



## International License Agreement for Evaluation of Programs

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### Part 1 - General Terms

BY DOWNLOADING, INSTALLING, COPYING, ACCESSING, CLICKING ON AN “ACCEPT” BUTTON, OR OTHERWISE USING THE PROGRAM, LICENSEE AGREES TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ACCEPTING THESE TERMS ON BEHALF OF LICENSEE, YOU REPRESENT AND WARRANT THAT YOU HAVE FULL AUTHORITY TO BIND LICENSEE TO THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS,

- DO NOT DOWNLOAD, INSTALL, COPY, ACCESS, CLICK ON AN “ACCEPT” BUTTON, OR USE THE PROGRAM; AND
- PROMPTLY RETURN THE UNUSED MEDIA AND DOCUMENTATION TO THE PARTY FROM WHOM IT WAS OBTAINED FOR A REFUND OF THE AMOUNT PAID. IF THE PROGRAM WAS DOWNLOADED, DESTROY ALL COPIES OF THE PROGRAM.

#### 1. Definitions

“**Authorized Use**” – the specified level at which Licensee is authorized to execute or run the Program. That level may be measured by number of users, millions of service units (“MSUs”), Processor Value Units (“PVUs”), or other level of use specified by Lenovo.

“**Lenovo**” – Lenovo PC HK Limited or one of its affiliates.

“**License Information**” (“**LI**”) – a document that provides information and any additional terms specific to a Program. The LI can be found in the Program’s directory, by the use of a system command, or as a booklet included with the Program.

“**Program**” – the following, including the original and all whole or partial copies: 1) machine-readable instructions and data; 2) components, files, and modules; 3) audio-visual content (such as images, text, recordings, or pictures); and 4) related licensed materials (such as keys and documentation).

#### 2. Agreement Structure

This Agreement includes **Part 1 - General Terms**, **Part 2 - Country-unique Terms** (if any) and the LI and is the complete agreement between Licensee and Lenovo regarding the use of the Program. It replaces any prior oral or written communications between Licensee and Lenovo concerning Licensee’s use of the Program. The terms of Part 2 may replace or modify those of Part 1. To the extent of any conflict, the LI prevails over both Parts.

#### 3. License Grant

The Program is owned by Lenovo or a Lenovo supplier, and is copyrighted and licensed, not sold.

Lenovo grants Licensee a nonexclusive license to: 1) use the Program during the evaluation period up to the Authorized Use specified in the LI solely for internal evaluation, testing or demonstration purposes on a trial basis; 2) make and install copies to support such Authorized Use; and 3) make a backup copy, all provided that

- a. Licensee has lawfully obtained the Program and complies with the terms of this Agreement;
- b. the backup copy does not execute unless the backed-up Program cannot execute;
- c. Licensee reproduces all copyright notices and other legends of ownership on each copy, or partial copy, of the Program;
- d. Licensee maintains a record of all copies of the Program and ensures that anyone who uses the Program (accessed either locally or remotely): 1) does so only on Licensee's behalf; and 2) complies with the terms of this Agreement;
- e. Licensee does not: 1) use, copy, modify, or distribute the Program except as expressly permitted in this Agreement; 2) reverse assemble, reverse compile, otherwise translate, or reverse engineer the Program, except as expressly permitted by law without the possibility of contractual waiver; 3) use any of the Program's components, files, modules, audio-visual content, or related licensed materials separately from that Program; 4) sublicense, rent, or lease the Program; or 5) use the Program for commercial application hosting; and

- f. if Licensee obtains this Program as a Supporting Program, Licensee uses this Program only to support the Principal Program and subject to any limitations in the license to the Principal Program, or, if Licensee obtains this Program as a Principal Program, Licensee uses all Supporting Programs only to support this Program, and subject to any limitations in this Agreement. For purposes of this Item "f," a "Supporting Program" is a Program that is part of another Lenovo Program ("Principal Program") and identified as a Supporting Program in the Principal Program's LI. (To obtain a separate license to a Supporting Program without these restrictions, Licensee should contact the party from whom Licensee obtained the Supporting Program.)

This license applies to each copy of the Program that Licensee makes.

### **3.1 Updates, Fixes, and Patches**

#### **3.1.1 Updates, Fixes, and Patches**

When Licensee obtains an update, fix, or patch to a Program, Licensee accepts any additional or different terms that are applicable to such update, fix, or patch that are specified in its LI. If no additional or different terms are provided, then the update, fix, or patch is subject solely to this Agreement. If the Program is replaced by an update, Licensee agrees to promptly discontinue use of the replaced Program.

### **3.2 Term and Termination**

The evaluation period begins on the date Licensee agrees to the terms of this Agreement and ends upon the earliest of :1) the end of the duration or the date specified by Lenovo in either the License Information or a transaction document; or 2) the date on which the Program automatically disables itself. Licensee's license to the Program terminates at the end of the evaluation period, and Licensee agrees to promptly discontinue use of the Program and destroy all of Licensee's copies of the Program within 10 days of the end of the evaluation period. If Lenovo specifies in the LI that Licensee may retain the Program, and Licensee elects to do so, then the Program will be subject to a different license agreement, which Lenovo will provide to Licensee. In addition, a charge may apply.

Lenovo may terminate Licensee's license if Licensee fails to comply with the terms of this Agreement. If the license is terminated for any reason by either party, Licensee agrees to promptly discontinue use of and destroy all of Licensee's copies of the Program.

**THE PROGRAM MAY CONTAIN A DISABLING DEVICE THAT WILL PREVENT IT FROM BEING USED AFTER THE EVALUATION PERIOD ENDS. LICENSEE AGREES NOT TO TAMPER WITH THE DISABLING DEVICE OR THE PROGRAM. LICENSEE SHOULD TAKE PRECAUTIONS TO AVOID ANY LOSS OF DATA THAT MIGHT RESULT WHEN THE PROGRAM CAN NO LONGER BE USED.**

### **4. Charges**

There is no charge for the use of the Program for the duration of the evaluation period.

### **5. No Warranties**

**SUBJECT TO ANY STATUTORY WARRANTIES THAT CANNOT BE EXCLUDED, LENOVO MAKES NO WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, REGARDING THE PROGRAM OR SUPPORT IF ANY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND TITLE, AND ANY WARRANTY OR CONDITION OF NON-INFRINGEMENT.**

**SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF EXPRESS OR IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO LICENSEE. IN THAT EVENT, SUCH WARRANTIES ARE LIMITED IN DURATION TO THE MINIMUM PERIOD REQUIRED BY LAW. NO WARRANTIES APPLY AFTER THAT PERIOD. SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO LICENSEE. LICENSEE MAY HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE OR JURISDICTION TO JURISDICTION.**

**THE DISCLAIMERS AND EXCLUSIONS IN THIS SECTION 5 ALSO APPLY TO ANY OF LENOVO'S PROGRAM DEVELOPERS AND SUPPLIERS.**

**MANUFACTURERS, SUPPLIERS, OR PUBLISHERS OF NON-LENOVO PROGRAMS MAY PROVIDE THEIR OWN WARRANTIES.**

**LENOVO DOES NOT PROVIDE SUPPORT OF ANY KIND, UNLESS LENOVO SPECIFIES OTHERWISE. IN SUCH EVENT, ANY SUPPORT PROVIDED BY LENOVO IS SUBJECT TO THE DISCLAIMERS AND EXCLUSIONS IN THIS SECTION 5.**

## **6. Licensee Data and Databases**

To assist Licensee in isolating the cause of a problem with the Program, Lenovo may request that Licensee: 1) allow Lenovo to remotely access Licensee's system; or 2) send Licensee information or system data to Lenovo. However, Lenovo is not obligated to provide such assistance unless Lenovo and Licensee enter a separate written agreement under which Lenovo agrees to provide to Licensee that type of support, which is beyond Lenovo's obligations in this Agreement. In any event, Lenovo uses information about errors and problems to improve its products and services, and assist with its provision of related support offerings. For these purposes, Lenovo may use Lenovo entities and subcontractors (including in one or more countries other than the one in which Licensee is located), and Licensee authorizes Lenovo to do so.

Licensee remains responsible for: 1) any data and the content of any database Licensee makes available to Lenovo; 2) the selection and implementation of procedures and controls regarding access, security, encryption, use, and transmission of data (including any personally-identifiable data); and 3) backup and recovery of any database and any stored data. Licensee will not send or provide Lenovo access to any personally-identifiable information, whether in data or any other form, and will be responsible for reasonable costs and other amounts that Lenovo may incur relating to any such information mistakenly provided to Lenovo or the loss or disclosure of such information by Lenovo, including those arising out of any third party claims.

## **7. Limitation of Liability**

The limitations and exclusions in this Section 7 (Limitation of Liability) apply to the full extent they are not prohibited by applicable law without the possibility of contractual waiver.

### **7.1 Items for Which Lenovo May Be Liable**

Circumstances may arise where, because of a default on Lenovo's part or other liability, Licensee is entitled to recover damages from Lenovo. Regardless of the basis on which Licensee is entitled to claim damages from Lenovo (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), Lenovo's entire liability for all claims in the aggregate arising from or related to each Program or otherwise arising under this Agreement will not exceed the amount of any: 1) damages for bodily injury (including death) and damage to real property and tangible personal property; and 2) other actual direct damages up to U.S. \$10,000 (or equivalent in local currency).

This limit also applies to any of Lenovo's Program developers and suppliers. It is the maximum for which Lenovo and its Program developers and suppliers are collectively responsible.

### **7.2 Items for Which Lenovo Is Not Liable**

**UNDER NO CIRCUMSTANCES IS LENOVO, ITS PROGRAM DEVELOPERS OR SUPPLIERS LIABLE FOR ANY OF THE FOLLOWING, EVEN IF INFORMED OF THEIR POSSIBILITY:**

- a. LOSS OF, OR DAMAGE TO, DATA;**
- b. SPECIAL, INCIDENTAL, EXEMPLARY, OR INDIRECT DAMAGES, OR FOR ANY ECONOMIC CONSEQUENTIAL DAMAGES; OR**
- c. LOST PROFITS, BUSINESS, REVENUE, GOODWILL, OR ANTICIPATED SAVINGS.**

## **8. Compliance Verification**

For purposes of this Section 8 (Compliance Verification), "Evaluation Program Terms" means this Agreement and applicable amendments and transaction documents provided by Lenovo.

The rights and obligations set forth in this Section 8 remain in effect during the period the Program is licensed to Licensee, and for two years thereafter.

### **8.1 Verification Process**

Licensee agrees to create, retain, and provide to Lenovo and its auditors accurate written records, system tool outputs, and other system information sufficient to provide auditable verification that Licensee's use of all Programs is in compliance with the Evaluation Program Terms, including, without limitation, all of Lenovo's applicable licensing and pricing qualification terms. Licensee is responsible for: 1) ensuring that it does not exceed its Authorized Use; and 2) remaining in compliance with Evaluation Program Terms.

Upon reasonable notice, Lenovo may verify Licensee's compliance with Evaluation Program Terms at all sites and for all environments in which Licensee uses (for any purpose) Programs subject to Evaluation Program Terms. Such verification will be conducted in a manner that minimizes disruption to Licensee's

business, and may be conducted on Licensee's premises, during normal business hours. Lenovo may use an independent auditor to assist with such verification, provided Lenovo has a written confidentiality agreement in place with such auditor.

## **8.2 Resolution**

Lenovo will notify Licensee in writing if any such verification indicates that Licensee has used any Program in excess of its Authorized Use or is otherwise not in compliance with the Evaluation Program Terms. Licensee agrees to promptly pay directly to Lenovo the charges that Lenovo specifies in an invoice for: 1) any such excess use; 2) support for such excess use for the lesser of the duration of such excess use or two years; and 3) any additional charges and other liabilities determined as a result of such verification.

## **9. Third Party Notices**

The Program may include third party code that Lenovo, not the third party, licenses to Licensee under this Agreement. Notices, if any, for the third party code ("Third Party Notices") are included for Licensee's information only. These notices can be found in the Program's NOTICES file(s). Information on how to obtain source code for certain third party code can be found in the Third Party Notices. If in the Third Party Notices Lenovo identifies third party code as "Modifiable Third Party Code," Lenovo authorizes Licensee to: 1) modify the Modifiable Third Party Code; and 2) reverse engineer the Program modules that directly interface with the Modifiable Third Party Code provided that it is only for the purpose of debugging Licensee's modifications to such third party code. Lenovo's service and support obligations, if any, apply only to the unmodified Program.

## **10. General**

- a. Nothing in this Agreement affects any statutory rights of consumers that cannot be waived or limited by contract.
- b. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement remain in full force and effect.
- c. Licensee is prohibited from exporting the Program.
- d. Licensee authorizes Lenovo PC HK Limited and its affiliates (and their successors and assigns, contractors and Lenovo Business Partners) to store and use Licensee's business contact information wherever they do business, in connection with Lenovo products and services, or in furtherance of Lenovo's business relationship with Licensee.
- e. Each party will allow the other reasonable opportunity to comply before it claims that the other has not met its obligations under this Agreement. The parties will attempt in good faith to resolve all disputes, disagreements, or claims between the parties relating to this Agreement.
- f. Unless otherwise required by applicable law without the possibility of contractual waiver or limitation: 1) neither party will bring a legal action, regardless of form, for any claim arising out of or related to this Agreement more than two years after the cause of action arose; and 2) upon the expiration of such time limit, any such claim and all respective rights related to the claim lapse.
- g. Neither Licensee nor Lenovo is responsible for failure to fulfill any obligations due to causes beyond its control.
- h. No right or cause of action for any third party is created by this Agreement, nor is Lenovo responsible for any third party claims against Licensee, except as permitted in Subsection 7.1 (Items for Which Lenovo May Be Liable) above for bodily injury (including death) or damage to real or tangible personal property for which Lenovo is legally liable to that third party.
- i. In entering into this Agreement, neither party is relying on any representation not specified in this Agreement, including but not limited to any representation concerning: 1) the performance or function of the Program; 2) the experiences or recommendations of other parties; or 3) any results or savings that Licensee may achieve.
- j. Lenovo has signed agreements with certain organizations (called "Lenovo Business Partners") to promote, market, and support certain Programs. Lenovo Business Partners remain independent and separate from Lenovo. Lenovo is not responsible for the actions or statements of Lenovo Business Partners or obligations they have to Licensee.

- k. The license and intellectual property indemnification terms of Licensee's other agreements with Lenovo (such as the Lenovo Customer Agreement) do not apply to Program licenses granted under this Agreement.
- l. Licensee may not assign this Agreement, or its rights or obligations hereunder, in whole or in part, without Lenovo's prior written consent. Any attempt to do so is void.
- m. Any terms of this Agreement that by their nature extend beyond termination of this Agreement remain in effect until fulfilled, and apply to both parties' respective successors and assignees.
- n. Both parties agree that all information exchanged is nonconfidential. If either party requires the exchange of confidential information, it will be made under a signed confidentiality agreement;

## **11. Governing Law**

Both parties agree to the application of the laws of the country in which Licensee obtained the Program license to govern, interpret, and enforce all of Licensee's and Lenovo's respective rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this Agreement, without regard to conflict of law principles.

The United Nations Convention on Contracts for the International Sale of Goods does not apply.

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## Part 2 - Country-unique Terms

- For licenses granted in the countries specified below, the following terms replace or modify the referenced terms in Part 1. All terms in Part 1 that are not changed by these amendments remain unchanged and in effect.

### Country amendments to Part 1, Section 11 (Governing Law)

#### 11 Governing Law

*The phrase “the laws of the country in which Licensee obtained the Program license” in the first paragraph of 11 Governing Law is replaced by the following phrases in the countries below:*

#### AMERICAS

- (1) in **Canada**: the laws in the Province of Ontario;
- (2) in **Mexico**: the federal laws of the Republic of Mexico;
- (3) in the **United States**: the laws of the State of New York, United States;
- (4) in **Venezuela**: the laws of the Bolivarian Republic of Venezuela;

#### ASIA PACIFIC

- (5) in **Cambodia, Indonesia and Laos**: the laws of Singapore;
- (6) in **Australia**: the laws of the State or Territory in which the transaction is performed;
- (7) in **Hong Kong S.A.R and Macau S.A.R**: the laws of Hong Kong Special Administrative Region (“S.A.R”);
- (8) in **Taiwan**: the laws of Taiwan;

#### EUROPE, MIDDLE EAST, AND AFRICA

- (9) in **Albania, Armenia, Azerbaijan, Belarus, Bosnia-Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Moldova, Montenegro, Poland, Romania, Russia, Serbia, Slovakia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan**: the laws of Austria;
- (10) in **Algeria, Andorra, Benin, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo Republic, Djibouti, Democratic Republic of Congo, Equatorial Guinea, French Guiana, French Polynesia, Gabon, Gambia, Guinea, Guinea-Bissau, Ivory Coast, Lebanon, Madagascar, Mali, Mauritania, Mauritius, Mayotte, Morocco, New Caledonia, Niger, Reunion, Senegal, Seychelles, Togo, Tunisia, Vanuatu, and Wallis and Futuna**: the laws of France;
- (11) in **Estonia, Latvia, and Lithuania**: the laws of Finland;
- (12) in **Angola, Bahrain, Botswana, Burundi, Egypt, Eritrea, Ethiopia, Ghana, Jordan, Kenya, Kuwait, Liberia, Malawi, Malta, Mozambique, Nigeria, Oman, Pakistan, Qatar, Rwanda, Sao Tome and Principe, Saudi Arabia, Sierra Leone, Somalia, Tanzania, Uganda, United Arab Emirates, the United Kingdom, West Bank/Gaza, Yemen, Zambia, and Zimbabwe**: the laws of England; and
- (13) in **South Africa, Namibia, Lesotho, and Swaziland**: the laws of the Republic of South Africa.

#### ASIA PACIFIC COUNTRY AMENDMENTS

##### AUSTRALIA:

##### 5. Limited Warranty

*Section 5 is deleted and replaced with the following:*

The warranties specified this Section are in addition to any rights Licensee may have under the Competition and Consumer Act 2010 or other legislation and are only limited to the extent permitted by the applicable legislation.

THE BENEFITS GIVEN BY THIS WARRANTY ARE IN ADDITION TO YOUR RIGHTS AND REMEDIES AT LAW, INCLUDING THOSE UNDER THE AUSTRALIAN CONSUMER LAW.

We are required by the Australian Consumer Law to include the following statement:

*Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement of refund for a major failure and compensation for any reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.*

Where Lenovo is in breach of a condition, warranty or consumer guarantee implied by the Competition and Consumer Act 2010, and Lenovo's liability is capable of being limited, then Lenovo's liability is limited to the repair or replacement of the goods, or the supply of equivalent goods.