

Flowscape

End Customer Agreement

GENERAL TERMS OF SUPPLY

The following terms and conditions govern the supply of Software, Products and Services from FlowScape to a Customer.

The Agreement is entered into by i) Customer sending a Purchase Order referencing the Agreement, or ii) Customer using the Software free of charge.

FlowScape's direct competitors are prohibited from accessing the software, unless FlowScape has given a written consent.

FlowScape and Customer are in the Agreement referred to as a "**Party**" and jointly as the "**Parties**".

1. DEFINITIONS AND INTERPRETATIONS

Where a term used in this Agreement starts with capital letters, it has a defined meaning, usually set out in schedule 1, which also sets out some rules to be used in interpreting this Agreement.

2. AGREEMENT DOCUMENTS

The following documents (as amended from time to time) constitute the Agreement:

This main body of this Agreement (highest precedence)

Schedule 1 – DEFINITIONS AND INTERPRETATION

Schedule 2 – SERVICE LEVEL TERMS

Schedule 3 – DATA PROCESSING AGREEMENT

If there is any inconsistency between the terms of the main body of this Agreement and the appendices, then the terms of the main body of this Agreement will prevail to the extent of the inconsistency. The order of precedence between the appendices shall be the order in which they are listed above.

3. TERM

The Commencement Date is the date of the first Purchase Order or the first Purchase Order after the Agreement has been terminated, provided that the Purchase Order has been accepted according to clause 4.4 in this Agreement.

The Agreement continues until all Purchase Order Terms have been terminated.

The Term for each Purchase Order will continue for the terms specified in the Purchase Orders (the "**Initial Term**") unless terminated sooner in accordance with this Agreement. If the Purchase Order does not contain any term the Initial Term shall be 12 months. On expiry of each Purchase Order the Term will automatically renew for further 12 month periods until one party terminates by providing no less than 60 days written notice prior to the end of the current 12 month period.

4. SUPPLY OF PRODUCTS, SOFTWARE AND SERVICES

4.1 FlowScape will not be liable to provide (and the Customer will not be liable to pay for) any Products, Software or Services unless and until a Purchase Order has been sent and accepted according to clause 4.4. Each Purchase Order will be separately terminable in accordance with clauses 14.

4.2 FlowScape will supply the Products, Software and/or Services in accordance with the provisions of this Agreement and each Purchase Order.

4.3 If a Purchase Order conflicts with the provisions of the terms set out in this Agreement, the provisions of that Purchase Order will take precedence in relation to the Products, Software and/or Services to be supplied in accordance with that Purchase Order.

- 4.4 Flowscape will notify Customer whether it accepts the proposed Purchase Order, and approval will not be unreasonably withheld or delayed. Where Flowscape rejects a proposed Purchase Order, Flowscape shall give the specific reasons for any such rejection.
- 4.5 Flowscape shall deliver to Customer such quantities of the Products, Software and/or Services, and in such manner, as agreed under the relevant Purchase Order.
- 4.6 Flowscape may engage sub-contractors to perform its obligations under the Agreement. Flowscape shall be liable for its subcontractors' work as if it had been performed by Flowscape itself.
- 4.7 The Customer shall comply with any written instructions provided by Flowscape or its subcontractors from time to time for the use or installation of the Products, Services and/or Software.

5. TECHNICAL INFORMATION

- 5.1 Flowscape shall provide updated technical documentation at Flowscape's Web Page.

6. LICENCE TO THE SOFTWARE

- 6.1 Subject to the terms of this Agreement and the Customer's adherence thereto, Flowscape grants to the Customer a non-exclusive, irrevocable (during the term of this Agreement, unless otherwise stated in this clause 6), non-transferable, right to use the Software within the Territory for the Customer's own internal use, specified in Purchase Order/s entered into between Flowscape and the Customer in accordance with what is set forth in this Agreement.

- 6.2 The Customer agrees not to:

- 6.2.1 decompile, disassemble or reverse engineer the Software;
- 6.2.2 modify or create any derivative works (including, without limitation, translations, transformations, adaptations or other recast or altered versions) based on the Software;
- 6.2.3 merge the Software with any other software except as expressly set forth in the Documentation;
- 6.2.4 use, copy, sell, sublicense, lease, rent, loan, assign, convey or otherwise transfer the Software or Documentation except as expressly authorized by this Agreement or a Purchase Order;
- 6.2.5 enable any Software features or capacity which the Customer's licenses as separate products without Flowscape's prior written consent; or
- 6.2.6 permit or encourage any third party to do any of the foregoing.

- 6.3 The notice of copyright or other marking concerning ownership rights of the Software or medium on which the Software is made available may not be altered or deleted by the Customer. The same applies to the corresponding markings on Documentation.

7. SUPPORT & MAINTENANCE

- 7.1 The Support to be provided to the Customer is specified in Schedule 3.

8. PAYMENT

- 8.1 In consideration of the sale and provision of Products, Software and/or Services to the Customer under this Agreement and Purchase Orders, the Customer shall pay to Flowscape the fees set out in the current Price List and agreed under the relevant Purchase Order.

- 8.2 Flowscape may invoice the Customer as follows:
- 8.2.1 50% of the Purchase Order price related to Products and Services when a Purchase Order has been confirmed in accordance with clause 4.4 above;
 - 8.2.2 remaining Purchase Order price related to Products and Services on the Delivery Date. The title to the Products goes over to the customer when the final payment of the Products has been done;
 - 8.2.3 for Software and Support fees starting from the Delivery Date. Thereafter the invoicing is done continuously in advance on each anniversary or otherwise agreed upon in the relevant Purchase Order.
- 8.3 If nothing else is stated in a quotation all prices are excluding VAT and export or import taxes and the shipment terms are Incoterms EXW (Incoterms 2020) from Flowscape's distribution hub.
- 8.4 All payments shall be made within thirty (30) days after the invoice date unless otherwise agreed by the Parties in the Purchase Order.
- 8.5 Flowscape reserves the right to adjust the prices at any time after the Initial Term. Flowscape shall provide the Customer with a written notice of any price changes at least 3 months prior to the effective date of the new price.
- 8.6 Flowscape may charge a monthly interest rate of 1.0% on all undisputed sums outstanding beyond the date on which they are due for payment under each Purchase Order.

9. CONTINUITY OF SUPPLY AND NEW PRODUCTS

- 9.1 If during the term of the Agreement Flowscape decides to permanently cease to sell any item of the Products ("**Discontinued Product**"), Flowscape shall:
- 9.1.1 notify the Customer in writing without any undue delay after Flowscape becomes aware that the Product will become a Discontinued Product; and
 - 9.1.2 offer Customer the opportunity to make a final purchase of the Discontinued Product based on the current Price List with delivery to be completed within the period detailed in Flowscape's notice (which shall not be less than ninety (90) days from the date of the notice).

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 Ownership of Intellectual Property Rights will be dealt with as follows:
- 10.1.1 any Pre-Existing Intellectual Property Rights shall belong to the Party from which such Intellectual Property Rights originate;
 - 10.1.2 the Intellectual Property Rights in any material, including the Products and Software, supplied by Flowscape to the Customer in connection with this Agreement will be owned by Flowscape or its licensors. The Customer shall promptly bring to the attention of Flowscape any improper or wrongful use of Flowscape's or its licensors Intellectual Property Rights of which the Customer becomes aware; and
 - 10.1.3 Flowscape has a non-exclusive and limited license to use any Intellectual Property Rights of the Customer to the extent required for Flowscape to comply with its obligations under the Agreement and the respective Purchase Order.

- 10.2 FlowScape shall indemnify the Customer against any loss or damage suffered or incurred by the Customer as a result of any claim by a third party that the Products, Software or Services or the authorised use or possession of such by the Customer in accordance with this Agreement and the applicable Purchase Order infringes the Intellectual Property of any third party ("**Third Party Claim**").
- 10.3 In relation to each Third Party Claim:
- 10.3.1 the Customer must inform FlowScape in writing as soon as it becomes aware of a claim and give FlowScape as much information as it can in relation to it;
 - 10.3.2 the Customer must not make any admissions in relation to the claim without obtaining FlowScape's permission first; and
 - 10.3.3 if FlowScape asks the Customer to do so, the Customer must let FlowScape take over dealing with the claim in full on the Customer's behalf.
- 10.4 The indemnity set out in clause 10.2 shall not apply to the extent that any alleged or actual infringement is as a result of or in connection with any unauthorised use, license or modification of the Products by the Customer or an End-User. FlowScape shall have the right to alter or replace all or any part of the Software, Product or Service without materially affecting its functionality, compatibility or performance, in order to avoid any infringement.
11. **WARRANTY**
- 11.1 Each Party warrants to the other that:
- 11.1.1 it has full power and authority to enter into this Agreement; and
 - 11.1.2 it shall comply fully with industry practice and applicable law with regards to its obligations under the Agreement and the relevant Purchase Order.
- 11.2 FlowScape warrants that FlowScape and/or its licensors owns the Intellectual Property Rights in the Products and Software, and/or is sufficiently licensed to supply the Products and Software to the Customer in the manner contemplated by this Agreement.
- 11.3 The Hardware Warranty Period of all Products are specified at FlowScape's Web Page. If nothing is specified the Hardware Warranty Period is 12 months. The Hardware Warranty Period starts at the Delivery Date. The Customer takes the cost for sending the Product to FlowScape's repair centre and FlowScape takes the cost for sending it back to the Customers premises.
12. **LIMITATIONS OF LIABILITY**
- 12.1 Nothing in this Agreement shall exclude or limit liability for death or personal injury resulting from the gross negligence of either Party or their agents or employees, fraudulent misrepresentation, under any indemnity included in this Agreement.
- 12.2 Subject to clauses 12.1 and 12.3, the total liability of either Party whether in contract, tort, negligence, pre contract or other representation or otherwise arising out of or in connection with this Agreement or its performance shall be limited in relation to each event or series of connected events to; 100% of all sums received by FlowScape from the Customer in the twelve (12) months immediately preceding the most recent event giving rise to liability and if less than 12 months has passed since the Commencement Date 100% of the sum estimated to be received by FlowScape from the Customer during a twelve (12) months period.
- 12.3 Neither Party shall be liable to the other Party under, or in connection with, this Agreement in contract, tort, negligence, pre-contract or other representations (other than fraudulent or negligent misrepresentations) or otherwise for any:

- 12.3.1 loss of business;
 - 12.3.2 loss of contracts;
 - 12.3.3 loss of profits; or
 - 12.3.4 any indirect, special or consequential loss.
- 12.4 The Parties shall take all reasonable measures in order to prevent or limit any damage, provided that it can be done without unreasonable cost or inconvenience.
- 12.5 The limitations of liability set out in this clause 12 shall not apply to Third Party Claims as set out in clause 10, breach of confidentiality as set out in clause 13, or breach by the Customer of any license term set out in the Agreement and/or a Purchase Order.

13. **CONFIDENTIALITY**

- 13.1 Both Parties agree with each other to keep all information that they obtain about the other concerning the business, finances, technology and affairs of the other and its Affiliates, regardless of its nature ("**Confidential Information**"), strictly confidential and only use such Confidential Information with the sole purpose of complying with its obligations, or exercising its rights, under the Agreement and relevant Purchase Order.
- 13.2 The obligations contained in this clause 13 will not apply to any Confidential Information which:
- 13.2.1 was in the public domain at the time of disclosure, other than through breach of this Agreement;
 - 13.2.2 was lawfully in a Party's possession prior to such disclosure and was not acquired directly or indirectly from a third party under an obligation of confidence;
 - 13.2.3 is or becomes public knowledge by act or acts other than those of the provider of the Confidential Information or any person related to the provider of the Confidential Information; or
 - 13.2.4 is furnished to the recipient without restriction by any third party having a right to do so.

For the purposes of this clause 13, no Confidential Information will be deemed to be in the public domain merely because such information is embraced by more general information.

- 13.3 The Customer shall make its employees aware of the confidential nature of the Software and Documentation and shall ensure that they are prohibited from copying or revealing the same other than as expressly authorised by this Agreement.
- 13.4 FlowScape and the Customer have the right to issue a press release regarding this Agreement but both Parties must first in writing approve the full press release. This consent shall not be unnecessary withheld. FlowScape also has the right to refer to the Customer as a customer of FlowScape's Products, Services and/or the Software at FlowScape's web page and in other marketing material.

14. **TERMINATION**

- 14.1 FlowScape or Customer may terminate the Agreement or a Purchase Order if the other Party materially breaches any term of the Agreement or a Purchase Order and the breaching party fails to remedy the breach within thirty (30) days after being asked to do so.

14.2 Either Party may terminate this Agreement (and all Purchase Orders entered into in relation to it) if the other Party suffers an Insolvency Event.

14.3 Either Party is entitled to immediately terminate this Agreement in writing with immediate effect if the other Party is subject to Change of Control, which in a reasonable opinion would be detrimental to the other Party's interest.

14.4 Either Party may with immediate effect terminate this Agreement (and all Purchase Orders entered into in relation to it) immediately if the other Party acts in contravention of anti-corruption legislation. The Party who terminates the Agreement upon this clause will be in no way liable to the other Party in respect of such termination for payment of damages or any other form of compensation.

15. CONSEQUENCES OF TERMINATION

15.1 Upon termination of this Agreement or a Purchase Order:

15.1.1 The Customer may continue to use (as applicable) any Products which it has purchased from FlowScape, and the terms and conditions of this Agreement shall apply to such Products;

15.1.2 The Customer agrees with FlowScape to promptly provide FlowScape with all outstanding payments (if any) due to it and to cease using the Software and the Documentation in its possession, where applicable; and

15.1.3 To the extent the Parties before the date of the termination have agreed on a Purchase Order regarding provision of the Software, the Customer may continue to use the Software for the full term of the license, provided that the Agreement or relevant Purchase Order has not been terminated due to a breach of contract by the Customer.

15.2 The provisions of clauses 8, 10 to 13, 15 and 19.8 shall survive termination or expiry of this Agreement, along with any other clauses which are by their nature intended to survive termination or expiry.

16. ASSIGNMENT

16.1 Neither Party shall assign, transfer charge or deal in any other manner with this Agreement, including Purchase Orders, or its rights hereunder or part thereof, or purport to do any of the same any or all of its obligations under this Agreement unless otherwise expressly set out in the Agreement or Purchase Order, or without the written consent of the other Party (such consent not to be unreasonably withheld or delayed), except that FlowScape, in its sole discretion, may assign any part or the whole of this Agreement, including Purchase Orders, to any member of the FlowScape Group Companies.

17. NOTICES

17.1 All notices, agreements and consents under this Agreement and each Purchase Order shall be in writing in the English language. Notices shall be sent to the address the legal entity is registered at or digital addresses stated in the Purchase Order(s) or to such other address as either party shall notify to the other in accordance with this clause 18.1. Any notice may be delivered by hand or registered post or confirmed email and shall be treated as having been delivered:

17.1.1 if sent by hand, when delivered; and

17.1.2 if by registered post, forty-eight (48) hours after posting.

17.1.3 if by email, when confirmed.

18. **PERSONAL DATA**

18.1 Flowscape will process personal data on behalf of the Customer. Customer will enter a separate data processing agreement according to Schedule 3 (Data Protection Agreement) with Flowscape regarding processing of personal data on behalf of the Customer.

19. **GENERAL**

19.1 This Agreement (as amended from time to time) and effective Purchase Orders, together with any document expressly referred to in any of its terms, contains the entire agreement between the Parties relating to the subject matter covered and supersedes any previous agreements, arrangements, undertakings or proposals, written or oral, between the Parties in relation to such matters.

19.2 No addition to, or modification of, any provision of this Agreement or any Purchase Order shall be binding on the Parties unless made in writing and executed by each Party.

19.3 The failure to exercise or delay in exercising a right or remedy under this Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies and no single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy. The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

19.4 The invalidity, illegality or unenforceability of any provision of this Agreement shall not affect or impact the continuation in force of the remainder of this Agreement.

19.5 Nothing in this Agreement shall be construed as creating a partnership or joint venture of any kind between the Parties or as constituting either Party as the agent of the other Party for any purpose whatsoever and neither Party shall have the authority or power to bind the other Party or to contract in the name of, or create a liability against, the other Party in any way or for any purpose.

19.6 This Agreement may be executed in any number of counterparts each of which when executed and delivered shall be an original but all the counterparts together shall constitute one and the same instrument.

19.7 The Parties shall use their respective reasonable efforts to procure, so far as they are able, that any necessary third parties shall execute and perform all such further deeds, documents, assurances, acts and things as any of the Parties may reasonably require, by notice in writing to the other to carry the provisions of this Agreement or relevant Purchase Order into effect.

19.8 If nothing else is agreed in a Purchase Order this Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with Swedish law. Any disputes, controversy or claim arising out of or in connection with this Agreement, which remain unsolved thirty (30) days after they were first notified by one party to the other, in writing, shall be finally settled by arbitration administered by the Arbitration Institute of the Stockholm Chamber of Commerce ("**SCC**"). The Rules for Expedited Arbitrations shall apply, unless the SCC in its discretion determines, taking into account the complexity of the case, the amount in dispute and other circumstances, that the Arbitration Rules shall apply. In the latter case, the SCC shall also decide whether the Arbitral Tribunal shall be composed of one or three arbitrators. The seat of arbitration shall be Stockholm. The language to be used in the arbitral proceedings shall be English or in any other language if the Parties agree.

SCHEDULE 1 – DEFINITIONS AND INTERPRETATION

1. DEFINITIONS

1.1 In this Agreement the following terms shall have the following special meanings:

TERM	DEFINITION
Affiliate	means an entity under Common Control with the relevant party to this Agreement. The "Affiliates" of the Customer include all Customer Group Companies and the "Affiliates" of Flowscape include all Flowscape Group Companies;
Agreement	means this agreement and all the appendices and other documents attached to in it or incorporated by reference into it (all as amended or added to from time to time);
Commencement Date	means the date when this Agreement was entered between the parties.
Confidential Information	means as defined in clause 13;
Change of Control	means: (i) any other person or entity acquires beneficial ownership of securities of any of the Parties or entity representing more than 50 % of the voting power or the then outstanding securities of that Party or entity; or (ii) any of the Parties or entity enters into merger, consolidation or similar transaction with another person or entity in which the concerned in this Agreement is not the surviving entity in such transaction; or (iii) any other similar event where the voting or analogous control over the decisions taken by any of the Parties changes;
Customer	means the individual, corporate or other entity named in the Purchase Order.
Customer Group Company	means at any relevant time, in relation to Customer, the group (Sw. <i>koncern</i>) which the Customer belongs to;
Discontinued Product	means as defined in clause 9.1;
Documentation	means documentation regarding the Software provided by Flowscape to the Customer;
Delivery Date	means for: i) Products, the date when the Products arrive to the agreed delivery address; ii) Software when the Software is made available to the Customer; and iii) Services, the date the Services have been provided to the Customer;
End-User	means the employees of the Customer that will use the Software;
Flowscape	means Flowscape AB a company registered in Sweden (under company number 556866-9625) of Sveavägen 64,111 34 Stockholm or other Flowscape Group company referred to in Purchase Order.
Flowscape's Web Page	means www.flowscapecolutions.com and all web pages hosted under this domain.
Flowscape Group Companies	means Flowscape and its Affiliates;
Hardware Warranty Period	means the period when the Customer free of charge can send in the hardware with material defects for repair or if this is not possible replacement.
Initial Term	means as defined in clause 3;
Insolvency Event	means, in relation to a person, any of the following: (i) a meeting of creditors of that person being held or an arrangement or composition with or for the benefit of its creditors (including a voluntary arrangement (Sw. <i>frivillig uppgörelse</i>) as defined in the Insolvency Act (Sw. <i>Konkurslag (1987:672)</i>) being proposed by or in relation to that person; (ii) a chargeholder, receiver, administrative receiver or other similar person taking possession of or being appointed over or any distress, execution or other process being levied or enforced (and not being discharged within seven days) on the whole or a material part of the assets of that person; (iii) that person ceasing to carry on business or being deemed to be unable to pay its debts within the meaning of the Insolvency Act ; (iv) that person or its directors or the holder of a qualifying floating charge giving notice of their intention to appoint, or making an application to the court

	for the appointment of, an administrator; (v) a petition being presented (and not being discharged within 28 days) or a resolution being passed or an order being made for the administration or the winding-up, bankruptcy or dissolution of that person; or (vi) the happening in relation to that person of an event analogous to any of the above in any jurisdiction in which it is incorporated or resident or in which it carries on business or has assets;
Intellectual Property Rights	means all copyright and other intellectual property rights, howsoever arising and in whatever media, whether or not registered, including (without limitation) patents, trademarks, service marks, trade names, database rights, registered designs and any applications for the protection and registration of these rights and all renewals and extensions thereof throughout the world;
Pre-Existing Intellectual Property Rights	means Intellectual Property Rights of each Party existing prior to the signing of this Agreement or developed independently hereof;
Price List	means Flowscape's prices agreed under a valid quotation.
Products	means the hardware products set out in the Purchase Order(s). For further specification of the Hardware see www.flowscapecolutions.com/products .
Purchase Order	means as defined in clause 4.1;
Services	means the services set out in the Purchase Order(s) and referred quotation.
Software	means the software solutions set out in the Purchase Order(s). For further specification of the Software functions see www.flowscapecolutions.com/solutions .
Support	means the support and maintenance as regards the Software provided by Flowscape and its Software Supplier and sub-contractors (as applicable), the terms of which are set in Schedule 2 (Service level terms);
Territory	means all countries in the world, except countries banned (by restrictive measures and other sanctions) by EU and/or US.
Term	means the term for each Purchase Order defined in clause 3.
Third Party Claim	means as defined in clause 10.2;
Working Day	means Mondays to Fridays, excluding days on which banks are closed for business in Sweden; and
Working Hours	means such hours during Working Hours when banks are generally open for business in Sweden.

2. INTERPRETATION

2.1 In this Agreement, unless it says otherwise:

- 2.1.1 reference to a person includes a legal person (such as a limited company) as well as a natural person;
- 2.1.2 reference to "including" in this Agreement shall be treated as being by way of example and shall not limit the general applicability of any preceding words;
- 2.1.3 reference to any legislation shall be to that legislation as amended, extended or re-enacted from time to time and to any subordinate provision made under that legislation; and
- 2.1.4 references to clauses or appendices shall be to those in this Agreement.

2.2 Any software supplied or licensed under this Agreement will not be treated as goods within the meaning of the Sale of Goods Act (Köplag (1990:931)). Firmware will be treated as part of the goods in which it is installed.