

# End User License Agreement

## Dimenco | Simulated Reality Software

Version 1.0 | 28 November 2019

Dimenco R&D B.V., which has its registered office at De Run 4281, Unit 28 (5503LM) Veldhoven, the Netherlands and is registered with the Dutch Chamber of Commerce under registration number 52677001 (“**Dimenco**”) provides the Simulated Reality Development Kit (hereafter also: the “**SR DevKit**”), consisting of a hardware device (the “**SR Device**”) and software (the “**Software**”). This End User License Agreement (hereafter also: the “**Agreement**”) sets forth the terms and conditions that apply to the use of the Software.

When you purchase an SR DevKit, for example through <https://www.dimenco.eu/> or by way of an order form, or when you purchase another product that rightfully contains the Software, you purchase ownership of the SR Device or product and – upon entering into this Agreement – acquire the license to use (as defined below in Article 2.2) the Software. You may also, after agreeing to these terms and conditions, download the Software free of charge via the Dimenco website or third parties indicated on the website. Upon initial use or during an update of the Software you may be asked to confirm your consent to this Agreement. Proceeding with the installation or use of the Software will also constitute your consent. In any event, you are required to enter into this Agreement in order to use the Software

The license provided in this Agreement is strictly limited to use of the Software as defined herein. The right to distribute the Software and SR Applications outside your organization, your employees and/or your contractors is not included in this license. Restrictions contained in this Agreement on distribution and sublicensing of the Software may be lifted in exchange for a reasonable royalty by entering into a separate agreement to that end with Dimenco. Inquiries with regard to entering such an agreement may be directed at Dimenco.

### Article 1. Definitions

The following definitions apply to capitalized terms in this Agreement.

- 1.1. **Agreement:** this End User License Agreement.
- 1.2. **Contribution:** any source code, object code, material or other information provided to Dimenco by you through [gitlab.com/simulatedreality](https://gitlab.com/simulatedreality), [github.com/simulatedreality](https://github.com/simulatedreality), [github.com/dimenco](https://github.com/dimenco), [support@dimenco.eu](mailto:support@dimenco.eu), [dimenco.freshdesk.com](https://dimenco.freshdesk.com) or any other Dimenco managed medium.
- 1.3. **Development Code:** a portion of the source code and object code of the Software, required and intended for the development of SR Applications, including future versions, made available to you for that explicit purpose under this Agreement and clearly marked as such.
- 1.4. **SR Device:** the hardware device which is part of the SR DevKit and which contains and runs the Software.
- 1.5. **Dimenco Materials:** all materials – excluding the Software and the SR Device – that Dimenco develops or provides in relation to the Software and the SR Device, including other software, other source code and object code, websites, training materials, documentation, layouts, designs, advice, reports, images, texts, logos, house styles, concepts, sketches and other products of the mind.
- 1.6. **Intellectual Property Rights:** all intellectual property rights and related rights, including, but not limited to, copyright, database rights, domain names, trade name rights,

trademark rights, design rights, neighboring rights, patent rights as well as rights to know-how and trade secrets.

- 1.7. **Open Source License:** a license which is acknowledged by the Open Source Initiative as open source, or which has not (yet) been acknowledged but nevertheless complies with the definition of open source as provided by the Open Source Initiative.
- 1.8. **Protected Code:** the portion of the source code and object code of the Software, not required for the development of SR Applications, but required for running SR Applications.
- 1.9. **Software:** the Simulated Reality Software Development Kit software and other software as contained in the SR Device or downloaded via the Website, and updates thereto provided via the Website
- 1.10. **SR Applications:** simulated reality software applications developed by you using Development Code or combining Development Code with other software or materials in any form or proportion.
- 1.11. **SR DevKit:** the Simulated Reality Development Kit.
- 1.12. **Use:** as defined in Article 2.2.
- 1.13. **Website:** <https://www.dimenco.eu/>.

## **Article 2. License**

- 2.1. Dimenco grants you, the rightful acquirer of the SR DevKit, the right to Use the Software.
- 2.2. The term “Use”, as referred to in this Agreement, means:
  - a. use, reproduction, derivation and modification of the Development Code for the purpose of the development of SR Applications;
  - b. use of the Software and SR Applications for your personal convenience and entertainment; and
  - c. use and display of the Software and SR Applications for the explicit purpose of providing demonstrations of the Software’s and/or the SR Application’s functionalities.
- 2.3. Dimenco grants you the right to allow members of your organization, your employees and/or your contractors to Use the Software, the Development Code and SR Applications as described in Article 2.2, under your direction and responsibility.
- 2.4. Under this license, you may not:
  - a. reproduce, distribute, display or use the Software or SR Applications in a manner not contemplated in this Article 2 (License);
  - b. rent or lease the Software or SR Applications;
  - c. reverse engineer, decompile or otherwise derive the source code of the Software in a manner not contemplated in this Agreement, in particular with regard to the Protected Code;
  - d. remove, disable, circumvent, or modify technical security measures or limitations contained in the Software, including but not limited to measures implemented to protect Protected Code;
  - e. use the Software or SR Applications in a manner that infringes upon the rights of third parties, including Intellectual Property Rights;
  - f. remove any indications of proprietary rights contained within the Software; or
  - g. combine or otherwise use the Development Code with other code or content covered by a protective or reciprocal license that would require all or part of the relevant Development Code to be governed by the terms of such protective or reciprocal license in lieu of this Agreement.

- 2.5. Restrictions on distribution of SR Applications as specified above may be lifted by entering into a separate signed distribution agreement with Dimenco, wherein you – in exchange for the lifting of such restrictions – agree to pay a reasonable royalty in relation to the worldwide gross revenue attributable to the Application in question. Inquiries with regard to entering such an agreement may be directed at Dimenco.

**Article 3. Costs**

- 3.1. The purchase price of the SR DevKit consists solely of the purchase price of the SR Device. The Software and license as provided in Article 2 (License) are provided free of charge, as a complimentary addition to your purchase of the SR Device.
- 3.2. The Software may also be downloaded free of charge via the Website, after agreeing to the terms and conditions of this Agreement.

**Article 4. Intellectual property**

- 4.1. Dimenco owns all title, ownership rights and Intellectual Property Rights in relation to the Software, the Protected Code and the Development Code, or is the rightful licensee thereto. Nothing in this Agreement is intended to assign or otherwise transfer such rights to you or another party.
- 4.2. You own all rights in relation to the SR Applications developed under Article 2 (License) and any Contributions, with the exception of any Used and/or otherwise incorporated Development Code, Protected Code, third-party software and any software under an Open Source License.
- 4.3. In the event you provide Dimenco with Contributions, you grant Dimenco a worldwide, irrevocable, non-exclusive, unrestricted, transferable, sublicensable right to use, reproduce, distribute, make available, display, perform, edit, modify, sell, incorporate into a derivative work or otherwise (commercially) exploit those Contributions. To the extent the grant of a license as specified in the previous sentence is prohibited by mandatory law, you will waive the rights specified and agree not to assert them.

**Article 5. Third-party software**

- 5.1. The Software may contain components owned by third parties. Such components may be covered by additional software licenses and/or attribution requirements. If applicable, such third-party software licenses will be included in the installation directory of each version of the Software under “Simulated Reality/Licenses/third-party”.
- 5.2. You will comply with the terms and conditions of such third-party software licenses. If applicable, in the event of any contradiction between such third-party software licenses and this Agreement, the third-party software licenses will prevail.

**Article 6. Open source software**

- 6.1. The Software may contain components that are covered by Open Source Licenses. If applicable, such Open Source Licenses will be included in the installation directory of each version of the Software under “Simulated Reality/Licenses/open-source”.
- 6.2. You will comply with the terms and conditions of such Open Source Licenses. If applicable, in the event of any contradiction between such Open Source Licenses and this Agreement, the Open Source Licenses will prevail.

**Article 7. Updates**

- 7.1. Dimenco may from time to time release updates and upgrades to address bugs or improve or extend the functioning of the Software.

- 7.2. If possible, Dimenco will alert you to any available updates, which will be made available to you via the Website or third parties indicated on the Website. Installation of updates is performed only with your separate consent.
- 7.3. Dimenco is not liable for any damage caused by or otherwise responsible for bugs addressed in an update not installed by you.

**Article 8. Support**

- 8.1. Documentation with regard to troubleshooting and general use of the SR DevKit is provided via the Website.
- 8.2. In addition to the online documentation, Dimenco provides support to the Customer by means of a helpdesk. The helpdesk can be reached via the e-mail address provided on the Website or by another communications method provided by Dimenco.
- 8.3. Dimenco will assume you will consult the online documentation before contacting the helpdesk. The Dimenco helpdesk may refer you back the documentation in case your question or issue can be answered or solved by consulting the documentation.
- 8.4. Dimenco will use all reasonable endeavors to respond to each support request as quickly as possible. However, Dimenco cannot warrant that a response or solution will be provided by the helpdesk in a set amount of time, as such response times are dependent on the nature and complexity of the question or issue at hand.
- 8.5. Dimenco retains the right to not provide support concerning Software to which the latest or second to latest update as referred to in Article 7 (Updates) has not been applied.

**Article 9. Liability, warranties and indemnities**

- 9.1. The Software, Protected Code, Development Code, Dimenco Materials and other information provided by Dimenco is provided free of charge and “as is” and “as available”, with all faults and without warranty of any kind.
- 9.2. Dimenco will not be liable for any damage that may be caused by or arise from any defect or fault in the Software, irrespective of whether a claim would be based on contract, tort or otherwise. The sole exception to this complete exclusion of liability is (i) wilful misconduct or deliberate recklessness of Dimenco’s management, (ii) death or bodily injury, or (iii) any other matter for which applicable law does not permit limitation or exclusion of liability.
- 9.3. You represent and warrant that any Use allowed by you as specified in Article 2.3 occurs solely in accordance with the terms and conditions of this Agreement.
- 9.4. You indemnify and hold harmless Dimenco from any claims by third parties arising from or in relation to:
  - a. any material breach of Article 2 (License) of this Agreement; and
  - b. infringement, via SR Applications or other Use of this license, of personal or proprietary rights of third parties – including Intellectual Property Rights – provided such infringement does not stem directly and exclusively from the unmodified Software and unmodified Development Code as provided by Dimenco.

**Article 10. Term and termination**

- 10.1. The Agreement enters into force the sooner of the following situations:
  - a. your completion of a purchase of the SR DevKit from Dimenco, during which you are required to accept the terms and conditions of this Agreement;
  - b. your completion of a purchase of another product that rightfully contains the Software, during which you are required to accept the terms and conditions of this Agreement;

- c. your acceptance of the terms and conditions of this Agreement before downloading the Software via the Website or third parties indicated on the Website; or
- d. your acceptance of the terms and conditions of this Agreement upon installation or use of the Software.

- 10.2. The Agreement remains in force until terminated.
- 10.3. The Agreement may be terminated by you at any time by providing thirty (30) days' notice.
- 10.4. The Agreement may be terminated by Dimenco at any time in the event you materially breach one or more obligations contained herein, and such a breach is not remediable. If the breach is remediable, Dimenco may terminate the Agreement upon your failure to remedy the breach within thirty (30) days of notice of the breach from Dimenco.
- 10.5. In the event of termination of this Agreement, regardless of the reason, the license described herein will terminate. You will cease all Use of the Software and the Protected Code and you will destroy all reproductions and copies of (any part of) the Software.

**Article 11. Amendments**

- 11.1. An update as described in Article 7 (Updates) may provide terms additional or alternative to the terms of this Agreement. You will be informed in advance if this is the case and you will have an opportunity to refuse that update. By downloading, installing and/or using such an update, you accept the additional terms, which then become part of this Agreement. If the acts specified in the previous sentence are performed during Use allowed by you as described in Article 2.3, those acts will be assumed to have been performed by you.
- 11.2. Dimenco may amend the terms and conditions of this Agreement without your consent if the changes are not significant or are required by applicable mandatory law. Dimenco will endeavor to announce such changes or additions to you by email at least seven (7) days before they take effect, to enable you to take note of them.
- 11.3. Dimenco may amend the terms and conditions of this Agreement at any time provided at least thirty (30) days' notice is given. You will be notified of any such changes by e-mail. You may object to such amendments until fourteen (14) days before they come into effect. In the event of an objection, Dimenco and you will confer in good faith in order to attempt to reach a mutually satisfactory solution. If a mutually satisfactory solution cannot be reached, you will have the right to terminate the Agreement until the amendments come into effect.

**Article 12. Governing law and jurisdiction**

- 12.1. This Agreement is governed and construed exclusively by the laws of the Netherlands.
- 12.2. Unless dictated otherwise by mandatory law, any dispute between you and Dimenco in connection with or arising from the Agreement, will be submitted to the competent court in the Netherlands in the district where Dimenco has its registered office.
- 12.3. The Convention on Contracts for the International Sale of Goods will not apply.

**Article 13. Miscellaneous**

- 13.1. A finding that any particular provision of this agreement is legally void will not affect the validity of the entire agreement. In such a case the parties will determine a replacement provision that is legally valid and approximates the intent of the offending provision as much as possible.
- 13.2. Dimenco may assign its rights and obligations under this agreement to a third party that acquires its relevant business or the Intellectual Property Rights to the Software.