



# **END-USER SOFTWARE LICENSE AGREEMENT**

**EON Reality, Inc.**

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## **I. IMPORTANT NOTICE**

This End-User License Agreement ("Agreement") is a legal agreement between you (either an individual or a single entity) and EON Reality, Inc. ("EON Reality" and its subsidiaries) for the software product identified in the order form /-confirmation, invoice or License Key Issue Note, which includes computer software and may include associated media, printed materials, and "online" or electronic documentation ("Software"). By installing, copying, or otherwise using the Software, you agree to be bound by the terms of this Agreement. If you do not agree to the terms of this Agreement, do not install or use the Software.

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EON Reality hereby grants to you a non-exclusive, non-transferable license to install and use one copy of the Software, or any prior version for the same operating system in accordance with the applicable license type (the type of license in your case can be found in the order form / invoice as well as in the License Key Issue Note from EON Reality). The License hereby granted is subject to the following conditions.

## **III. CONDITIONS**

### **1 Extent of License**

1.1 The Software you have been granted a license pursuant to this Agreement may include module(-s) in addition to those modules or module packages you have originally acquired according to the order form, order confirmation, invoice or License Key Issue Note ("Additional Modules"). You may access and utilize the Additional Modules, provided you hereby accept that such Additional Modules may be excluded from a future release, upgrade or version of the Software.

1.2 If you have acquired a hardware identity based license you may install and use one copy of the Software, or any prior version for the same operating system on the single computer for which the License Key is issued.

1.3 If you have acquired a floating license you may install one copy of the Software or any prior version for the same operating system on any number of computers and simultaneously use no more than the number of Software permitted in the License Key Issue Note. The rights of installation and use of Software is restricted to the site defined in the License Key Issue Note.

1.4 If the Software is labelled as an upgrade, you must be properly licensed to use a product identified by EON Reality as being eligible for the upgrade in order to use the Software. Software labelled as an upgrade replaces and/or supplements the product that formed the basis for your eligibility for the upgrade. You may use the resulting upgraded product only in accordance with the terms of this Agreement.

1.5 You may, however, store a copy of the Software on a storage device, such as a network server, used only to install the Software on your other computers over an internal network; however, you must acquire and dedicate a license for each separate computer on which the Software is installed from the storage device.

### **2 Confidence of the Software and Copyright**

2.1 The Software, all associated documentation, and all copies are secret and confidential to EON Reality and shall be retained under the effective control of you during the period of this Agreement. Disclosures shall be limited to those members of your staff (including temporary staff) who need access to the Software to enable you to exercise this license. You shall take all measures necessary to maintain confidence and secrecy in the Software during the period of this license and after its termination, however such termination may arise.

2.2 All title and copyrights in and to the Software (including but not limited to any images, photographs, animations, video, audio, music, text, techniques and "applets" incorporated into the Software), the accompanying printed materials, and any copies of the Software are owned by EON Reality or its suppliers. The Software is protected by copyright laws and international treaty provisions. Therefore, you must treat the Software like any other copyrighted material. You may not copy the printed materials accompanying the Software.

### **3 Support Services**

3.1 EON Reality may provide you with support services related to the Software ("Support Services"). Use of Support Services is governed by the EON Reality policies and programs described in the user manual, in "online" documentation, and/or in other EON



Reality-provided materials. Any supplemental software provided to you as part of the Support Services shall be considered part of the Software and subject to the terms and conditions of this Agreement. With respect to technical information you provide to EON Reality as part of the Support Services, EON Reality may use such information for its business purposes, including for product support and development. EON Reality will not utilize such technical information in a form that personally identifies you.

#### 4 Integrity of the Software

4.1 You shall not, directly or indirectly in any form or manner, copy, distribute, reproduce, incorporate or allow unauthorized use or access to the Software or modify, decompile, reverse engineer, disassemble or otherwise attempt to derive a source code or similar information from Software, except as explicitly permitted under this Agreement.

4.2 The Software is licensed as a single product. Its component parts may not be separated for use on more than one computer nor shall any part be separately sold or used in any unauthorized manner other than how and what it is intended to function. The user agrees that EON Reality reserves the full right to define the lawful usage of the software. The user is fully liable for any misuse of the accompanying software components and shall bear the full costs of any legal or non-legal implications should EON Reality or a third party who holds rights to any part of the software makes such a claim.

4.3 You shall ensure that all copies of, and extracts from the Software and its associated documentation made or disclosed by you carry EON Reality's copyright notice in the form shown on the original, or such other copyright notices as EON Reality may specify from time to time, and shall ensure that no such notice is deleted.

4.4 This license is personal to you and you shall not assign or transfer any interest in it or grant any right under it to any third party or seek to exercise this license for the benefit or on the data of any third party. You may not rent, lease or lend the Software.

#### 5 Derivatives from and run-time licenses of the Software

5.1 "End-User Product" means the output file generated by you using the Software. Examples of End-User Products include animations, courseware, presentations, demonstration disks, interactive multimedia material, interactive entertainment products and the like.

5.2 "EON Reality Run-Time" means the portion of the EON Reality Software required in order for the End-User Product to operate on hardware on which the EON Reality Software is not resident (including but not limited to Eon Viewer, EonX and Eon plug-in for Netscape Navigator).

5.3 Notwithstanding anything to the contrary stated herein, you may make copies of End-User Product (and the associated EON Reality Run-Time) and distribute those copies: for use by personnel employed by you or for use by another party solely for its own internal purposes. However, users of educational, pre-industrial or Not For Resale-marked versions of the Software, hereby agree that End-User Products may not be used for and/or distributed to any party for any commercial use or gain.

5.4 Any copying, distribution or utilization of End-User Product and/or EON Reality Run-Time, except as explicitly permitted under article 5.3 above, shall require you to enter a separate Run-Time Distribution Agreement with EON Reality.

#### 6 Right of Access

6.1 For the purpose only of verifying your compliance with these conditions, you hereby irrevocable grants permission for EON Reality and its authorized representatives during normal business hours to enter the premises from time to time wholly or partly occupied by you and in each case there to access, operate, and inspect computer equipment and to access, inspect and take copies of documents and records (including magnetic and other media). EON Reality shall exercise this right only for the above purpose and shall observe strict confidence in all information which it obtains as a result of such inspections except to the extent that disclosure to third parties is necessary for the purposes of protecting EON Reality's rights in the Software.

#### 7 U.S. Government restricted rights

7.1 The Software and documentation are provided with restricted rights. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable. Manufacturer is EON Reality, Inc./39 Parker, Suite 100/Irvine, CA 92618/USA.

#### 8 Miscellaneous

8.1 Should you have any questions concerning this Agreement, or if you desire to contact EON Reality for any reason, please contact the EON Reality subsidiary serving your country, or write: EON Reality, Inc./39 Parker, Suite 100/Irvine, CA 92618/USA.

#### 9 Warranty

9.1 EON Reality warrants that (i) the Software will perform substantially in accordance with the accompanying written materials for a



period of ninety (90) days from the date of receipt, and (ii) any Support Services provided by EON Reality shall be substantially as described in applicable written materials provided to you by EON Reality, and EON Reality support engineers will make commercially reasonable efforts to solve any problem issues. Some jurisdictions do not allow limitations on duration of an implied warranty, so the above limitation may not apply to you. To the extent allowed by applicable law, implied warranties on the Software, if any, are limited to ninety (90) days.

9.2 To the maximum extent permitted by applicable law, EON Reality and its suppliers disclaim all other warranties and conditions, either express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement, with regard to the Software, and the provision of or failure to provide Support Services. This limited warranty gives you specific legal rights. You may have others, which vary from jurisdiction to jurisdiction.

9.3 EON Reality's and its suppliers' entire liability and your exclusive remedy shall be, at EON Reality's sole discretion to, either (i) return of the price paid, if any, or (ii) repair or replacement of the Software that does not meet EON Reality's Limited Warranty and which is returned to EON Reality with a copy of your receipt. This Limited Warranty is void if failure of the Software has resulted from accident, abuse, or misapplication. Any replacement Software will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer. Neither these remedies nor any Support Services offered by EON Reality are available without proof of purchase from an authorized source.

## 10 Limitation of Liability

10.1 To the maximum extent permitted by applicable law, in no event shall EON Reality or its suppliers be liable for any special, incidental, indirect, or consequential damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss) arising out of the use of or inability to use the Software or the provision of or failure to provide Support Services, even EON Reality has been advised of the possibility of such damages. In any case, EON Reality's entire liability under any provision of this Agreement shall be limited the amount actually paid by you for the Software. However, if you have entered into a EON Reality Support Services agreement, EON Reality's entire liability regarding Support Services shall be governed by the terms of that agreement.

## 11 Termination

11.1 If this license is a Trial license, you shall be entitled to return the Software to EON Reality on or before Trial Expiry Date specified in the License Key Issue Note and in that event, this Agreement shall then terminate. Unless otherwise agreed under special conditions, no license fee or other charges shall be payable by you in respect of the trial and EON Reality shall refund to you an payment already made by you to EON Reality of or on account of the Package License Fee.

11.2 Unless terminated pursuant to 11.3 below this Agreement shall continue until the expiry date, if any, specified in the License Key Issue Note.

11.3 This Agreement may be terminated by EON Reality at any time by written notice of termination:

11.3.1 if you shall expressly or impliedly repudiate this license by refusing or threatening to refuse to observe any of the conditions to which this license is subject; or

11.3.2 if you shall fail to make payment of any amount due to and invoiced by EON Reality or to observe any of the conditions to which this license is subject and, after your attention has been drawn by notice to such failure, shall fail to remedy the matter to EON Reality's reasonable satisfaction within thirty days of the giving or such notice; or

11.3.3 if you shall have a receiver or administrative receiver or administrator appointed or shall enter into liquidation whether compulsory or voluntary or if you or any member of you partnership shall be unable to pay its debts as and when they fall due or any judgment or execution or other process issued in respect of any judgment against you is unsatisfied for fourteen days.

11.4 On expiry, surrender or other termination of this Agreement, however such termination may arise, you shall cease to load, store, copy or use the Software, shall delete the Software from the any computers on which the Software is installed or copied and at EON Reality's option shall either surrender the Software and all documentation and other related materials to EON Reality or shall destroy the Software with all documentation and other related materials and deliver to EON Reality a certificate of comprehensive destruction. You shall continue after termination to observe and enforce confidence and secrecy in respect of the Software and its documentation and related materials for the benefit of EON Reality, and however termination may occur it shall not prejudice any right of action or remedy which may have accrued prior to termination.

## 12 Interpretation

12.1 All EON Reality's contracts are governed by California law and any disputes arising out of or in connection to this Agreement shall be submitted to the non-exclusive jurisdiction of the California courts. The headings to these Conditions are included for convenience only and do not affect their interpretation.