

SUBSCRIPTION HARDWARE END-USER LICENSE AGREEMENT

BY POWERING UP THE HARDWARE (“HARDWARE”) UPON WHICH THE SOFTWARE IS INSTALLED (“SOFTWARE”), YOU AGREE TO THE TERMS OF THIS END USER LICENSE AGREEMENT (“EULA”). IF YOU DO NOT AGREE, DO NOT USE THE HARDWARE AND SOFTWARE.

TERMS AND CONDITIONS

1. General

- (a) This EULA is a legal agreement between you (either an individual or a single entity) and Solace Corporation (“**Solace**”). This EULA pertains to your use of the Hardware and Software and any associated media, manuals and printed materials (the “**Materials**”), including all updates, upgrades, additions, enhancements and replacements to the Hardware, Software and Materials (collectively, the “**Products**”) provided by Solace to you from time to time during the Term (as defined below).
- (b) The Products have been delivered to you based on the terms of the sales quotation issued to you by Solace (the “**Order**”). This EULA and the Order are together referred to as this “**Agreement**”. The terms of this Agreement will not be varied, amended or altered in any manner by any terms or conditions set out in a purchase order or other document delivered by you to Solace.
- (c) Solace may provide, in its sole discretion, either new or refurbished Hardware, provided that, such Hardware meets the specifications set out in the Order.

2. Subscription Term

Solace grants you a non-exclusive, non-transferable, perpetual, royalty-free license, for the subscription term agreed between you and Solace in the Order (the “**Term**”) to use the Products subject to the terms and conditions of this Agreement. The Term shall commence on the date of your acceptance of the Order. If no subscription term is expressly set forth in the Order, unless earlier terminated in accordance with the terms of this EULA, the Term shall extend for such period as you are meeting the payment obligations agreed between you and Solace.

3. Payment

- (a) During the Term, you shall pay Solace the amounts specified in the Order at the times specified in the Order. Such payment obligations may only be varied by an updated Order agreed by you and Solace.
- (b) You are responsible for: (i) all shipping expenses from or to Solace; (ii) taxes related to the use of the Products including withholding, sales, value-added and goods and services tax, but excluding any tax on Solace income; and (iii) installation, maintenance and de-installation of any or all of the Products. Solace professional services are available and will be quoted separately and subject to a separate statement of work or other written agreement between you and Solace.
- (c) You do not have any right to set-off or reduce the payments set out in the Order. Any claim for a reduction of such payments must be made directly to Solace.

4. Permitted Use

- (a) During the Term, you are permitted to use (a) the Hardware in accordance with the terms of this Agreement, (b) the Software only in connection with the Hardware upon which it is installed, and (c) the Materials only in connection with your use of the Hardware and Software.
- (b) You shall keep the Products in good repair and condition at all times.
- (c) Maintenance and support of the Products is provided to you by Solace pursuant to the terms set forth at <https://solace.com/support>.
- (d) You agree to permit Solace and its representatives during normal business hours and on reasonable prior notice to inspect the Products.

5. Restriction of Use

You may not and you must not permit others to: (i) disassemble the Hardware or decompile or otherwise derive source code from the Software; (ii) reverse engineer the Hardware or Software; (iii) modify or prepare derivative works of the Software or Hardware; (iv) copy the Software; or (v) use the Software or Hardware in any manner that infringes the intellectual property or other rights of another party. You may not distribute, rent, sublicense, lease or otherwise make the Software or Hardware available, directly or indirectly, for use by any other person.

6. Ownership

You have the right to use the Products during the Term in accordance with the terms of this Agreement and all applicable laws. You do not have any ownership right, title or interest in or to the Products, other than the limited right to use granted under this Agreement. This Agreement and any license granted hereunder shall not be construed to convey, transfer or otherwise modify any rights of Solace. Solace may make such registrations against you under applicable personal property security laws or similar legislation as are deemed necessary to evidence and protect its ownership of the Products. You hereby grant Solace a security interest in any right, title and interest, now existing and hereafter arising, that you may have in and to, (a) all Products subject to this Agreement, (b) all insurance, warranty, rental and other claims and rights to payment arising out of such Products, and (c) all books, records and proceeds relating to the foregoing.

7. Replacement or Exchange

At any time during the Term, subject to (a) providing Solace with at least 60 days' prior written notice; (b) availability of desired equipment; and (c) agreeing to an updated order with Solace based on Solace pricing guidelines in force at such time, you may exchange, reduce, add to, replace or upgrade some or all of the Products without penalty. During the Term, Solace may replace or upgrade some or all of the Products, in its sole discretion. The use of all such upgrade and replacement Products shall be subject to the terms of this Agreement.

8. Early Termination

- (a) You may terminate this Agreement at any time on sixty (60) days' prior written notice to Solace.

- (b) Without prejudice to any other rights and remedies that Solace may have, Solace may terminate this Agreement if you are not in compliance with any of the terms and conditions of this Agreement.
- (c) Without limiting the generality of the foregoing, the occurrence of any of the following shall constitute an “**Event of Default**” and permit Solace to terminate this Agreement: (i) you fail to make any payment under this Agreement or other amount due within five days after it becomes due and payable; (ii) any representation or warranty that you have made in this Agreement or any other agreement with Solace proves to have been false or misleading in any material respect as of the date when it was made; (iii) you fail to maintain insurance as required in this Agreement; (iv) you fail to perform any other covenant, condition or agreement made by you under this Agreement or any other agreement with Solace, and such failure continues for 10 days; and (v) you cease to carry on business or bankruptcy, receivership, insolvency, reorganization, dissolution, liquidation or other similar proceedings are instituted by or against you, or all or any part of your property, under any insolvency, bankruptcy or arrangement law of Canada or of any other competent jurisdiction.
- (d) Upon the occurrence of any Event of Default, Solace may in its sole discretion, in addition to any other rights and remedies available to it, exercise one or more of the following rights and remedies: (i) perform any obligation that you have failed to perform, in which case an amount equal to all expenses incurred by Solace in such performance shall be immediately payable by you to Solace on demand; (ii) require you to pay to Solace on demand, as a genuine pre-estimate of liquidated damages and not as a penalty, the remainder of all payments due under the Order and this EULA at such time; (iii) enter any place where the Products are located and take possession of and remove the Products without court order or other process of law, or require you at your expense, to return such Products to Solace to such place as it may direct; and (iv) terminate this Agreement (but without releasing any obligations of you then due hereunder and any other liabilities which are stated herein to survive termination). To the extent permitted by law, you waive the benefit of all laws governing the seizure and sale or other disposition of the Products upon default. You shall remain liable for any deficiency remaining under this Agreement. If Solace enforces any provision of this Agreement on an Event of Default, you shall reimburse Solace on demand for all expenses including legal fees and disbursements on a solicitor and own client basis, incurred by Solace in connection with such enforcement.

9. **Return of Products**

In the event of an early termination of this Agreement by you or Solace or the expiration of the Term, you must cease using the Products and return them to Solace immediately in the condition in which they were delivered to you, normal wear and tear excepted.

10. **Insurance**

You shall obtain and maintain for the Term at your own expense, property damage and liability insurance and insurance against loss or damage to the Products on a replacement cost basis as a result of fire, explosion, theft, vandalism and such other risks of loss as are normally maintained on equipment of the type used by you under this Agreement by companies carrying on the business in which you are

engaged, in such amounts, in such form and with such insurers as shall be satisfactory to Solace. Each insurance policy shall name you as insured and Solace as an additional insured and loss payee thereof.

11. Risk of Loss of Products

You assume the risk of the Products being lost, stolen, damaged, destroyed or otherwise unfit or unavailable for use from any cause whatsoever (each a “**Loss Event**”) after Solace has delivered the Products to a carrier for shipment to you. If a Loss Event occurs, you shall immediately notify Solace in writing and pay to Solace on the next payment date, an amount equal to all payments due and payable with respect to such Products on or prior to the date of the Loss Event, plus an amount equal to the amount, if any, of all insurance proceeds received by you or Solace under the insurance policies maintained by you in accordance with this Agreement, in respect of the loss of the Products in such Event of Loss. If a Loss Event occurs, the Term for the Products involved in such Loss Event shall terminate as of the date of the Loss Event and, if reasonably requested by Solace, you will return the damaged Products to Solace.

12. Disclaimer of Warranties

IN THE ABSENCE OF A SEPARATE MASTER AGREEMENT BETWEEN YOU AND SOLACE THE TERMS OF WHICH EXPRESSLY OVERRIDE THIS AGREEMENT, THE FOLLOWING DISCLAIMER SHALL APPLY: THE PRODUCTS ARE PROVIDED ON AN “AS IS” BASIS AND SOLACE DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, EXPRESS, IMPLIED OR COLLATERAL, OF ANY KIND WHATSOEVER. WITHOUT LIMITING THE FOREGOING, SOLACE DOES NOT REPRESENT OR WARRANT THAT THE PRODUCTS WILL MEET ANY OR ALL OF YOUR PARTICULAR REQUIREMENTS, THAT THE OPERATION OF THE PRODUCTS WILL BE ERROR-FREE OR UNINTERRUPTED.

13. Limitation of Liability

To the maximum extent permitted by applicable law, in no event shall Solace, its affiliates, shareholders, directors, officers, employees and agents be liable for any special, incidental, indirect, or consequential damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss) arising out of your use or inability to use the Products, even if Solace has been advised of the possibility of such damages. In any case, Solace’s entire liability under any provision of this Agreement shall be limited to the lesser of the amount actually paid by you for the Products or \$100.00.

14. Charges, Expenses, Etc.

In the event of an Event of Default or early termination of this Agreement, you shall reimburse Solace for all charges, costs, expenses, fees and legal fees and disbursements on a solicitor and client basis incurred by Solace (a) in defending or protecting its ownership interest in the Products, (b) in the enforcement of this Agreement, and (c) in any lawsuit or other legal proceeding to which this Agreement gives rise.

15. Transfer

- (a) You shall not assign or transfer the Products, this Agreement or any of the rights granted hereunder, or any part thereof, whether directly or indirectly, without the prior written consent of Solace.

- (b) Solace may assign or transfer the Products, this Agreement or any of the rights granted hereunder, or any part thereof, whether directly or indirectly, without your prior consent.

16. **Export**

- (a) All Products that you obtain from Solace are subject to the export control and economic sanctions laws and regulations of Canada, including the *Exports and Import Permits Act*, R.S.C. 1985, c. E-19, *Area Control List*, *Export Control List*, and the United States, including the *Export Administration Regulations* ("EAR", 15 CFR 730 et seq., <http://www.bis.doc.gov/>) administered by the Department of Commerce, Bureau of Industry and Security, and the *Foreign Asset Control Regulations* (31 CFR 500 et seq., <http://www.treas.gov/offices/enforcement/ofac/>) administered by the Department of Treasury, Office of Foreign Assets Control ("OFAC"), each as may be amended and updated from time to time.
- (b) You will not, and will ensure that you will not directly or indirectly export, re-export, transfer or release (collectively, "export") any Software or associated hardware to any destination, person, entity or end use prohibited or restricted under Canadian or US law, or the laws of the jurisdiction in which you are resident or in which you use the Software or associated hardware, without prior government or regulatory authorization to the extent required by applicable laws and regulations.
- (c) The US government maintains embargoes and sanctions against the countries listed in Country Groups E:1/2 of the EAR (Supplement 1 to part 740), as amended from time to time. You will not directly or indirectly employ any Software or associated hardware received from Solace in missile technology, sensitive nuclear or chemical biological weapons activities, or in any manner knowingly transfer any Software or associated hardware to any party for any such end use. You will not export Software or associated hardware listed in Supplement 2 to part 744 of the EAR for military end-uses, as defined in part 744.21, to the People's Republic of China. You will not transfer any Software or associated hardware to any party listed on any of the denied parties lists or specially designated nationals lists maintained under said regulations without appropriate US government authorization to the extent required by regulation. You acknowledge that other countries may have trade laws pertaining to import, use, export or distribution of Products, and that compliance with same is Licensee responsibility.
- (d) You may not use the Software or associated hardware if you are barred from receiving the Software or associated hardware under the laws of Canada, the United States or any other country including the country in which you are resident or in which you use the Software or associated hardware.

17. **Survival**

Your obligations to make payments to Solace under this Agreement and all rights of Solace in this Agreement including disclaimers and limitations of liability shall survive the termination or expiration of this Agreement and the return of the Products.

18. **Entire Agreement**

Except as set forth in a master Agreement between you and Solace, this Agreement constitutes the entire Agreement between you and Solace relating to the Products and supersedes all prior representations, warranties, Agreements and understandings, whether oral or written, express or implied. No supplement, modification or waiver of this Agreement shall be binding unless signed by both parties.

19. Governing Law

This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. You and Solace waive all rights to trial by jury in any litigation arising from this Agreement. You and Solace consent to the non-exclusive jurisdiction of the courts of the province of Ontario, for the resolution of any disputes under this Agreement.