

**CORTONA3D
END-USER LICENSE AGREEMENT**

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‘**License Term**’ means the time period during which the license shall be in effect as specified in the applicable Licensing Information.

‘**Maintenance Services**’ means the services and policies as outlined in Exhibit 1 hereto.

‘**New Release**’ means any improved, modified, updated or corrected version of the Software from time to time issued by the Licensor at its sole discretion.

‘**Major Version Release**’ of the Software is a New Release where the version number to the left of the decimal has changed.

2. License

2.1 In consideration of the payment by the Licensee of an applicable license fee and of the further covenants herein undertaken by the Licensee, the Licensor hereby grants the Licensee the personal, non-exclusive, non-transferable rights to use the Software during applicable License Term for Licensee’s own purposes only, and not those of any third party. The Licensee may access the Software and query, display and manipulate the data contained therein.

Depending on the license type indicated in the Licensing information the following provisions shall apply to the Software use:

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2.4 The Software Documentation contain confidential information of the Licensor and all copyright,

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- 2.6 The Licensor will not be bound by any term, condition or other provision proffered by the Licensee which is different from or in addition to the provisions of this Agreement unless the Licensor agrees to such provisions in writing.
- 2.7 No amendment, modification or waiver of any of the provisions of this Agreement shall be valid unless set out in writing and signed by each party.
- 2.8 If any provision of this Agreement shall be found by any court or administrative body of any competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect.
- 2.9 The Licensee shall not be entitled to assign or otherwise transfer this Agreement or any of its rights or obligations hereunder, without the prior written consent of the Licensor.
- 2.10 This Agreement shall be binding upon and inure to the benefit of any successor of the Licensee who, whether by merger, purchase, or otherwise acquires all or substantially all of the assets or business of Licensee. The Agreement may not otherwise be assigned, sublicensed, or transferred by Licensee without the written consent of the Licensor.
- 2.11 By accepting the terms of this Agreement, the Licensee hereby grants the Licensor the right to list its company name and associated logo within a customer list for marketing purposes.

3. Term and Termination

- 3.1 The Licensor may terminate this Agreement if the Licensee breaches any of the terms of this Agreement and fail to remedy such a breach within fifteen (15) days of receipt of written notice from the Licensor. Upon such termination the Licensee shall destroy the Software, and the Documentation and any back-up or archival copy of the Software and shall provide written certification of such destruction to the Licensor.
- 3.2 The Licensee may terminate this Agreement at any time by destroying the Software, the Documentation and any back-up or archival copy of the Software and notifying the Licensor in writing of such destruction.
- 3.3 All provisions of this Agreement which in order to give effect to their meaning need to survive its termination shall remain in full force and effect thereafter.
- 3.4 The initial Term of the Maintenance Services will be for a mandatory period of 1 year from the date of Software purchase. Thereafter, there are automatic successive 1 year renewal periods unless Licensee gives written notice of intent not to renew 90 days prior to the next annual anniversary date of the Software purchase. If Licensee wishes to re activate lapsed Maintenance Services, Maintenance Fees for the lapsed period will be due.

4. Maintenance Services

- 4.1 The Licensor provides the Maintenance Services for the Software as described in Exhibit 1 hereto.

5. Warranties

- 5.1 The Licensor warrants that its title to and property in the Software and the Documentation is free and unencumbered and that it has the right, power and authority to license the same upon the terms and conditions of this Agreement.

6. Consequential Damages

- 6.1 In no event shall the Licensor be liable for any indirect, incidental, special or consequential damages (including without limitation any loss of data or business interruption) arising out of the performance or failure of the Software even if such damages were reasonably foreseeable or the Licensor had been advised of the possibility of such damages.

7. Liability

- 7.1 The Licensor does not warrant that the Software and/or the Documentation will meet the Licensee's requirements or that the operation of the Software will be uninterrupted or error free.
- 7.2 Except as expressly provided herein, all conditions and warranties (express or implied, statutory or otherwise) are excluded by the Licensor, including without limitation any warranties implied by the Sale of Goods Act 1893 as amended by the Sale of Goods and Supply of Services Act 1980 or by Section 39 of the said 1980 Act.

8. Governing Law

- 8.1 This Agreement will be governed and construed in accordance with the laws of Ireland.

Exhibit 1 - Maintenance Policies

This Exhibit sets out the terms and conditions under which the Licensor provides Maintenance Services to Licensee for the Software.

1. Definitions

'Error' means a situation in which the Software does not substantially conform to functions as described in the Software documentation when using the Software in accordance with the documentation, for common applications of the Software, and under supported hardware and network configurations.

'Workaround' means a change in the procedures followed by the Licensee to avoid an Error without substantially impairing the use of the Software.

2. Maintenance Services

- 2.1 Maintenance Services for the Software are provided assuming: (i) that the Software is operated in accordance with all instructions supplied and has not been customized, (ii) Employment of sufficiently trained staff to manage and support the Software as recommended, (iii) Notification in writing of any Error within 10 days of the appearance thereof in sufficient detail to enable reproduction of the Error, and (iv) Prompt and proper installation of all New Releases or other corrections made available.
- 2.2 Maintenance Services do not include remote or on-site implementation; custom development of software; technical support for customized software; database administration; system, network or network security configuration; software customization; programming assistance; any support or services with respect to beta or trial versions of the Software; or training. Maintenance Services, including Version Releases, will not be provided retroactively for any period during which the Maintenance Fee has not been paid.
- 2.3 During normal business hours, GMT, Maintenance Support consists of: (i) telephone (+353 1 214 3380) and e-mail support (support@cortona3d.com) to provide a reasonable level of guidance respecting the use of the Software; and (ii) responding to reports of Errors in the Software and determining if the reported Error is a result of a problem in the Software or an environmental, configuration, installation or other problem not included under Maintenance Services.
- 2.4 Maintenance Services also consists of: (i) Providing New Releases for the Software that are generally available to other licensees and do not market as independent products or new modules; and (ii) using commercially reasonable efforts during normal business hours to correct Errors as diagnosed by Licensor in supported Software by providing the repair or replacement of object or executable code versions of the Software, or a Workaround for the Software.

3. Embedded Components

- 3.1 The Software has embedded or bundled components, and may be linked with data, text, graphical content or software that are owned by or licensed from third parties (the "Embedded Components"). As per the End-User License Agreement for the Software, to the extent that any such Embedded Components are provided under third party license agreements, then such Embedded Components are provided under the terms and conditions of the third party license agreements. We are not responsible for Maintenance Services for Embedded Components or any other third party software.

4. Error Classification

- 4.1 The Errors are classified as follows:
Error Severity Level Classification
 1. Fatal: Errors preventing all useful work from being done.
 2. Severe Impact: Errors which disable major functions from being performed.
 3. Degraded Operations: Errors disabling only certain non-essential functions, and all other Errors.
- 4.2 The typical remedies for each Error Severity Level Classification at each level specified above are:

1. First Level: Acknowledgment of receipt of Error report with written confirmation delivered by email.
 2. Second Level: Temporary Error fix, Workaround, or New Release.
 3. Third Level: Permanent Error fix. New Release, including applicable Documentation changes.
- 4.3 Licensor will respond to reported Errors, in particular Severity Level 1 and 2 errors in an expeditious manner and will use best efforts to address these reported errors.

5. Errors Not Caused by the Software

- 5.1 If Licensor reasonably believes that a problem reported may not be due to an Error in the Software, Licensor will notify Licensee and shall not proceed further unless Licensee provides written instruction to do so. If upon subsequent resolution of the problem it is determined that the problem is not a result of an Error in the Software, Licensee will pay for time and materials at the then standard rates for the time spent in the resolution process, based on an invoice issued by Licensor.

6. Licensee Responsibility

- 6.1 Licensee acknowledges that in order to receive Maintenance Services in respect of a possible Error, Licensee is responsible for providing documentation sufficient for Licensor to reproduce the possible Error on a master copy of the Software, including, without limitation, a written, detailed description of the possible Error, log files, data files, and any other information requested by Licensor.

7. Expiry of Support for Versions

- 7.1 As New Releases are made available, Licensor cease to support certain prior releases, as determined in Licensor's sole discretion. Currently, Licensor supports the current Major Version Release of the Software and one Major Version Release back.

8. Maintenance Fees

- 8.1 Renewal annual Maintenance Fees are calculated at the rate valid in the current Software price list on the date when the initial or renewal term expires and are due annually in advance. Licensee will pay all Fees and any other amounts due under these Terms, plus any and all applicable taxes within 30 days of the respective invoice due date (the "Maintenance Fees"). If Licensor does not receive timely payment, Licensee will pay interest on overdue amounts at the rate of 1½% per month or the maximum allowable by law, and Licensor reserves the right to also suspend the Maintenance Services. Licensee will also be liable for all reasonable costs, including legal fees and expenses, collection fees and court costs, incurred in respect of legal proceedings or other third party actions initiated to collect Maintenance Fees.