

# End User License Agreement

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This End User License Agreement (“License”) sets forth the terms and conditions controlling an end user’s right to use, and manner of use of, a seller’s product.

**USE CONSTITUTES ACCEPTANCE:** BY USING OR KEEPING THE PRODUCT, END USER ACKNOWLEDGES READING, UNDERSTANDING, AND ACCEPTING ALL THE TERMS AND CONDITIONS OF THIS LICENSE. IF YOU DO NOT ACCEPT ALL THE TERMS AND CONDITIONS, DO NOT USE THE PRODUCT. PROMPTLY RETURN IT UNUSED TO THE SELLER.

**GENERAL:** The terms and conditions contained in this License and seller’s Price Sheet 150 and/or Price Sheet 181 (for customers in the United States) or Price Sheet 153 and/or Price Sheet 182 (for customers outside the United States) constitute the entire agreement and understanding between the end user and the seller, and supersede any prior or contemporaneous agreement or understanding concerning those particular terms and conditions. The seller is not bound by any provision of any purchase order, receipt, acceptance, confirmation, correspondence, or other instrument or action relating to those particular terms and conditions, unless the seller specifically agrees in a subsequent written instrument indicating that such instrument is to have preference with regard to identified ones of those particular terms and conditions.

End user may not assign or transfer this License or any rights or obligations under this License without prior written approval from the seller. Any assignment or transfer of this License made in contravention of the terms hereof shall be null and void.

Subject to the foregoing, this License shall be binding on, and inure to, the benefit of the parties’ respective successors and permitted assigns.

The seller may assign its rights under this License to (i) its affiliates and (ii) any successor by way of merger, acquisition, consolidation, reorganization, sale, or other transfer in which case references to the seller herein shall be deemed to refer to the seller’s assignee.

End user is responsible for the payment of any taxes, including personal property taxes, arising from this License, or delivery or use of the product.

## DEFINITIONS:

- “Hardware” is the portion of the product in the configuration as provided.
- “Software” is the set of computer programs and files used to process data in the manner set forth by procedures, algorithms, and documentation, which provide instructions to the Hardware or other Software with which it may interact. Software is embedded, is provided as a Virtual Machine application, or installed

in the Hardware by the seller in binary executable object code form, or readable and interpretative form. Software includes updates and upgrades, if any, provided to end user by the seller.

- “Documentation” is the portion of the product in electronic, printed, or other form that accompanies the product, or is otherwise available, to provide information about installation, operation, and use of the product.
- “Operating System” is the environment in which the Software executes. The Operating System resides between the Hardware and the Software. Some products do not have an Operating System.

**GRANT OF LICENSE:** Upon acceptance of the terms and conditions contained in this License by the end user, the seller grants a nontransferable, non-sublicensable, nonexclusive license to use the Software and its associated product in the approved environment, for the life of the product. The approved environment includes, among other considerations, the appropriate operating frequencies, operating licenses, Hardware, Operating System, configuration, location, and application approved by the seller and its successors and assigns.

The License and the right to use the Software and its associated product shall terminate automatically if the end user violates any Conditions of Use set forth herein or any other part of this License. Upon termination of the License, the end user shall promptly (i) destroy the Software embedded in the product and terminate all use of the product or (ii) return the product including all embedded Software and Documentation to the seller. Seller and the seller’s licensors reserve all rights in the product not expressly granted to end user in this License.

## CONDITIONS OF USE:

- End user shall use the product, including the Hardware, Software, or Documentation, only in the country of purchase.
- End user shall not remove, alter, cover or obfuscate any copyright notices, any other proprietary rights notices and any other notices or markings placed or embedded by the seller on or in the product, including on or in the Hardware, Software, or Documentation.
- End user shall not publish any information that compares the performance of the product with products created or distributed by others without the prior written consent of the seller.
- End user shall hold in confidence all unpublished information and trade secrets about the product of which the end user becomes aware.



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- End user shall not sell, sublicense, distribute, or otherwise transfer the product, including the Hardware, Software, or Documentation, to anyone or any entity.
- End user shall not, and shall not authorize or engage anyone else to, copy, modify, translate, alter, adapt, reverse engineer, disassemble, create derivative works of, decompile, or attempt to derive source code for, the Software for any purpose.
- End user shall only use Software through direct use of the S&C provided human-machine interface. Using external programs or scripts to interface, capture, or manipulate data from the Software directly or from the provided human-machine interface is not permitted.
- End user shall not export any data collected by the software to external systems or applications via unsupported or undocumented Software interfaces. Importing or exporting data to or from external systems or applications is only permitted and supported through S&C-engineered interfaces.

**UPDATES, UPGRADES, AND SUPPORT:** Unless otherwise agreed to in the form of an Annual Software License Fee and Support Plan, seller has no obligation to provide updates and/or upgrades for the product. Such a plan, furnished for an annual fee, may be mandatory for continued use of the Software and includes updates and support.

The seller may, from time to time, at the seller's sole discretion, make updates and/or upgrades to the product available via the Internet or via other sources. Any updates and/or upgrades provided by the seller may result in functional or other changes to the product. The end user assumes all risk resulting from installing, or from failing to install, updates and/or upgrades made available by the seller. The seller has no obligation under this License to provide any assistance, maintenance, or other support for the product, the Hardware, Software, or Documentation.

**DISCLAIMER OF WARRANTIES:** Except as set forth in the seller's Price Sheets 150 and/or 181 (for customers in the United States) or Price Sheets 153 and/or 182 (for customers outside the United States) in effect when the product is delivered to the end user, the seller disclaims all warranties for the product and, specifically, the seller disclaims all warranties, whether express, implied, statutory, or otherwise, including, but not limited to, warranties of merchantability, non-infringement, or fitness for a particular purpose.

Some jurisdictions do not allow the disclaimer of particular warranties and, to the extent that such laws are controlling, one or more of the foregoing disclaimers may not apply to the end user.

**EXCLUSION AND LIMITATION OF LIABILITY:** In no event will the seller be liable for any special, incidental, consequential, punitive, or indirect damages whatsoever (including, without limitation, damages for loss of profits,

loss of revenue, business interruption, loss of information including loss of data, or other pecuniary loss) arising out of the use or inability to use the product or the performance, interruption, or failure of the product, irrespective of the cause of action, even if the seller has been advised of the possibility of such damages.

Some jurisdictions do not allow the exclusion or limitation of particular liabilities and, to the extent that such laws are controlling, one or more of the foregoing exclusions or limitations may not apply to the end user.

Notwithstanding anything else in this agreement or otherwise, the seller's cumulative liability for all claims arising out of, or in connection with, this agreement, including, without limitation from, or in connection with, the use or improper functioning of the product including the Hardware, Software, or Documentation (each, a "claim"), shall not exceed the amount paid by the end user for the product.

Notwithstanding anything else, the seller's suppliers and licensors shall have no liability for any claims in connection with the product or this agreement.

**EXPORT CONTROLS:** The product, including the Hardware, Software, and Documentation, and any technical data related thereto and any direct product thereof may not be exported or re-exported contrary to the laws and regulations of the United States and of other countries. The end user may not export or re-export the product from the country in which it was originally delivered.

**LEGAL PROTECTION AND TITLE:** The product and use of the product, including Hardware, Software, and Documentation, are protected by United States and international laws and regulations, including those related to copyright, patent, trade secret, and other intellectual property, and those related to international trade laws and regulations. The product contains unpublished information and embodies valuable trade secrets proprietary to the seller and the seller's licensors. Notwithstanding that the Hardware portion of the product may be sold to the end user, the Software and Documentation portions are not sold to the end user and title to the Software and Documentation remains in the seller and the seller's licensors.

**U.S. GOVERNMENT RESTRICTED RIGHTS:** The product, including the Hardware, Software, and Documentation, and any technical data related thereto, is a "Commercial Item" as defined in 48 C.F.R. § 2.101. If the end user is the U.S. Government or any agency or department thereof, the product is only delivered as a Commercial Item subject to the license grant and other terms and conditions as set forth in this License. Acquisition of the product by the U.S. Government or any agency or department thereof shall only be under FAR or DFAR provisions for ACQUISITION OF COMMERCIAL ITEMS and shall not alter the terms and conditions of this License.