End user licence agreement (EULA)

By clicking "accept agreement" when you first install the Software, you agree to be bound by the provisions of this EULA. By agreeing to be bound by this EULA, you further agree that any person you authorise to use the Software will comply with the provision of this EULA.

1. Definitions

1.1 Except to the extent expressly provided otherwise, in this EULA:

"**Charges**" means those amounts that the parties have agreed in writing shall be payable by the User to the Licensor or Reseller in respect of this EULA;

"**Documentation**" means the documentation for the Software produced by the Licensor and delivered or made available by the Licensor to the User;

"**EULA**" means this end user licence agreement, including any amendments to this end user licence agreement from time to time;

"**Effective Date**" means the date upon which the User gives the User's express consent to this EULA

"**Force Majeure Event**" means an event, or a series of related events, that is outside the reasonable control of the party affected;

"**Intellectual Property Rights**" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs;

"**Licensor**" means Avantech Ltd, a company incorporated in Malta (registration number C9357, having its registered office at Avantech Building, St. Julians Road, San Gwann, Malta;

"**Maintenance and Support Services**" mean the supply to the User and application to the Software of Updates and Upgrades and means support in relation to the use of the Software and the identification and resolution of errors in the Software, but shall not include the provision of training services whether in relation to the Software or otherwise;

"**Minimum Term**" means, in respect of this EULA, the period of 12 months beginning on the Effective Date;

"**Reseller**" means any individual or company that represents the Licensor and provides to the User any services related with the selling, installation or support to the User in relation to this Software and EULA;

"**Services**" means any services that the Licensor provides to the User, or has an obligation to provide to the User, under this EULA;

"**Software**" means the software identified as Scan2x;

"**Software Defect**" means a defect, error or bug in the Software having an adverse effect on the performance of the Software, but excluding any defect, error or bug caused by or arising as a result of:

(a)   any act or omission of the User;

(b)   any use of the Software contrary to the Documentation by the User or any person authorised by the User to use the Software;

(c)   a failure of the User to perform or observe any of its obligations in this EULA; and/or

(d)   an incompatibility between the Software and any other system, network, application, program, hardware or software not specified as compatible in the Software Specification;

"**Software Specification**" means the specification for the Software set out in the Documentation;

"**Source Code**" means the Software code in human-readable form or any part of the Software code in human-readable form, including code compiled to create the Software or decompiled from the Software, but excluding interpreted code comprised in the Software;

"**Term**" means the term of this EULA, commencing in accordance with Clause 2;

"**Update**" means a hotfix, patch or minor version update to the Software;

"**Upgrade**" means a major version upgrade of the Software;

"**User**" means the person to whom the Licensor grants a right to use the Software under this EULA; and

2.   Term

2.1   This EULA shall come into force upon the Effective Date.

2.2   This EULA shall continue in force for a minimum of 12 months from the Effective Date, and as long as the annual Maintenance fee is paid thereafter and subject to termination in accordance with Clause 13.

3.   Licence

3.1   The Licensor hereby grants to the User from the Effective Date until the end of the Term licence to install a single instance of the Software; subject to the limitations and prohibitions set out and referred to in this Clause 3.

3.2   The User may not sub-license and must not purport to sub-license any rights granted under Clause 3.1 without the prior written consent of the Licensor.

3.3   Save to the extent expressly permitted by this EULA or required by applicable law on a non-excludable basis, any licence granted under this Clause 3 shall be subject to the following prohibitions:

(a)   the User must not sell, resell, rent, lease, loan, supply, publish, distribute, redistribute, alter, edit or adapt, decompile, de-obfuscate or reverse engineer, or attempt to decompile, de-obfuscate or reverse engineer, the Software.

4.   Source Code

4.1   Nothing in this EULA shall give to the User or any other person any right to access or use the Source Code or constitute any licence of the Source Code.

5.   Maintenance and Support Services

5.1   The Licensor or Reseller shall provide online or/and telephone Maintenance and Support Services during the Licensor's business hours to the User during the Term.

5.2   The Licensor shall provide the Maintenance and Support Services with reasonable skill and care and warrants to the User that the application of Updates and Upgrades to the Software by the Licensor will not introduce any Software Defects into the Software.

5.3   The Licensor may suspend the provision of the Maintenance and Support Services if any amount due to be paid by the User to the Licensor under this EULA is overdue.

5.4   If the Maintenance Services are terminated in accordance with the provisions of this Clause 5:

(a)   the User must pay to the Licensor any outstanding Charges in respect of Maintenance Services provided to the User before the termination of the Maintenance Services;

(b)   the software will immediately cease to operate and function.

6.   No assignment of Intellectual Property Rights

6.1   Nothing in this EULA shall operate to assign or transfer any Intellectual Property Rights from the Licensor to the User, or from the User to the Licensor.

7.   Charges

7.1   The User shall pay the Charges to the Licensor or Reseller in accordance with this EULA.

7.2   All amounts stated in or in relation to this EULA are, unless the context requires otherwise, stated exclusive of any applicable value added taxes, which will be added to those amounts and payable by the User to the Licensor.

8.   Payments

8.1   The Licensor, or the Reseller, shall issue an invoice for the Charges to the User upon receipt of a valid purchase order from the User.

8.2   The User must pay the Charges to the Licensor or Resller prior to the issuance of a licence key and accordance with this Clause 10.

8.3   If the User does not pay any amounts due to maintenance after the expiry of the first term from the Effective Date, the software will automatically cease to operate and function.

9.   Warranties

9.1   The Licensor warrants to the User that it has the legal right and authority to enter into this EULA and to perform its obligations under the EULA.

9.2   The Licensor warrants to the User that the Software as provided will conform in all respects with the Software Specification, will be supplied free from viruses, worms, Trojan horses, ransomware, spyware, adware and other malicious software programs and the Software shall incorporate security features reflecting the requirements of good industry practice.

9.3   If the Licensor reasonably determines, or any third party alleges, that the use of the Software by the User in accordance with this EULA infringes any person's Intellectual Property Rights, the Licensor may at its own cost and expense:

   (a)   modify the Software in such a way that it no longer infringes the relevant Intellectual Property Rights, or

   (b)   procure for the User the right to use the Software in accordance with this EULA.

10.   Acknowledgements and warranty limitations

10.1   The User acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this EULA, the Licensor gives no warranty or representation that the Software will be wholly free from defects, errors and bugs and security vulnerabilities; and subject to the other provisions of this EULA, the Licensor gives no warranty or representation that the Software will be entirely secure.

10.2   The User acknowledges that the Software is only designed to be compatible with that software specified as compatible in the Software Specification; and the Licensor does not warrant or represent that the Software will be compatible with any other software.

11.   Indemnities

11.1   The Licensor shall indemnify and shall keep the User indemnified against any and all liabilities, damages, losses, costs and expenses including legal expenses and amounts reasonably paid in settlement of legal claims suffered or incurred by the User and arising directly or indirectly as a result of any breach by the Licensor of this EULA.

12.   Limitations and exclusions of liability

12.1   The Licensors liability is limited to the amounts paid by the licensee for one year coverage. In no event shall the licensor have any liability for any special, indirect or consequential damages including, without limitation, damages for lost profits, loss of data, costs of procurement of substitute goods or services, loss of use of equipment or facilities, or interruption of business, arising in any way out of this agreement under any theory of liability, whether or not he Licensor has been advised of the possibility of such damages. These limitations shall apply notwithstanding the failure of the essential purpose of any limited remedy.

13.   Termination

13.1 The Licensor may terminate this EULA should the payments relative to the maintenance be unpaid.

13.2 The User may terminate this EULA by giving to the Licensor not less than 30 days' written notice of termination yet after the Minimum Term.

13.3 Either party may terminate this EULA immediately by giving written notice of termination to the other party if the other party commits any breach of the EULA, and the breach is not remediable; or the breach is remediable, but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied.

13.4 Either party may terminate this EULA immediately by giving written notice of termination to the other party if:

   (a) the other party:

      (i) is dissolved;

      (ii) ceases to conduct all or substantially all of its business;

      (iii) is or becomes unable to pay its debts as they fall due;

      (iv) is or becomes insolvent or is declared insolvent;

      (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors; or

      (vi) enters a process of administration

14. General

14.1 The licensee may not transfer the software to a third party. This Agreement supersedes all other written and oral proposals, purchase orders, prior agreements, and other communications between the licensee, a reseller and the Licensor concerning the subject matter herein and constitutes the entire agreement between the Licensor and the licensee regarding the provision of services. The Licensor reserves the right, in its sole discretion, to add, remove, modify or otherwise change any part of these Terms and Conditions, in whole or in part, at any time.

This EULA shall be governed by the Laws of Malta.

BY INSTALLING, COPYING, OR OTHERWISE USING THIS SOFTWARE PRODUCT YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS.