

SCHEDULE 6 – END USER LICENCE AGREEMENT

This End User License Agreement applies when End User has purchased Software via a Partner rather than directly from Flowscape and no separate license agreement has been signed between End User and Flowscape.

By receiving, downloading, opening the file package or using the Software, you are accepting the terms of this End User License Agreement. This End User License Agreement is between End User and Flowscape.

If you do not accept this End User License Agreement you must immediately: i) return all Documentation and; ii) remove the Software from mobile phones, tablets, computers and; iii) stop use the Software. Your right to use the Software is limited to the time set in the agreement with the Partner and as long as the license has not been terminated according to the term in this End User License Agreement.

1. DEFINITIONS

Definitions shall, irrespectively of whether they are used in singular or plural, in definite or indefinite form, have the defined meaning as set out below in this Section 1 when used with a capital initial letter.

“**Documentation**” means any and all users manuals and other standard written materials related to the Software.

“**DPA**” means the data processing agreement entered between the Parties.

“**End User License Agreement**” or “**EULA**” means the end user license agreement entered into between Flowscape and the End User by using the Software.

“**End User**” means the natural person or a legal entity that has purchased the License to the Software or otherwise uses the License to the Software in accordance with these Requirements, also referred to as “**you**” or “**your**” under these Requirements.

“**Flowscape**” means Flowscape AB company registered in Sweden (under company number 556866-9625) of Saltmätargatan 8, 113 59 Stockholm

“**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.

“**License**” shall have the meaning set forth in Section 2.1

“**License Fee**” means the fee(s) to be paid by the End User to the Partner for the use of the Software.

“**Partner**” means the authorised party that has resold the Software to End User.

“**Products**” means hardware products from Flowscape and its licensors supplied to End User.

“**Requirements**” means the terms and conditions set out in this document with the heading “SCHEDULE 5 – END USER LICENCE AGREEMENT”.

“**Section**” means a section of these **Requirements**.

“**Software**” means the software from Flowscape and its licensors, sub-licensed under the End User License Agreement.

“**Territory**” means the country(-ies) in Europe and North America

“**Third party Claim**” shall have the meaning set forth in Section 5.2.

Flowscape and End User are hereinafter referred to as “**Party**” and jointly as “**Parties**”.

2. LICENSE

2.1 Subject to End User’s compliance with these Requirements and timely payment of the License Fee, Flowscape grants End User a non-exclusive, limited, revocable, non-transferable right to use the Software for End User’s internal use within the Territory in accordance with these Requirements (the “**License**”). If the EULA is terminated, the License described in this Section 2.1 will cease in accordance with Section 8.2.

3. LICENSE RESTRICTIONS

3.1 To the extent permissible under applicable law, End User agrees not to:

3.1.1 decompile, disassemble or reverse engineer the Products or Software;

3.1.2 modify or create any derivative works (including, without limitation, translations, transformations, adaptations or other recast or altered versions) based on the products, Software or Documentation;

3.1.3 merge the Software with any other software except as expressly set forth in the Documentation;

3.1.4 use, copy, sell, sublicense, lease, rent, loan, assign, convey or otherwise transfer the Software or Documentation except as expressly authorized by these Requirements;

3.1.5 enable any Software features or capacity which Flowscape licenses as separate products without Partner’s or Flowscape’s prior written consent;

3.1.6 permit or encourage any third party to do any of the foregoing.

3.2 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. The same applies to the corresponding markings on all Products and Documentation.

4. RIGHT TO AUDIT

4.1 Flowscape is entitled to audit (either through own staff or appointed auditors and advisors) End User’s books and relevant computer systems in order to verify the compliance with the terms of these Requirements and any applicable legislation, regulations and/or regulatory requirements. End User will cooperate with the audit and will grant assistance and access to applicable records, materials, equipment, and personnel. If an audit reveals that the End User possesses or at any time possessed any unlicensed copies of the Software or use of the Software beyond the licensed features or capacity restrictions, End User will pay the applicable license fees immediately upon request.

4.2 FlowScape shall give End User reasonable notification before such audit shall take place. Each party shall bear its own costs in connection with preparations for and execution of such audit.

5. INTELLECTUAL PROPERTY RIGHTS

5.1 Ownership of Intellectual Property Rights will be dealt with as follows:

5.1.1 any pre-existing Intellectual Property Rights shall belong to the Party from which such Intellectual Property Rights originate;

5.1.2 the Intellectual Property Rights in any material, including the Products and Software, supplied by FlowScape to the End User in connection with this EULA will be owned by FlowScape or its licensors. The End User 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 End User becomes aware; and

5.1.3 FlowScape has a non-exclusive and limited license to use any Intellectual Property Rights of the End User to the extent required for FlowScape to comply with its obligations under the EULA.

5.2 FlowScape shall indemnify the End User against any loss or damage suffered or incurred by the End User as a result of any claim by a third party that the Products or Software or the authorised use or possession of such by the End User in accordance with this EULA infringes the Intellectual Property of any third party ("**Third Party Claim**").

5.3 In relation to each Third Party Claim:

5.3.1 the End User 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;

5.3.2 the End User must not make any admissions in relation to the claim without obtaining FlowScape's permission first; and

5.3.3 if FlowScape asks the End User to do so, the End User must let FlowScape take over dealing with the claim in full on the End User's behalf.

5.4 The indemnity set out in clause 11.2 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 Partner or 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.

6. LIMITATION OF LIABILITY

6.1 Subject to clauses 13.1 and 13.3, 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 EULA 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 End User through the Partner in the twelve (12) months immediately preceding the most recent event giving rise to liability and if less than 12 months has passed 100% of the sum estimated to be received by FlowScape from the End User through the Partner during a twelve (12) months period.

6.2 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:

6.2.1 loss of business;

- 6.2.2 loss of contracts;
 - 6.2.3 loss of profits; or
 - 6.2.4 any indirect, special or consequential loss.
- 6.3 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.
- 6.4 The limitations of liability set out in this Section 13 shall not apply to Third Party Claims as set out in Section 11, breach of confidentiality as set out in Section 14, or breach by the End User of any license term set out in the EULA.
7. **CONFIDENTIALITY**
- 7.1 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, 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 EULA.
- 7.2 The obligations contained in this clause 14 will not apply to any Confidential Information which:
- 7.2.1 was in the public domain at the time of disclosure, other than through breach of this EULA;
 - 7.2.2 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;
 - 7.2.3 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
 - 7.2.4 is furnished to the recipient without restriction by any third party having a right to do so.
- 7.3 For the purposes of this Section 7, no Confidential Information will be deemed to be in the public domain merely because such information is embraced by more general information.
- 7.4 The End User 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 EULA.
8. **TERMINATION**
- 8.1 Without prejudice to any other rights or remedies, Flowscape may terminate the EULA with immediate effect if End User fails to comply with these Requirements, or any applicable legislation regarding the Software and/or Documentation.
- 8.2 Upon termination or expiry of the EULA all rights granted to the End User, including but not limited to the right to use to the Software, will immediately cease, and the End User shall promptly:
- 8.2.1 return or, if not possible, delete and destroy the Software from the servers or other equipment on which they are operated and all other computer systems and storage media and return to Flowscape any and all material relating to Flowscape's intellectual property rights thereto, and copies of the Documentation, including manuals, signs and all other such material provided hereunder;

8.2.2 deliver to FlowScape all items within the End User's possession or control that contains information relating to the Software, the Documentation or otherwise to the License granted hereunder; and

8.2.3 certify in writing to FlowScape that the End User has complied with the obligations hereunder.

9. GENERAL

9.1 The failure to exercise or delay in exercising a right or remedy under this EULA 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 EULA 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 EULA are cumulative and not exclusive of any rights or remedies provided by law.

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

9.3 Nothing in this EULA 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.

9.4 All notices, agreements and consents under this EULA shall be in writing in the English language. Notices shall be sent to the address the legal entity is registered at. Any notice may be delivered by hand or registered post or confirmed email.

9.5 This EULA 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 EULA, 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.