

Terms and Conditions of Purchase and Licensing

These Terms and Conditions (from here on referred to as “**Terms**”) apply to all purchases of XTAL, Somnium VR1, Portable Trainer or any other products offered through the Company’s (as defined below) www pages (including without limitation, simulators, hardware, accessories, firmware, and software). Please read these Terms carefully to ensure that You understand them accordingly. In order to obtain and use the Product (as defined below), You must first agree to the Terms of a purchase agreement that shall be concluded between you and the Company (“**Agreement**”). If You do not agree to the Terms, then You may not purchase or use the Products.

1. DEFINITIONS

- 1.1. Unless clearly required otherwise by context as used herein, the following capitalized terms shall have the following meanings:

“**Company**” means Vrgineers, Inc., with its registered offices at 8 Green STE R, Dover, Delaware, 19901 USA, also doing business through its registered branch office in Czechia, with its seat at Jankovcova 1037/49, 170 00 Prague.

“**Firmware**” means software integrated in the Product.

“**Force Majeure**” means any fire, flood, earthquake, riot, strike, act of God, work stoppage or other labor disturbance, failure or lack of transportation facilities, mechanical breakdown, inability to obtain equipment or parts, war, invasion, terrorist act, insurrection, enactment of legislation or issuance of governmental orders or regulations or other casualty or cause beyond the reasonable control of a party to the Agreement required to perform any obligation thereunder;

“**Intellectual Property**” means any copyright, invention, technology, know-how, trademark, trade secret, and/or patent arising out of and connected to the Product.

“**License**” means the license granted hereunder, as identified by the applicable Purchase Order between the Company and You.

“**License Fees**” mean the amounts due and owed to the Company by You as established in the applicable quote and order between the Company and You, or as otherwise set forth in writing at the time You subscribe for or renew the License granted hereunder; the License Fees may be as established or set forth on an applicable customer invoice.

“**Personal Data**” means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

“**Purchase Order**” means a binding document issued by Company according to Section 16 hereof and approved by Client in electronic or any other written form to purchase defined Products.

“**Product**” means any product offered by Company at its www including XTAL, Somnium VR1 and Portable Trainer.

“**Services**” means any work related to software/hardware development, integration, or implementation that is similar to and/or one carried out by Company, its affiliated companies and/or by Company partners, whether legal entities or natural persons, in an employment relationship or in a freelance relationship.

“**Simulator**” means any Company simulator or trainer produced or offered by the Company.

- 1.2. “**Software**” refers to the Company software, any third party software licensed by Company suppliers and/or open-source software provided under an open-source or other license and associated software components, including software programs, drivers, documentation, and accompanying features.

“Website” shall mean the websites <https://vrgineers.com/>, <https://www.xtal.pro/> in addition to any sub-pages that are integrated within these websites.

“You” means the company or the person purchasing as identified through the purchase under this Agreement.

2. PURCHASE AND LICENSE

- 2.1. If You are purchasing the Products, You must be a professional, buying for business purposes, or otherwise be a Corporation suitably qualified. In no way do standard Customer Protection Laws apply to Vrgineers transactions. For purposes of commercial pilot training or military purposes, an import and/or export license may be required. Please clearly state intended purpose(s) in your inquiry as further investigation may be necessary to ensure compliance with applicable laws and regulations.
- 2.2. Given the nature of the Products and their customizability, the ordering process begins by submitting an inquiry via the Website. The whole process of ordering, confirming of the order and creation of the Agreement is described in Article 16 and following hereof.
- 2.3. Upon purchase You shall be granted a non-exclusive, non-transferable License to use the Software with the hardware incorporated in the Product(s) as purchased.
- 2.4. You agree not to (except as expressly permitted by applicable law):
 - a. disassemble, decompile, reverse engineer, merge or combine the Software with other software, or copy, translate, adapt, vary or modify any parts of the Software;
 - b. distribute any parts of the Software in any form;
 - c. re-sell Products, Software and/or Services without Vrgineers’ prior written consent.

3. INTELLECTUAL PROPERTY RIGHTS

- 3.1. You shall not acquire any other right, including the right to file for and /or obtain the registration of any intellectual property that is confusingly similar to the intellectual property of Company, including but not limited to logos, trademarks, domain names, trade names, and other denominations used/registered by Company. Company retains all rights to such IP (“Vrgineers IP”) and does not grant You any intellectual property rights of any kind whatsoever in or to the Company IP or any of its constituent components, other than as expressly provided herein. You shall not alter, amend, modify, enhance, improve or manipulate in any way, any part or whole of the Company IP (“**Unauthorized Improvements**”). Notwithstanding the foregoing, You waive any and all moral rights attached to Unauthorized Improvements and agree that such Unauthorized Improvements shall be deemed as owned by Company.
- 3.2. You agree not to modify, reverse engineer, attempt to derive the composition of or the underlying information of the Product,
- 3.3. A failure to adhere to Articles 2.4., 3.1. and 3.2. hereof shall be subject to a contractual penalty amounting to \$10,000 USD per each breach whereby such a penalty is to be paid within 10 (ten) days of a written notice about such breach sent by Company to You.

4. OBLIGATIONS AND RIGHTS

- 4.1. **Subject** to the terms and conditions of this Agreement, You hereby covenant and agree to:
 - a. acquire the Products, Services and Software only on Your own behalf and on Your own account;
 - b. comply with all applicable regulations of laws and respective local laws, as well as with any other regulation as indicated in this Agreement;

- c. arrange, at Your own expense, for all registration, licenses, permissions, and other documents necessary for the use of Products and Services hereunder ("Registration").
- 4.2. Subject to the terms and conditions of this Agreement, Company hereby covenants and agrees to provide technical support and after-sale support to You. In case the need for technical support exceeds the scope provided for in the Agreement and License, the terms and conditions of such support shall be agreed upon on an ad hoc basis.
5. **SPECIAL TERMS**
 - 5.1. You buy the Product(s) "as-is" at your own risk.
 - 5.2. Our Products may by their nature cause dizziness, disorientation, nausea, and/or other similar ailments to individuals through use. Company makes no warranty nor representation that You will not experience any of the aforementioned ailments or those similar through use of the Product(s). You are advised to seek medical advice prior to use.
6. **HARDWARE AND SOFTWARE REQUIREMENTS**
 - 6.1. You acknowledge that the Product(s) may require a specific technological setup that is not part of the delivery of the Product(s) and confirm that You have the necessary infrastructure for the operation of the Product(s). In the case of the XTAL or Somnium VR1 headset, it is a computer meeting minimal technical requirements with a supported graphics processing unit (GPU), supported operating system with driver(s); in the case of Simulators, it is a suitable power source.
 - 6.2. At Your request, Company shall set up and integrate the Product(s) into a specific technological environment for a price and under the terms and conditions that shall be agreed upon between Company and You in advance. The setup of the Product(s) will require Your assistance and cooperation.
7. **THIRD PARTY SOFTWARE**
 - 7.1. The Product(s) come bundled with or otherwise include Software. Use of third-party software is subject to the third-party license terms and in the event of a conflict with these Terms the third-party license shall prevail. The currently used third-party software is listed here:

Software	Link
NatNet Library	https://optitrack.com/software/natnet-sdk/ https://optitrack.com/about/legal/web-site-terms.html
DTrack	https://github.com/ar-tracking/DTrackSDK/blob/master/license.txt
OpenCV: Open Source	https://github.com/opencv/opencv/blob/4.10.0/LICENSE
OpenVR	https://github.com/ValveSoftware/openvr/blob/master/LICENSE
Intel® Embree	https://github.com/embree/embree/blob/master/LICENSE.txt
Assimp	https://github.com/assimp/assimp/blob/master/LICENSE
Capnproto	https://github.com/capnproto/capnproto/blob/v2/LICENSE
UltraLeap	https://central.leapmotion.com/agreements/SdkAgreement
CUDA Toolkit	https://docs.nvidia.com/cuda/eula/index.html

FreeRTOS	http://freertos.org/Documentation/02-Kernel/01-About-the-FreeRTOS-kernel/04-Licensing
zlib	https://zlib.net/zlib_license.html
Mbed TLS	https://mbed-tls.readthedocs.io/en/latest/kb/licensing/how-is-mbedtls-protected/
microjson	https://gitlab.com/esr/microjson/-/blob/master/COPYING?ref_type=heads
tiny-json	https://github.com/rafagafe/tiny-json/blob/master/LICENSE
EZ-USB™ FX3 Software Development Kit	https://www.infineon.com/cms/en/design-support/tools/sdk/usb-controllers-sdk/ez-usb-fx3-software-development-kit/

8. UPDATES

- 8.1. By installing Software You agree to receive information regarding updates and upgrades. You may decide whether or not the updates and/or upgrades should be installed. Company does not force any updates and/or any upgrades.
- 8.2. Company is not responsible for the updates and/or upgrades of the third-party software. Company makes no warranty nor representations for their safety or compatibility.

9. GOVERNING LAW, EXPORT COMPLIANCE & CONTROL

- 9.1. The Agreement is subject to the laws of the Czech Republic, excluding conflict of law rules. Any dispute that cannot be settled amicably shall be handled by a relevant Czech court.
- 9.2. The governing language of the Agreement is English; and translations of the Agreement shall be for informational purposes only. In any disputes that may arise, including through or as a result of translation, the English version shall prevail.
- 9.3. You assume full responsibility for compliance with US ITAR, EU Dual-Use Regulations (2021/821) and Czech export controls. Company reserves the right to not issue or to cancel already issued Purchase Orders violating these laws and regulations.
- 9.4. The Agreement may be subject to applicable export/import control legislation. Applicable export control legislation includes, but is not limited to, rules and policies that have been issued by the United States and the European Union's authorities prohibiting export activities to certain countries, including but not limited to at the date of signing this Agreement, Iran, North Korea, Sudan, and Cuba, Russia, and/or with their nationals (the "Prohibited Countries") and restricting export activities to certain other countries, persons or entities ("Applicable Export Control Legislation").
- 9.5. You are responsible for obtaining at your own cost any license for purchase, import, or similar requirement for purchase of professional or military use products in your location/jurisdiction.

10. TERMS OF USE AND WARRANTY CONDITIONS OF PRODUCTS EXCEPT SIMULATORS

- 10.1. Company provides You a 12-month limited express warranty against manufacturer's defect of the Products except Simulators ("**Warranty**").
- 10.2. Warranty does not apply if the Software component of the Product is changed or modified by a person not from or licensed by Company or in the case that the Software provided by Company has been changed to software not provided with or for the Product by Company.
- 10.3. Company does not guarantee that the Product shall be fit for any other purposes than those set forth in the quote or Purchase Order.
- 10.4. If there is a problem or failure with any component of the Product, the issue will be diagnosed by a Company technician, and advice on how to solve the problem will be provided. Company shall, if a problem of failure is not to be solved according to the

previous sentence, repair or replace any defective Product within ninety (90) days of receipt of the defective Product.

- 10.5. Company offer a variety of options of Licenses for Products. In case of inquiries regarding our Licenses please contact business@vrgineers.com.

11. EXCLUSION OF WARRANTY

- 11.1. Warranty does not cover any of the following:

- a. Defects or damage resulting from accident, misuse, abnormal use, abnormal conditions, improper storage, exposure to liquid, exposure to the elements or weather conditions, including exposure to sunshine, moisture, dampness, sand, dirt, neglect, or unusual physical, electrical or electromechanical stress, magnetic field, blown fuses, or improper use of any electrical source;
- b. Scratches, dents, and cosmetic damage, unless the Product is specified as “used” or “refurbished”;
- c. Ordinary wear and tear, or;
- d. Theft.

12. WARRANTY CONDITIONS FOR SIMULATORS

- 12.1. Company warrants that the Simulators provided by Company will be free from material and manufacturing defects for a period of twelve (12) months from the date of delivery to You, and that the Simulators will possess substantially similar characteristics and functionality as listed on the Company’s Website and datasheets as of the date of this Agreement (“**Simulator Warranty**”).
- 12.2. Company does not warrant that the functions contained in the Simulators will meet Your requirements or that the operation thereof will be uninterrupted or entirely error free, appear or perform precisely as described, or comply with regulatory requirements.
- 12.3. You acknowledge and agree that the functionality of the Simulators greatly depends on Your use and that any errors in use may impact the performance results thereof.

13. EXTENDED SIMULATOR WARRANTY

- 13.1. You can purchase an extended warranty for any type of Simulator (pending Your eligibility for purchase of Simulators subject to purchase requirements).
- 13.2. The price of the extended warranty depends on the Simulator type as defined in the Purchase Order. Upon inquiry we will send you details of the extended warranty for the Simulator in question.
- 13.3. The Extended Warranty covers, inter alia, non-comprehensively:
- a. immediate exchange of any malfunctioning component;
 - b. regular Software updates and/or upgrades;
 - c. in case of any update and/or upgrade of the Software or Hardware or any other components, Company guarantees that the Simulator will work as a whole.

14. WARRANTY CLAIMS FOR SIMULATORS

- 14.1. If you find a defect that is potentially covered by the Simulator Warranty, You should Contact Company support to confirm whether or not the defect is covered by the Simulator Warranty and be prepared with the following information:
- a. Part number
 - b. Serial number
 - c. Full details of the alleged defect
 - d. Invoice number
- 14.2. If the defect is confirmed and is to be covered under the Simulator Warranty, You will be contacted to arrange replacement and/or repair of said defect.

- 14.3. In the event of a faulty or failed component (through normal use), detailed instructions will be given to You on how to remove the faulty part, a replacement component will be couriered to You with instructions on how to reinstall.
- 14.4. If the defect is NOT covered by the Simulator Warranty but nonetheless requires repair by Company, contact business@vrgineers.com and Company will evaluate the defect(s) and provide a quote for repair and/or replacement.
- 14.5. Company endeavor to resolve all complaints immediately upon the report thereof – the period of resolving a complaint depends on the type of warranty. The standard period of resolving a complaint is six (6) weeks depending on the complexity of the defect or any other cause. Should a longer resolution time be necessary then Company shall communicate this to You as quickly as possible.

15. LIMITATION OF LIABILITY

- 15.1. Subject to any limitations or exclusions imposed by mandatory applicable law Company aggregate liability to You, whether for negligence, breach of contract, misrepresentation, or otherwise, shall in no circumstances exceed the price of the defective, non-conforming, damaged or undelivered Products/Services which give rise to such liability as determined by net price invoiced to You in respect of any occurrence or series of occurrences. Company shall not be liable for any health nor mental disorders, or other negative consequences resulting from the use of the Product(s) by You or any third person. Neither the Company nor its licensors shall be liable to You or any Third Party for Special, Punitive, Incidental, Indirect, Consequential or Exemplary Damages. The Company shall not be liable for the use of any personal data collected via the use of the Product(s). The Company shall not be liable for any breach of intellectual property rights of third parties as a result of the use by You or any third person of the Product(s).
- 15.2. In **no circumstances** shall Company be liable to You for any indirect, incidental or consequential loss, damage or injury, including without limitation, loss of anticipated profits, goodwill, reputation, or losses or expense resulting from third party claims.

16. ORDER & PAYMENT

- 16.1. Given the nature of the Products and their customizability, the ordering process begins by submitting an inquiry via vrgineers.com/inquiry. Similarly, an inquiry email may be sent to business@vrgineers.com.
- 16.2. Once Product(s) and pricing are agreed upon, a formal purchase offer is issued by us and sent to You along with an invoice (please be aware that the price may include shipping costs and any necessary license/licensing fees). Further payment terms will be specified in each Purchase Order.
- 16.3. By accepting the pricing offer and completing payment in full, these Terms are formally accepted by You and the Agreement is formed. Company can require You to sign an additional written contract for orders above \$10,000 USD.
- 16.4. All invoices are due within fourteen (14) calendar days of receipt unless otherwise set forth in the Purchase Order.
- 16.5. All invoices will be sent to Your contact e-mail used to confirm the Purchase Order. In case of cancellation of the Purchase Order after acceptance, the down payment paid by You is non-refundable and will not be returned to You. In case of agreed upon down payment(s) of the price for the Product(s), You shall not be entitled to a refund of such down payment(s) if You fail to pay the full purchase price for the Product(s) before the due date plus an additional ten (10) day grace period.
- 16.6. Upon full payment of the invoice, the Product(s) will be shipped, and an online account will be created for You to Company support portal (Portal) using by default the contact information You provide in Your Inquiry.

17. DELIVERY AND SHIPPING COSTS

- 17.1. Company shall deliver the Product(s) within three (3) months of receipt of the full price for the Product(s) from You unless agreed otherwise in the Purchase Order. Note that some products are made-to-order and/or may be subject to supply chain disruption from time to time.

- 17.2. If the Product is not delivered to You within the agreed period of time, Your sole remedy shall be the right to a refund.
- 17.3. The installation date of the Product(s) shall be agreed upon by Vrgineers and You prior to the delivery date.

18. SPECIAL DELIVERY CONDITIONS

- 18.1. The standard Incoterms shipping method for Vrgineers is Ex Works (EXW). If You require a different method, please state so clearly in the inquiry.
- 18.2. This applies within the countries of the European Union as well as in Switzerland, the United Kingdom, the United States, Brazil, Australia, and Japan unless Vrgineers and You agree otherwise in writing or in a suitable electronic form.
- 18.3. Deliveries shall take place as organized by you per section 18.1.

19. VRGINEERS ONLINE SUPPORT

- 19.1. As mentioned above, upon purchase of Product(s) an account is created for You providing access to online support Portal. You are responsible for your log-in information and all activities under your account.
- 19.2. In the Portal You will find the user guide, containing setup and other support documentation for your Products. In case of any inquiry please do consult the Portal before contacting us.
- 19.3. You are entirely responsible for maintaining the confidentiality of Your account information, including a password, and for any and all activity that occurs under such account. You agree to notify Company immediately of any unauthorized use of Your account or password, or of any other breach of security. You may be held liable for losses incurred by Company or any other use or visitor due to the use of Your login name, password, or account by You or any third party.
- 19.4. Login name, password, and account are for individual use only and should not be shared, group-based and generic accounts are prohibited.

20. PUBLIC INFORMATION

- 20.1. You have the right to use Company name and logo in connection with usage of the Product(s). At Your request, Company can provide its logo and/or pictures of the Product(s).
- 20.2. Company reserves the right to use Your name and logo as a references on Website and in its promotional materials, You have the right to withdraw Company permission to use your name and logo by sending a written notice to Company at info@vrgineers.com or by communicating with any representative of Company.

21. COMPLIANCE

- 21.1. Each Party agrees that in performing its obligations under this Agreement, it shall always comply with all applicable laws, regulations, and governmental orders of any jurisdiction in which they perform their obligations under this Agreement or that could otherwise be applicable.

22. FORCE MAJEURE

- 22.1. If performance of this Agreement or any obligation under this Agreement by Company is hindered or prevented by a Force Majeure Condition and without Company fault or negligence, performance by Company to the extent so impeded shall be excused during the period of the Force Majeure Condition. However, no Force Majeure Condition shall relieve You of the obligation to pay for Products which have been delivered by Company. Promptly, and in no event later than ten (10) calendar days after discovery of a Force Majeure Condition, the Party whose performance is impeded by the Force Majeure Condition shall notify the other Party of the existence of the Force Majeure Condition and the anticipated duration thereof and shall be diligent in attempting to remove such Force Majeure Condition.

23. MISCELLANEOUS

- 23.1. If any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction in which this Agreement is sought to be enforced, such decision shall in no way affect the validity or enforceability of any other provision hereof, and the Agreement shall be interpreted, as to such jurisdiction, as if such term or provision were not included in the Agreement.
- 23.2. The failure of either Party to insist upon strict performance of any provision hereof shall not constitute a waiver of, or estoppel against asserting, the right to require such performance in the future; nor shall it be a waiver or estoppel with respect to a later breach of a similar nature or otherwise.