

Visual Numerics, Inc. Software License Agreement

PV-WAVE®, JWAVETM and TS-WAVETM Software Products

(August 2005)

IMPORTANT - READ CAREFULLY: THIS SOFTWARE LICENSE AGREEMENT IS A LEGAL AGREEMENT BETWEEN YOU AND VISUAL NUMERICS, INC. ("VNI"). IF YOU ARE INSTALLING THE SOFTWARE FOR PERSONAL USE, THIS AGREEMENT APPLIES TO AND BINDS YOU PERSONALLY. IF YOU ARE INSTALLING THE SOFTWARE AS PART OF YOUR WORK FOR AN ORGANIZATION, THIS AGREEMENT APPLIES TO AND BINDS SUCH ORGANIZATION. "LICENSEE" OR "YOU" AND "YOUR" REFER TO THE PERSON OR ENTITY THAT IS LICENSEE OF THE SOFTWARE. BY INSTALLING, COPYING, OR OTHERWISE USING THE SOFTWARE THAT ACCOMPANIES THIS AGREEMENT, YOU OR SUCH ENTITY AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU OR SUCH ORGANIZATION DOES NOT AGREE TO BE BOUND BY THIS AGREEMENT, YOU MAY NOT USE, COPY OR INSTALL THE SOFTWARE, AND SHOULD, WITHIN THIRTY (30) DAYS OF PURCHASE, RETURN IT WHERE YOU OBTAINED THE SOFTWARE, FOR A FULL REFUND.

1. Definitions.

"Application(s)" means application(s) created by You or a Third Party (as defined below) using a VNI Development license (as defined below).

"Computer" means primarily a single (but not to exceed four (4)) processor-computing device used by a single end user and that utilizes an operating system that runs the Software (as defined below). A "Computer"

can be either a PC (defined as having up to but not more than two (2) processors), or a workstation (defined

as having at least two (2) but not more than four (4) processors).

"Copy" means a physical copy, as on a CD, or loading the Software or an Application into RAM or permanent memory of a Computer.

"Deploy" or "Deployment" means each time You make a Copy of an Application, when the Application calls

upon the Software to execute pursuant to an Application Run-Time License (as defined below) for PV-WAVE,

TS-WAVE or JWAVE, as the case may be.

"Development" means a license for Internal use of the Software to create Applications, and/or a license for

Internal use of the Software as a standalone analytics tool, as the case may be.

"Documentation" means printed, electronic or online documentation purchased from VNI or provided by

VNI to licensees of its corresponding proprietary PV-WAVE , JWAVE and TS-WAVE software libraries.

"Floating" Users mean Users that may concurrently use the Software via access to one or more Servers at the Site (as defined below) for development or in connection with Deployment pursuant to an Application

Run-Time license, as the case may be.

"Internal" means use is limited to Licensee, its employees, and contractors performing work for Licensee's

benefit, but not Licensee's customers or other third parties.

"License Fee Agreement" means the business transaction document(s) between You and VNI (such as, but

not limited to VNI quotations, Your purchase orders and VNI's corresponding acknowledgements, and VNI

invoices) which define the agreed parameters of use of the Software, including pricing and the types of

licenses (Development and/or Run-Time licenses), and which identify the applicable Server(s) and/or

Computer(s) on which You may use the Software. "License Fee Agreement" excludes each party's preprinted

boilerplate terms of purchase or sale on such transactional document(s) and all such preprinted terms and

conditions of purchase or sale are hereby rejected.

"Node Lock" means use is limited to a specifically identified Computer or Server at the Site.

"Pack" means the number of authorized Development or Application Run-Time Node Lock licenses of the

Software, as the case may be, allowing access via a Server to the Software for Development of one (1) or

more Applications, or enabling display via a Server of the Software output pursuant Application Run-Time

Node Lock licenses, respectively, when sold as a group of Development or Application Run-Time licenses.

Packs only apply to use of the Software or Application(s) using a Run-Time version of the Software via a Server.

"Run-Time(s)" means the authority for one (1) or more Users to run an Application, developed pursuant to a

VNI Software Development license, with a particular application version of the Software, whether PV-WAVE,

TS-WAVE or JWAVE. Each Run-Time only applies to those versions of the Software that consist of an executable PV-WAVE, TS-WAVE or JWAVE procedure (i.e. previously compiled in .cpr file format). A

Run-Time can only be run or executed in connection with an Application, and cannot be used for creating or

modifying Software code or for other Development purposes.

"Seat(s)" means the maximum authorized number of Node Lock or Floating Users of the Software.

"Server" means a multiple processor-computing device accessed and used by more than a single end user

that has more than four (4) processors and that utilizes an operating system that runs the Software.

"Site" is the geographical location of the Server(s) and/or Computers (i) on which the Software is to be installed and used, as specified in Your License Fee Agreement with VNI, or, if not specified therein (ii) where the Software is delivered to You by VNI.

"Software" means VNI's proprietary PV-WAVE , JWAVE and TS-WAVE software, as specified in the applicable Licensee Fee Agreement, and includes the corresponding Documentation and, if You have purchased support and maintenance, any Updates and New Releases (as those terms are defined in Exhibit

A attached hereto and made a part hereof) subsequently provided by VNI to Licensee.

"SUSS" means VNI's annual Software Update Subscription Service, the terms of which are set forth in Exhibit A attached hereto.

"Third Party" means (i) if You are an individual, and are the only authorized User of the Software pursuant

to this Agreement, any other individual (including co-workers), and any legal entity (including Your employer),

or (ii) if You are a legal entity, any individual not employed by You, and any other legal entity such as Your

customers, suppliers and affiliated companies.

"User" refers (i) for Development licenses, to one or more individuals each of whom will Internally use a Copy of Software on only one (1) Computer, or multiple users who may access the Software via a Server for development of one (1) or more Application(s), and/or use the Software as a standalone analytics tool;

and (ii) for Application Run-Time licenses, to each user of a Copy of one (1) or more Application(s), which Application(s) calls upon the Software to execute on a Computer, or via a Server.

"VNI" and "Licensor" mean Visual Numerics, Inc.

2. Development License. Subject to the terms and conditions of this Agreement, and upon payment of the

applicable fees, You are granted a perpetual, non-transferable, non-exclusive, fee bearing Development license to install one (1) Copy of the Software in object code for Internal use by the number of Users and on

the type of Computer(s) and/or Server(s) specified in Your License Fee Agreement with VNI, for purpose(s)

of allowing Users to create and test Applications, and/or for standalone use as an analytic tool, as the case

may be. This Development license is limited to Internal use of the Software with the authorized operating

system(s) (i) on the number of Computers with the number of individual Users specified in Your License Fee

Agreement with VNI (and for which You have paid the applicable license fees), which License Fee Agreement

may also specify Floating User and/or Node Lock limitations corresponding to the number and type of

licensed Computers, (ii) on one or more Servers permitting access as specified in Your License Fee

Agreement with VNI, which License Fee Agreement may also specify Floating User, Seat and/or Node Lock

limitations corresponding to the number and type of licensed Servers, and/or (iii) on a Computer or a Server

as a standalone analytics tool, as the case may be. IF NOT OTHERWISE SPECIFIED IN THE APPLICABLE LICENSE FEE AGREEMENT BETWEEN YOU AND VNI, YOUR DEVELOPMENT LICENSE SHALL BE FOR A SINGLE USER ON A PC RUNNING THE WINDOWS® OPERATING SYSTEM. You may make a single backup Copy of the Software for archival purposes, but You shall not make any Copies of the Software for use on any Computer, or on any Server, located outside the Site (except to access one (1) copy of the Software on a Computer's memory for purposes authorized by this Agreement while off-Site for transitory, temporary business purposes). You shall not (x) allow more than the authorized numbers of Users to use the Software or Documentation for development of Applications, (y) allow any Users to use the Software or Documentation for any purpose except for development of Applications and (z) allow more than one (1) User to use the Software or Documentation on each Computer, unless specifically authorized otherwise by VNI. The Software may be used by You for development purposes to create Application(s) which use calls to compile and link to the Software.

3. Application Run-Time License.

(a) Subject to the terms and conditions of this Agreement, and upon payment of the applicable fees for the

Development license granted pursuant to Section 2 of this Agreement (if You are a developer), and fees for

the Application Run-Time licenses specified in Your License Fee Agreement with VNI, You are granted a perpetual, non-transferable, non-exclusive, fee-bearing Application Run-Time license to install, use and Copy

the Software solely in connection with Your Deployment of one (1) or more Application(s), limited to the number of Run-Time(s), and on the type of Computer(s) and/or Server(s) specified in Your License Fee Agreement with VNI, in object code, for Internal use only at the Site. Each Application Run-Time license is

subject to any applicable limitations with respect to individual Users, numbers of Run-Times, Seats, Floating

Users and/or Node Lock limitations specified in Your License Fee Agreement with VNI. IF NOT OTHERWISE

SPECIFIED IN THE APPLICABLE LICENSE FEE AGREEMENT BETWEEN YOU AND VNI, YOUR APPLICATION RUN-TIME LICENSE SHALL PERMIT ONLY ONE (1) RUN-TIME OF THE SOFTWARE TO EXECUTE YOUR APPLICATION, BY A SINGLE USER ON A PC RUNNING THE WINDOWS OPERATING SYSTEM. An Application Run-Time license only allows You to Internally use (not develop, create or modify)

PV-WAVE, TS-WAVE or JWAVE, as the case may be, to Deploy one (1) or more Applications developed by You or a Third Party using a VNI Development license for the Software. A Third Party may only use Your Application(s) with the Software if such Third Party also purchases one (1) or more Application Run-Time Licenses from VNI.

(b) To the extent not prohibited by applicable state law, You agree to indemnify, hold harmless and defend

VNI from and against any claims or lawsuits, including but not limited to attorney's fees, that are based on

the use, deployment or distribution of Your Application(s). You agree to use reasonable efforts to restrict

Users of Your Application from copying, sublicensing, modifying, reverse engineering, disassembling, decompiling, or redistributing the Software, or using Your Application as an application development tool. You

may not distribute the Software (i) externally, or (ii) to third parties, other than Your contractors who may use

the Software for Your Internal benefit only; or (iii) for use in conjunction with a compiler, an interpreter language product, or an interface which forms a part of a programming language product; or (iv) which consists of a development tool or utility program similar to the Software which contains the Software; or (v)

which includes, directly or indirectly, the Software Documentation; or (vi) which contains the programming

interface derived from the Software. Your Application(s) (y) may not provide Your User(s) with an Application Programming Interface (API) which facilitates programmatic access to the developer version of

any dynamically linked library (e.g., identified in PC products as a ".lib" file) contained in the Software (i.e. in

PC products, in any form other than as bound executables); and (z) may not be used to develop other

software programs or applications.

4. Prices and Payment. If You are currently evaluating the Software and decide to purchase the Software or if You have purchased a license to the Software, Licensee shall pay license fees for the Software in accordance with the terms of Your License Fee Agreement with VNI, or if not specified therein, in accordance with VNI's then-current price sheet for the Software. Unless otherwise agreed with VNI, Licensee

shall pay all fees net thirty (30) days from date of invoice. Licensee shall pay all taxes arising from or related to its license or use of the Software, excluding taxes based solely on VNI's net income, provided that

Licensee shall have no such tax obligation upon presentation of satisfactory evidence of its exemption from

applicable taxes.

5. Limited Warranty and Limitation of Liability. VNI warrants that the Software will perform substantially in accordance with the Documentation for a period of thirty (30) days from the date of receipt.

VNI'S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY UNDER THIS LIMITED WARRANTY SHALL BE, AT VNI'S OPTION, EITHER (1) RETURN OF THE PRICE PAID, OR (2) REPAIR OR REPLACEMENT OF THE SOFTWARE. THIS LIMITED WARRANTY IS VOID IF FAILURE OF THE SOFTWARE HAS RESULTED FROM ACCIDENT, ABUSE, IMPROPER INSTALLATION OR MISUSE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, VNI AND ITS RESELLERS DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

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6. U.S. Government. The Software and Documentation were developed at private expense and are "Commercial Items" as that term is defined at 48 CFR 2.101, consisting of "Commercial Computer Software"

and "Commercial Computer Software Documentation", as such terms are used in 48 CFR 12.212 or 48 CFR

227.7202-1 through 227.7202-4, as applicable. The Software and Documentation are licensed to U.S. Government end users only as Commercial Items and with only those rights granted to all other end users

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7. Infringement Claims. VNI will defend at its own expense, indemnify and hold You harmless in any action

brought against You on a claim that the Software infringes any other party's patent or copyright, provided

that You promptly notify VNI in writing of such claim, VNI has sole control over the defense of the claim and/or any settlement negotiations, and You cooperate fully in the defense of the claim. VNI will pay those

costs and damages finally awarded against You in any such claim. At its option, VNI may, in lieu of any other claims by You for indemnification, obtain the right for You to continue using the Software, or repair it,

replace it or terminate this Agreement, including any licenses granted herein. The foregoing states VNI's entire obligation to You for indemnification of any other party's infringement claims.

8. Term and Termination. This Agreement shall take effect as of the date of Your acceptance of this Agreement and shall continue in effect thereafter until terminated by either party. If You fail to comply with

any material term or condition herein, VNI may, at its option, without prejudice to any other rights, terminate

this Agreement and/or any license(s) granted herein (including all perpetual Development and Application

Run-Time licenses) if such default remains uncorrected thirty (30) days after notice is sent to Licensee.

Following termination, You must return or destroy, as requested by VNI, all copies of the Software and Documentation in Your possession (whether modified or unmodified). You agree to certify Your compliance

with such requirement upon VNI's request. Sections 1, 5, 7, 9, 10, and 12, and this survival clause, shall survive termination of this Agreement. Unless terminated by VNI for Licensee's material breach in accordance with this Section 8, the Development and Application Run-Time licenses granted pursuant to Section 2 and 3 of this Agreement shall survive any termination of this Agreement.

9. Confidentiality. You agree to maintain in confidence the confidential information of VNI, including any source code to any VNI software programs to which You have access. You further agree not to disclose such VNI confidential information to anyone other than Your employees or contractors who have a need to

know or obtain access to such information in order to support Your authorized use of the Software who are

bound, by a written agreement, to protect such information against any other use or disclosure.

10. Ownership. The Software and Documentation is copyrighted by Visual Numerics, Inc., and is licensed,

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VNI proprietary and copyright notices concerning the Software on all copies of the Application that include

VNI's copyrighted works as authorized by this Agreement.

11. Support. During the term of this Agreement, and in consideration for Your payment of fees for support and maintenance, VNI shall provide SUSS for the Software to You in accordance with the provisions of Exhibit A attached hereto and made a part hereof. Notwithstanding the foregoing, VNI reserves the right to suspend or discontinue offering SUSS for the Software at any time.

12. Customer Reference. Licensee agrees to serve as a reference for the Software. VNI may, but shall not be obligated to, use, copy and publish Licensee's name and logo used according to Licensee's style guidelines, and a company description based on information that is publicly available or contained in Licensee's marketing materials, in marketing and promotional materials related to the Software (e.g., in media announcements, print and electronic media, web site media, and electronic communications with customers, prospects, partners, and media representatives) and to identify Licensee as a user of and reference for the Software, subject to Licensee's prior review and approval, which shall not be unreasonably withheld or delayed.

13. Miscellaneous. All notices or other communications required to be given hereunder shall be in writing and delivered via certified mail, Express Mail or Federal Express, return receipt requested, postage prepaid, addressed to the respective addresses set forth hereinabove (for VNI, ATTN: Sales Manager) or as otherwise specified by the receiving party. Notices shall be deemed effective upon receipt. This Agreement shall be exclusively governed by and construed and enforced in accordance with the laws of the United States of America (for agreements with the U.S. government and claims relating to copyright and federal trademark issues) or by the laws of the State of California, U.S.A. (for contract and other matters), all without regard to conflicts of law provisions. The UN Convention for the International Sale of Commercial Goods is hereby excluded. The headings or titles of each section of this Agreement are for convenience only and shall have no legal effect. Non-enforcement of any provision hereof shall not operate as a waiver.

This Agreement (and the business terms of Your License Fee Agreement with VNI) is the complete and

exclusive statement of the agreement between VNI and Licensee and supersedes all proposals, prior agreements (oral or written) and all other communications between VNI and Licensee relating to the Software.

Any purported assignment, transfer, sublicense, modification, addition or condition of acceptance (e.g. in a

purchase order) of this Agreement by You is void, unless approved in advance by VNI in writing, except that

You may transfer the Software and Documentation in its entirety to a successor in interest of Your entire business who assumes the obligations of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable, then that provision notwithstanding, this Agreement shall remain in full force and

effect and such provision shall be deemed omitted. You may not export the Software or Documentation to

another country without VNI's advance written consent. If VNI consents to Your export of the Software or

Documentation, You agree to comply with all applicable export restrictions and laws.

Applicable terms of Your License Fee Agreement with VNI which specifies numbers of Users, number of Computers and/or Servers, numbers of Run-Times and license limitations (e.g., individual or Floating Users, Seats and/or Node Lock limitations) are incorporated herein by reference as if set forth in full. Additional licenses to use the Software and Documentation obtained by You subsequent hereto shall be subject to all the terms and conditions of this Agreement.

EXHIBIT A

Software Update Subscription Services

The following services are provided to each PV-WAVE , JWAVE and TS-WAVE software licensee ("Licensee") who contracts to receive Software Update Support Services ("SUSS") and pays the applicable

SUSS fees, which are in addition to the license fees for the PV-WAVE , JWAVE and TS-WAVE software (the

"Software"), respectively. SUSS for Development and Application Run-Time Licenses allows Licensee to receive the services described in this Addendum. With respect to Application Run-Time support, Licensee will

provide first line of support to its Internal Application Users and VNI will provide second line support to Licensee's Internal Application development and support group:

1. SUPPORT SERVICES. VNI will provide Licensee's developers and application support staff remote access, by telephone, fax, or electronic mail, to VNI product support personnel, who will answer routine questions concerning use of the Software from 8:00 A.M. to 5:00 P.M. Mountain time, Monday through Friday, excluding holidays (for Software obtained outside the U.S. front line support will be provided by the

local vendor or VNI office during its normal business hours, excluding applicable holidays).

2. TERM. SUSS will be provided for one (1) year from the date of VNI's invoice for SUSS, provided Licensee pays all amounts due for SUSS.

3. UPDATES. VNI will provide error corrections, bug fixes and patches ("Minor Software Updates," identified

by a change in the product designation suffix, e.g., Version 2.1 to 2.2), at no additional cost, when such Minor Software Updates are developed by VNI and generally made available at no cost to commercial licensees subscribing to SUSS.

4. LICENSEE MODIFICATIONS. VNI shall not be responsible for support of the Software if modified by Licensee. SUSS provided by VNI that are traceable to Licensee's modifications or code shall be billed at VNI's standard rates.

5. NEW RELEASES. VNI may, in its sole discretion, determine that the addition of significant functionalities

or enhancements to Software may be a new product ("New Release," having a change in a product's version,

designated by an increase in the whole number to the left of the decimal, e.g., from Version 2.1 to 3.0). VNI

will provide its New Release to SUSS subscribers no additional charge when it is generally made available at

no cost to commercial licensees subscribing to SUSS, provided that VNI reserves the right to modify this its

New Release policy for SUSS subscribers based upon business circumstances. VNI may, in its sole

discretion, charge a fee for the New Release and associated SUSS; and may offer SUSS for the previous Software version to SUSS subscribers for a period of one (1) year, but shall not be obligated to provide

SUSS for the previous Software version thereafter.

6. OTHER SERVICES. For modifications of the Software or for any assistance or support not specifically identified in this Addendum, VNI may agree to perform such services on a time and materials basis.

7. LICENSEE'S DUTIES. Licensee shall give VNI reasonable assistance and access to equipment, documentation and records, including sample output and other diagnostic information.

8. CHARGES. VNI will invoice Licensee annually for SUSS, in advance, at VNI's then-current rate, payable as stated on the invoice. If this Agreement is terminated early for any reason, no refund shall be payable to

Licensee. VNI shall not be required to provide SUSS during any period in which any amount due for SUSS is

delinquent. Costs of telephone and terminal equipment incurred by Licensee shall be the responsibility of

Licensee.