

END USER SOFTWARE LICENSE AGREEMENT

PLEASE READ THIS END USER SOFTWARE LICENSE AGREEMENT ("AGREEMENT") CAREFULLY.

BY INSTALLING THIS SOFTWARE YOU ARE AGREEING TO BE BOUND BY ALL OF THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT YOU MUST CLICK THE "CANCEL" BUTTON.

1. APPLICATION

1.1 Subject to [Section 1.2](#) below, the terms of this Agreement (as defined below) apply to the use of the Platform (as defined below).

1.2 In respect of the same subject matter, any printed License terms for the Platform signed by both Parties, or signed by YOU and an authorized reseller of the Platform appointed by VizExplorer, shall take the place of and prevail over any on-screen License terms for the Platform (including the terms and conditions of this Agreement).

2. DEFINITIONS

2.1 Unless otherwise specified, capitalized terms used in this Agreement will have the meanings attributed to them in this [Section 2](#) or as defined elsewhere in this Agreement.

2.2 "Account Administrator" means an individual who is authorized by YOU to access, manage and use the Platform on YOUR behalf.

2.3 "Agreement" means this End User Software License Agreement.

2.4 "Confidential Information" means material, data, systems, and other information concerning the operation, business projections, market goals, financial affairs, products, services, customers, and Intellectual Property Rights of the other Party that may not be accessible or known to the general public, regardless of the medium in which the information is stored. Confidential Information shall include YOUR Data and any information that concerns technical details of operation of the Platform.

2.5 "YOUR Data" means (i) any data resident within YOUR SoRs; and (ii) any data supplied by YOU to LICENSOR through the Platform.

2.6 "Documentation" means the written, printed or electronic materials, which LICENSOR provides to its customers generally that document the operation, access to and use of the Platform.

2.7 "Effective Date" means in relation to this Agreement, the date the terms and conditions of the Agreement are accepted by you by clicking the "ACCEPT TERMS" button.

2.8 "End User" means any individual who is authorized by YOU to access and use the Platform and/or YOUR Applications.

2.9 "Intellectual Property Rights" means any and all now known or hereafter existing rights associated with intangible property, including but not limited to registered and unregistered, United States and foreign copyrights, trade secrets, trademarks, service marks, patents, trade dress, trade names, registrations and applications for any of the foregoing, domain names, corporate names, logos, inventions, databases, inventions, processes, procedures, know-how, computer applications, programs, and other software, including operating software, network software, firmware, middleware, design software, design tools, systems documentation, Documentation, manuals, and instructions, and all other intellectual property and proprietary rights of every kind and nature throughout the universe and however designated.

2.10 "License" means a license or subscription.

2.11 "LICENSOR" means New BI US Gaming, LLC or such other VizExplorer entity that has provided you with the Platform and agreed to license the software to you.

2.12 "Party" means the LICENSOR and YOU.

2.13 "Platform" means that VizExplorer or other proprietary software provided to you in executable form by the LICENSOR or with the LICENSOR's consent, including any Upgrades which occur from time to time, but excluding all source code.

2.14 "SoRs" means any third party or YOUR systems-of-record.

2.15 "Term" means that period commencing on the Effective Date and ending on the earlier of (i) the date that the License of the Platform expires, or (ii) the date this Agreement is terminated under [Section 11](#) of this Agreement.

2.16 "Upgrade" means any improvements, enhancements, additional code, or other modifications to the Platform.

2.17 "Venue" means the properties owned or operated by YOU for which LICENSOR has granted to you a License to use the Platform.

2.18 "VizExplorer" means New BI US Gaming, LLC, and includes each Affiliate. For the purposes of this Section, in relation to a Party "Affiliate" means an entity that owns or controls, is owned or controlled by or is under common control or ownership with that Party, where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise.

2.19 "YOU" or "YOUR" means an individual or legal entity exercising rights or permissions granted by this Agreement.

2.20 "YOUR Application" means an application, created by YOU, used to perform specific functionality that operates in conjunction with, or otherwise utilizes, the Platform.

2.21 "YOUR Data" means: (i) any data resident within YOUR SoRs; and (ii) any data supplied by YOU to LICENSOR through the Platform.

3. LICENSOR OBLIGATIONS

3.1 Rights of Access to and Use of the Platform. Subject to the terms and conditions of this Agreement and payment of the applicable License Fees, for the duration of the Term LICENSOR hereby grants YOU the following rights in connection with YOUR operation of the Venue(s): (i) for YOU to access and use the Platform and YOUR Applications to support YOUR business operations at the Venue(s). The rights of access and use in this [Section 3.1](#) are non-exclusive, non-transferable, and non-sublicensable. This Agreement does not record a sale or transfer of a copy of the Platform and does not render YOU the owner of the Platform.

3.2 Provision of Access. Upon installation, LICENSOR will make available to YOU a secure web link. The materials on the web pages accessed through such link will provide access to the information, tools and software necessary to access and use the Platform.

4. CUSTOMER OBLIGATIONS

4.1 Interconnection. During the Term, YOU grant LICENSOR the right to interconnect with SoRs through the Platform as reasonably necessary for the operation of the Platform and YOUR Applications.

4.2 Restrictions. YOU shall not, and shall not allow or permit others to: (a) sell, resell, rent, or lease use of the Platform, nor provide service bureau or similar services that use, or operate with, the Platform; (b) permit either direct or indirect use of the Platform by any third party; (c) copy, distribute, disclose, reproduce, use or allow access to the Platform except as set forth herein; (d) remove, obscure or alter any copyright notices affixed to or contained in the Platform; (e) disclose or publish the results of any Platform performance benchmarks to any third party without LICENSOR's prior written consent; (f) Reverse engineer, disassemble, decompile, translate, create derivative works of, or make any other attempt to discover or obtain the source code for the Platform (and YOU will take all reasonable steps to prohibit its employees, agents, subcontractors, and contractors from doing so); (g) use or deal with the Platform in any manner or combine the Platform with any other software, hardware, or product where such use, dealing, or combination could cause Customer to be in breach of any obligation under any third party license agreement, cause Supplier to be in breach of any obligation under any third party license agreement where Customer was made aware of the terms of the relevant third party license agreement by Supplier, or infringe any third party Intellectual Property Rights; or (h) use the Platform to engage in any illegal activity. All rights not expressly granted hereunder are retained by LICENSOR.

4.3 Provision of Resources. YOU will be responsible for providing necessary bandwidth and hardware that meets the Platform system requirements (please contact your LICENSOR account executive for more information of the Platform system requirements, networking, third party software, installation and implementation services and operational support and other resources as necessary to support YOUR use of the Platform). YOU will be responsible for providing all customer data and customer patron data for use with the Platform.

4.4 Responsibility for Account Administrators and End Users. YOU will use all reasonable efforts to ensure compliance with the terms and conditions of this Agreement by YOUR Account Administrator(s) and End Users. YOU will be solely responsible and liable for any non-compliance by Account Administrators and End Users.

5. PROPRIETARY RIGHTS

5.1 A. Ownership of Intellectual Property Rights. Except for the rights expressly granted herein, all rights, title, and interests to any and all proprietary rights and Intellectual Property Rights used, or embodied in, or delivered in connection with the Platform will remain with and be the exclusive property of VizExplorer.

5.2 No Other Rights. Except as otherwise expressly provided herein, nothing in this Agreement shall create any right of ownership or license in and to the other Party's Intellectual Property Rights and each Party shall continue to independently own and maintain its Intellectual Property Rights.

6. THIRD PARTY SOFTWARE

6.1 Thirdware Information Disclosure Statement. The Platform contains, or is used with other software that contains, that third party software ("Thirdware") set out in VizExplorer's "Thirdware Information Disclosure Statement". A copy of the current Thirdware Information Disclosure Statement is located at <http://www.vizexplorer.com/license-agreements/>. By accepting the terms and conditions of this Agreement YOU agree that YOU have read, and agree to be bound by, the terms and conditions contained in the Thirdware Information Disclosure Statement.

6.2 Changes to Third Party Software. From time to time as it deems appropriate, VizExplorer or VizExplorer's licensor may change or remove third party software from the Platform, for the better operation of the Platform, without notice to YOU. The terms and conditions set forth in the Thirdware Information Disclosure Statement may be varied from time to time by VizExplorer posting the new terms on its website or by LICENSOR providing a copy of the new terms directly to YOU; however no changes will be retroactive.

7. WARRANTY DISCLAIMERS

7.1 TO THE MAXIMUM EXTENT PERMITTED BY LAW, LICENSOR EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND DURABILITY; ANY WARRANTY WITH RESPECT TO INTELLECTUAL PROPERTY INFRINGEMENT; AND ANY WARRANTY ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE.

7.2 THE PLATFORM IS PROVIDED ON AN "AS IS" BASIS, AND YOUR USE OF THE PLATFORM IS AT YOUR OWN RISK. LICENSOR DOES NOT WARRANT THAT THE PLATFORM WILL MEET YOUR OR ANY OTHER PERSON'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, OR THAT THE USE OF THE PLATFORM WILL BE UNINTERRUPTED (FOR WHATEVER REASON), BE FREE FROM PROGRAMMING OR OTHER ERRORS, OR WILL BE SAFE FROM VIRUSES, WORMS, OR SECURITY BREACHES. LICENSOR HAS NOT AUTHORIZED AND DOES NOT AUTHORIZE ANYONE TO MAKE ANY WARRANTIES ON LICENSOR'S BEHALF

8. CLAIMS OF INFRINGEMENT

8.1 By LICENSOR.

8.1.1 LICENSOR will defend at its expense or settle any third-party claim, demand, suits, or proceedings ("Claims") brought against YOU alleging that the Platform infringes a copyright, trade secret, trademark, or issued U.S. patent and pay infringement Claim defense costs, LICENSOR-negotiated settlement amounts, and damages finally awarded by a court; in each case, provided that YOU promptly notify LICENSOR in writing of the Claim; allow LICENSOR to control, and cooperate with LICENSOR in, the defense and any related settlement negotiations; and are and remain in compliance with the Platform's applicable license terms and YOUR other obligations under this Agreement.

8.1.2 LICENSOR has no obligation for any Claim of infringement arising from: (1) LICENSOR's compliance with YOUR or third party designs, specifications, instructions, or technical information; (2) modifications of the Platform not made or authorized in writing by LICENSOR; (3) the combination, operation, or use of the Platform with any other product, hardware device, program, data, apparatus, method, or process not provided by LICENSOR; (4) the Platform's use other than in accordance with its applicable licenses or subscriptions; (5) use of the Platform for purposes not contemplated by this Agreement or the applicable Documentation; (6) use of a non-current version or release of the Platform, to the extent a Claim could have been avoided by using the current release or version; or (7) any unauthorized distribution, operation, or use of the Platform.

8.1.3 Subject to Section 8.1.4 below, if LICENSOR believes the Platform may infringe a third party's Intellectual Property Rights, then LICENSOR may: (a) procure for YOU a right to continue to use the Platform; or (b) replace the Platform with Platform of comparable functionality acceptable to YOU; or (c) modify the Platform to avoid the infringement.

8.1.4 If LICENSOR believes the options in Section 8.1.3 above are not commercially reasonable, then LICENSOR may terminate YOUR license or subscription for the infringing Platform and refund to YOU any subscription or license fees Customer has paid in advance to LICENSOR in respect of a subscription or license period falling after the date of termination.

8.2 By YOU. YOU will defend at YOUR expense or settle any Claim brought against VizExplorer or any of its directors, officers, employees, agents, contractors, representatives, successors, and assignees (collectively "LICENSOR Parties") and pay or reimburse them for any and all third party damages, costs, and expenses incurred by LICENSOR Parties in connection with any such Claim (including reasonable attorneys' fees) to the extent such Claim arises from: (i) LICENSOR's use of YOUR Data (including without limitation a Claim alleging infringement by YOUR Data of Intellectual Property Rights; that any of YOUR Data is defamatory or infringes a right of publicity or privacy; or that any of YOUR Data is obscene or otherwise offensive); (ii) Unauthorized access to the Platform through the fault of or misuse of the Platform by YOU, End Users, or their respective employees, contractors, or agents; or (iii) the acts or omissions of YOU, End Users, or their respective employees, contractors, or agents in the use of the Platform; in each case, provided that LICENSOR Party promptly notifies YOU in writing of the Claim and cooperates with YOU in, the defense and any related settlement negotiations.

8.3 Entire Liability. THIS SECTION 8 STATES THE ENTIRE LIABILITY AND OBLIGATION OF THE PARTIES WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT OF ANY KIND OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

9. LIMITATIONS OF LIABILITY

9.1 No Consequential Damages. IN NO EVENT WILL LICENSOR BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF REVENUE, LOSS OF DATA, LOSS OF USE, OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY, OR OTHERWISE, WHETHER OR NOT THE LIABLE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND WHETHER OR NOT THE DAMAGES WERE FORESEEABLE. THIS SECTION SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

9.2 Aggregate Limitation. IN NO EVENT WILL LICENSOR'S TOTAL CUMULATIVE LIABILITY ARISING OUT OF THIS AGREEMENT UNDER ANY THEORY

OF LAW EXCEED THE SUM OF FEES PAYABLE BY YOU UNDER THE APPLICABLE AGREEMENT DURING THE ONE YEAR PERIOD IMMEDIATELY PRECEDING THE DATE THE LIABILITY AROSE. THE EXISTENCE OF ONE OR MORE CLAIMS SHALL NOT EXPAND SUCH LIMIT.

9.3 NO ACTION ARISING OUT OF THIS AGREEMENT MAY BE BROUGHT BY YOU MORE THAN TWO YEARS AFTER THE LIABILITY AROSE.

9.4 Exclusions. The provisions of Sections 9.1, 9.2 and 9.3 shall not apply to claims arising out of a wrongful Party's gross negligence or willful, intentional or fraudulent misconduct.

10. CONFIDENTIALITY AND DATA PROTECTION

10.1 Confidential Information.

10.1.1 The Parties acknowledge that by reason of their relationship under this Agreement, they may have access to and acquire Confidential Information of the other Party. Each Party receiving Confidential Information (the "Receiving Party") agrees: (i) to protect all such Confidential Information received from the other Party (the "Disclosing Party"), both orally and in writing, with at least the same stringency of measures with which it protects its own confidential information of a similar, but in no event less than reasonable care; (ii) not to disclose or otherwise make available such Confidential Information to any third party without the prior written consent of the Disclosing Party; provided, however, that the Receiving Party may disclose the terms of this Agreement to its legal advisors, business advisors, and potential investors if such third parties agree to maintain the confidentiality of such Confidential Information under terms no less restrictive than those set forth herein. The Receiving Party further agrees to use the Confidential Information only for the purpose of performing this Agreement.

10.1.2 iii. Notwithstanding the foregoing, the obligations set forth herein shall not apply to Confidential Information that: (a) is or becomes a matter of public knowledge through no fault of or action by the Receiving Party; (b) subsequent to disclosure, is rightfully obtained by the Receiving Party from a third party who is lawfully in possession of such Confidential Information without restriction; or (c) is required by law or judicial order, provided that the Receiving Party shall give the Disclosing Party prompt written notice of such required disclosure in order to afford the Disclosing Party an opportunity to seek a protective order or other legal remedy to prevent the disclosure, and shall reasonably cooperate with the Disclosing Party's efforts to secure such a protective order or other legal remedy to prevent the disclosure.

10.2 YOUR Data. Except for the rights expressly granted herein, YOU retain all right, title, and interest in and to any and all proprietary rights in YOUR Data. LICENSOR will at all times deploy and maintain data security systems at least commensurate with high industry standards as a part of the Platform in order to protect the confidentiality and integrity of YOUR Data. LICENSOR will not access, use, or disclose YOUR Data unless expressly agreed to in writing by YOU and except as provided herein.

10.3 Performance and Usage Data. Notwithstanding the foregoing, YOU acknowledge and agree that Licensor shall have the right to (i) collect and use data related to YOUR use of the Platform, including the number of End Users and the amounts and types of inquiries and transactions conducted through the Platform and data relating to the performance of the Platform for its internal business purposes; (ii) aggregate and anonymize YOUR Data with other customers' data so that the results are non-personally identifiable with respect to, and it would be impossible to derive the identity of, YOU, YOUR End Users, and YOUR patrons, and use such data to analyze, improve, support, and operate the Platform, make recommendations, and otherwise for any purpose, during and after the term of this Agreement.

11. TERM AND TERMINATION

11.1 Term. This Agreement is effective from the Effective Date and will remain in full force and effect during the Term.

11.2 Termination for Material Breach. If either Party materially breaches any term or condition of this Agreement and fails to cure such breach within thirty (30) days after receiving written notice of such breach from the non-breaching Party, the non-breaching Party may terminate this Agreement on written notice at any time following the end of such thirty (30) day period.

11.3 Termination or Suspension for Non-Payment. LICENSOR may terminate this Agreement or suspend access to the Platform by YOU upon fifteen (15) days prior written notice to YOU on YOUR failure to pay LICENSOR any amounts due in respect of the Platform.

11.4 Termination for Bankruptcy or Insolvency. Either Party may by notice and without remedy period immediately terminate this Agreement if the other Party ceases its business, is subject to bankruptcy, liquidation (except for the purpose of a solvent reconstruction or amalgamation) or insolvency proceedings, a receiver or statutory manager is appointed in respect of the whole or any part of its assets, it makes an assignment for the benefit of or composition or arrangement with its creditors or threatens to do any of these things.

11.5 Effect of Termination. In the event of any termination or expiration of this Agreement: (a) YOUR access to and use of the Platform shall immediately terminate and YOU shall return or destroy (at LICENSOR's discretion) all copies of any Platform software

provided by LICENSOR under the terms of this Agreement, in YOUR possession or control; (b) YOU will pay to LICENSOR all amounts previously invoiced and all amounts accrued prior to the termination date; and (c) each Party shall return the other Party's Confidential Information. Except as otherwise provided in this Agreement, termination of this Agreement shall not limit either Party from pursuing other remedies available to it, including injunctive relief. Sections 1, 2, 4-10, 11.5, 12.4, 12.7, 12.8 and 12.10 and all amounts accrued prior to the termination date of this Agreement will survive any termination of this Agreement.

12. GENERAL TERMS

12.1 Technology Export. YOU shall not (a) permit any third party to access or use the Platform in violation on any U.S. law or regulation; or (b) export the Platform or any part of the Platform or otherwise remove it from the United States except in compliance with all applicable U.S. laws and regulations. Without limiting the generality of the foregoing, YOU shall not permit any third party to access or use the Platform in, or export the Platform to, a country subject to a United States embargo.

12.2 Assignment. YOU may not assign or transfer any of YOUR rights or obligations under this Agreement without the prior written consent of LICENSOR; any such assignment or transfer without LICENSOR's prior written consent will be null and void. LICENSOR may assign or transfer all or any of its rights or obligations under this Agreement without YOUR prior written consent or approval.

12.3 Amendment and Waiver. A waiver of any provision of this Agreement by any of the Parties will only be effective if in writing and will only apply to the specific instance and purpose for which it was given. No waiver of any breach or failure to enforce any provision of this at any time by either Party will in any way limit or waive the right of that Party to subsequently enforce and compel strict compliance. No modification or addition to this Agreement will be effective unless it is in writing signed by each of the Parties hereto.

12.4 Governing Law and Jurisdiction This Agreement shall be governed by the laws of the State of California, without giving effect to any conflict-of-laws rules requiring the application of the substantive law of any other jurisdiction. YOU and LICENSOR knowingly and voluntarily intend and agree that the mandatory, exclusive venue for any action in any way related to this Agreement or its enforcement shall be the U.S. District Court, Southern District of California, or any state court located in San Diego County, California. All Parties hereby knowingly and voluntarily waive any and all objections to venue and personal jurisdiction in the foregoing and submit themselves thereto. Each Party hereby waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this Section and stipulates that the aforementioned courts shall have in personam jurisdiction and venue over each of them for the purpose of litigating any dispute, controversy, or proceeding arising out of or related this Agreement.

12.5 Disputes. The Parties agree that before, and as a condition precedent to, the initiation of any legal action or proceeding, all claims, controversies and disputes ("Disputes") arising out of or in relation to the performance, interpretation, application or enforcement of this Agreement, the Parties, their respective counsel and their representatives familiar with the issue will schedule a meeting (by telephone or in person) to discuss the Dispute and attempt in good faith to resolve it. If the Dispute is not resolved after the completion of such meeting, the Parties may then pursue any available legal remedy, action, or proceeding.

12.6 Notices. All notices shall be in writing (excluding email). Any such notice may be served personally or by certified mail (postage prepaid), commercially recognized overnight delivery service (such as Federal Express or DHL), or courier. Notice shall be deemed served upon personal delivery or delivery by courier, upon the second business day after the date sent for notices sent via overnight delivery, or upon the fifth business day after the date sent for notices sent via certified mail.

12.7 Severability. In the event that any provision of this Agreement should be found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained shall not, in any way, be affected or impaired thereby.

12.8 Remedies. Unless expressly set forth herein, the remedies set forth herein are non-exclusive.

12.9 Force Majeure. Neither Party shall be deemed in default hereunder, nor shall it hold the other Party responsible for any cessation, interruption or delay in the performance of its obligations hereunder (excluding payment obligations) due to earthquake, flood, fire, storm, natural disaster, act of God, war, riot, civil disorder, terrorism, armed conflict, labor strike, lockout, boycott, embargoes or other similar events beyond the reasonable control of such Party.

12.10 UCITA. The Parties agree that to the fullest extent permitted by applicable law (1) the provisions of the Uniform Computer Information Transactions Act (UCITA), and (2) the United Nations Convention on Contracts for the International Sale of Goods, are specifically excluded from application to this Agreement and the Platform.