



Vantari VR

End User Licence Agreement

Vantari VR Product



End User Licence Agreement

Please carefully read the following legally binding licence agreement between VANTARI PTY LTD ACN 623 522 958, trading as Vantari VR (**Vantari VR**) and the Licensee for the Product (Agreement).

By clicking an 'accept' button (or any button or check box having similar wording or meaning), installing, copying or otherwise using the Product, the Licensee acknowledges that the Licensee has read, understands, and agrees to and accepts all of the terms of this Agreement. The Licensee agrees that this Agreement is legally enforceable and binding in the same manner as any written negotiated contract bearing the Licensee's signature or seal. If the Licensee does not agree with any of the terms or conditions of this Agreement, the Licensee may not, and is not authorised to, install, copy, or otherwise use the Product for any purpose whatsoever.

Certain capitalised terms in this Agreement are defined in clause 17 below.

By installing, copying or otherwise using Updates and/or Upgrades to the Product from Vantari VR, the Licensee agrees to be bound by any additional licence terms that accompany such Updates and/or Upgrades. If the Licensee does not agree to the additional licence terms that accompany such Updates and/or Upgrades, the Licensee may not, and is not authorised to, install, copy, or otherwise use such Updates and/or Upgrades.

The Product is licensed to the Licensee, not sold, under and subject to the terms of this Agreement, unless the Product is accompanied by a separate licence agreement, in which case the terms of the separate licence agreement will apply, subject to the Licensee's prior acceptance of the separate licence agreement.

Where a reseller, service provider, consultant, contractor or other party (**Third Party**) downloads or otherwise provides the Product for the Licensee, installs or activates the Product on the Licensee's behalf prior to the Licensee's use of the Product, such Third Party will be deemed to be the Licensee's agent acting for, and on behalf of, the Licensee and the Licensee will be deemed to have accepted all of the terms and conditions of this Agreement as if the Licensee had directly downloaded, installed or used the Product. In such circumstances, the relevant Third Party represents and warrants that it has the necessary right and authority to enter into this Agreement on behalf of the Licensee and legally bind the Licensee to the terms of this Agreement.

Vantari VR reserves the right to modify, permanently or temporarily disable, or discontinue any part of the Product, and to alter, amend or withdraw any part of this Agreement, without liability or further notice to the Licensee. The Licensee's continued use of the Product will constitute an automatic acceptance of any alterations, withdrawals or amendments made by Vantari VR.

The Product may not function unless it is installed or executed on a computer, server or device which meets any minimum specifications or requirements determined by Vantari VR, which may be noted in the Documentation or otherwise made known or available to the Licensee.



1. Licence

1.1 Grant of Licence

In consideration of the terms set out in this Agreement, Vantari VR grants the Licensee a non-exclusive, non-transferable, revocable licence to install and use the Product and use the Documentation during the Term subject to, and in accordance with:

- (a) the terms of this Agreement;
- (b) the Documentation;
- (c) the limitations of the Licensee's Subscription, if any; and
- (d) the Vantari VR terms of service published on its website or otherwise publicly disclosed by Vantari VR.

1.2 Login May Be Required

To Use the Product, we may require the Licensee to have an Internet connection and log in using the user credentials of an account which the Licensee must create with us.

1.3 Scope of Use

- (a) Vantari VR licenses the Product to specified users uniquely identified by email address or some other unique identifier (**Unique ID**). Each Licence grants the Licensee the right to Use a single instance of the Product in accordance with this Agreement.
- (b) If Licensee holds multiple Licences, the Licensee may Use as many instances of the Product for as many Unique IDs as the Licensee has Licences.
- (c) The Licensee may install the Product on multiple devices simultaneously, provided the Licensee is the only user of the Product on all such devices.

1.4 Responsibility for Representatives

The Licensee must ensure that its Representatives comply with the terms of this Agreement. The Licensee is responsible and liable for the acts, omissions and negligence of its Representatives.

2. Proprietary Information and Intellectual Property

2.1 Reservation of Rights

- (a) The Licensee acknowledges that the Product contains proprietary and Confidential Information of Vantari VR and its licensors (if any), including copyrights which are protected by international copyright laws, and inventions which are protected by trade secrets, trade marks, and patents other forms of protection.
- (b) Title to and ownership of the Product, including without limitation all Intellectual Property Rights in and to the Product, are and must remain the exclusive property of Vantari VR and its licensors (if any). Except for the limited Licence granted to Licensee under this Agreement, Vantari VR reserves all right, title and interest in and to the Product and all Intellectual Property Rights whatsoever.



2.2 Licensee Acknowledgements

- (a) The Licensee must not take any action to jeopardise, limit or interfere with Vantari VR and its licensors' (if any) ownership of and rights with respect to the Product.
- (b) The Licensee acknowledges and agrees that any unauthorised copying or unauthorised Use of the Product is a violation of this Agreement and is strictly prohibited.

2.3 Free and Open Source Software

- (a) The Product may include components (including Software, Source Code, programs, applications, tools, utilities, libraries, and other programming code) that are made available from third parties under a free or open source software licensing model (**FOSS Code**).
- (b) FOSS Code components included with the Product are redistributed by Vantari VR under the terms of the applicable FOSS Code license for such component.
- (c) The Licensee's receipt of FOSS Code components from Vantari VR under this Agreement neither enlarges nor curtails the Licensee's rights or obligations defined by the FOSS Code license applicable to the FOSS Code component.
- (d) Copies of the FOSS Code licenses for FOSS Code components included with Product are included with or referenced on Vantari VR's website, or in the Documentation.

3. Privacy and Collection of Information

- (a) The Licensee acknowledges that Vantari VR collects, uses and discloses personal information or personal data in accordance with its privacy policy published on its website or otherwise publicly disclosed. By entering into this Agreement, the Licensee agrees and consents to the terms of Vantari VR's privacy policy.
- (b) Any bug reports, usability reports, test results, or feedback made by Licensee, or any other data transmitted to or from the Product is the sole property of Vantari VR and its licensors (if any) and may be used by Vantari VR and its licensors (if any) for any purpose.
- (c) Vantari VR may collect and use technical and related information from the Licensee's computer system to facilitate any Maintenance Services, Support Services, or to improve the Product, and to verify the Licensee's compliance with this Agreement.
- (d) IF THE LICENSEE DOES NOT WANT VANTARI VR TO COLLECT, USE, STORE, TRANSMIT OR DISPLAY PERSONAL INFORMATION OR PERSONAL DATA FROM THE LICENSEE AS DESCRIBED IN THIS AGREEMENT OR VANTARI VR'S PRIVACY POLICY , THE LICENSEE SHOULD NOT INSTALL OR USE THE PRODUCT.

4. Restrictions

All rights not expressly granted to the Licensee under this Agreement are reserved. Without limiting the foregoing, the Licensee must not, directly or indirectly:

- (a) subject to any statutory rights the Licensee may have, modify, adapt, reverse disassemble, decompile or reverse engineer the whole or any part of the Product or otherwise attempt or allow any other party to attempt to discover, access or use the Source Code of the Product, or to obtain the algorithms by which the Product performs its functions;



- (b) in connection with the Product, use, share, upload, create or deal in any way with material that contains 'viruses', 'trojan horses', 'copybots', 'worms', spyware, 'time bombs', 'cancelbots' or any other computer programs or codes that are intended to damage, interrupt, destroy, detrimentally interfere with or limit the functioning of the Product data and other information used in connection with the Product or any Maintenance;
- (c) sublicense, rent, lease, re-sell, distribute, transmit, host, outsource, lend, or otherwise commercial exploit any part or the whole of the Product, unless the Licensee obtains a separate Licence from Vantari VR for such purposes. For example, the Licensee may not embed the Product into another application and then distribute such to third parties unless the Licensee first acquires an appropriate Licence from Vantari VR;
- (d) Use the Product in, or in association with, safety critical applications where the failure of the Product to perform can reasonably be expected to result in a significant physical injury, or in loss of property, or loss of life. Any such Use is entirely at the Licensee's own risk and expense, and the Licensee agrees to hold Vantari VR harmless from any and all claims or losses relating to such unauthorised Use;
- (e) remove any proprietary notices from any copy of the Product;
- (f) make any false, misleading or deceptive statement or representation regarding Vantari VR and/or the Product;
- (g) Use the Product for the benefit of any third party, or charge any person, or receive any compensation for the Use of the Product, or do any of the foregoing in any manner not permitted by the Licence contained in this Agreement;
- (h) Use the Product to, or in any way that would, violate any applicable law, regulation or ordinance; and
- (i) Use the Product for the purposes of competing with Vantari VR, including without limitation competitive intelligence.

5. Term and Termination

5.1 Commencement

This Agreement is effective from the moment of acceptance as described in the first paragraph of this Agreement.

5.2 Automatic Termination

Without prejudice to any other rights, this Agreement will terminate automatically if:

- (a) the Licensee fails to comply with any of the terms and conditions contained in this Agreement; or
- (b) the Licensee ceases to have a valid Subscription.

5.3 Termination for Convenience

Vantari VR may terminate this Agreement at any time, for any reason, by giving seven (7) days' prior written notice to the Licensee.



5.4 **Consequences of Termination**

Upon termination, the Licensee must immediately cease all Use of the Product and return or destroy (as directed by Vantari VR) all copies of the Product, all Documentation, and certify that all such items have been returned or destroyed, if required by Vantari VR.

5.5 **Survival**

The Licensee's obligations and Vantari VR's rights under this Agreement with respect to clauses 3, 4, 5.2, 5.3, 5.4, 6.2, 9, 10, 12, 13, 14, 15, 16 and 17 survive any expiration or termination of this Agreement.

6. **Subscription and Payments**

6.1 **Subscription**

Where applicable, the Licensee agrees to pay any fees due and owing to Vantari VR pursuant to the Licensee's Subscription. Unless otherwise stated by Vantari VR, all payments are non-refundable and there are no refunds or credits for partially used periods.

6.2 **Additional Licensee Obligations**

Where the terms of the Licensee's Subscription includes additional obligations of the Licensee, those obligations are incorporated into this Agreement by reference. Any breach of such obligations by the Licensee will be deemed to be a breach by the Licensee of this Agreement.

6.3 **Taxes**

The Licensee is responsible for paying all taxes associated with its Licence of the Product, excluding taxes based on Vantari VR's net income or property. If Vantari VR has the legal obligation to pay or collect taxes for which Licensee is responsible under this clause, the appropriate amount must be invoiced to and paid by the Licensee, unless the Licensee provides Vantari VR with a valid tax exemption certificate authorised by the appropriate taxing authority.

7. **Maintenance Services**

- (a) Unless otherwise agreed by Vantari VR (such as within the terms of the Licensee's Subscription), Vantari VR may, but has no obligation to, provide Maintenance Services.
- (b) Where Vantari VR expressly agrees to provide Maintenance Services to the Licensee:
 - (i) Vantari VR may suspend the provision of Maintenance Services if any amount due to be paid by the Licensee to Vantari VR under this Agreement or otherwise is overdue; and
 - (ii) Vantari VR may cease providing Maintenance Services to the Licensee if Vantari VR ceases, or makes a good faith decision to cease, providing Maintenance Services to its customers generally.
- (c) If Vantari VR choose to provide Maintenance Services without any obligation to do so, the Licensee agrees that it must not make any Claim against Vantari VR in relation to such Maintenance Services.



- (d) The Licensee agrees that the Product may automatically download and install Updates and Upgrades that Vantari VR deems reasonable, beneficial to you and/or reasonably necessary. The Licensee acknowledges and agrees that any obligation Vantari VR may have to support previous version(s) of the Product may end upon the availability of any Update or Upgrade. This Agreement will apply to all Updates and Upgrades that are not distributed with a separate licence or other agreement.

8. Support Services

- (a) Unless otherwise agreed by Vantari VR (such as within the terms of the Licensee's Subscription), Vantari VR may, but has no obligation to, provide Support Services.
- (b) Where Vantari VR expressly agrees to provide Support Services to the Licensee:
 - (i) Vantari VR may suspend the provision of Support Services if any amount due to be paid by the Licensee to Vantari VR under this Agreement or otherwise is overdue; and
 - (ii) Vantari VR may cease providing Support Services to the Licensee if Vantari VR ceases, or makes a good faith decision to cease, providing Support Services to its customers generally.
- (c) If Vantari VR choose to provide Support Services without any obligation to do so, the Licensee agrees that it must not make any Claim against Vantari VR in relation to such Support Services.

9. Confidentiality

The Licensee must keep all Confidential Information, whether received before or after the Agreement Date, strictly confidential, and must not disclose any Confidential Information to any third party. However, the Licensee may disclose Confidential Information where required by law, or where Vantari VR consents otherwise in writing.

10. Representations and Warranties

- (a) The Licensee represents and warrants that it:
 - (i) possesses the legal right and ability to enter into this License Agreement and to comply with its terms;
 - (ii) will Use the Product for lawful purposes only and in accordance with this Agreement and all applicable laws, regulations, ordinances and policies;
 - (iii) will only use the Product on a computer on which such Use is authorised by the computer's owner or lessee, as applicable.
- (b) If Vantari VR has reasonable grounds to suspect that the Licensee's representations, warranties or promises are inaccurate or breached, Vantari VR may terminate this Agreement, deny any or all use of the Product, and pursue any appropriate legal remedies.

11. Force Majeure

Vantari VR will not be liable for any Losses arising as a consequence of a Force Majeure Event.



12. Acknowledgements

The Licensee acknowledges that complex software is never wholly free from defects, errors and bugs, or security vulnerabilities. Vantari VR makes not warranties or guarantees that the Product will be free of any defects, errors and bugs, or security vulnerabilities.

Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- to cancel your service contract with us; and
- to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

13. DISCLAIMER

- (a) TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE PRODUCT, ANY DATA ENCRYPTED BY USE OF THE PRODUCT, AND ANY ENCRYPTED OR DECRYPTED DATA RECEIVED THEREFROM, IS PROVIDED 'AS IS' AND THERE ARE NO WARRANTIES, CLAIMS OR REPRESENTATIONS MADE BY VANTARI VR OR VANTARI VR'S LICENSORS (IF ANY), EITHER EXPRESS, IMPLIED, OR STATUTORY, WITH RESPECT TO THE PRODUCT, ANY DATA ENCRYPTED BY USE OF THE PRODUCT, AND ANY ENCRYPTED OR DECRYPTED DATA RECEIVED THEREFROM, INCLUDING ANY WARRANTIES OF QUALITY, PERFORMANCE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, NOR ARE THERE ANY WARRANTIES CREATED BY COURSE OF DEALING, COURSE OF PERFORMANCE, OR TRADE USAGE.
- (b) VANTARI VR AND ITS LICENSORS (IF ANY) FURTHER DO NOT REPRESENT OR WARRANT THAT THE PRODUCT, ANY DATA ENCRYPTED BY USE OF THE PRODUCT, AND ANY ENCRYPTED OR DECRYPTED DATA RECEIVED THEREFROM, WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, ACCURATE, COMPLETE, ERROR-FREE, WILL OPERATE WITHOUT LOSS OF THE UNDERLYING DATA, OR WILL BE UNHACKABLE OR UNENCRYPTABLE.
- (c) THE LICENSEE ACKNOWLEDGES THAT THE ENTIRE RISK ARISING OUT OF THE USE OR PERFORMANCE OF THE PRODUCT, ANY DATA ENCRYPTED BY USE OF THE PRODUCT, AND ANY ENCRYPTED OR DECRYPTED DATA RECEIVED THEREFROM, REMAINS WITH LICENSEE TO THE MAXIMUM EXTENT PERMITTED BY LAW.
- (d) WHILST ALL DUE CARE HAS BEEN TAKEN IN PROVIDING THE PRODUCT, TO THE GREATEST EXTENT PERMITTED BY LAW, ANY CONDITION, GUARANTEE, OR WARRANTY WHICH WOULD OTHERWISE BE IMPLIED INTO THESE TERMS AND CONDITIONS IS EXCLUDED.
- (e) VANTARI VR UNDERTAKES TO TAKE ALL DUE CARE WITH ANY INFORMATION WHICH THE LICENSEE MAY PROVIDE WHEN ACCESSING THE PRODUCT AND TO PRESERVE SUCH INFORMATION IN A SECURE MANNER IN ACCORDANCE WITH VANTARI VR'S PRIVACY POLICY. VANTARI VR, HOWEVER, DOES NOT WARRANT AND CANNOT ENSURE THE SECURITY OF ANY



INFORMATION WHICH THE LICENSEE MAY PROVIDE AND INFORMATION THE LICENSEE TRANSMITS TO OR THROUGH THE PRODUCT IS ENTIRELY AT THE LICENSEE'S OWN RISK.

- (f) No oral or written information or advice given by Vantari VR or its Representatives create a warranty or in any way increase the scope of any warranty provided herein.
- (g) As some jurisdictions do not allow some of the exclusions set forth in this clause, some of these exclusions may not apply to the Licensee. If applicable law requires any warranties with respect to the Product, then to the maximum extent permitted by law, all such warranties are limited in duration to ninety (90) days from the date of delivery.

14. LIMITATION OF LIABILITY

- (a) TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL VANTARI VR AND ITS LICENSORS (IF ANY) BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, BUSINESS INTERRUPTION, LOSS OF DATA, OR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES UNDER ANY THEORY OF LIABILITY, OR ANY OTHER LOSS (AS THAT TERM IS DEFINED IN THIS AGREEMENT) WHATSOEVER, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, PRODUCT LIABILITY, OR OTHERWISE, INCLUDING LOSS TO PROPERTY OR PERSONS AS A RESULT OF, WHETHER DIRECTLY OR INDIRECTLY:
 - (i) ANY WILFUL ACT, OMISSION OR NEGLIGENCE BY THE LICENSEE OR ITS REPRESENTATIVES;
 - (ii) THE LICENSEE'S USE, NON-USE OR MISUSE OF THE PRODUCT;
 - (iii) THE USE, NON-USE OR MISUSE OF THE PRODUCT BY ANY OTHER PERSON;
 - (iv) THE LICENSEE'S, OR ANY OTHER PERSON'S, RELIANCE ON ANY CONTENT HOSTED OR MADE AVAILABLE ON OR THROUGH THE PRODUCT, INCLUDING THIRD PARTY CONTENT;
 - (v) THE LICENSEE'S, OR ANY OTHER PERSON'S, FAILURE TO SEEK APPROPRIATE INDEPENDENT ADVICE, INCLUDING BUT NOT LIMITED TO, MEDICAL, HEALTH, LEGAL, FINANCIAL, BUSINESS OR TECHNICAL ADVICE;
 - (vi) THE PRODUCT FAILING, MALFUNCTIONING, OR NOT FUNCTIONING AS EXPECTED;
 - (vii) THE INABILITY OF ANY PERSON TO ACCESS OR USE THE PRODUCT DUE TO HARDWARE OR DEVICE INCOMPATIBILITY, LACK OF TELECOMMUNICATIONS CONNECTIVITY, OR ANY OTHER TECHNICAL ISSUE OR MALFUNCTION;
 - (viii) THE FAILURE OR MALFUNCTION OF ANY COMPUTER HARDWARE OR PERIPHERALS SUPPLIED BY VANTARI VR;
 - (ix) ANY INFRINGEMENT OF ANY THIRD PARTY'S IP RIGHTS; AND
 - (x) THE LICENSEE'S BREACH OF THIS AGREEMENT.
- (b) BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE PRECEDING LIMITATION MAY NOT APPLY TO THE LICENSEE.



- (c) VANTARI VR'S AND ITS LICENSORS' (IF ANY) LIABILITY UNDER THIS AGREEMENT WILL NOT, IN ANY EVENT, REGARDLESS OF WHETHER THE CLAIM IS BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, EXCEED THE TOTAL FEES PAID BY THE LICENSEE FOR THE PRODUCT AND ITS SUBSCRIPTION (AS APPLICABLE).
- (d) THE FOREGOING LIMITATIONS APPLY REGARDLESS OF WHETHER VANTARI VR OR ITS LICENSORS (IF ANY) HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.
- (e) Notwithstanding clause 14(a), with respect to any Licence applicable to the Commonwealth of Australia, the Licensee acknowledges that Vantari VR's liability under any statutory right or any condition or warranty implied by the Australian Consumer Law and which cannot be excluded is to the extent permitted by law limited at the option of Vantari VR to:
 - (i) in the case of any goods, any one or more of the following:
 - (A) the replacement of the goods or the supply of equivalent goods;
 - (B) the repair of the goods;
 - (C) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (D) the payment of the cost of having the goods repaired; and
 - (ii) in the case of any services:
 - (A) the supply of the services again; or
 - (B) the payment of the cost of having the services supplied again.

15. INDEMNITY AND RELEASE

- (a) TO THE GREATEST EXTENT PERMITTED BY LAW, THE LICENSEE WILL:
 - (i) AT ALL TIMES INDEMNIFY AND KEEP INDEMNIFIED VANTARI VR AND ITS REPRESENTATIVES FROM AND AGAINST; AND
 - (ii) RELEASE VANTARI VR AND ITS REPRESENTATIVES FROM ALL LIABILITY FOR,

ANY AND ALL LOSS (AS THAT TERM IS DEFINED IN THIS AGREEMENT) (INCLUDING LEGAL COSTS AND EXPENSES ON A SOLICITOR AND OWN CLIENT BASIS) INCURRED BY ANY OF THOSE INDEMNIFIED OR RELEASED (AS THE CASE MAY BE) ARISING FROM ANY CLAIM MADE OR BROUGHT BY ANY PERSON AGAINST ANY OF THOSE INDEMNIFIED OR RELEASED (AS THE CASE MAY BE) WHERE SUCH LOSS AROSE OUT OF, IN CONNECTION WITH, OR IN RESPECT OF:
 - (iii) ANY WILFUL ACT, OMISSION OR NEGLIGENCE BY THE LICENSEE OR ITS REPRESENTATIVES;
 - (iv) THE LICENSEE'S USE, NON-USE OR MISUSE OF THE PRODUCT;
 - (v) THE USE, NON-USE OR MISUSE OF THE PRODUCT BY ANY OTHER PERSON;



- (vi) THE LICENSEE'S, OR ANY OTHER PERSON'S, RELIANCE ON ANY CONTENT HOSTED OR MADE AVAILABLE ON OR THROUGH THE PRODUCT, INCLUDING THIRD PARTY CONTENT;
- (vii) THE LICENSEE'S, OR ANY OTHER PERSON'S, FAILURE TO SEEK APPROPRIATE INDEPENDENT ADVICE, INCLUDING BUT NOT LIMITED TO, MEDICAL, HEALTH, LEGAL, FINANCIAL, BUSINESS OR TECHNICAL ADVICE;
- (viii) THE PRODUCT FAILING, MALFUNCTIONING, OR NOT FUNCTIONING AS EXPECTED;
- (ix) THE INABILITY OF ANY PERSON TO ACCESS OR USE THE PRODUCT DUE TO HARDWARE OR DEVICE INCOMPATIBILITY, LACK OF TELECOMMUNICATIONS CONNECTIVITY, OR ANY OTHER TECHNICAL ISSUE OR MALFUNCTION;
- (x) THE FAILURE OR MALFUNCTION OF ANY COMPUTER HARDWARE OR PERIPHERALS SUPPLIED BY VANTARI VR;
- (xi) ANY INFRINGEMENT OF ANY THIRD PARTY'S IP RIGHTS; AND
- (xii) THE LICENSEE'S BREACH OF THIS AGREEMENT.

16. General Provisions

16.1 Consents

Unless otherwise provided in this Agreement, a party may give or withhold its consent under this Agreement and impose conditions of the giving of its consent. All consents must be in writing to be effective.

16.2 Entire Agreement

This Agreement contains the entire agreement between the parties about its subject matter. Any previous representation, understanding, arrangement, agreement, or warranty relating to that subject matter is superseded by this Agreement.

16.3 Equitable Remedies and Litigation

- (a) The Licensee hereby agrees that Vantari VR would be irreparably damaged if the terms of this Agreement were not specifically enforced. The Licensee agrees that Vantari VR is entitled, without bond, other security, or proof of damages, to appropriate equitable remedies in any court of competent jurisdiction with respect to breaches of this Agreement, in addition to such other remedies as Vantari VR may otherwise have available to it under applicable laws.
- (b) In the event any litigation is brought by either party in connection with this Agreement, the prevailing party in such litigation must be entitled to recover from the other party all the costs, solicitors' or attorneys' fees and other expenses incurred by such prevailing party in the litigation.

16.4 Jurisdiction

This Agreement is governed by the laws of the Jurisdiction and each party submits to the non-exclusive jurisdiction of the courts of the Jurisdiction.

16.5 No Assignment



A party cannot assign, novate or otherwise dispose of any of its rights or obligations under this Agreement without the prior written consent of each other party.

16.6 **No Merger**

No right or obligation of any party will merge on completion of any transaction contemplated by this Agreement. Any indemnity given in this Agreement survives the expiry or termination of this Agreement and a party may enforce a right of indemnity at any time, including before it has suffered loss.

16.7 **Severability**

Any provision of this Agreement that is illegal, void or unenforceable will be read down or severed so as to preserve the remainder of this Agreement which will continue in full force and effect.

16.8 **Variations**

Vantari VR may amend the terms and conditions of this Agreement at any time by reasonable notice to the Licensee, including without limitation by posting revised terms on its website, which amended terms and conditions will be legally binding on the Licensee immediately upon publishing or other public disclosure.

16.9 **Waiver**

A failure or delay in the exercise or enforcement of any right, power or remedy available by law or under this Agreement by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement of that or any other right, power or remedy. All waivers must be expressly given in writing to be effective and binding. No waiver of a breach of any provision of this Agreement will operate as a waiver of another breach of that provision or of a breach of any other provision of this Agreement.

17. **Definitions and Interpretation**

17.1 **Definitions**

In this Agreement, unless the context otherwise requires, the following terms have the corresponding meanings:

- (a) **Agreement** means this end user licence agreement between Vantari VR and the Licensee.
- (b) **Associate** means any related body corporate, any director, any person that has a substantial holding (as that term is defined in the Corporations Act) in the corporation, any person with whom the corporation is acting, or proposes to act, in concert and any person with whom the corporation is, or proposes to become, associated in any other way whether formally or informally.
- (c) **Australian Consumer Law** means Schedule 2 of the *Competition and Consumer Act 2010* (Cth).
- (d) **Claim** includes, in relation to a person, a demand, claim, action, dispute or proceeding made or brought by or against the person, however arising and whether present, unascertained, immediate, future or contingent.
- (e) **Confidential Information** means any confidential information owned or relating to Vantari VR or the business carried on by Vantari VR, whether or not marked as confidential, and whether relating to the past, present or future operations of Vantari VR, including but not limited to:



- (i) anything contained within, or forming part of, the Product;
- (ii) Intellectual Property Rights;
- (iii) any information which could reasonably be regarded as being confidential in nature;
- (iv) the terms of this Agreement, unless required:
 - (A) by law to be disclosed;
 - (B) for the purposes of obtaining professional legal or other advice on the terms and consequences of this Agreement; or
 - (C) for the purposes of enforcing the terms of this Agreement;

but not including information which:

- (v) is publicly available or generally known; or
 - (vi) the receiving party already possesses at the time of disclosure, or independently acquires it except through a breach of any obligation of confidentiality by it or any third party.
- (f) **Documentation** means any documentation that is provided to the Licensee by Vantari VR with the Product, as revised by Vantari VR from time to time, and which may include end user manuals, operation instructions, trial documentation, installation guides, release notes, and online help files regarding the use of the Product.
- (g) **Force Majeure Event** means any event that is outside the reasonable control of Vantari VR.
- (h) **Intellectual Property Rights** means all intellectual property rights relating to Vantari VR and the business carried on by Vantari VR, including but not limited to:
- (i) all patents, copyright, rights in circuit layouts, registered and unregistered designs, trade marks and inventions;
 - (ii) any application or right to apply for registration of any of those rights together with any rights that arise in the future in respect of the Intellectual Property Rights;
 - (iii) any processes, methods, technology, systems, reports, drawings, specifications, trade secrets, technical data, research data, know-how, logos and similar intellectual property rights;
 - (iv) Software and Source Code; and
 - (v) the right to have Confidential Information kept confidential,
- but excluding any intellectual property rights which are in the public domain, open source, or are owned by and licensed from third parties.
- (i) **Jurisdiction** means Sydney, New South Wales, Australia.
- (j) **Licence** means individually, the right of one (1) individual to Use the Product subject to the terms of this Agreement.



- (k) **Licensee** means the individual end-user of the licensed rights granted by this Agreement and 'Licensee's' means belonging to the Licensee or engaged by the Licensee or otherwise pertaining to the Licensee as the context so allows, whether on a temporary basis or otherwise.
- (l) **Loss** includes any damage, loss, cost, liability or expense of any kind and however arising (including as a result of any Claim) including penalties, fines and interest whether prospective or contingent and any amounts that for the time being are not ascertained or ascertainable.
- (m) **Maintenance Services** means, collectively, supplying to the Licensee Updates and/or Upgrades (where applicable) to the Product as Vantari VR deems appropriate.
- (n) **Product** means Vantari VR's computer software product known as 'Vantari Connect' supplied to Licensee in connection with this Agreement in whole or in part, including upgrades or modifications delivered to Licensee by Vantari VR (and, if so agreed, any enhancements delivered to Licensee by Vantari VR).
- (o) **Representative** means an officer, director, employee, contractor, consultant, agent, or representative of a person.
- (p) **Software** means all software or computer programs and all enhancements, developments, improvements, revisions, versions, updates to that software.
- (q) **Source Code** means:
 - (i) source code, object code, and other material of Product or any part or module of Product necessary to produce Product in a form capable of being used on a computer, whether by compilation, runtime execution or other methods; and
 - (ii) any instructions or other statements (including comments), databases, build files, make files, scripts, customisations, manuals, technical documentation and other related documentation necessary to understand the source material.
- (r) **Subscription** means a subscription plan entered into by the Licensee for the access and Use of the Product in accordance with this Agreement.
- (s) **Support Services** means general customer services and technical support in relation to the use of the Product and the identification and resolution of errors in the Product, but does not include the provision of training services whether in relation to the Product or otherwise.
- (t) **Term** means the duration of a Licence as specified in clause 5 of this Agreement.
- (u) **Update** means a hotfix, patch or minor version update to the Product.
- (v) **Upgrade** means a major version upgrade of the Product.
- (w) **Use** means loading the Product into the temporary or permanent memory of a computer, mobile device, or other compatible device.

17.2 Interpretation

In this Agreement, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) words of any gender include all genders;



- (c) alternate grammatical forms of a defined term have a corresponding meaning;
- (d) a reference to a clause, paragraph, schedule, annexure, or appendix is a reference to a clause or paragraph of, and a schedule, annexure, or appendix to this Agreement;
- (e) a reference to a document includes the document as novated, varied, or substituted from time to time;
- (f) a reference to a person includes a natural person, partnership, body corporate, association, joint venture, and governmental body, authority, agency or other entity;
- (g) a reference to a party is a reference to a party to this Agreement and includes the party's executors, administrators, successors, permitted substitutes (including by novation) and permitted assigns;
- (h) a reference to two or more persons (including where a party comprises two or more persons) is to any of them together and each of them individually;
- (i) a reference to legislation or regulations includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;
- (j) "including" and similar expressions do not limit the generality of any provision of this Agreement;
- (k) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Agreement or any part of it;
- (l) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day;
- (m) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (n) a word or expression defined in the *Corporations Act 2001* (Cth) (**Corporations Act**) has the meaning given to it in that Act;
- (o) a reference to time is to time in the capital city of the Jurisdiction;
- (p) a reference to A\$, AUD\$, dollar or \$ is to Australian currency; and
- (q) headings and table of contents are for ease of reference only and do not affect interpretation.