

ECG Templates Licence 1 (ECGT-Lic-1)

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Software Licence Agreement

ATTENTION READER: The reader must read and agree to satisfy and abide by all the terms and conditions in this **Software Licence Agreement** document before the reader will be granted a licence for the accompanying software. If the reader does not agree with any one or more of the terms and conditions, or if the reader is not legally qualified to enter into a legal agreement, then the reader will not be granted a licence. By using the software in any way whatsoever, the reader agrees to be legally bound by the terms and conditions mentioned above.

IMPORTANT: The reader must pay particular attention to those sections marked in **red bold** type, especially those sections concerning **warranties, disclaimers, and liabilities**.

1. **Definitions**

adapted code

- (a) A version of the *ECG template code* (whether or not the version is in the language, code, or notation in which the *ECG template code* was originally expressed) not being a reproduction of the *ECG template code*, or
- (b) a translation of the *ECG template code*.

contract

The agreement between the *licensee* and *original licensor*, which is based on a single set of terms and conditions, is composed, exclusively, of all the following:

- (a) The *licence agreement*,
- (b) any relevant, express, and enforceable terms or conditions necessarily required to be included by applicable law, and
- (c) any altered, deleted, or added terms or conditions expressly made, in relation to the *licence agreement* with a particular *licensee*, with the written consent of the *original licensor*.

ECG template code

This consists of all or any of the following items if and when they exist.

- (1) The contents of all or any of the **ETAC Code Generator** template files (*.ecgt) originally extracted or installed from an *ETAC Package*.
- (2) The software, code, and supporting materials that are required to be used in conjunction with the files mentioned or implied at paragraph (1), and which (software, code, and supporting materials) are originally extracted or installed from an *ETAC Package*.
- (3) Copies, reproductions, adaptations, and translations (if any) made by the *licensee* of any of the files and/or data mentioned or implied at paragraphs (1) and (2).

ETAC Package

This consists of all or any of the following items: the *RunETAC Package*, *ETACSource Package*, or *ETACCodeGenEXE Package* as defined in the licence agreements **RE-Lic-x**, **ES-Lic-x**, or **ECGX-Lic-x**, respectively, of which this *licence agreement* is an *auxiliary licence agreement*.

generated code

The contents of all or any files produced by the **ETAC Code Generator** from the *ECG template code*, or the contents of all or any files that are created in any other way but which can possibly be produced by the **ETAC Code Generator** from the *ECG template code*.

licence

The permissions granted by the *original licensor* to the *licensee* to use (and reproduce, where permitted) the *ECG template code* for the purposes and in the manner specified in the *licence agreement*.

licence agreement

The terms and conditions stated in this **Software Licence Agreement** document.

licensee

The person to whom a *licence* is granted by the *original licensor*.

original licensor

The original designer and creator of the *ECG template code*, namely, Victor Vella.

qualified person

An individual human person who has the legal capacity to contract (ie: is legally qualified to enter into a legal agreement). A legal entity (such as, for example, a company, business, or organisation) is not a *qualified person* by this definition. Note that in most countries, a person under the age of eighteen years is not a *qualified person*.

WARNING

The *ECG template code* is protected by copyright and intellectual property laws. Unauthorised reproduction, alteration, or distribution of all or any part of the *ECG template code* is a serious offence against the Copyright Act or international copyright treaties. Criminal penalties may apply to offenders.

2. General

- 2.1 This **Software Licence Agreement** document states the terms and conditions for a legal agreement between the *licensee* and the *original licensor* for a worldwide, royalty-free, non-transferable, non-exclusive *licence*.
- 2.2 The set of terms and conditions stated in the definition of *contract* is the entire set of terms and conditions of the *contract*. Any other express, implied, or represented terms or conditions are not part of the set of terms and condition of the *contract*.
- 2.3 The *contract* begins (and is legally binding) if and when a *qualified person* executes or unpacks an *ETAC Package* or in any way uses the *ECG template code* and has read, satisfies, and agrees to abide by the *licence agreement*. Making any use whatsoever of the *ECG template code*, or any part of it, indicates that the *qualified person* agrees to be legally bound by the *licence agreement*.
- 2.4 If a *qualified person* does not read, satisfy, or agree to abide by the *licence agreement*, or if a person is not a *qualified person*, then no *contract* is formed and no *licence* is granted, and the *ECG template code* and all *generated code* (if such *generated code* exists) must be totally destroyed.
- 2.5 The *licence agreement* shall not be construed to (and does not purport to) exclude, restrict, or modify any condition, warranty, guarantee, right, or remedy implied by applicable law that cannot lawfully be excluded, restricted, or modified.
- 2.6 In the event that one or more clauses of the *licence agreement* is held by a Court of Law to be invalid or unenforceable, the remaining clauses shall not be affected in any way.
- 2.7 The *licence agreement* cannot be varied without the written express agreement of the *original licensor*.
- 2.8 The *original licensor* can publish changed details of this **Software Licence Agreement** document at any time without notice to the *licensee*. Such changes will be indicated by different *licence agreement* version numbers.
- 2.9 The duration of the *licence* is the same as the duration of the *contract*.
- 2.10 Rights not expressly granted in the *licence agreement* are entirely and exclusively reserved by and to the *original licensor*.
- 2.11 The title and ownership to and in all or any part of the *ECG template code* (including all copies made from the *ECG template code*) shall not pass from the *original licensor* to the *licensee*, and shall remain entirely (except for such parts for which is expressly indicated otherwise) with the *original licensor*.

- 2.12 The *original licensor* owns the copyright and other intellectual rights to and in all or any part of the *ECG template code* exclusively, except for such parts for which is expressly indicated otherwise (in which case the copyright may not be exclusive).

3. Licensee Agreement

3.1 Interpretation

- 3.1.1 The *licensee* or his/her legal representative or advisor shall not construe the words in this document for the purpose of exploiting the *original licensor* or the *ECG template code*, or for the purpose of attempting to avoid performing or abiding by any term, condition, or obligation stated in the *licence agreement*.

3.2 Responsibility of Usage

- 3.2.1 The *licensee* shall make sure that each and every user of the *ECG template code* is familiar with the *licence agreement*.
- 3.2.2 The *licensee* is totally responsible for any breach of the *contract* performed by each and every user of all or any part of the *ECG template code* (or any such copy, reproduction, adaptation, or translation) to which this *licence* applies.

3.3 Software Support

- 3.3.1 The *original licensor* is not entitled to provide support of any kind for the *ECG template code*.

3.4 Replacement, Modification, and Update

- 3.4.1 The *original licensor* reserves the right to replace, modify, update, or upgrade the whole or any part of the *ECG template code* for distribution at any time.
- 3.4.2 If any software, code, or supporting materials acquired by the *licensee* pursuant to clause 3.4.1 is an update or upgrade of the whole or any part of the *ECG template code*, then those acquired items are considered to be part of the *ECG template code* being updated or upgraded and are subject to:
- (a) the *licence agreement* if: (i) no **Software Licence Agreement** is associated with the acquired items or (ii) the **Software Licence Agreement** associated with the acquired items is of an earlier version than the current one in force; otherwise (if neither (i) nor (ii) apply)
 - (b) the **Software Licence Agreement** associated with the acquired items.
- 3.4.3 If an acquired item pursuant to clause 3.4.2 is associated with a later version of the *licence agreement* than the one in force, then that later version of the *licence agreement* supersedes the existing *licence agreement*, otherwise the existing *licence* remains in force. (See clause 3.8.2.)

3.5 Limitation of Liabilities

- 3.5.1 **To the maximum extent permitted by applicable law, the licensee shall release and indemnify the original licensor against any loss or liability incurred by the original licensor arising from, or in any way whatsoever relating to any action, proceeding, costs, claim, demand, or prosecution in relation to, or connected with:**
- (a) the *ECG template code*, or
 - (b) any matter or issue relating to the *licence agreement*,
even if the said events occur after the *contract* has been discharged for any reason.
- 3.5.2 **To the maximum extent permitted by applicable law, the original licensor shall not be liable to the licensee, or to any other person or entity, at any time (even after the contract has been discharged for any reason) for any of the following:**
- 3.5.2.1 **direct, indirect, consequential, incidental, punitive, exemplary, special, commercial, economic, psychological, personal, or any other loss\es or damage\s suffered, or that may be suffered, arising out of or in connection with the use, inability of use, reliance upon, or otherwise, of the ECG template code, or information (in whole or in part) presented in, or connected with, the ECG template code, whether or not the original licensor has been advised of the possibility of, or foreseen, such loss\es or damage\s,**
 - 3.5.2.2 **software or information errors, malfunctions, inaccuracies, omissions, or any other faults whatsoever in the ECG template code or information (in whole or in part) presented in, or**

connected with, the *ECG template code*, whether or not the *original licensor* has direct control of, or has knowledge of, such software or information errors, malfunctions, inaccuracies, omissions, or faults,

3.5.2.3 any other matter or issue whatsoever relating to the *contract*, including, but not limited to, breach of any term\’s or condition\’s of the *contract* by the *original licensor*.

3.5.3 To the extent permitted by applicable law, the maximum aggregate liability of the *original licensor* to the *licensee*, for any reason whatsoever relating to the *contract*, is limited to the purchase price of the *ECG template code* (which is zero dollars).

3.6 Disclaimer and Exemption of Warranty

3.6.1 The *ECG template code* is provided to the *licensee* “AS IS”. The *original licensor* makes no claim or representation of performance, continuity, or results being obtained by any use of the *ECG template code*, or information (in whole or in part) presented in, or connected with, the *ECG template code*.

3.6.2 No warranty, condition, term, or representation (including, but not limited to, any warranty of satisfactory quality, merchantable quality, merchantability, or fitness for a particular purpose), express or implied whether by statute, common law, custom, usage, or otherwise, is made by the *original licensor* with respect to the *ECG template code*, except for those warranties, conditions, terms, or representations that are not permitted to be excluded or limited under applicable law.

3.7 Breach of Agreement by Licensee

3.7.1 If the *licence agreement* is breached by the *licensee*, the *licence* and the *contract* may be terminated by the *original licensor*, and the *licensee* may be liable to the *original licensor* for any or all costs involved in the termination and legal process\’es relating to the breach.

3.8 Discharge (termination) of Contract

3.8.1 If the *licensee* fails to satisfy or abide by any term or obligation of the *contract*, the *contract* is discharged automatically.

3.8.2 The *contract* is discharged automatically if a *licence* corresponding to a later version of the associated *licence agreement* pursuant to clause 3.4.3 is granted (in this case, clause 3.8.4 does not apply), otherwise if the *licence* is not granted or the said *licence agreement* is not of a later version, then the *contract* is not discharged.

3.8.3 When the *contract* is discharged the *licence* is terminated simultaneously.

3.8.4 When the *licence* is terminated, the *licensee* shall immediately cease all use of the *ECG template code* and destroy the *ECG template code* and all of its parts (including all copies, reproductions, adaptations, and translations of the *ECG template code* whether or not they were made for backup or archival purposes).

3.8.5 If the *contract* is discharged pursuant to clause 3.8.1, the *licensee* shall not re-enable the *contract* or agree to a new *contract* in any way or by any means except with the prior express consent of the *original licensor*.

3.9 Jurisdiction

3.9.1 To the extent permitted by law, the *contract* shall be governed by, and construed in accordance with, the laws in force in the State of Western Australia and the Courts in that State shall have jurisdiction.

4. The Original Licensor Agreement

4.1 The ECG Template Code

4.1.1 The *original licensor* shall provide use of the *ECG template code* to the *licensee* subject to the terms and conditions of the *contract*.

4.1.2 The *original licensor* shall take due and reasonable care in constructing the *ECG template code* to substantially operate in accordance with the relevant **ETAC Code Generator** documentation.

4.2 Decisions by the Original Licensor

4.2.1 The *original licensor* shall make decisions entitled by the *licence agreement* in a fair and impartial manner as is practical.

5. Rights Granted to the Licensee

5.1 Usage and Copying

5.1.1 The *licensee* may install the *ECG template code* onto any suitable computer\’s that is\’are within his\’her control. (NOTE: this is not a transfer of *licence* or ownership of the *ECG template code*.)

5.1.2 The *licensee* is responsible for any and all installations made pursuant to clause 5.1.1.

5.1.3 The *licensee*, or a person authorised by the *licensee*, may use the *ECG template code* in accordance with the relevant **ETAC Code Generator** documentation or other relevant ETAC documentation.

5.2 Distribution and Modification of the ECG Template Code

5.2.1 The *licensee*, or any *qualified person*, may distribute the *ECG template code* or may create (or modify) and distribute *adapted code*, whether part of a larger work or not, subject to the following conditions:

5.2.1.1 The *licensee* shall prominently and expressly bring to the user’s attention that the user’s use of the *ECG template code* or the *adapted code* is subject to this *licence agreement* which must be read and agreed to by the user before using the *ECG template code* or the *adapted code*.

5.2.1.2 Any documentation or communication pertaining to the *ECG template code* or any *adapted code* shall not purport to delete, modify, reinterpret, circumvent, cancel, or override any term or condition of this *licence agreement*.

5.2.1.3 The *licensee* shall not charge a fee, request donations, receive payments, or receive any other remuneration for the *ECG template code* or any *adapted code*, or for distributing the *ECG template code* or any *adapted code*, or for the labour involved in preparing the *ECG template code* or any *adapted code* for distribution. This clause applies also to all copies of the *ECG template code* or any *adapted code*.

5.2.1.4 The *licensee* shall not use or distribute the *ECG template code* or any *adapted code* together with any illegal software (including, but not limited to, any infringing software) or other illegal items.

5.2.1.5 Each modification of the *ECG template code* or any *adapted code* must be indicated by a variation record showing the date of, the initials of the author of, and the nature of the modification. The variation record must be placed at the top of the modified file beneath existing variation records.

5.2.1.6 Existing copyright, trademark, attribution, licence, variation records, or other legal notices within the *ECG template code* or any *adapted code* must not be altered or deleted.

5.3 Distribution of Generated Code

5.3.1 The *licensee* may distribute *generated code* subject to all of the following conditions:

5.3.1.1 The *licensee* shall bring to the recipient’s attention that the recipient’s use of the *generated code* is subject to this **Software Licence Agreement** which must be read and agreed to before using the *generated code*.

5.3.1.2 The *licensee* or recipient shall not distribute *generated code* together with any illegal software (including, but not limited to, any infringing software) or other illegal items.

5.3.1.3 The *licensee* or recipient shall not claim copyright on any part of any *generated code* that is a copyrightable part of the *ECG template code* (or any such copy, reproduction, or translation), whether part of a larger work or not (the *licensee* or recipient may claim copyright on any part of any *generated code* that is entirely their own original work).

5.3.2 The *licensee* shall not allow the distribution, export, or re-export of *generated code* (or any such copy, reproduction, adaptation, or translation) to or from any country in violation of any applicable import or export laws or regulations of that country.

5.4 Backup Copies

- 5.4.1 The *licensee*, or a person authorised by the *licensee*, may make a copy of the *ECG template code* for private archival purposes.
- 5.4.2 The *licensee*, or a person authorised by the *licensee*, may periodically make a copy of the *ECG template code* as part of a general backup and recovery procedure.

6. Rights Prohibited or Restricted

6.1 General

- 6.1.1 The *licensee* shall not rent, lease, lend, sublicense, or assign all or any part of the *ECG template code*, or allow it to be such, to any person or entity whatsoever.
- 6.1.2 The *licensee* shall not allow all or any part of the *ECG template code* to be used or involved in any violation of any applicable laws or regulations.

6.2 Alteration and Disclosure

- 6.2.1 Except to the absolute minimum extent expressly permitted by the relevant Copyright Act, copyright law, or international copyright treaty, and notwithstanding the instructions within the documentation of an *ETAC Package* or the rights granted by the *licence*, the *licensee*, or any other person, shall **not**:
- 6.2.1.1 adapt, alter, translate, create derivative works based on, or create adaptations of all or any part of the *ECG template code*.
- 6.2.1.2 alter or delete any copyright, trademark, attribution, licence, variation records, or other legal notices within the *ECG template code*.
- 6.2.2 If the *licensee*, or any other person, is permitted by applicable law to do an act pursuant to clause 6.2.1 (and its subclauses), then he/she shall make a reasonable attempt to inform the *original licensor* of such an act before it occurs.

6.3 Marketing

- 6.3.1 The *licensee* or any user of the *ECG template code* shall not use the name of the *original licensor* or use logos or trademarks owned by the *original licensor* to endorse, promote, or market any product/s produced by the use of the *ECG template code* or *adapted code*, and which (product/s) are not owned by the *original licensor*, without the prior express permission of the *original licensor*.

6.4 Transfer of Licence or Copyright

- 6.4.1 The *licence* or the copyright to and in the *ECG template code* shall **not** be transferred or assigned to any person or entity under any circumstances whatsoever.