

END USER LICENSE AGREEMENT
Release Date: April 13, 2016

NVIDIA SOFTWARE END-USER LICENSE AGREEMENT

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1.6 "Enterprise" means you or any company or legal entity for which you accepted the terms of this EULA, and their subsidiaries of which your company or legal entity owns more than fifty percent (50%) of the issued and outstanding equity.

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1.11 “Licensed Software” means Software, Documentation and all Modifications.

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1.17 “Software” means the NVIDIA software programs licensed to you under the AGREEMENT including, without limitation, libraries, sample code, utility programs and programming code.

1.18 “Supplement” means the additional terms and conditions beyond those stated in this EULA that apply to certain Licensed Software licensed hereunder.

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8.3 Effect of Expiration or Termination. Upon any expiration or termination of the AGREEMENT, a license or a Service provided hereunder, (i) you must promptly discontinue use of the affected Licensed Software and/or Service, and (ii) you must promptly destroy or return to NVIDIA all copies of the affected Licensed Software and all portions thereof in your possession or control, and each party will promptly destroy or return to the other all of the other party's Confidential Information within its possession or control. Upon written request, you will certify in writing that you have complied with your obligations under this section. Sections 1 and 3 through 10 will survive the expiration or termination of the AGREEMENT for any reason.

9. CONSENT TO COLLECTION AND USE OF INFORMATION.

You hereby acknowledge that the Software may access, collect and transmit both non-personally identifiable information and personally identifiable information about you and your computer system ("Customer System") as well as configures Customer System in order to (a) properly optimize Customer System for use with the Software, (b) deliver Software and Services, or content through the Software, (c) optimize, maintain, repair and/or administer NVIDIA products and services, and/or (d) deliver marketing communications. Information collected by the Software includes, but is not limited to, Customer System's (i) hardware configuration and ID, (ii) operating system and driver configuration, (iii) installed applications, (iv) applications settings, performance, and usage metrics, and (iv) usage metrics of the Software. To the extent that you use the Software, you hereby consent to all of the foregoing, and represent and warrant that you have the right to grant such consent. In addition, you agree that you are solely responsible for maintaining appropriate data backups and system restore points for Customer System, and that NVIDIA will have no responsibility for any damage or loss to Customer System (including loss of data or access) arising from or relating to (y) any changes to the configuration, application settings, environment variables, registry, drivers, BIOS, or other attributes of Customer System (or any part of Customer System) initiated through the Software; or (z) installation of any Software or third party software patches initiated through the Software. For system update preferences, check the options available to you under "Settings", "Preferences" or other similar tab of the applicable NVIDIA control panel or license manager for the Software.

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10.1 Changes to this EULA and Supplements. NVIDIA reserves the right to, from time to time, modify this EULA or a Supplement (or any part thereof) with or without notice. When you purchase a license or renew a license the then-current licensing terms in effect will apply for the length of the license.

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10.3 Assignment. This EULA and the rights and obligations hereunder may not be assigned, delegated or transferred by you, in whole or in part, including by merger, consolidation, dissolution, operation of law, or any other manner, without written consent of NVIDIA, and any purported assignment in violation of this provision shall be void and of no effect. NVIDIA may assign, delegate or transfer the AGREEMENT and its rights and obligations hereunder without restriction. Subject to the foregoing, the AGREEMENT will bind and inure to the benefit of each party's permitted successors and assigns.

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that will accrue (without the requirement of a notice) at the lower of 1.5% per month or the highest rate permissible by law. If the underpaid amount exceeds five percent (5%) of the amounts payable to NVIDIA for the period audited and/or such an inspection and audit reveals a material non-conformance with the terms of the AGREEMENT, then you will also pay NVIDIA's reasonable costs of conducting the inspection and audit. Further, you agree that the party delivering the Licensed Software to you may collect and disclose to NVIDIA (subject to confidentiality obligations) information for NVIDIA to verify your compliance with the terms of the AGREEMENT including (without limitation) information regarding your usage of the Licensed Software.

10.5 Governing Law; Jurisdictions. This EULA will be governed by and construed in accordance with the laws of the United States and the State of Delaware as those laws are applied to contracts entered into and performed entirely within Delaware by Delaware residents, without regard to the conflicts of law provisions thereof. The parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply. Any legal action or proceeding arising under the AGREEMENT will be brought exclusively in the federal courts located in the Northern District of California or the state courts located in Santa Clara County and the parties hereby irrevocably consent to the personal jurisdiction and venue therein.

10.6 Indemnity. You agree to defend, indemnify and hold harmless NVIDIA and its affiliates, and their respective employees, contractors, agents, officers and directors, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, fines, restitutions and expenses (including but not limited to attorney's fees and costs incident to establishing the right of indemnification) arising out of or related to you and your Enterprise, and their respective employees, contractors, agents, officers and directors: (i) use of a Licensed Software in a Critical Application; (ii) violation of any third party right, including without limitation any right of privacy or Intellectual Property Rights; (iii) failure to comply with any applicable export and import laws, rules or regulations; or (iv) negligence or willful misconduct.

10.7 Nonexclusive Remedy. Except as expressly set forth in the AGREEMENT, the exercise by either party of any of its remedies under the AGREEMENT will be without prejudice to its other remedies under the AGREEMENT or otherwise.

10.8 Injunctive Relief. The parties agree that a breach of any of the promises or agreements contained in the AGREEMENT may result in irreparable and continuing injury for which monetary damages would not be an adequate remedy and therefore the parties are entitled to seek injunctive relief as well as such other and further relief as may be appropriate.

10.9 Conflicts; Order of Precedence. Any printed or other terms and conditions on an Order or similar order document conflicting with and/or in addition to the terms and conditions of the AGREEMENT or its exhibits and addenda are null, void, and invalid. In the event of a conflict or inconsistency between any exhibit and the AGREEMENT, the conflict or inconsistency shall be resolved in favor of the AGREEMENT.

10.10 Waiver. The failure by either party to enforce its rights under the AGREEMENT at any time for any period will not constitute a waiver of future enforcement of that right or any other right. Any waiver will be effective only if in writing and signed by duly authorized representatives of each party.

10.11 Severability. If for any reason a court of competent jurisdiction finds any provision of the AGREEMENT invalid or unenforceable, that provision of the AGREEMENT will be enforced to the maximum extent permissible so as to effect the intent of the parties, and the other provisions of the AGREEMENT will remain in full force and effect.

10.12 U.S. Government Legend. You agree and certify that you will comply with all laws, regulations, rules, and other requirements applicable to transaction(s) with any government(s) occurring pursuant to the AGREEMENT and all related matters. The Licensed Software has been developed entirely at private expense and is "commercial items" consisting of "commercial software" and "commercial software documentation" provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the U.S. Government or a U.S. Government subcontractor is subject to the restrictions set forth in the agreement under which Licensed Software was obtained pursuant to DFARS 227.7202-3(a) or as set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software - Restricted Rights clause at FAR 52.227-19, as applicable. Contractor/manufacturer is NVIDIA, 2701 San Tomas Expressway, Santa Clara, CA 95050.

10.13 Force Majeure. Neither party will be responsible for any failure or delay in its performance under the AGREEMENT (except for any payment obligations) to the extent due to causes beyond its reasonable control, including, but not limited to, acts of God, fire, flood, war, earthquake, environmental conditions, governmental action, acts of civil or military authority, riots, wars, sabotage, strikes, compliance with laws or regulations, strikes, lockouts or other serious labor disputes, or shortage of or inability to obtain material or equipment for so long as such event of force majeure continues in effect.

10.14 Relationship of Parties. Each party acknowledges and agrees that the other is an independent contractor in the performance of the AGREEMENT, and each is solely responsible for all of its employees, agents, contractors, and labor costs and expenses arising in connection therewith. The parties are not partners, joint ventures or otherwise affiliated, and neither has any authority to make any statements, representations or commitments of any kind to bind the other without the prior written consent of the other party.

10.15 Export Control. You acknowledge that the Licensed Software, technology and related documentation described under the AGREEMENT are subject to the U.S. Export Administration Regulations (EAR) and economic sanctions regulations administered by the U.S. Department of Treasury's Office of Foreign Assets Control (OFAC). You agree to comply with the EAR and OFAC regulations and all applicable international and national export and import laws. You agree not to export or re-export the Licensed Software, technology and related documentation to any destination requiring an export license or other approval under the EAR or OFAC regulations otherwise without first obtaining such export license or approval and NVIDIA's permission. You will not, without prior governmental authorization, export or re-export NVIDIA Licensed Software, technology and related documentation, directly or indirectly, (i) to any end-user whom you know or have reason to know will utilize them in the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, and sounding rockets, or unmanned air vehicle systems; (ii) to any end-user who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government; or (iii) to any countries that are subject to U.S. export restrictions (currently including, but not necessarily limited to, Cuba, Iran, North Korea, Sudan, and Syria and the Region of Crimea).

10.16 Entire Agreement. This EULA, including the terms of the exhibits below and any EULA Supplements incorporated hereto, Orders and a life critical applications agreement entered into by the parties (if applicable) constitute the entire agreement with respect to the subject matter hereof and supersedes all proposals, oral or written, all negotiations, conversations, or discussions between or among parties relating to the subject matter of the AGREEMENT and all past dealing or industry custom. Any notice delivered by NVIDIA to you under the AGREEMENT will be delivered via mail, email or fax.

Exhibit A
NVIDIA Software Service Terms and Conditions

1. SCOPE. If your Order indicates that NVIDIA will directly provide Technical Support, Maintenance, Updates and/or Upgrades for the Supported Software licenses you purchased, then NVIDIA agrees to provide the below services to the Supported Software based on the Service Subscription purchased during the applicable Service Term, solely on Certified System(s) operating the Supported Software, and solely for the Supported OSs.

The services described in this exhibit are provided by NVIDIA to you in accordance with the terms and conditions of the AGREEMENT and this Exhibit A. Further, the below services are provided by NVIDIA to you in accordance with the then-current Service Subscription plan(s) available for the particular Supported Software. NVIDIA may update the scope of services under the Service Subscription plan you purchased and any such modifications are binding on you, provided that such modifications apply to customers generally and do not single you out.

2. SERVICES.

2.1 Technical Support. If your Service Subscription for a Supported Software includes Technical Support, subject to payment of applicable Service Fees NVIDIA will make available to you Technical Support for such Supported Software during the Service Term.

You will be permitted to designate in writing to NVIDIA Designated Users for purposes of obtaining Technical Support from NVIDIA, which list of Designated Users may be updated by you at any time by written notice to NVIDIA (which may include notice by email or other electronic transmission). NVIDIA will provide Technical Support to such Designated Users via a dedicated support portal that allows the Designated User(s) to make Support Issue requests for the Supported Software through the dedicated support portal. Notwithstanding NVIDIA's confidentiality obligations under the AGREEMENT, you hereby grant NVIDIA permission to discuss your Support Issues with the third party from which the system was purchased for the purpose of resolving the Support Issue, including sharing with such third party any relevant information (including, for the avoidance of doubt, Confidential Information) that would be useful in assisting with such resolution.

Support Issue Response and Resolution: A Designated User identified as a site manager shall prioritize Support Issues by ranking them in a queue order (the "Support Issue Ranking"). For potential Support Issues filed by a Designated User, NVIDIA will use commercially reasonable efforts to analyze each such potential Support Issue to determine if it qualifies as a Support Issue. NVIDIA shall issue a Response to all potential Support Issues filed within the Response time indicated for your Technical Support plan purchased. Such Response will indicate one or more of the following: (a) acceptance of the request as a Support Issue; (b) request for further information; and/or (c) notification that such potential Support Issue does not qualify as a Support Issue receiving service coverage under this Exhibit A. For Support Issues of type (c) that NVIDIA determines do not qualify as a Support Issue (and for potential Errors that do not require Error Correction), NVIDIA shall provide you with one or a combination of the following:

- (i) a statement with supporting detail that the Supported Software operates as described in its then-current applicable Documentation;
- (ii) a statement with supporting detail that the test case/Support Issue was not reproducible by NVIDIA on a Certified System;
- (iii) a statement with supporting detail that the potential Error arises because you used the Supported Software in a manner not intended for such Supported Software design or because you modified or otherwise altered the Supported Software outside of the scope of the applicable license or Documentation; or
- (iv) a statement with supporting detail that the potential Support Issue arises because (y) you and/or the Designated User reporting such Support Issue did not use the Supported Software in the manner set forth in the applicable Documentation; or (z) potential Support Issues are filed on clusters that do not contain Certified Systems.

You may then fix the test case and/or supplement documentation and assistance before resubmitting a potential Error.

Support Issue Prioritization: During the Service Term, for the Support Issue currently ranked highest in the Support Issue Ranking (the "Active Support Issue"), NVIDIA shall use commercially reasonable efforts to address and provide resolution for such Active Support Issue, until the earlier of: (a) resolution of such Active Support Issue; or (b) reprioritization of the Support Issue Ranking (by reordering Support Issues on the Support Issue Ranking). The Support Issue Ranking order may be changed by a Designated User identified as a site manager up to once every seven (7) days.

2.2 **Maintenance.** If your Service Subscription for a Supported Software includes Maintenance, subject to payment of applicable Service Fees NVIDIA will make available to you the Maintenance associated with such Supported Software during the Service Term.

2.3 **Updates.** If your Service Subscription for a Supported Software includes Updates, subject to payment of applicable Service Fees NVIDIA will make available to you the Updates associated with such Supported Software during the Service Term.

2.4 **Upgrades.** If your Service Subscription for a Supported Software includes Upgrades, subject to payment of applicable Service Fees NVIDIA will make available to you the Upgrades associated with such Supported Software during the Service Term.

2.5 **Service Subscription Reinstatement.** If you elect not to renew certain Service Subscriptions and later you desire to re-enroll to receive such services, you must pay with respect to the services being reinstated at the then-current rates: (a) Service Fees for the period between the last expiration of the Service Subscription and until commencement of the new Services Subscription, (b) Service Fees for the new Services Subscription, for the Service Term, and (c) the applicable reinstatement fees in addition to Service Fees under (a) and (b). Service Subscription re-enrollment is subject to availability of the Service Subscription plans at the time of ordering and software version restrictions.

2.6 **Purchase Requirements.** You shall (a) purchase the initial Service Subscription for a Supported Software only for the most current generally available version of the Supported Software, and (b) initially purchase and renew Service Subscriptions for all of your licenses of a Supported Software.

2.7 **Service Availability.** The Service Subscription plans will indicate the types of Exhibit A services that are available for Supported Software during the General Support Period and the Extended Support Period. NVIDIA may, at its sole discretion, decide that a Supported Software version has reached the end of the Extended Support Period. NVIDIA is not obligated to provide any services under this Exhibit A for a Supported Software version after the end of the Extended Support Period. NVIDIA is not obligated to initiate or renew any Service Subscription if such Service Subscription is no longer made generally available by NVIDIA to its customers.

3. EXCLUSIONS. You shall not request, and NVIDIA shall not provide Exhibit A services under the AGREEMENT related to:

- (a) errors in your own or your licensors' products that are not due to Errors in the Supported Software;
- (b) service necessary due to accident, catastrophe, or negligence of your users, or due to operator error, improper use of the Supported Software or attempted support by unauthorized persons;
- (c) causes external to the Supported Software, including weather conditions, air conditioning and humidity control, faulty electrical power, hardware failure, misuse, neglect, damage or use of the Supported Software with hardware or software not supplied or recommended by NVIDIA;
- (d) your use of the Supported Software outside of the scope permitted under the AGREEMENT or your failure to implement Maintenance, Updates or Upgrades supplied by NVIDIA which would correct the Error and were previously made available by NVIDIA;
- (e) modifications to the Supported Software made by you or on your behalf, or any modifications made by any third party without NVIDIA's authorization;
- (f) use of the Supported Software that deviates from the operating procedures, indicated supported operating systems and any other specifications indicated in the Documentation;
- (g) to the extent the provision thereof would violate NVIDIA's obligations to its third party licensors and suppliers with respect to such third parties' intellectual property;
- (h) your combination of the Supported Software with other products or technologies not provided by NVIDIA; or
- (i) Supported Software or services provided free of charge.

Further, Exhibit A services under the AGREEMENT do not include any enhancement(s) or addition(s) to the Supported Software beyond Maintenance, Updates and Upgrades.

4. YOUR SERVICE RESPONSIBILITIES. In order for NVIDIA to deliver the Exhibit A services to you hereunder, you agree that:

- (a) you are responsible for procuring, installing and maintaining all equipment and obtaining all consents for other software and other hardware necessary to operate the Supported Software;
- (b) your failure to deploy a Maintenance, Update or Upgrade available to you as promptly as possible may render the applicable Supported Software non-operable or non-conforming to the later Documentation provided by NVIDIA and you assume all risks and liability arising therefrom;

(c) you shall further provide through Designated Users such information, and/or access to your resources as NVIDIA may reasonably require in order to provide services, including, without limitation, access via the internet or via direct modem or VPN connection to relevant servers, minimally intrusive access to your facilities, and/or access to, and assistance of, your personnel who possess information required by NVIDIA for purposes of performing its obligations hereunder. As examples, as reasonably requested by NVIDIA you shall (i) identify the correct version(s) of Supported Software to which a potential Support Issue relates, (ii) provide the documentation and assistance necessary to demonstrate and diagnose each potential Support Issue, including providing necessary test cases that NVIDIA can reproduce on a Certified System, (iii) provide remote system access for NVIDIA to replicate potential Errors, and (iv) provide embedded diagnostic information associated with the Supported Software;

(d) When you use Maintenance, Update or Upgrade, access to a new product version does not change the number of authorized licenses you have for the Supported Software and you shall discontinue use of the prior version as necessary to maintain your authorized number of licenses;

(e) you will appoint as Designated Users only those of your employees who have reasonably appropriate technical backgrounds and skills. You may remove or replace any of the Designated Users at any time during a Service Term upon written notice to NVIDIA; and

(f) you will appoint, at NVIDIA's request, designated service and engineering contacts for service issue escalations.

NVIDIA shall be excused from performing any of its obligations hereunder to the extent any such non-performance is attributable to your failure to perform your obligations under this section.

5. SERVICE FEES; PAYMENT TERMS. When you purchase Exhibit A services directly from NVIDIA the following applies: Service Fees for the Service Subscriptions are set forth in the associated Order and are payable pursuant to the terms of such Order. Unless otherwise expressly indicated in an Order, Service Fees will be invoiced upon your purchase and are payable net thirty (30) days of the invoice date. All Service Fees are non-refundable. All payments will be made in U.S. Dollars. The Service Fees do not include any taxes, duties or similar charges. If NVIDIA is required to pay sales, use, property, value-added or other taxes based on the payments provided in the AGREEMENT and if NVIDIA is required to collect and remit such taxes, then such taxes shall be billed to and paid by you or your reseller, unless NVIDIA receives a valid exemption or resale certificate. If you are not billed the applicable tax under the Order, then it is your responsibility to properly remit the tax directly to the applicable tax jurisdiction. Further, you acknowledge that the payments to NVIDIA under the AGREEMENT shall be made in full without reduction for withholding taxes, if applicable. This section shall not apply to taxes based on NVIDIA's net income or payroll taxes. All amounts not paid when due will accrue interest (without the requirement of a notice) at the lower of 1.5% per month or the highest rate permissible by law until the unpaid amounts are paid in full. If payment of any Service Fee is overdue, NVIDIA reserves the right to suspend or terminate Exhibit A services, in addition to any other remedies it may have, until the payment delinquency is corrected. Payment obligations survive any expiration or termination of the AGREEMENT and upon expiration or termination of the AGREEMENT any amounts owed to NVIDIA will be due and payable immediately on the effective date of expiration or termination, even if longer terms had been provided previously.

6. DEFINITIONS

6.1 "Certified Systems" means Supported OS platforms, corresponding hardware platforms, third party software and configuration details appearing on a list maintained by NVIDIA and made available to you, or as otherwise approved by NVIDIA.

6.2 "Day(s)" (only when capitalized) means 8:00 AM - 5:00 PM, Pacific Time, Monday through Friday, excluding U.S. public holidays. All other usage of "day" or "days" means calendar days.

6.3 "Designated User" means the individual(s) designated by you as the technical contact(s) who may file and engage with NVIDIA on Technical Support.

6.4 "Error(s)" means a reproducible defect, problem, logical error or bug in the Supported Software that constitutes a failure to comply substantially with the applicable Documentation and is reported using standard NVIDIA procedures.

6.5 "Error Correction(s)" means adapting, re-configuring, or reprogramming the Supported Software to correct the Error(s).

6.6 "Extended Support Period" means the period of time starting upon general availability of the next Upgrade version of a Supported Software product, and until the product reaches the product cycle milestone when Service Subscriptions are no longer made generally available for customers of the product (also referred to as the "end of life" milestone), which milestone is at NVIDIA's sole discretion.

6.7 "General Support Period" means the period of time between general availability of one Upgrade version of a Supported Software product, and until the immediately following general availability of the next Upgrade version of the same product.

6.8 "Maintenance" means security patch(es), Error Correction(s) and Workaround(s) to the Supported Software made available by NVIDIA in its sole discretion and on a "when and if generally made available" basis to its other commercial customers of the Supported Software who have the same Supported Software version under a Service Subscription contract with NVIDIA that specifically includes "Maintenance". Maintenance may include revisions to Documentation.

- 6.9 “Response” means NVIDIA’s initial acknowledgment of a Technical Support request filed by a Designated User.
- 6.10 “Service Fee(s)” means the fees for the purchased Service Subscriptions, as applicable for each Order.
- 6.11 “Service Subscription” means the particular services described in this Exhibit A that you purchased from NVIDIA or a NVIDIA authorized reseller, which will be some combination of the following: (i) Technical Support, (ii) Maintenance, (iii) Updates, and/or (iv) Upgrades.
- 6.12 “Support Issue(s)” means the Technical Support requests filed by Designated Users hereunder that relate to the Supported Software.
- 6.13 “Supported OS” means the supported operating system(s) listed in conjunction with a particular Certified System on the list maintained by NVIDIA and made available to you.
- 6.14 “Supported Software” means the Software installed on your premises that are under a current and valid license and for which you purchased Service Subscriptions, and does not include any modifications made by you or a third party on your behalf, any modifications to the Supported Software made by NVIDIA pursuant to a consulting services agreement or any portion of the Software not developed by NVIDIA.
- 6.15 “Service Term” means the duration of the Service Subscription, as set forth in an Order.
- 6.16 “Technical Support” means the provision of telephone or web-based technical assistance by qualified NVIDIA personnel to questions from Designated Users related to the installation, use and operation of the Supported Software, including basic instruction or assistance related to functional Errors in the Supported Software.
- 6.17 “Updates” means those modifications to the Supported Software other than Maintenance deliverables made available by NVIDIA in its sole discretion and on a “when and if generally made available” basis to its other commercial customers of the Supported Software who have the same Supported Software version under a Service Subscription contract with NVIDIA that specifically includes “Updates” and that is indicated by NVIDIA as being an update by means of a change in the digit to right of first decimal point (e.g., version 5.0 to version 5.1). Updates may include revisions to Documentation.
- 6.18 “Upgrades” means those modifications to the Supported Software other than Maintenance made available by NVIDIA in its sole discretion and on a “when and if generally made available” basis to its other commercial customers of the Supported Software who have the same Supported Software version under a Service Subscription contract with NVIDIA that specifically includes “Upgrades” and that is indicated by NVIDIA as being an upgrade by means of a change in the digit to left of first decimal point (e.g., version 5.0 to version 6.0). Upgrades may include revisions to Documentation.
- 6.19 “Workarounds” means procedures and routines, for use by you, which, when employed in the regular operation of, or access to, the Supported Software, will avoid or substantially diminish the practical adverse effects of the relevant Error.

Exhibit B
Enterprise Software Licensing Parameters

A. By duration:

(i) “Perpetual License” means a license that is exclusive of any Services, provided that NVIDIA may further require the additional purchase of certain Services for a minimum period. After the expiration of Services you retain the right to use a perpetual license at the last-supported level subject to the terms of the AGREEMENT.

(ii) “Subscription License” means a license with a fixed duration and inclusive of certain Services for the duration of the license. You may have the option to purchase additional Services for the duration of the subscription license, based on NVIDIA’s then-current Service offerings available for the Software.

B. By other licensing parameters:

(i) As a Cloud Subscription, as described in the EULA and further described in a Supplement.

(ii) “Concurrent Users License” or “CCU” means a license that allows for concurrent Authorized Users to access or use the Software, provided that the simultaneous number of Authorized Users does not exceed the maximum number of CCUs authorized under the license.

(iii) “HPC Cluster License” means a Floating License that enables the use of a Licensed Software on a single computing machine that takes the form of a multi-user, multi-node compute cluster. The cluster is composed of multiple compute nodes but is managed, accessed, and used as a single entity. If you decommission a cluster you may use the HPC Cluster License in another cluster within a five mile radius of the decommissioned cluster, for the remainder of the license duration. Temporarily aggregated computing units and cloud resources are not considered to be HPC Clusters for the purpose of this license type.

(iv) “Named User License” is a license that may only be used by a single named Authorized User and that the named Authorized User may not re-assign or share with any other party (including, without limitation, other Authorized Users); provided, however, that if the named Authorized User is no longer employed by your Enterprise or no longer requires any access to the Licensed Software as part of their job function, you may re-assign the named user license to a new named Authorized User. You shall track the names and the access period of individuals in conjunction with the use of Named User Licenses.

(v) “Node Locked License” is a license that may only execute and run on the node (i.e., the specific machine) where the Licensed Software is installed and may be accessed only by an Authorized User that is physically present at such node. Further, a node locked license may only be used by one Authorized User at a time running one instance of the License Software at a time.

(vi) “Floating License” is a network license that allows multiple Authorized Users to request access to the license from any machine that can access the host license server, and where a license manager is employed to allocate usage based on availability the number of licenses hosted by the server to Authorized Users.

(vii) “Per GPU License” means a Floating License that enables machines located within a five (5) mile radius to request access to the Licensed Software from the host license server. Each machine may have one or more GPUs, and a license is required per each GPU.

DGX-1 CLOUD SUBSCRIPTION SUPPLEMENT TO END USER LICENSE AGREEMENT

Release Date: June 15, 2016

The terms set forth in this DGX-1 Cloud Subscription Supplement (“Supplement”) govern (a) your use of certain Licensed Software licensed and associated services provided to you for use with the NVIDIA DGX-1 appliance (“Product”) under the terms of your end user license agreement (“EULA”) as modified by this Supplement, and (b) other software that you are permitted to access and use and activities that you are permitted to do as described below. This Supplement is an exhibit to the EULA and is hereby incorporated as an integral part thereto. Capitalized terms used but not defined herein shall have the meaning assigned to them in the EULA. In the event of conflict between the terms in this Supplement and the terms in the EULA, this Supplement shall control.

The Cloud Subscription will be accessed from NVIDIA’s website with the primary domain name at compute.nvidia.com. Access to the Cloud Subscription requires internet and such access will be available from NVIDIA during your Cloud Subscription period (unless your license is earlier terminated in accordance with the EULA).

Each Cloud Subscription, including the Licensed Software and related services, will be associated with a single Product unit. Multiple Product units require an equivalent number of Cloud Subscriptions. All Licensed Software delivered under the EULA and this Supplement is licensed for use with Products only.

1. THE CLOUD SOLUTION. During your Cloud Subscription period NVIDIA will provide access to one or more of the following, as available at NVIDIA’s sole discretion to subscribers, subject to the terms of the EULA and this Cloud Supplement:

- (a) NVIDIA cloud based Software, including management, monitoring, scheduling and container related Software for use with your Products, as updated from time to time per the “Cloud Solution Updates” section below;
- (b) Maintenance, Updates and Upgrades to the Licensed Software, if and when made available by NVIDIA to subscribers generally, for use with your Products under a Cloud Subscription;
- (c) additional Licensed Software licensed by NVIDIA, if and when made available by NVIDIA to subscribers generally (“**NVIDIA Containerized Software**”), for use with your Products under a Cloud Subscription as further described below in this Supplement; and/or
- (d) the ability to upload your containers consisting of software executables, software libraries, software environment and/or embedded software files and notices (each, a “**Customer Containerized Software**”) to private repositories in the cloud solution for use as further described below in this Supplement.

You agree that your use of the Cloud Subscription is not contingent on the delivery of any future functionality or feature, or dependent on any oral or written public comments made with regards to future functionality or features.

NVIDIA Containerized Software available in the cloud solution may be subject to other terms and conditions that will be presented to you for acceptance and/or fees that will be required prior to your first access to the NVIDIA Containerized Software. If no terms and conditions are presented for certain NVIDIA Containerized Software, then such NVIDIA Containerized Software is licensed under the EULA and this Supplement. Also, if no further fees are required prior to your first access, then no further fees apply to the use of such NVIDIA Containerized Software under the applicable terms.

2. AUTHORIZED USERS. Each email and password login account may be used by a single individual Authorized User. You are responsible for all use and misuse of the Cloud Subscription and all activities that occur under your Authorized User’s login credential, and you agree to notify NVIDIA’s product security Incident response team at psirt@nvidia.com of any unauthorized access or use of which you become aware. You agree that you will not (nor allow Authorized Users to) access the Cloud Subscription using shared login credentials. The terms that apply to you under this Supplement apply to all of your Authorized Users.

3. PERMITTED USE OF NVIDIA CONTAINERIZED SOFTWARE. You may upload to and download from the cloud solution NVIDIA Containerized Software made available by NVIDIA at its sole discretion to subscribers from time to time and place the NVIDIA Containerized Software in repositories within the cloud solution for use with the Product. You may then access, use, organize and share NVIDIA Containerized Software in such repositories privately with your other Authorized Users.

4. PERMITTED USE OF CUSTOMER CONTAINERIZED SOFTWARE. You may upload to and download from the cloud solution Customer Containerized Software and place the Customer Containerized Software in repositories within the cloud solution for use with the Product. You may then access, use, modify, organize and share Customer Containerized Software in such repositories privately with your other Authorized Users. NVIDIA will treat your Customer Containerized Software placed in a private repository as

Confidential Information under the EULA, unless and until it is or becomes non-confidential due to actions or omissions by you or a third party.

You are entirely responsible for all Customer Containerized Software uploaded and otherwise made available through the Cloud Subscription under your Authorized User's accounts, and for protecting your privacy and rights. Any content in the cloud solution that you were not authorized to upload or make available in the cloud solution as described in the "Prohibited Uses" section below is shared at your sole risk and you understand it can be read, collected, used and modified by those with access to the repository and NVIDIA is not responsible for such content including (without limitation) your legal and regulatory compliance.

5. PROHIBITED USES. Other than Customer Containerized Software in repositories you are not authorized to upload or make available in the cloud solution other data, text, links, graphics, images, sounds, and other materials. In connection with providing or otherwise making available Customer Containerized Software through the cloud solution, you represent and warrant that neither the Customer Containerized Software nor your posting, publication, submission or transmittal of it or the use of it (or any portion thereof) will: (a) infringe, misappropriate or violate a third party's patent, copyright, trademark, trade secret, moral rights or other Intellectual Property Rights, or rights of publicity or privacy, or otherwise violates the terms under which you are licensed; (b) contain mass mailings or any form of "spam"; (c) express or imply any endorsement of your Customer Containerized Software by NVIDIA; or (d) violate applicable national or international export and import laws, rules and regulations. You further represent and warrant that you will not post, submit or otherwise transmit any Customer Containerized Software or other material that: (i) violates, or encourages any conduct that would violate any applicable law or regulation or would give rise to legal liability; (ii) is fraudulent, false, misleading or deceptive; (iii) is defamatory, obscene, pornographic, vulgar or offensive; (iv) promotes discrimination, bigotry, racism, hatred, harassment or harm against any individual or group; (v) is violent or threatening or promotes violence or actions that are threatening to any other person; (vi) promotes illegal activities; (vii) contains any malware, viruses, drop dead device, worm, trojan horse, trap, back door or other software routine that is designed to delete, disable, deactivate, interfere with or otherwise harm any software, program, data, device, system or service, or which is intended to provide unauthorized access or to produce unauthorized modifications; or (viii) use any robot, spider, data scrapping or extraction tool or other similar mechanism with respect to the cloud solution. Last, you agree not to impersonate another person (via email account or other means) or otherwise misrepresent yourself as the source of any Customer Containerized Software or exploit the cloud solution for any unauthorized commercial use. You are responsible for the consequences of Customer Containerized Software that does not conform to the usage right and limitations described in this Supplement.

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