

END USER LICENCE AGREEMENT

This End User License Agreement (**EULA**) is a legal EULA between you and Visionflex Pty Ltd ACN 600 815 021 of Unit 1, 8 Prosperity Parade Warriewood, NSW 2102 Australia (**Visionflex, we, us or our**) and applies to your use of the Visionflex Software (**Software**). The Software is owned and operated by Visionflex.

By accessing and/or using the Software and related services, you agree to be bound by the terms of this EULA which includes our [Privacy Policy](#). You should review these terms and our Privacy Policy carefully, and immediately cease accessing and/or using the Software if you do not agree to these terms.

1. Definitions and Interpretation

1.1 Definitions

In this EULA, unless the contrary intention appears:

- (a) **Customer Terms** means the Visionflex Customer Terms [available here](#).
- (b) **EULA** means the terms and conditions of this End User Licence Agreement.
- (c) **Intellectual Property Rights** means any intellectual, proprietary and industrial property rights and interests, whether registered or unregistered, including:
 - (i) all copyright;
 - (ii) all registered and unregistered trademarks, service marks, trade names, design rights, logos, patents, specifications, discoveries, inventions, innovations, improvements and electronic layout rights;
 - (iii) all rights subsisting in trade secrets, financial, marketing or technical information, ideas, concepts, know-how, technology, processes and knowledge which is confidential or of a commercially sensitive nature; and
 - (iv) all other rights or forms of protection of a similar nature to any of the rights referred to in paragraph (i), (ii) or (iii) of this definition, including the right to apply for any such rights, renewals and extensions of, and rights to claim priority from,in Australia or any other country of the world for the full period for which those rights subsist.
- (d) **Malicious Code** means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.
- (e) **Privacy Act** means the *Privacy Act 1988* (Cth).
- (f) **Privacy Laws** means all Commonwealth, State and Territory legislation, principles, and other applicable industry codes and policies relating to the collection, use, disclosure, storage or granting of access rights to Personal Information (as that term is defined in the Privacy Act).
- (g) **Software** means any software supplied by Visionflex to you under the Customer Terms from time to time in, whether on or in any of the hardware or provided separately for use with the hardware or on a stand-alone basis, and whether in object code, source code, reconfigurable binary or any other form, and includes any backup or other copies, and any software updates, modifications, enhancements and extensions.

1.2 Interpretation

In this EULA:

- (a) reference to the singular includes the plural and the plural includes the singular, a person includes a body corporate and a party includes the party's executors, administrators, successors and permitted assigns;
- (b) "including" and similar expressions are not words of limitation;
- (c) where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning;
- (d) headings are for convenience only and do not form part of this EULA or affect its interpretation;
- (e) a provision of this EULA must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the EULA or the inclusion of the provision in the EULA;
- (f) if a party consists of more than one person, this EULA binds each of them separately and any two or more of them jointly;
- (g) an obligation, representation or warranty in favour of more than one person is for the benefit of them separately and jointly; and
- (h) a party which is a trustee is bound both personally and in its capacity as a trustee.

2. Software

2.1 Provision of Software

We will provide you with access to the Software in accordance with this EULA.

2.2 Use of Software

- (a) You must only access and use the Software in accordance with this EULA.
- (b) You agree:
 - (i) to comply with all applicable laws (including any applicable Privacy Laws) when accessing and/or using the Software; and
 - (ii) to comply with all applicable third-party terms of EULA when accessing and/or using the Software.
- (c) You must not, and must not to allow any person to:
 - (i) delete, alter or obscure (or attempt to delete, alter or obscure) any copyright marks, trademarks, attributions, legal notices or other notices on the Software;
 - (ii) decompile, disassemble, merge, modify or adapt the Software in any way;
 - (iii) copy, reproduce, translate or create derivative works based on the Software, or reverse engineer any aspect of the Software, or otherwise attempt to derive the source code relating to any aspect of the Software;
 - (iv) send or store unlawful material by means of the Software;
 - (v) post or transmit any Malicious Code through the Software;

- (vi) attempt to gain unauthorised access to, or disrupt or bypass the security, integrity or performance of, the Software or any data contained in it;
- (vii) use the Software in a manner which is unlawful or in a manner not permitted by this EULA;
- (viii) use the Software in a manner reasonably likely to adversely affect Visionflex or other users of the Software;
- (ix) rent, lease or lend the Software, or make the Software available through any commercial hosting or similar service or arrangement;
- (x) use the Software in a manner that does or may damage, disable, overburden, or impair the Software; or
- (xi) use the Software for the purpose of creating a competitive product or service or copying its features or user interface.

3. RESERVATION OF RIGHTS AND OWNERSHIP

The Software is protected by intellectual property laws. We reserve all rights, including Intellectual Property Rights, in relation to the Software. You have no proprietary or other interest in the Software and nothing in this EULA transfers any right, title or interest in the Visionflex Software to you.

4. VARIATION

We may amend the terms and conditions of this EULA from time to time. You must accept the amended terms and conditions in order to continue to access and/or use the Software. Continued access and/or use of the Software shall constitute deemed by us as acceptance by you of any amendment to this EULA.

5. GENERAL

5.1 Severance

If any part of this EULA is invalid, unenforceable, illegal, void or voidable for any reason in any jurisdiction, that part of this EULA will, in that jurisdiction only, be:

- (a) read down to the minimum extent necessary so that it is not invalid, unenforceable, illegal, void or voidable, if practical; or
- (b) severed from this EULA in any other case,

without invalidating or affecting the remaining provisions of this EULA or the validity of that part of this EULA in any other jurisdiction.

5.2 Waiver

A waiver by Visionflex of a breach of this EULA by you, is not a waiver of any other or any subsequent breach. A failure by Visionflex to take action in the event of a breach of this EULA by you, will not prevent Visionflex from later taking action as a result of that breach.

5.3 Termination

Without prejudice to any of our other rights, we may terminate this EULA if you fail to comply with any of its terms. In case of such termination, you must immediately cease to access and/or use the Software.

5.4 Liability

Visionflex's liability for any loss or damage (including any loss of profits or indirect, consequential, incidental, special, exemplary or punitive loss or damage) which may be suffered or incurred or which may arise directly or indirectly in respect of the use of the Software or in respect of the failure or omission of Visionflex to comply with its obligations under this EULA will be dealt with under the Customer Terms.

5.5 Governing law

This EULA is governed by and construed in accordance with the laws of the New South Wales and each of the parties submits to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia.