

END USER LICENSE AGREEMENT

NOTICE: Terms were revised on November 15, 2016.

Thank you for choosing SMART. This document is a legal agreement between SMART Technologies ULC ("SMART", "we" or "our") and you (where "you" or "your" includes your organization that you are using our product on behalf of).

You represent and warrant that you have the authority to accept this agreement and where applicable bind your organization and ensure it complies with these terms. If you are a minor, your parent or guardian must agree to these terms on your behalf and you should only use our products at a school if your school, or district, or teacher has obtained the requisite consent for you to disclose personal information in compliance with our [Privacy Policy](#).

Our software is licensed, not sold. Unless applicable law gives you more rights you may only use our software as expressly permitted in this agreement. You must comply with, and not attempt to circumvent, any law or technical limitation that allows you to activate or use our products only in certain ways.

SMART GRANTS YOU AND YOU ACCEPT A REVOCABLE, NON-EXCLUSIVE, NON-TRANSFERABLE AND NON-ASSIGNABLE LICENSE TO USE THE SOFTWARE SUBJECT TO THE FOLLOWING:

1. **REVOKING YOUR LICENSE.** This license is effective until revoked or terminated. You may terminate this agreement at any time by notifying us (see Section 16). If you do not comply with the terms of this agreement, including the linked terms, we may immediately revoke your license and terminate this agreement. Our software, or portions of it, and services may be offered on a subscription basis. For subscriptions, unless the subscription is renewed your license to the subscription is automatically revoked and your software (the subscription portions) or service will stop working at the end of the subscription period without any additional notice to you. SMART may, at any time, modify or discontinue (temporarily or permanently) distributing or updating our products. Unless obligated by law or warranty, SMART is not required to provide any support or maintenance to you and we shall not be liable to you or any third party for any suspension or discontinuance of our products.
2. **LANGUAGE.** Any translation we may do is for convenience and in the event of a conflict between the English and non-English versions the English version shall prevail and govern. If you are unable to access these terms in the official language of your country please contact SMART (Section 17) and a copy will be provided to you.
3. **GOVERNING LAW.** This Agreement will be exclusively governed, construed and interpreted in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein, without regard to conflict of law principles. All disputes arising out of, or relating to this Agreement shall be referred to and settled by final and binding arbitration in accordance with the International Rules of the American Arbitration Association (the "Rules") by a single arbitrator agreed to by the parties. If the parties are unable to select an arbitrator within a reasonable time after the dispute is referred to arbitration, the arbitrator shall be chosen in accordance with the Rules. The arbitration shall take place in Calgary, Alberta and shall be conducted in the English language. If a court rules that these arbitration provisions are unenforceable in whole or in part, then you irrevocably agree that any dispute (including litigation) involving SMART must be brought in the courts in Calgary, Alberta. In addition to any other rights and remedies available to it, SMART is entitled to seek equitable relief including an urgent court injunction in the event of a breach of this Agreement, which relief may be sought in any jurisdiction in which the breach took place or in which it continues to occur.
4. **CLASS ACTION WAIVER.** To the extent permitted by law, any and all proceedings to resolve or litigate a dispute must be conducted solely on an individual basis. Neither you nor SMART shall seek to have any dispute heard as a class action, jury trial, private attorney general action, or in any other proceeding in which either party acts, or proposes to act, in a representative capacity.
5. **LINKED TERMS.** You are also bound by the following terms and conditions:
[Terms of Use](http://www.smarttech.com/Home+Page/Legal/Legal+Notice) (<http://www.smarttech.com/Home+Page/Legal/Legal+Notice>)

[Privacy Policy](https://smarttech.com/Legal/Privacy+Policy) (<https://smarttech.com/Legal/Privacy+Policy>)

In the event of a conflict or variance between the linked terms and the terms in the body of this agreement, the terms in the body of this agreement shall prevail and govern. If you are unable to access these links please contact SMART at the address listed in Section 16 and a copy will be provided to you.

6. LIMITED WARRANTY. SMART warrants to you that the software, when properly installed and used, shall operate in substantial accordance with our published specifications for a period of ninety (90) days from the date of purchase. Subject to entitlements under a maintenance program (if any), you assume the entire cost of all necessary upgrades, servicing, repairs or correction of the software. SMART's sole obligation under this limited warranty shall be, at SMART's option and expense, to either: a) refund the purchase price paid by you for the defective software; or b) to replace the defective software with software that substantially conforms to applicable SMART published specifications. Any replacement software will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer.
7. NO WARRANTY. OTHER THAN THE LIMITED WARRANTY AS STATED ABOVE IN SECTION 6, THE SOFTWARE IS PROVIDED "AS-IS" AND ITS USE IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SMART AND ITS SUPPLIERS, LICENSORS, DISTRIBUTORS AND RESELLERS DISCLAIM ALL WARRANTIES AND CONDITIONS, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT AND NONINFRINGEMENT WITH REGARD TO THE SOFTWARE AND SMART PRODUCTS AND ANY COMPONENT THEREOF, AND THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES. SMART DOES NOT WARRANT THAT THE OPERATION OF THE SOFTWARE IS OR WILL BE INTERRUPTION FREE, DEFECT FREE OR WILL MEET YOUR NEEDS.
8. NO LIABILITY. To the maximum extent permitted by applicable law, in no event shall SMART or its suppliers, third party providers, licensors, resellers or distributors be liable for any special, incidental, indirect, exemplary, consequential or punitive damages whatsoever (including, without limitation, damages for any injury to any person or property, damages for loss of profits, business interruption, loss of business information, loss of privacy, damages for procurement of substitute goods or services, damages for loss of use, loss of data, damages for failure to meet any duty including the duties of good faith or of reasonable care, for negligence or any other pecuniary loss) arising out of the use of or inability to use the software or any component thereof or the provision of or failure to provide support services, whether based on contract, tort, negligence, strict liability or otherwise, even if SMART or its suppliers, third party providers, licensors, resellers or distributors have been advised of the possibility of such damages. IN ANY CASE, SMART'S ENTIRE LIABILITY SHALL NOT EXCEED THE PURCHASE PRICE.
9. FEEDBACK. We do not claim any intellectual property rights over material you create. We do appreciate your direct suggestions but please be aware that any comments, feedback or ideas you share with us while not under a non-disclosure agreement shall be treated as non-confidential and you will, and do hereby, assign us all right, title and interest to them. This means we are free to use them for any purpose, without compensation, acknowledgment or other obligation of any kind to you.
10. BETA CHANNEL. The beta channel is meant for advanced users who are comfortable using pre-release software and providing feedback. Problems you may encounter in beta channel releases are not supported by SMART support. Moving to the beta channel may cause your board to behave unexpectedly. Updates will be installed automatically and all bugs or crashes will be automatically reported. Returning to the stable channel requires a factory reset that erases all settings and returns them to their default values.
11. EXPORT RESTRICTIONS. You agree that you shall comply with all domestic and international export laws and regulations that apply. Our software is a "Commercial Item", as that term is defined at 48 CFR 2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 CFR 12.212 or 48 CFR 227.7202, as applicable. Consistent with 48 CFR 12.212 or 48 CFR 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to US Government end users (a) only as Commercial Items, and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions of this agreement.

12. **INVALIDITY OF PROVISIONS.** If any provision of this agreement is invalid, illegal or unenforceable in any respect, such provision shall be severed from this agreement or the applicable linked terms, and the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired. The failure by a party to exercise any right shall not operate as a waiver of such party's right to exercise such right or any other right in the future.
13. **ASSIGNMENT.** You may not assign this agreement or your license without our prior written consent, which may not be granted. SMART on the other hand, may assign this agreement without your consent. Subject to the foregoing, this agreement shall be binding upon and enure to the benefit of the parties to it and their respective legal representatives, successors and permitted assigns.
14. **ENTIRE AGREEMENT.** This agreement, together with the linked terms, constitutes the entire understanding of the parties and supersedes all prior end user license agreements, representations, negotiations, tender documents and proposals between the parties with respect to the subject matter of this agreement.
15. **CONTACTING YOU.** We (including our software), or an authorized representative of SMART, may contact you about this agreement or operational messages by: a) calling you or sending an email or regular mail to the addresses we have on file for you; b) providing notification, system messages or updates via the software; or c) posting a message where you found these legal terms. You understand and agree that if you use our product after the date on which we provide notice to you that the terms of this agreement or the linked terms have changed, you will be agreeing to and accepting the updated terms. Unless other terms accompany them, these terms also apply to related updates, patches and related Internet or mobile based applications.
16. **SURVIVAL.** The obligations set forth in the preamble and Sections 2 to 16 inclusive shall survive termination of this agreement.
17. **HAVE A QUESTION?**
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