential damages.

Nothing in this clause 9 shall exclude liability to the extent that such liability may not be excluded or limited by the applicable law.

10. PATENT AND COPYRIGHT INDEMNITY

SkillCAD will defend or settle at its expense any action brought against the End User to the extent that it is based on a claim that the Product, used within the scope of this End User Agreement, infringes a copyright or existing patent. SkillCAD will pay any cost, damages and legal fees awarded against the End User in such actions which are directly attributable to such claim, provided that the End User notifies SkillCAD promptly in writing of the claim, that SkillCAD is given complete authority and co-operation by the User and all information necessary for it to conduct the defence or settlement of such claim.

Should the Product become, or in SkillCAD's opinion be likely to become, the subject of a claim for infringement of a copyright or patent, SkillCAD may at its option and expense procure for the End User the right to continue to use the Product or replace or modify the Product to make it non-infringing. In such event, SkillCAD shall have no further liability to the End User in respect thereof.

11. GENERAL.

a) This End User Agreement supersedes any written or oral agreement between SkillCAD and End User. This End User Agreement shall apply, unless SkillCAD and End User have agreed in writing to variations and additions notwithstanding any proposed variations or additions which may appear in any purchase order provided to SkillCAD by the End User.

Any modification of the terms of this licence must specifically refer to this End User Agreement and must contain the written signature of an authorised representative of SkillCAD and End User. No representative of SkillCAD has been authorised to make any representation, warranty or promise not contained in this End User Agreement.

b) The waiver of any breach of any provision of this End User Agreement shall not constitute a waiver of any subsequent breach of the same or other provisions of the End User Agreement. In the event that any provisions of this End User Agreement are held to be illegal or otherwise unenforceable, such provisions shall be severed and SkillCAD and End User shall negotiate, in good faith, valid substitute provisions which most nearly affect the intent of the End User Agreement. The entire End User Agreement shall not fail because of the severance of illegal or unenforceable provisions. This End User Agreement is governed by the laws of England.

12. TERMINATION

- a) This End User Agreement is effective until terminated pursuant to this Clause 12.
- b) The Licences granted pursuant to Clause 1 of this End User Agreement will terminate automatically without notice from SkillCAD if the End User fails to comply with any provision of this End User Agreement.
- c) The Licences granted pursuant to Clause 1 of this End User Agreement will terminate automatically without notice if the End User's EURO PRACTICE membership (Academic or Research Laboratory subscription) terminates.
- d) SkillCAD may at its sole option immediately terminate this End User Agreement in the event that the End User fails to comply with the payment of the Fees according to clause 2.
- e) The End User may terminate this End User Agreement by giving ninety (90) days prior written notice to SkillCAD and at the same time notifying RAL.
- f) Either party shall have the right to terminate this End User Agreement by giving written notice of termination to the other if the other party is guilty of a material breach or substantial breach of its obligations hereunder and has not remedied such breach if remediable within twenty (20) days of receiving notice requiring remedy of such breach.

- g) Either party shall have the right to terminate this End User Agreement forthwith without notice in the event that the operations of other party is suspended or wound up or a receiver appointed over all or a material part of its assets or undertaking or it ceases to exist as a separate legal entity (whether by reason of dissolution, merger, amalgamation or otherwise).
- h) Upon termination, the End User shall return the Documentation and all copies of the Product, including modified copies, to SkillCAD. On SkillCAD's request, the End User shall destroy all items mentioned above and prove its compliance with these obligations to SkillCAD.
- i) Termination of this End User Agreement shall not release either party from its obligations of confidence under this End User Agreement and shall not prejudice or affect any right of action or remedy which shall have accrued prior to termination or shall accrue thereafter to either party.
- j) Should the Master Agreement between SkillCAD and RAL be terminated or breached in any way, the End user may continue to use the Product subject to satisfactory arrangements for continuation being made with SkillCAD.

13. FORCE MAJEURE

Neither party shall be liable for failure to perform any of its obligations hereunder if such failure results from force majeure viz. fire, explosion, accident, civil commotion, industrial dispute or any other event beyond its reasonable control.

14. INFORMATION.

In case of any questions concerning this End User Agreement, the End User may contact RAL in writing, by E-mail or telephone.

IN WITNESS WHEREOF, End User has caused its duly authorized representative to execute this Agreement as of the date set forth below.

SkillCAD

End User

Signature: _____
(AUTHORISED REPRESENTATIVE)

Signature: _____
(AUTHORISED REPRESENTATIVE)

Name: _____
(PLEASE PRINT)

Name: _____
(PLEASE PRINT)

Position: _____

Position: _____

Date: _____

Date: _____

Stamp: