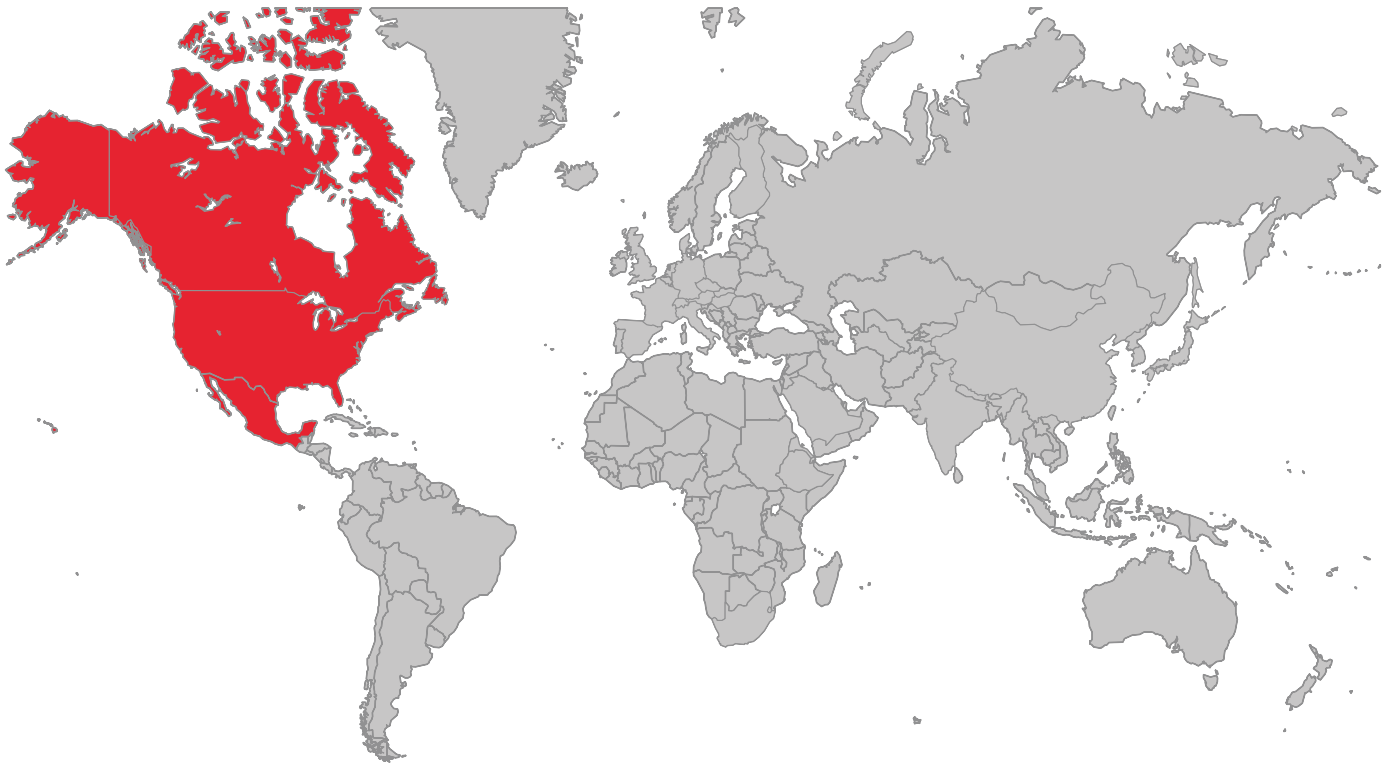


Terms And Conditions
North America: Canada, USA, Mexico



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Software License And Service Terms And Conditions Volume Graphics, Inc.

BY INSTALLING OR USING THE LICENSED SOFTWARE FROM VOLUME GRAPHICS, INC. ("VOLUME GRAPHICS" OR "LICENSOR"), THE INDIVIDUAL WHO IS ACTING ON BEHALF OF HIM/HERSELF ("INDIVIDUAL CUSTOMER") OR THE INDIVIDUAL WHO IS ACTING ON BEHALF OF AN EDUCATIONAL OR NONPROFIT INSTITUTION, GOVERNMENTAL AGENCY, OR OTHER ENTITY ("ENTITY CUSTOMER", THE INDIVIDUAL CUSTOMER AND ENTITY CUSTOMER SHALL ALSO BE COLLECTIVELY REFERRED TO AS "CUSTOMER") IS AGREEING TO BE BOUND BY THIS SOFTWARE LICENSE AGREEMENT ("AGREEMENT").

IF CUSTOMER DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, CUSTOMER MAY NOT INSTALL, COPY, OR USE THE LICENSED SOFTWARE.

THE EFFECTIVE DATE FOR THIS AGREEMENT IS THE DAY THE CUSTOMER INSTALLS THE SOFTWARE.

1. Definitions

Whenever used in this Agreement, any schedules, exhibits, or addenda to this Agreement between Volume Graphics and Customer, the following terms shall have the meanings assigned below. Other capitalized terms used in this Agreement are defined in the context in which they are used.

1.1 "Activation Key" or "Registration Key" means, collectively, the specific serial number, code, and/or authorization for each copy of the Licensed Software issued by Volume Graphics to Customer.

1.2 "Agreement" means this Software License and Services Agreement between Volume Graphics and Customer, inclusive of all schedules, exhibits, attachments, addenda and other documents incorporated by reference.

1.3 "Authorized User", notwithstanding any attached schedules, means: (a) Customer, including its employees, authorized agents and representatives.

1.4. "Floating License" has the same meaning as "Network License" below

1.5 "Global Floating License" means a license intended for use on different computers which may be part of any TCP/ IP network. The number of licenses purchased determines the number of concurrent seats of the software; the number of concurrent instances per license may vary depending on what Software and what additional modules the Licensee has purchased. Multiple instances must only be used by the same user, not different ones.

1.6 "Node Locked License" means software that is intended to be used on only one (1) computer per license purchased.

1.7 "Network License" or "Floating License" (applicable only for VGSTUDIO MAX) means software that is intended to be used in a local area network or other network, by a certain number of concurrent users.

1.8 "Evaluation License" refers to a Node Locked License that is for use on one specific PC only, and only for evaluation purposes to provide a potential customer with a basis to determine whether the software fits his/her needs. Any other use, propagation, publication of materials or other information (including but not limited to pictures, images, animation, measurement results, etc.) generated through or obtained by an evaluation license is prohibited.

1.9 "Dongle License" means a license provided by the Licensor in conjunction with one (1) dongle, which permits Customer to install and use of the software on any computer.

1.10 "Confidential Information" means any information that a disclosing party treats in a confidential manner and that is marked "Confidential Information" prior to disclosure to the other party. Confidential information does not include information which: (a) is already public or becomes public through no breach of the confidentiality obligations herein; (b) is disclosed by

the party that has received Confidential Information (the "Receiving Party") with the prior written approval of the other party; (c) was known by the Receiving Party at the time of disclosure; (d) was developed independently by the Receiving Party without use of the Confidential Information; (e) becomes known to the Receiving Party from a source other than the disclosing party through lawful means; (f) is disclosed by the disclosing party to others without confidentiality obligations; or (g) is required by law to be disclosed.

1.11 "Documentation" means, collectively: (a) all materials published or otherwise made available to Customer by Volume Graphics that relate to the functional, operational and/or performance capabilities of the Software; (b) all user, operator, system administration, technical, support and other manuals and all other materials published or otherwise made available by Volume Graphics that describe the functional, operational and/or performance capabilities of the Software; (c) any Requests for Information and/or Responses for Proposals (or documents to similar effect) issued by Customer, and the responses thereto from Volume Graphics, and any document which purports to update or revise any of the foregoing; and (d) the results of any Volume Graphics' presentation or concept demonstration or similar type presentation or tests provided by Volume Graphics to Customer.

1.12 "Enhancements" means any improvements, modifications, upgrades, updates, fixes, revisions and/or expansions to the Software that Volume Graphics may develop or acquire and incorporate into its standard Version of the Software or which Volume Graphics has elected to make generally available to its Customers who are on a support and/or maintenance plan. Enhancements shall include any re-platformed Software, whether for different operating systems or hardware.

1.13 "Intellectual Property Rights" includes without limitation all right, title and interest in and to all (a) Patent and all filed, pending, or potential applications for Patent, including any reissue, reexamination, division, continuation, or continuation-in-part applications throughout the world now or hereafter filed; (b) trade secret rights and equivalent rights arising under the common law, state law, federal law, and laws of foreign countries; (c) copyrights, other literary property or authors rights, whether or not protected by copyright or as mask work, under common law, state law, federal law, and laws of foreign countries; and (d) proprietary indicia, trademarks, trade names, symbols, logos, and/or brand names under common law, state law, federal law, and laws of foreign countries.

1.14 "Installation" means the combination of a single CT scanner and any further hardware (e.g.: workstation)

1.15 "Personnel Contact" means the individual who shall serve as each party's point of contact with the other party's personnel as provided in this Agreement.

1.16 "Software" means Volume Graphics' computer programs, licensed to Customer pursuant to this Agreement, that provide the functionality and/or produce the results described in the Documentation, including without limitation all Enhancements thereto, all interfaces, and all Third Party Software, including open source software, but not including any additional products, such as the so-called FlexNet (see 4.1 below) and the so-called VG Vendor Daemon.

1.17 "Source Code" means computer Software in the form of source statements for the Software, including without limitation, all Software in the form of electronic and printed human-readable, mnemonic or English-like program listings.

1.18 "Support and Maintenance Services" means the technical support, error correction services and support, and Enhancements (if purchased or agreed to by Customer) and provided by Volume Graphics to Customer in order to use, maintain and enhance the Software provided by Volume Graphics to Customer.

1.19 "Third Party" means any persons, corporations and entities other than Volume Graphics, Customer or any of their employees, contractors or agents.

1.20 "Third Party Software" means any Software provided by Volume Graphics to Customer that Volume Graphics licensed from a Third Party and is to be delivered by Volume Graphics to Customer in connection with the Software.

1.21 "Update" means a revision to the Licensed Software or patch that improves the functionality of the Licensed Software, and may contain new features or enhancements, which is not an Upgrade.

1.22 "Upgrade" means a subsequent version of the Licensed Software that Volume Graphics designates as a new release and makes generally commercially available or a different flavor and the Licensed Software that Volume Graphics makes generally commercially available.

1.23 "Volume Graphics Website" means www.volumegraphics.com.

2. Scope of Agreement

2.1 The Software and/or Support and Maintenance Services included under this Agreement are as follows: VGSTUDIO, VGSTUDIO MAX, VGinLINE, VGMETROLOGY, VGMETROLOGY ES, and VGRECO including supplied hardware Dongles.

2.2 In addition, other support and maintenance services under this Agreement include:

2.2.1. Software and Product Upgrades (when available during valid Agreement period (i) Enhancements, whether they are minor or major release upgrades, which may be available during a Customer's valid service Agreement shall be available free of any additional charge and may be downloaded through the web account.

2.2.2. Software and Product snapshots (when available during valid Agreement period)

2.2.3. Priority bug-fix support for Software. (i) Short term bug-fix support is available. Any bugs reported by those users with a valid service Agreement will be processed with high priority by Volume Graphics. Once a bug-fix becomes available, Volume Graphics will notify valid service Agreement users and provide the bug-fix via download through the web account.

2.2.4. Priority Product and Software support

2.3 A Customer with a valid service Agreement will receive an individual password-protected account on Volume Graphics' server. Customer will be able to access its account through Volume Graphics' website: www.volumegraphics.com.

3. Terms of Update and Service Agreement; Renewal and Cancellation

3.1 If a Support and Maintenance Service Plan has been (a) included as a part of Customer's bundled software package, or (b) purchased separately by Customer, then the Support and Maintenance Services shall be provided by Volume Graphics to Customer for an one (1) year term (the "Initial Support Term") commencing on the "Support and Maintenance Services Commencement Date" (as hereafter defined). The Support and Maintenance Term will not automatically renew upon expiration.

3.2 The aforementioned Support and Maintenance Term shall be renewable for successive one (1) year terms ("Extension Terms", and collectively with the Support and Maintenance Term, the "Support Term") upon written notice from Customer to Volume Graphics within 30 days of the Support Term's expiration date.

3.3 If Customer does not renew the Support Term within 30 days of the expiration date, he/she will lose all services upon the end of the 30 days. If a new product release or other Enhancement becomes available after the Agreement has expired, Customer must purchase a regular upgrade for said product release or Enhancement before becoming eligible to purchase a new Agreement for further Support and Maintenance Services. If Customer purchases an Upgrade, the term of the Agreement shall be the specific term set forth in the new License and Activation Key issued for the Upgrade.

3.4 Grant of License shall be unaffected by subsequent Support and Maintenance Services renewals, cancellations, or order documents.

3.5 Customer may, in its sole discretion, discontinue Support and Maintenance Services on any Software and/or product with no effect on other Support and Maintenance Services, or other Software and/or products.

4. Grant of License and Activation Key; Restrictions

4.1 Volume Graphics shall issue Customer a License and Activation Key via email, fax, postal mail, or courier (e.g., FedEx, UPS, US Mail) that sets forth the specific Licensed Software, the specific number of Concurrent Authorized Users for Entity Customers, and the Activation Key associated with the Licensed Software (the License and Activation Key). The License and Activation Key is hereby incorporated by reference into this Agreement. Certain of the licenses in Section 4 permit use by Authorized Users of Entity Customer and the Entity Customer is responsible for compliance of all such Authorized Users with the Agreement and shall be liable for the breach of the terms of this Agreement by such Authorized Users. Volume Graphics grants to Customer a non-exclusive, non-assignable, non-transferable right and license for Customer and its Authorized Users to use the Software and Documentation to conduct Customer business at any and all locations where Customer business may be conducted, and subject to the following conditions listed in this section.

4.2 Volume Graphics shall issue to Customer a License and Activation Key for each copy of the Licensed Software. Customer is entirely responsible for any and all activities that occur under Customer's account and all charges incurred from use of the copy of the Licensed Software assigned by serial number to Customer (e.g., maintenance, support, or license or subscription fee charges). The Licensed Software shall be deemed accepted upon delivery of the Activation Key to Customer by Volume Graphics or an Authorized Reseller. Notwithstanding the type of Software or the licensing model, no Licensee is permitted to use a Evaluation License of the Software installed on a computer by any kind of remote connection (e.g.: VPN).

Any such misuse of the Software will elicit:

- > immediate expiration of all ongoing license agreements with the Customer; no separate termination notification from Volume Graphics is required;
- > a contractual penalty of USD 50,000 for each case of non-compliance, payable by Customer upon first request of Volume Graphics.

4.3 With regard to Node Locked Licenses: with the purchase of a Node Locked License, the Customer acquires the right to install and use the Software on only one (1) computer per license purchased. After installation of the Software, a special License File is generated as a part of the licensing process, allowing Software to be used on that specific computer. Pursuant to the terms and conditions of this Agreement, Customer is entitled to allow any Authorized User or other individuals to use the Software on the computer for which a License File has been properly generated.

4.4 With regard to Network Licenses or Floating Licenses (applicable to VGSTUDIO MAX only): in order for a certain number of concurrent (Authorized) Users to use the Software in a Local Area Network or other network, a Floating License is required for each user. Multiple instances must only be used by the same user, not different ones. All seats hosted by one license server must have the same add-on module configuration. Customer will receive VGSTUDIO MAX, VGMETROLOGY or VGMETROLOGY ES for all supported operating systems, allowing him to use a single floating license in a heterogeneous LAN.

4.4.a. With regard to Global Floating Licenses: Use of Global Floating Licenses requires the Flexera FlexNet Licensing Server (the "FlexNet") which is part of the installer package that Customer may download after purchase of the Software. Customer also needs to download a so-called VG Vendor Daemon, which together with the FlexNet will permit the import of the licenses. Use of Global Floating Licenses without download of the FlexNet and installation of the VG Vendor Daemon will not be possible.

4.5 With regard to Evaluation Licenses: Absent a separate written and mutually-accepted agreement to the contrary, all Evaluation Licenses are valid for a maximum of thirty (30) days and are not renewable. The Software product installed for evaluation purposes must be uninstalled and/or otherwise removed from the PC or any data carrier once the granted Evaluation License has expired, but in any case no later than three (3) months after the initial installation of the Software product. Evaluation Licenses are only for evaluation purposes to provide a potential customer with a basis to determine whether the software fits his/her needs. Any other use, propagation, publication of materials or other information (including but not limited to pictures, images, animation, measurement results, etc.) generated through or obtained by an Evaluation License is prohibited.

4.6 With regard to Dongle Licenses: with the purchase of a Dongle License (in connection with one (1) Dongle provided to Customer by Volume Graphics), the Customer acquires the right to use and install the Software on any computer. After installation of the Software, a special License File is generated as a part of the licensing process, allowing Software to be used

on any computer together with the Dongle and in conjunction with a valid license for said Dongle. Pursuant to the terms and conditions of this Agreement, Customer is entitled to allow any Authorized User or other individuals to use the Software with the provided Dongle (for which a License File has been properly generated). Any duplication efforts to or technical modifications of the Dongle(s) are strictly prohibited.

4.7 The loss and/or theft of a hardware Dongle following issuance of a license file that has been coded onto the Dongle will be regarded by Volume Graphics as grounds for termination of all usage rights mentioned in this Agreement. However, Customer has the option to purchase a separate "Dongle License Protection" plan to protect Customer from loss and/or theft of a coded Dongle provided that all of the following have been met:

4.7.1 The Customer has purchased a VGSTUDIO Dongle License, a VGSTUDIO MAX Dongle License, versions 2.2 or later, a VGinLINE Dongle License, a VGMETROLOGY Dongle License, a VGMETROLOGY ES Dongle License or a VGRECO Dongle License (regardless of whether it was an initial or subsequent purchase, reorder, or an upgrade);

4.7.2 The Customer has opted to purchase "Dongle License Protection" through an Update/Service Agreement or through a separate order;

4.7.3 With regard to dongles obtained prior to Customer's subsequent purchase of Dongle License Protection, said dongles will not be automatically covered by a subsequently-purchased Dongle License Protection plan. If Customer so chooses, Customer may return said dongles (not already covered by a Dongle License Protection plan) back to Volume Graphics, and exchange them for replacement dongles which can be covered under the Dongle License Protection plan; and

4.7.4. The Customer has paid all license fees due for the Software and Dongle License, "Dongle License Protection," and (if applicable) all fees due for any Update/Service Agreement (whether purchased with the affected license or separately).

Once all applicable conditions of Section 4.7.1–4.7.4 above have been satisfied, the Customer shall receive from Volume Graphics a replacement hardware Dongle and a temporary license file with a scheduled validity of twelve (12) months. In order to receive a new license file (with a subsequent twelve (12) month-runtime), Customer must provide notice to Volume Graphics no later than thirty (30) days prior to the expiration of the scheduled runtime to purchase an extension of "Dongle License Protection."

4.8 In the event of the theft or loss of a Dongle, those Customers who have purchased "Dongle License Protection" may purchase a replacement Dongle (with a new license file) at the rate of Two Percent (2 %) of the gross list price, multiplied by the number of remaining months of validity. For example, if Customer reports a lost or stolen dongle in Month 7 (with 6 full months of validity remaining out of the original 12 months), then Customer may purchase a replacement dongle at a cost of 2 % of the gross list price multiplied by 6 remaining months of validity (2 % times 6 months means the replacement purchase price is 12 % of the gross list price): In the event of multiple claims of loss or theft under a "Dongle License Protection" plan, Volume Graphics reserves the right to demand reasonable evidence in support of a claim of loss or theft from Customer before agreeing to provide any further replacement Dongle(s) and/or new license file(s).

4.9 VGinLINE: The product version of VGinLINE is only available as a Dongle License. Dongle licenses issued for VGinLINE are only valid for a single Installation which the Licensee has to specify in an initial request before placing an order. A VGinLINE setup, at a minimum, comprises of a VGinLINE Controller (an editor tool and controller) and one VGinLINE Worker (software program). Additional components include VGinLINE Workspace (an internal network directory) and VGinLINE Viewer (display tool). It is necessary to purchase a VGinLINE Worker for each work station used together with VGinLINE. Any transfer of a VGinLINE dongle license from one VGinLINE Installation to another is strictly prohibited, and may result in the voiding of any applicable warranties. Pricing quotes for VGinLINE are dependent upon the details and necessary requirements of each operation and therefore may vary, regardless of Licensee's prior purchases and/or previous receipt of other hardware dongle licenses from Licensor. Licensor is entitled to inspect—after giving prior notice and during normal working hours—Licensee's premises if there is legitimate interest on Licensor's behalf, especially in case Licensor intends to verify whether Licensee uses the Software in an Installation and if this Installation is still identical with the one in the quote.

4.10 License File. The License File is valid solely for the computer or hardware Dongle for which it has been generated or for the network server for which it has been generated. Any transfer onto another computer(s) and/or hardware Dongle(s) and/or network(s) is not possible and not permitted.

5. Fees and Payment Terms

5.1 Customer licenses the Licensed Software from Volume Graphics. This Agreement is between Customer and Volume Graphics solely. The applicable License Fee is specified on the Volume Graphics website or in the specific price proposal provided by Volume Graphics or an authorized Reseller. The payment terms and conditions for the License Fee payable to Volume Graphics are specified on the Volume Graphics invoice or in the specific price proposal provided by Volume Graphics. The payment terms and conditions for the License Fee payable to an Authorized Reseller are as specified by the specific Authorized Reseller. All fees paid to Volume Graphics are non-refundable except as explicitly permitted from time to time on Volume Graphics' website. Volume Graphics may terminate this Agreement and invalidate Customer's Activation Key if the billing or contact information is false, fraudulent, or invalid. Customer will pay all taxes, including sales, use, personal property, value-added, excise, customs fees, import duties, stamp duties, and any other similar taxes and duties, including penalties and interest, imposed by any United States federal, state, provincial, or local governmental entity or any non-U.S. Government entity on the transactions contemplated by this Agreement, excluding taxes based upon Volume Graphics' net income.

5.2 Additional Concurrent Authorized Users Fee. During the license period, Customer shall pay to Volume Graphics or the specific Authorized Reseller the then-current rate for any licenses for additional Concurrent Authorized Users. This fee shall be charged or invoiced to Customer on the date such additional Concurrent Authorized Users are added to the Customer's Account.

5.3 Concurrent Authorized User Accounting. Customer shall maintain business practices and records necessary to manage the number of Concurrent Authorized Users and compliance with the terms of this Agreement. Volume Graphics has the right to request usage reports during the License Period and Customer will provide such a report within 30 days of request. If Volume Graphics determines that Customer has more Concurrent Authorized Users than Customer has paid for, Customer shall immediately pay Volume Graphics the applicable additional fees.

5.4 In consideration of the Support and Maintenance Services, Customer agrees at its option to pay Volume Graphics annual fees (the "Support and Maintenance Services Fees") as defined in the current price list. During the Extension Term, Customer shall at its option pay Volume Graphics annual Support and Maintenance Services Fees (on the annual anniversaries of the Support Commencement Date).

5.5 If Customer opts to renew the Support and Maintenance Services, Customer shall pay Volume Graphics annual renewal fees based upon Volume Graphics' then-current rates for renewal.

5.6 Standard delivery is available to the Customer via internet download at no additional cost. Delivery via CD-ROM is subject to an additional charge. Invoices for payment will be sent via regular mail or via email as a PDF. Credit card or charge card payments will not be permitted.

NOTE: Web Invoicing and similar special procedures are subject to a surcharge of USD 1,075 in addition to the net invoice amount, plus Value Added Tax (VAT) when applicable.

6. Title and Ownership

6.1 With this Licensing Agreement, Customer acquires the right to use the Software but does not acquire any right of ownership or any other rights to the Software itself. Customer acknowledges that Volume Graphics holds all right, title and interest in any copyrights, patents, trade secrets and any other Intellectual Property Rights in the Software. Nothing in this Agreement shall be construed to convey any title or ownership rights in the Software to Customer.

6.2 All data created and/or processed by the Software is and shall remain the property of Customer and shall in no way become attached to the Software, nor shall Volume Graphics have any rights in or to the data of Customer.

6.3 Any documents, forms, compilations and/or spreadsheets that are generated from the utilization of the functionality of the Software are not the intellectual property of Volume Graphics, and can be used by Customer in its ordinary course of business, including but not limited to Customer sharing such documents with Third Parties.

6.4 Customer must currently have a valid license in order to use any upgraded or updated subsequent versions to the Software. All upgrades and updates are provided to the Customer on a license-exchange basis. Customer agrees that its use of an upgraded or updated-version will result in Customer's waiver of the right to use any previous version of the Software.

7. General Restrictions

7.1 Customer understands and agrees that, except as permitted by this Agreement, it may not: (a) sell, assign, lease, license, sub-license or otherwise distribute the Software or Documentation; (b) copy, reproduce, or distribute the Software (whether in whole or in part); (c) use the Software for the purposes of providing commercial data processing services to Third Parties, such as commercial use in a service bureau, timesharing, remote batch, or other similar commercial operation; (d) create or attempt to create, or permit others to create or attempt to create, by reverse engineering or other process, the Software; and (e) export, re-export, divert or transfer the Software or Documentation to any country that is embargoed by U.S. Executive Order.

7.2 Customer further understands and agrees that, except as permitted by this Agreement, it may not attempt to ascertain the Source Code of the Software. Neither the Software nor its Documentation may be altered in any way, including without limitation, being extended, changed for use on other systems, or translated into other languages, unless said alteration is expressly permitted by applicable law. Customer may not create derivative works of the Software.

7.3 Customer agrees to use the Software in accordance with all applicable laws and regulations.

7.4 Customer agrees to provide true, accurate, up-to-date and complete information about himself/herself as required by Volume Graphics (information also referred to as "Registration Data"). Volume Graphics is entitled to use and disclose the information contained in the Registration Data as necessary to comply with applicable laws, legal requirements, or to otherwise fulfill its obligations under this Agreement. Customer further agrees that Volume Graphics or its agent may use the Registration Data to provide Customer with information regarding updates and new releases of the Software.

7.5 All Enhancements shall become part of the Software and subject to all terms and provisions of this Agreement. THE VOLUME GRAPHICS ENHANCEMENTS ARE PROVIDED TO CUSTOMER ON AN "AS IS" AND "WHERE IS" BASIS AND WITHOUT WARRANTY OF ANY TYPE OR KIND. VOLUME GRAPHICS EXPRESSLY DISCLAIMS AND EXCLUDES ALL WARRANTIES AND CONDITIONS, WHETHER STATUTORY, EXPRESS, IMPLIED OR OTHERWISE, WITH RESPECT TO THE VOLUME GRAPHICS ENHANCEMENTS, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

7.6 Title to all Enhancements shall remain with Volume Graphics.

7.7 Except as otherwise provided in a signed addendum to this Agreement, nothing herein shall obligate Volume Graphics to enhance the Software in any particular respect or on any particular date. The decision as to whether and/or when, to enhance the Software will be within Volume Graphics' discretion.

8. Confidentiality.

Customer and Volume Graphics agree to maintain the confidentiality of any confidential or proprietary information of one party (the "disclosing party") received by the other party (the "receiving party") during the term of, or prior to entering into, this Agreement that the receiving party should know is considered confidential or proprietary by the disclosing party based on the circumstances surrounding the disclosure, including, without limitation, non-public technical and business information ("Confidential Information"). The Licensed Software is copyrighted and shall be deemed Volume Graphics' Confidential Information. The Documentation is copyrighted material of Volume Graphics. This section shall not apply to any information that is or becomes publicly available through no breach of this Agreement by the receiving party or is independently developed by the receiving party without access to or use of the Confidential Information of the disclosing party. The foregoing confidentiality obligations will not restrict either party from disclosing Confidential Information of the other party pursuant to an order or requirement of a court, administrative agency, or other governmental body, provided that the party required to make such a disclosure gives reasonable notice to the other party to enable the other party to seek a protective order or otherwise limit such disclosure. The receiving party of any Confidential Information of the disclosing party agrees not to use the disclos-

ing party's Confidential Information for any purpose except as necessary to fulfill its obligations and exercise its rights under this Agreement. The receiving party shall protect the secrecy of and avoid disclosure and unauthorized use of the disclosing party's Confidential Information with no less than reasonable care. All the disclosing party's information remains the property of the disclosing party.

9. Warranties, Representations and Covenants.

9.1 Software Warranty. Volume Graphics represents and warrants that the Software provided under this Agreement shall function substantially in accordance with the Documentation and produce results substantially in accordance with the Documentation. Volume Graphics' obligation for breach of the Software Warranty shall be limited to using its best efforts, at its own expense, to correct or replace that portion of the Software which fails to conform to such warranty. Volume graphics does not grant any kind of warranty in relation to the Flexera Flexnet or the VG Vendor Daemon. However, Volume Graphics assigns to Customer all compensation claims he may have against Flexera Software Ltd., Malvern House, 14-18 Bell Street, Maidenhead, Berkshire SL6 1BR, United Kingdom or any of its affiliated companies in relation to Licensee's purchase of Software. Volume Graphics will assist Customer in every way in order to assert such claims.

9.2 Intellectual Property Warranty. Volume Graphics represents, warrants and agrees that: Volume Graphics has all Intellectual Property Rights necessary to license the Software to Customer in accordance with the terms of this Agreement; Volume Graphics is the sole owner or is a valid Customer of the Software and has secured all necessary licenses, consents, and authorizations with respect to the use of the Software to the full extent contemplated herein, including, but not limited to: all Source Code, text, pictures, audio, video, logos and copy contained therein; the Software does not and shall not infringe upon any patent, copyrights, trademark or other proprietary right or violate any trade secret or other contractual right of any Third Party; and there is currently no actual or threatened suit against Volume Graphics by any Third Party based on an alleged violation of such right. This warranty shall survive the expiration or termination of this Agreement.

9.3 Warranty of Authority. Each party represents and warrants that it has the right to enter into this Agreement. Volume Graphics represents and warrants that it has the unrestricted right to license the Software, and that it has the financial viability to fulfill its obligations under this Agreement. Volume Graphics represents, warrants and agrees that Software shall be free and clear of all liens, claims, encumbrances or demands of Third Parties. Volume Graphics represents and warrants that it has no knowledge of any threatened or pending litigation, dispute or controversy arising from or related to the Software. This warranty shall survive the expiration or termination of this Agreement.

9.4 Compliance with Laws Warranty. Volume Graphics represents and warrants to Customer that it will comply with all applicable laws, including its tax responsibilities, pertaining to this Agreement and its provision of the Software to Customer.

9.5 THE WARRANTIES SET FORTH ABOVE ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO THE SOFTWARE PURSUANT TO THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9.6 The warranties listed in this Section DO NOT apply to any Beta software, any software made available for testing or demonstration purposes, any temporary software modules or any software for which Volume Graphics does not receive a license fee. ALL SUCH SOFTWARE PRODUCTS ARE PROVIDED TO CUSTOMER ON AN "AS IS" AND "WHERE IS" BASIS AND WITHOUT WARRANTY OF ANY TYPE OR KIND. VOLUME GRAPHICS EXPRESSLY DISCLAIMS AND EXCLUDES ALL WARRANTIES AND CONDITIONS, WHETHER STATUTORY, EXPRESS, IMPLIED OR OTHERWISE, WITH RESPECT TO THE VOLUME GRAPHICS ENHANCEMENTS, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

10. Limitation of Liability

10.1 Consequential Damages Waiver. IN NO EVENT SHALL VOLUME GRAPHICS HAVE ANY LIABILITY FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE FORM OF THE ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF THE REPRESENTATIVE OF VOLUME GRAPHICS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF THIS AGREEMENT OR ANY LIMITED REMEDY HEREUNDER.

10.2 Limitation of Liability. IN NO EVENT SHALL VOLUME GRAPHICS' LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED: (I) IF THE LICENSED SOFTWARE IS LICENSED FROM VOLUME GRAPHICS DIRECTLY, THE LICENSE FEE PAID BY CUSTOMER TO VOLUME GRAPHICS FOR THE LICENSED SOFTWARE, OR (II) IF THE LICENSED SOFTWARE IS LICENSED THROUGH AN AUTHORIZED RESELLER, AS APPLICABLE.

10.3 Limitation of Remedies. THE PARTIES AGREE THAT THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF THIS AGREEMENT OR ANY LIMITED REMEDY HEREUNDER.

11. Beta Versions or Pre-Releases

11.1 For certain valuable customers within specific development projects, or prior to new product releases, Volume Graphics may provide one or more Beta version(s) or Pre-Releases for testing purposes. Customer is not automatically entitled to receive a provision for Beta version(s) or Pre-Releases.

11.2 Beta versions or Pre-Releases are preliminary software versions of the upcoming release. Beta versions are already tested, however the development and quality assurances have not been finalized and the documentation is not updated. Beta versions and Pre-Releases are testing versions for which Volume Graphics provides no warranties or assurances with respect to the content. Any functionality that may be available in Pre-Release phase and/or otherwise documented in accompanying files might not be available in the final product's release.

11.3 Customer acknowledges and agrees that by downloading a Beta version or Pre-Release, Customer automatically forfeits any and all claims of warranties and/or assurances by Volume Graphics, and waives all claims for any and all damages in conjunction with the use or download of the Beta version or Pre-Release.

11.4 The parties acknowledge that Beta versions or Pre-Releases are strictly intended for testing purposes only and may not be used for production or commercial purposes. The parties further acknowledge that Beta versions and/or Pre-Releases are provided by Volume Graphics "AS IS" and without any warranty whatsoever.

11.5 Customer is not permitted to transmit, disseminate, transfer, convey, sell, loan, or otherwise pass on Beta versions or Pre-Releases to any Third Party.

11.6 In the event Customer receives a Beta version or Pre-Release, Customer agrees to take reasonable efforts to back up and preserve all of its data prior to using the Beta version or Pre-Release.

12. Termination

12.1 Term. Except for Customers with a fixed-term License Period, this Agreement shall commence on the Effective Date and shall continue in effect until terminated as set forth below. If the License Period is for a fixed term, this Agreement will commence on the Effective Date and shall continue in effect until the earlier of the expiration of the License Period or the termination of this Agreement as set forth below. In the case of additional Concurrent Authorized Users who are authorized and added after the initial License Fee payment, the term of their usage of the Licensed Software shall be coterminous with the preexisting then-current term. If Customer purchases an Upgrade, the term of the Agreement shall be the specific term set forth in the new License and Activation Key issued for Upgrade.

12.2 Termination. Customer may terminate this Agreement at any time upon thirty (30) days' prior written notice to Volume Graphics. Volume Graphics may terminate this Agreement immediately without notice if Customer breaches any term of this Agreement, including, without limitation, breaching the scope of the license granted or confidentiality obligations under this Agreement.

12.3 Effect of Expiration or Termination. Upon expiration or termination of this License Agreement, (i) the rights and licenses granted to Customer pursuant to this Agreement shall automatically and immediately terminate and (ii) Customer shall immediately cease using the Licensed Software. In addition, for a fixed-term License Period, upon expiration of the License Period, the Activation Key will expire and the Licensed Software will cease to function. Furthermore, if Volume Graphics so requests, Customer will delete or destroy any copies of the Software under Customer's control, including, without limitation,

any License File. The remedies of this clause are without prejudice to any other rights or remedies which are available to Volume Graphics.

12.4 Any terms of this Agreement which by their nature extend beyond its termination remain in effect until fulfilled, and apply to respective successors and assignees.

13. Software Training

In addition to these Terms and Conditions, the followings terms shall apply to Licensor's Software Training Courses and Workshops:

Customer is responsible for full and timely payment of fees for its Participant(s) attendance at Training Courses and/or Workshops. For purposes of this section, payment shall be deemed as timely only when the payment has been received by Licensor no later than four (4) weeks prior to the Start Date of the purchased Training Course and/or Workshop. Consequences of late payments are as follows:

(i) if Customer provides more than 4 weeks advance notice of cancellation: 100 % of fee is refundable; (ii) if Customer provides 2 to 4 weeks advance notice of cancellation: 50 % of fee is refundable; (iii) if Customer provides less than 2 weeks notice of cancellation: No refund is available. Licensor reserves the right to exclude any Customer Participant from a Training Course and/or Workshop as a result of late payment. In the event Licensor exercises this right due to late payment, Customer's obligation to remit payment in full remains in effect and is not waived or excused. In the event Customer cancels due to a rescheduling need, Licensor shall attempt to reschedule the Training Course and/or Workshop at a mutually acceptable date; however, in the event the attendance for the rescheduled Training Course and/or Workshop falls below 4 participants, Customer is subject to the applicable cancellation fee noted in subsections (i)-(iii) herein. Notwithstanding the foregoing, should Licensor mitigate these damages within a reasonable time, including, but not limited to, finding alternate attendees for the scheduled Training Course and/or Workshop, then Customer shall only be liable for the remaining difference in damages caused as a result of cancellation or rescheduling. For Training Courses and/or Workshops to be held at Customer's premises, Licensor shall attempt to keep all travel and accommodation costs to a reasonable minimum, which may include, but is not limited to, early booking of travel tickets and/or lodging. In addition, Customer is responsible for payment of any third party cancellation fees or penalties arising from Customer's cancellation and/or rescheduling of any Training Courses and/or Workshops.

14. General

Except as expressly provided herein, Customer may not assign or transfer any of its rights under this Agreement (including its licenses with respect to the Licensed Software and Documentation) without the prior written consent of Volume Graphics. This Agreement shall be solely governed by, and construed in accordance with, the laws of the State of North Carolina, excluding its conflicts of laws provisions. Any dispute, claims, demands or actions arising out of or in relation to this Agreement, or the interpretation, making, performance, breach or termination thereof shall be brought in and resolved by the Superior Court of Mecklenburg County, in Charlotte, North Carolina or in the Federal District Court that has jurisdiction over Charlotte, North Carolina, and the Customer and Volume Graphics agree to submit to the personal and exclusive jurisdiction of the courts located in Mecklenburg County, North Carolina. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter, nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself. If any provision of this Agreement is found void and unenforceable, it will be replaced to the extent possible by Volume Graphics with a provision that comes closest to the meaning of the original provision. This Agreement and the documents referenced in this Agreement constitute the entire agreement between Customer and Volume Graphics relating to its subject matter and all terms herein and supersede all prior or contemporaneous agreements or understandings. This Agreement may be modified or changed only in writing signed by authorized representatives of Customer and Volume Graphics. Notices hereunder shall be in writing and addressed to Customer at the address provided when purchasing this license or, in the case of Volume Graphics, when addressed to Volume Graphics, Inc., 415 Minuet Lane, Suite C, Charlotte, North Carolina 28217, USA.