

End User License Agreement (EULA)

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1. DEFINITIONS

- 1.1 **Entitlement.** The collective set of applicable agreements and documents authorized by Haivision Systems, Inc. or its affiliates (collectively "Haivision") evidencing your obligation to pay associated fees (if any) for the license, associated Services, and the authorized scope of use of Licensed Software under this Agreement.
- 1.2 **You (or Your).** The individual or legal entity specified in the Entitlement, or for evaluation purposes, the entity performing the evaluation.
- 1.3 **License Fee.** License Fee shall mean the consideration paid to Haivision for use of the Licensed Software. The License Fee is part of the price paid for the relevant Licensed Software.
- 1.4 **Licensed Software.** Licensed Software shall mean the executable version of Haivision's computer software, program or code, in object code format (specifically excluding source code), together with any related material including, but not limited to the Reference Manuals or database schemas provided for use in connection with the Licensed Software and including, without limitation, all Upgrades.
- 1.5 **Reference Manuals.** Reference Manuals shall mean the most current version of the documentation for use in connection with the Licensed Software provided by Haivision to You.
- 1.6 **Updates.** Updates shall mean any periodic software releases, additions, fixes, and enhancements thereto, release notes for the Licensed Software and related Reference Manuals, (other than those defined elsewhere in this section as Upgrades) which have no value apart from their operation as part of the Licensed Software and which add minor new functions to the Licensed Software, but none so significant as to warrant classification as an Upgrade, which may be provided by Haivision to fix critical or non-critical problems in the Licensed Software on a scheduled, general release basis. Updates to the Licensed Software ("Version") are denoted by number changes to the right of the decimal point for a version and revision number (for example going from 2.0.0 to 2.1.3).
- 1.7 **Upgrades.** Upgrades shall mean any modification to the Licensed Software made by Haivision, which are so significant, in Haivision's sole discretion, as to warrant their exclusion under the current license grant under this Agreement for the Licensed Software. Upgrades of Licensed Software are denoted by number changes to the left of the decimal point for a release number (for example going from 2.0 to 3.0).

2. RIGHTS GRANTED, RESTRICTIONS AND SUPPORT

2.1 License to Use.

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3. TERM AND TERMINATION

- 3.1 **Term.** The license and service term are set forth in your Entitlement(s).
- 3.2 **Termination for Breach.** Your rights under this Agreement will terminate immediately without notice from Haivision if You materially breach it or take any action in derogation of Haivision's rights to the Licensed Software. Haivision may terminate this Agreement should any Software become, or in Haivision's reasonable opinion likely to become, the subject of a claim of intellectual property infringement or trade secret misappropriation.
- 3.3 **Termination; Effect; Survival.** Upon the termination of this Agreement for any reason: (a) all license rights granted hereunder shall terminate; (b) You shall immediately pay to Haivision all amounts due and outstanding as of the date of such termination or expiration; and (c) You shall return to Haivision all Licensed Software and all Haivision Confidential Information not otherwise required under the terms of this Agreement or certify that all such Licensed Software and Confidential Information have been destroyed. Notwithstanding any termination of this Agreement, the following provisions of this Agreement shall survive for the relevant period of time set forth therein, if any: Sections 2.2, 4.1, 4.2, 6.

4. REPRESENTATIONS, DISCLAIMER AND LIMITATION OF LIABILITY

4.1 Haivision Warranty.

- (a) Haivision warrants that the Licensed Software will operate substantially in accordance with the Reference Manuals provided for a term of ninety (90) days (the "Warranty Period") after its delivery date. As Your sole and exclusive remedy for any breach of this warranty, Haivision will use its commercially reasonable efforts to correct any failure of the Licensed Software to operate substantially in accordance with the Reference Manuals which is not the result of any improper or unauthorized operation of the License Software and that is timely reported by You to Haivision in writing within the Warranty Period, provided that in lieu of initiating commercially reasonable efforts to correct any such breach, Haivision may, in its absolute discretion, either (i) replace the Licensed Software with other software or technology which substantially conforms to the Reference Manuals or (ii) refund to You a portion of the fee paid for the relevant Licensed Software, whereupon this Agreement shall terminate. This warranty shall immediately terminate if You or any third party makes or attempts to make any modification of any kind whatsoever to the Licensed Software.
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4.2 Warranty Disclaimers.

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5. INDEMNIFICATION

5.1 Indemnification by Haivision.

- (a) Haivision shall indemnify and hold You harmless against any and all actions, claims, losses, damages, liabilities, awards, costs and expenses (including reasonable attorneys' fees) ("Claims") arising out of i) any accusation or purported violation of any third person's US and copyright, trademark, patent rights or trade secrets, proprietary information on account of Your use of the Licensed Software when used in accordance with the terms of this Agreement, or (ii) relating to or arising out of any negligence or willful misconduct on the part of Haivision or any breach by Haivision of the terms of this Agreement or any Maintenance and Support Agreement, or applicable law. You shall promptly notify Haivision in writing of any such Claim and promptly tender the control of the defense and settlement of any such Claim to Haivision. Haivision shall thereafter undertake the defense of any such Claim using counsel of its choice. You shall cooperate with Haivision, in defending or settling such Claim at the expense of Haivision; provided that Haivision shall not settle any Claim against You which would require the payment of money by You without the prior written consent of You, which consent shall not be unreasonably withheld. You shall have the right to consult and provide input into the defense with counsel of its choice at its own expense. Haivision shall not reimburse You for any expenses incurred by You without the prior written approval of Haivision, which approval shall not be unreasonably withheld.
- (b) If any Licensed Software is, or in the opinion of Haivision may become, the subject of any Claim for infringement, then Haivision may, or if it is adjudicatively determined that any of the Licensed Software infringes in the manner described above (except to the extent that any translation, modification, addition or deletion or combination by You is the sole source of such Claim), then Haivision shall, at its option, either (i) procure for You the right to continue use of the Licensed Software for the term hereof, (ii) replace or modify the Licensed Software with other suitable and reasonably equivalent products so that the Licensed Software becomes non-infringing, or (iii) terminate this Agreement and refund to You a portion of the fee paid for the relevant Licensed Software.
- (c) Haivision shall have no liability for: (i) the use of other than the then current release of the Licensed Software; (ii) the use of the Licensed Software other than as set forth in its accompanying documentation and as permitted herein; (iii) the modification of any of the Licensed Software by any party other than Haivision; or (iv) any infringement arising from the use of any Licensed Software by You after Haivision has issued a written notice to You requiring You to cease using such Licensed Software when Haivision exercises its option to terminate the License pursuant to Section 3.2 (collectively, "Exclusions"). SECTION 5.1 STATES HAIVISION'S ENTIRE OBLIGATION WITH RESPECT TO ANY CLAIM REGARDING THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD-PARTY.

- 5.2 Indemnification by You. You shall indemnify and hold Haivision harmless against any and all Claims directly or indirectly arising out of, or in any manner whatsoever associated or connected with Your performance, purported performance or non-performance of its rights and obligations under this Agreement, and against any and all Claims incurred by or on behalf of any of the foregoing in the investigation or defense of any and all such Claims.

6. OTHER PROVISIONS

- 6.1 Export and Other Restrictions. This Agreement, and all Your rights and Your obligations under this Agreement, are subject to all applicable Canadian and U.S. Government laws and regulations relating to exports including, but not limited to, the U.S. Department of Commerce Export Administration Act and its associated Regulations and all administrative acts of the U.S. Government thereunder. In the event the Licensed Software is exported from the United States or re-exported from a foreign destination, You shall ensure that the distribution and export/re-export of the Licensed Software is in compliance with all laws, regulations, orders, or other restrictions of the U.S. Export Administration Act

and its associated Regulations. You agree that neither you nor any of your Affiliates will export/re-export any Licensed Software, any hardware on which the Licensed Software is loaded or embedded, technical data, process, or service, directly or indirectly, to any country for which the Canadian government or United States government (or any agency thereof) requires an export license, other governmental approval, or letter of assurance, without first obtaining such license, approval or letter.

- 6.2 **Content.** Your data and/or your use of the Licensed Software may not: (i) interfere in any manner with the functionality or proper working of the Licensed Software; (ii) stream any material that is copyrighted, protected by trade secret or otherwise subject to third party proprietary rights, including privacy and publicity rights, unless You are the owner of such rights or have permissions from the rightful owner to post the material; (iii) constitute, promote, facilitate or permit any illegal activities, including without limitation, activities that might be libelous or defamatory, invasive of privacy or publicity rights, abusive or otherwise malicious or harmful to any person or entity; (iv) distribute, share or facilitate unauthorized data, malware, viruses, Trojan horses, spyware, worms or other malicious or harmful distributions; or (v) otherwise violate, misappropriate or infringe the intellectual property, privacy, publicity, contractual or other proprietary rights of any third party.
- 6.3 **Consent to Use Data.** You agree that Haivision may collect and use technical data and related information, including but not limited to technical information about Your device, system and application software and peripherals, that is gathered periodically to facilitate the provision of software updates, product support and other services to You (if any) related to the Licensed Software. Haivision may use this information, as long as it is in a form that does not personally identify You, to improve its products or to provide services or technologies to You.
- 6.4 **Transfer and Assignment.** Haivision may assign, sublicense, or transfer this Agreement and/or any or all of its rights or obligations hereunder. You may not assign, transfer or delegate any of its rights or obligations hereunder (whether by operation of law or otherwise) without the prior written consent of Haivision. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation or reorganization involving You (regardless of whether You are a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations or performance under this Agreement for which Haivision's prior written consent is not required. Any unauthorized assignment, transfer or delegation by You shall be null and void. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.
- 6.5 **Waiver and Amendment.** No modification, amendment or waiver of any provision of this Agreement shall be effective, unless in writing signed by both parties. No failure or delay by either party in exercising any right, power or remedy under this Agreement, except as specifically provided herein, shall operate as a waiver of any such right, power or remedy. Without limiting the foregoing, any additional legal terms and conditions submitted by You in any other documents, including but not limited to the Entitlement, shall be of no legal force or effect.
- 6.6 **Enforcement by Third Party.** For any Licensed Software licensed by Haivision from other suppliers, the applicable supplier is a third party beneficiary of this Agreement with the right to enforce directly the obligations set forth in this Agreement against You.
- 6.7 **Third Party Content.** Haivision is not responsible for examining or evaluating the data, accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality or any other aspect of any third party content. Haivision does not warrant or endorse and does not assume and will not have any liability or responsibility to You or any other person for any third party content. You agree that any third party content may contain proprietary information and material that is protected by applicable intellectual property and other laws, including but not limited to copyright, and that you will not use such proprietary content, information or materials in any way whatsoever except for permitted uses of the third party content.
- 6.8 **Third Party Royalties.** Your further reuse, retransmission, rebroadcast, display or other distribution of your third party content accessing the Licensed Software may require that you obtain a license from and / or pay royalties to the owners of certain third party audio and video formats. You are solely responsible for obtaining such licenses and paying such royalties.
- 6.9 **Governing Law/Submission to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the state of Delaware, USA (excluding any conflict of laws rule or principle, foreign or domestic), exclusive of the U.N. Convention on the International Sale of Goods. You hereby consent to the jurisdiction of any federal or state court located within the state of Delaware and waive any objection which You may have based on improper venue or forum non conveniens to the conduct of any proceeding in any such court.
- 6.10 **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law and the remaining provisions of this Agreement shall remain in full force and effect.
- 6.11 **Force Majeure.** Neither party shall be liable to the other party for any failure or delay in performance to the extent that such delay or failure is caused by fire, flood, explosion, war, terrorism, embargo, government requirement, labor problems, export controls, failure of utilities, civil or military authority, act of God, act or omission of carriers or other similar causes beyond its control. If any such event of

force majeure occurs, the party delayed or unable to perform shall give immediate notice to the other party, and the party affected by the other's delay or inability to perform may elect, at its sole discretion, to terminate this Agreement or resume performance once the condition ceases, with an option in the affected party to extend the period of this Agreement up to the length of time the condition endured. Unless written notice is given within 30 calendar days after the affected party is notified of the condition, the latter option shall be deemed selected. During an event of force majeure, the affected party shall exercise reasonable effort to mitigate the effect of the event of force majeure.

- 6.12 Entire Agreement. This Agreement and the license to the Licensed Software granted hereby are also subject to the Haivision's standard terms and conditions which are located at <https://www.haivision.com/legal/terms-and-conditions/> (as updated from time to time, the "Terms"). This Agreement, together with the Entitlement, Terms and all other documents that are incorporated by reference herein, constitutes the sole and entire agreement between Haivision and You with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.
- 6.13 Language. The parties confirm that it is their wish that this Agreement, together with the Entitlement and any other documents relating hereto, have been and shall be drawn up in the English language only. Les parties confirment que c'est leur volonté expresse que ce contrat et tous documents y étant relative, y compris les bons de commande, le avis, les annexes, les autorisations, les pièces jointes et les amendements soient rédigés en la langue anglaise seulement.
- 6.14 Headings Not Controlling. The headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.
- 6.15 US Government Rights. Some Licensed Software is commercial computer software, as such, term is defined in 48 C.F.R. §2.101. Accordingly, if You, as the Licensee, is the US Government or any contractor therefor, You shall receive only those rights with respect to the Licensed Software and Reference Materials as are granted to all other end users under license, in accordance with: 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors; or 48 C.F.R. §12.212, with respect to all other US Government licensees and their contractors.
- 6.16 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: When delivered by hand (with written confirmation of receipt); When received by the addressee if sent by a nationally recognized overnight courier (receipt requested); On the date sent by facsimile (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or On the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set forth on the Entitlement (or to such other address as may be designated by a party from time to time in accordance with this Section 6.16.)
- 6.17 Questions. If you have questions, please contact Haivision Systems Inc. at 2600 Boulevard Alfred-Nobel, Suite 500, Montreal, Québec H4S 0A9, Canada or legal@haivision.com.

Latest update: June 5, 2023