

# VSCENE 2.0

END USER LICENCE AGREEMENT



**PLEASE READ CAREFULLY BEFORE DOWNLOADING ANY SOFTWARE OR USING ANY SERVICE FROM THE VSCENE OR AJENTA WEBSITE:**

This licence agreement (**Licence**) is a legal agreement between you (**Licensee** or **you**) and Ajenta Limited of Ajenta Hub, 96/2 Commercial Quay, Edinburgh, EH6 6LX (**Ajenta, Licensor, us** or **we**) noting that VScene is a trading style used by Ajenta for:

- “**Vscene**” (which can be based purely “in-browser” or via “plug-ins” or be downloadable as may be the case from time to time), the data supplied with the software and the associated media (**Software**); and
- printed materials and online documents as applicable (**Documents**).

We license use of the Software and Documents to you on the basis of this Licence. We do not sell the Software or Documents to you. We remain the owners of the Software and Documents at all times.

**IMPORTANT NOTICE TO ALL USERS:**

- BY CLICKING ON THE “ACCEPT” BUTTON BELOW YOU AGREE TO THE TERMS OF THIS LICENCE WHICH WILL BIND YOU. THE TERMS OF THIS LICENCE INCLUDE, IN PARTICULAR, LIMITATIONS ON LIABILITY IN CONDITION 5 AND CONDITION 6.
- IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENCE, WE WILL NOT LICENSE THE SOFTWARE AND DOCUMENTS TO YOU AND YOU MUST DISCONTINUE THE PROCESS NOW BY CLICKING ON THE “CANCEL” BUTTON BELOW. IN THIS CASE THE PROCESS WILL TERMINATE AND YOU WILL NOT BE ABLE TO USE SOFTWARE OR WEBSITE.

**You should print or retain a copy of this Licence for future reference.**

**1. Grant and scope of licence**

- 1.1** In consideration of (1) payment by you of the agreed licence fee (where applicable); and (2) you agreeing to abide by the terms of this Licence, we hereby grant to you a non-exclusive, non-transferable licence to use the Software and the Documents on the terms of this Licence.
- 1.2** You may:
- (a) download and install the Software for your personal purposes (if you are an individual) or your business, research, educational or public sector purposes (if you are a “business”, public sector or educational school or institute) only:
    - (i) use the Software on one central processing unit (CPU) which may be mobile, tablet or personal computer at any one time if the Licence is a single-user licence or the Software is for single use; or
    - (ii) if the Licence is a multi-user or network licence, by the number of concurrent users agreed between you and us;

- (b) receive and use any free supplementary software code or update of the Software incorporating “patches” and corrections of errors as may be provided by us from time to time; and
- (c) use any Documents in support of the use permitted under condition 1.2 and make copies of the Documents as are reasonably necessary for its lawful use.

## 2. Restrictions

Except as expressly set out in this Licence or as permitted by any local law, you undertake:

- (a) not to copy the Software or Documents except where such copying is incidental to normal use of the Software, or where it is necessary for the purpose of back-up or operational security;
- (b) not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Software or Documents;
- (c) not to make alterations to, or modifications of, the whole or any part of the Software, nor permit the Software or any part of it to be combined with, or become incorporated in, any other programs;
- (d) not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the Software nor attempt to do any such thing
- (e) to supervise and control use of the Software and ensure that the Software is used by your employees, guests and representatives in accordance with the terms of this Licence;
- (f) to comply with all applicable technology control or export laws and regulations;
- (g) to comply with the minimum operating system requirements as detailed above as may be updated and published from time to time; and
- (h) to maintain industry standard virus protection and firewall processes when utilising the Software.

## 3. Intellectual property rights

- 3.1 You acknowledge that all intellectual property rights in the Software and the Documents anywhere in the world belong or are licenced to us for distribution, that rights in the Software are licensed (not sold) to you and that you have no rights in, or to, the Software or the Documents other than the right to use them in accordance with the terms of this Licence.
- 3.2 You acknowledge that you have no right to have access to the Software in source code form.

## **4. Limited warranty**

- 4.1** We warrant that we shall use reasonable endeavours to ensure:-
- (a)** the Software will, when properly used and on an operating system for which it was designed, perform substantially in accordance with the functions described in the Documents; and
  - (b)** that the Documents correctly describe the operation of the Software in all material respects,
- 4.2** If you notify us in writing of any defect or fault in the Software as a result of which it fails to perform substantially in accordance with the Documents, we will, at our sole option, either repair or replace the Software, provided that you make available all the information that may be necessary to help us to remedy the defect or fault, including sufficient information to enable us to recreate the defect or fault.
- 4.3** This warranty does not apply:
- (a)** if the defect or fault in the Software results from you having altered or modified the Software; and
  - (b)** if the defect or fault in the Software results from you having used the Software in breach of the terms of this Licence.
- 4.4** If you are an individual, this warranty is in addition to your legal rights in relation to Software that is faulty or not as described. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office.

## **5. Limitation of liability if you are a user for research, education or in the public sector**

- 5.1** You acknowledge that the Software has not been developed to meet your individual requirements and that it is therefore your responsibility to ensure that the facilities and functions of the Software as described in the Documents meet your requirements.
- 5.2** We only supply the Software and Documents for internal use by your business and you agree not to use the Software or Documents for any re-sale purposes (unless otherwise specified).
- 5.3** We shall not in any circumstances whatever be liable to you, whether in contract, delict (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Licence for:
- (a)** loss of profits, sales, business, or revenue;
  - (b)** business interruption or interruption to learning or studies (as the case may be);

- (c) loss of anticipated savings;
- (d) loss or corruption of data or information;
- (e) loss of business opportunity, goodwill or reputation; or
- (f) any indirect or consequential loss or damage.

**5.4** Other than the losses set out in condition 5.3 (for which we are not liable), our maximum aggregate liability under or in connection with this Licence whether in contract, delict (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to 30 days of charges paid by you to us (if any). This maximum cap does not apply to condition 5.5.

**5.5** Nothing in this Licence shall limit or exclude our liability for:

- (a) death or personal injury resulting from our negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) any other liability that cannot be excluded or limited by Scots law.

**5.6** This Licence sets out the full extent of our obligations and liabilities in respect of the supply of the Software and Documents. Except as expressly stated in this Licence, there are no conditions, warranties, representations or other terms, express or implied, that are binding on us. Any condition, warranty, representation or other term concerning the supply of the Software and Documents which might otherwise be implied into, or incorporated in, this Licence whether by statute, common law or otherwise, is excluded to the fullest extent permitted by law.

## **6. Limitation of liability if you are an individual user**

**6.1** You acknowledge that the Software has not been developed to meet your individual requirements and that it is therefore your responsibility to ensure that the facilities and functions of the Software as described in the Documents meet your requirements.

**6.2** If you are an individual, we only supply the Software and Documents for domestic and private use for educational or studying purposes. You agree not to use the Software and Documents for any commercial, business or re-sale purposes and we have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

**6.3** We are only responsible for loss or damage you suffer that is a foreseeable result of our breach of this Licence or our negligence up to the amount specified in condition 6.4, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of our breach or if they were contemplated by you and us at the time we granted you the Licence.

**6.4** Our maximum aggregate liability under or in connection with this Licence whether in contract, delict or tort (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to 30 days of charges paid by you to us (if any). This maximum cap does not apply to condition 6.5.

**6.5** Nothing in this Licence shall limit or exclude our liability for:

- (a)** death or personal injury resulting from our negligence;
- (b)** fraud or fraudulent misrepresentation; or
- (c)** any other liability that cannot be excluded or limited by Scots law.

## **7. Termination**

**7.1** We may terminate this Licence immediately by written notice to you if you commit a material or persistent breach of this Licence which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so.

**7.2** Upon termination for any reason:

- (a)** all rights granted to you under this Licence shall cease;
- (b)** you must immediately cease all activities authorised by this Licence; and
- (c)** you must immediately pay to us any sums due to us under this Licence; and
- (d)** you must immediately delete or remove the Software from all computer equipment in your possession, and immediately destroy or return to us (at our option) all copies of the Software and Documents then in your possession, custody or control and in the case of destruction, certify to us that you have done so.

## **8. Communications between us**

**8.1** If you are an individual, if you wish to contact us in writing, or if any condition in this Licence requires you to give us notice in writing, you can send this to us by e-mail or by pre-paid post to Ajenta Limited at The Ajenta Hub, 96-2 Commercial Quay, Edinburgh EH6 6LX or [hello@ajenta.net](mailto:hello@ajenta.net). We will confirm receipt of this by contacting you in writing, normally by e-mail.

**8.2** If we have to contact you or give you notice in writing, we will do so by e-mail.

**8.3** Please note that any notice given by you to us, or by us to you, will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent. In proving the service of any notice, it will be sufficient to prove, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

## **9. Events outside our control**

- 9.1** We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this Licence that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in condition 9.2.
- 9.2** An Event Outside Our Control means any act or event beyond our reasonable control, including without limitation failure of public or private telecommunications networks.
- 9.3** If an Event Outside Our Control takes place that affects the performance of our obligations under this Licence:
- (a)** our obligations under this Licence will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control; and
  - (b)** we will use our reasonable endeavours to find a solution by which our obligations under this Licence may be performed despite the Event Outside Our Control.

## **10. Other important terms**

- 10.1** We may transfer our rights and obligations under this Licence to another organisation, but this will not affect your rights or our obligations under this Licence.
- 10.2** You may only transfer your rights or your obligations under this Licence to another person if we agree in writing.
- 10.3** This Licence, our standard terms & condition of business as referred to in any order you have placed with us and any document expressly referred to in it constitutes the entire agreement between us and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter. You agree that you shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Licence or any document expressly referred to in it. You agree that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this in this Licence or any document expressly referred to in it.
- 10.4** If we fail to insist that you perform any of your obligations under this Licence, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing and that will not mean that we will automatically waive any later default by you.

- 10.5** Each of the conditions of this Licence operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 10.6** If you are an individual, please note that this Licence, its subject matter and its formation, are governed by law of Scotland. You and we both agree to that the courts of Scotland will have non-exclusive jurisdiction. However, if you are a resident of Northern Ireland you may also bring proceedings in Northern Ireland and if you are resident of England, you may also bring proceedings in England.
- 10.7** If you are a business customer, this Licence, its subject matter and its formation (and any non-contractual disputes or claims) are governed by the law of Scotland. We both irrevocably agree to the exclusive jurisdiction of the courts of Scotland.