This End User License Agreement ("Agreement") is a legal agreement between you and NVIDIA Corporation ("NVIDIA") and governs your use of the NVIDIA software and materials provided hereunder ("SOFTWARE").

If you are entering into this Agreement on behalf of a company or other legal entity, you represent that you have the legal authority to bind the entity to this Agreement, in which case "you" will mean the entity you represent.

If you don’t have the required authority to accept this Agreement, or if you don’t accept all the terms and conditions of this Agreement, do not download, install or use the SOFTWARE.

You agree to use the SOFTWARE only for purposes that are permitted by (a) this Agreement, and (b) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions.

1. License.

1.1 Grant

Subject to the terms of this Agreement, NVIDIA hereby grants you a non-exclusive, non-transferable license, without the right to sublicense to:

(a) install, use and make copies of the SOFTWARE licensed solely for test and development of your systems that run on compatible NVIDIA devices, and not for use in production-level systems;

(b) modify and create derivative works of sample source code delivered in the SOFTWARE;

(c) access and use the OTA service (if available to you) to update over the air SOFTWARE and other software in your systems that run on NVIDIA devices. The following applies to the OTA service:

(i) You are responsible for following the OTA service instructions provided, including the safety instructions;

(ii) It is your choice when and how to update SOFTWARE and other software in systems. As part of the process of selecting systems to update using the OTA service, NVIDIA will collect information as described in this Agreement to identify systems that run on NVIDIA devices and after you can select which of the validated systems to update;

(iii) The OTA service is a factory re-set and you are responsible for backing up your applications, settings and data in the system for use after the update;

(iv) You are responsible for testing all system updates, for NVIDIA and non-NVIDIA software, to maintain the desired software and functionality in your systems; and

(v) Any SOFTWARE update may remove or disable the use of other software that was present in the system. After completing an update, review the software in the system and determine if other updates are appropriate. It is your sole responsibility to coordinate all updates, for NVIDIA and non-NVIDIA software, to maintain the desired software running in your systems.

1.2 Authorized Users

You may allow employees and contractors of your entity or of your subsidiary(ies) to access and use the SOFTWARE and OTA service, as applicable, from your secure network to perform work on your behalf. Notwithstanding the foregoing, in no event may the SOFTWARE be accessed by NVIDIA competitors, or used for any engagement, including but not limited to services or product development (hardware or software) for the benefit of NVIDIA competitors. For the purposes here, NVIDIA competitors shall mean any entity that develops, manufactures, produces, sells, distributes or licenses application processors, computers-on-chips, systems-on-chips, CPUs, DSPs or GPU technology.

You are responsible for the compliance with the terms of this Agreement by your authorized users. If you become aware that your authorized users didn’t follow the terms of this Agreement, you agree to take reasonable steps to resolve the non-compliance and prevent new occurrences.
1.3 Pre-Release SOFTWARE

The SOFTWARE and OTA service versions identified as alpha, beta, preview, early access or otherwise as pre-release may not be fully functional, may contain errors or design flaws, and may have reduced or different security, privacy, availability, and reliability standards relative to commercial versions of NVIDIA software, services and materials. Use of a pre-release SOFTWARE or OTA service may result in unexpected results, loss of data, project delays or other unpredictable damage or loss.

You may use a pre-release SOFTWARE or OTA service at your own risk, understanding that they are not intended for use in production or business-critical systems. As with any software or service in pre-release, it is highly recommended that you maintain full data backups for all your software and data.

NVIDIA may choose not to make available a commercial version of any pre-release SOFTWARE or OTA service. NVIDIA may also choose to abandon development and terminate their availability at any time without liability.

1.4 Updates

NVIDIA may, at its option, make available patches, workarounds or other updates to this SOFTWARE. Unless the updates are provided with their separate governing terms, they are deemed part of the SOFTWARE licensed to you as provided in this Agreement.

With respect to the OTA service, NVIDIA may at any time change, discontinue, or deprecate any part, or all, of the service, or change or remove features or functionality of the service, and your continued use of the service is deemed acceptance of such changes. Additionally, the service may be temporarily unavailable or slow when NVIDIA is performing maintenance or upgrades.

1.5 Third Party Licenses

The SOFTWARE and OTA service may come bundled with, or otherwise include or be distributed with, third party software licensed by a NVIDIA supplier and/or open source software provided under an open source license. Use of third party software is subject to the third-party license terms, or in the absence of third party terms, the terms of this Agreement. Copyright to third party software is held by the copyright holders indicated in the third-party software or license.

Audio/Video Encoders and Decoders. You acknowledge and agree that it is your sole responsibility to obtain any additional third party licenses required to make, have made, use, have used, sell, import, and offer for sale your products or services that include or incorporate any third party software and content relating to audio and/or video encoders and decoders from, including but not limited to, Microsoft, Thomson, Fraunhofer IIS, Sisvel S.p.A., MPEG-LA, and Coding Technologies as NVIDIA does not grant to you under this Agreement any necessary patent or other rights with respect to audio and/or video encoders and decoders.

1.6 Reservation of Rights

NVIDIA reserves all rights, title and interest in and to the SOFTWARE and OTA service not expressly granted to you under this Agreement.

2. Limitations.

The following license limitations apply to your use of the SOFTWARE and OTA service:

2.1 You may not reverse engineer, decompile or disassemble, or remove copyright or other proprietary notices from any portion of the SOFTWARE or OTA service, or copies of them.
2.2 Except as expressly provided in this Agreement, you may not modify or create derivative works of any portion of the SOFTWARE. You may not sell, rent, sublicense, transfer or distribute the SOFTWARE or OTA service.

2.3 You may not bypass, disable, or circumvent any encryption, security, digital rights management or authentication mechanism in the SOFTWARE or OTA service.

2.4 You may not misuse, disrupt or exploit the OTA service or NVIDIA servers for any unauthorized use, or try to access areas not intended for users, or upload to NVIDIA servers any malware (such as viruses, drop dead device, worm, trojan horse, trap, back door or other software routine of such nature), or use NVIDIA servers for other purposes such as any form of excessive automated bulk activity, or to relay any other form of unsolicited advertising or solicitation.

2.5 You may not use the SOFTWARE in any manner that would cause it to become subject to an open source software license. As examples, licenses that require as a condition of use, modification, and/or distribution that the SOFTWARE be (i) disclosed or distributed in source code form; (ii) licensed for the purpose of making derivative works; or (iii) redistributable at no charge.

2.6 UNLESS YOU HAVE AN EXPLICIT WARRANTY FROM NVIDIA CONFIRMING COMPLIANCE WITH AUTOMOTIVE SAFETY STANDARDS, YOU ACKNOWLEDGE THAT THE SOFTWARE AND OTA SERVICE ARE NOT DESIGNED, TESTED OR CERTIFIED FOR USE IN CONNECTION WITH THE DESIGN, CONSTRUCTION, MAINTENANCE, AND/OR OPERATION OF ANY SYSTEM WHERE THE USE OR FAILURE OF SUCH SYSTEM COULD RESULT IN A SITUATION THAT THREATENS THE SAFETY OF HUMAN LIFE OR RESULTS IN CATASTROPHIC DAMAGES (INCLUDING, FOR EXAMPLE, USE IN CONNECTION WITH ANY AUTONOMOUS VEHICLE APPLICATION OR OTHER LIFE CRITICAL APPLICATION). NVIDIA SHALL NOT BE LIABLE TO YOU OR ANY THIRD PARTY, IN WHOLE OR IN PART, FOR ANY CLAIMS OR DAMAGES ARISING FROM SUCH USE.

2.7 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 your use of the SOFTWARE or OTA service outside of the scope of this Agreement, or not in compliance with its terms.

3. Ownership.

3.1 The SOFTWARE and OTA service, modifications to them, and the respective intellectual property rights are owned by NVIDIA or its licensors and are licensed to you as described in this Agreement, subject to your rights under section 3.2. NVIDIA’s licensors are intended third party beneficiaries with the rights to enforce this Agreement with respect to their intellectual property rights.

3.2 You hold all rights, title and interest in and to your applications and your derivative works of the sample source code delivered in the SOFTWARE, including their respective intellectual property rights, subject to NVIDIA’s rights under section 3.1.

3.3 You may, but don’t have to, provide to NVIDIA suggestions, feature requests or other feedback regarding the SOFTWARE and OTA service, including possible enhancements or modifications to them. For any feedback that you voluntarily provide, you hereby grant NVIDIA and its affiliates a perpetual, non-exclusive, worldwide, irrevocable license to use, reproduce, modify, license, sublicense (through multiple tiers of sublicensees), and distribute (through multiple tiers of distributors) it without the payment of any royalties or fees to you. NVIDIA will decide if and how to respond to feedback and if to incorporate feedback into the SOFTWARE or OTA service.

4. No Warranties.

THE SOFTWARE AND OTA SERVICE ARE PROVIDED BY NVIDIA “AS IS” AND “WITH ALL FAULTS.” TO THE MAXIMUM EXTENT PERMITTED BY LAW, NVIDIA AND ITS AFFILIATES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER
5. **Limitations of Liability.**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, NVIDIA AND ITS AFFILIATES SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR ANY LOST PROFITS, LOSS OF USE, LOSS OF DATA OR LOSS OF GOODWILL, OR THE COSTS OF PROCURING SUBSTITUTE PRODUCTS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE SOFTWARE OR OTA SERVICE, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER CAUSE OF ACTION OR THEORY OF LIABILITY. IN NO EVENT WILL NVIDIA’S AND ITS AFFILIATES TOTAL CUMULATIVE LIABILITY UNDER OR ARISING OUT OF THIS AGREEMENT EXCEED US$10.00. THE NATURE OF THE LIABILITY OR THE NUMBER OF CLAIMS OR SUITS SHALL NOT ENLARGE OR EXTEND THIS LIMIT.

These exclusions and limitations of liability shall apply regardless if NVIDIA or its affiliates have been advised of the possibility of such damages, and regardless of whether a remedy fails its essential purpose. These exclusions and limitations of liability form an essential basis of the bargain between the parties, and, absent any of these exclusions or limitations of liability, the provisions of this Agreement, including, without limitation, the economic terms, would be substantially different.

6. **Termination.**

6.1 If you want to terminate this Agreement, you may do so by stopping to use the SOFTWARE and/or OTA service (as applicable).

6.2 NVIDIA may, at any time, terminate this Agreement if: (i) you fail to comply with any term of this Agreement and the non-compliance is not fixed within thirty (30) days following notice from NVIDIA (or immediately if you violate NVIDIA’s intellectual property rights); (ii) you commence or participate in any legal proceeding against NVIDIA with respect to the SOFTWARE or OTA service; or (iii) NVIDIA decides to no longer provide the SOFTWARE, OTA service or certain parts of them to users in a country, or the provision of them is, in NVIDIA’s sole discretion, no longer commercially viable.

6.3 Upon any termination of this Agreement, you agree to promptly discontinue use of the SOFTWARE and OTA service, as applicable, and destroy all copies in your possession or control. Upon written request, you will certify in writing that you have complied with your commitments under this section. Upon any termination of this Agreement all provisions survive except for the license grant provisions.

7. **Data Collection.**

You hereby acknowledge that the SOFTWARE may access and collect data in order to: (a) properly configure and optimize systems in which the SOFTWARE is installed for use with the SOFTWARE; (b) deliver content or service through the SOFTWARE; and (c) improve NVIDIA products and services. Information collected by the SOFTWARE includes: (i) ethernet MAC address and (ii) update-related information such as status of the update and whether the system has successfully been updated.


8. **General.**

If you wish to assign this Agreement or your rights and obligations, including by merger, consolidation, dissolution or operation of law, contact NVIDIA to ask for permission. Any attempted assignment not approved by NVIDIA in writing shall be void and of no effect. NVIDIA may assign, delegate or transfer this Agreement and its rights and obligations, and if to a non-affiliate you will be notified.

You agree to cooperate with NVIDIA and provide reasonably requested information to verify your compliance with this Agreement.
This Agreement will be governed in all respects by the laws of the United States and of 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 laws principles. The United Nations Convention on Contracts for the International Sale of Goods is specifically disclaimed. You agree to all terms of this Agreement in the English language.

The state or federal courts residing in Santa Clara County, California shall have exclusive jurisdiction over any dispute or claim arising out of this Agreement. Notwithstanding this, you agree that NVIDIA shall still be allowed to apply for injunctive remedies or an equivalent type of urgent legal relief in any jurisdiction.

If it turns out that any provision of this Agreement is not unenforceable, such provision will be construed as limited to the extent necessary to be consistent with and fully enforceable under the law and the remaining provisions will remain in full force and effect. Unless otherwise specified, remedies are cumulative.

The SOFTWARE has been developed entirely at private expense and is “commercial items” consisting of “commercial computer software” and “commercial computer 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 in this Agreement 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, 2788 San Tomas Expressway, Santa Clara, CA 95051.

The SOFTWARE is subject to United States export laws and regulations. You agree that you will not ship, transfer or export the SOFTWARE into any country, or use the SOFTWARE in any manner, prohibited by the United States Bureau of Industry and Security or economic sanctions regulations administered by the U.S. Department of Treasury’s Office of Foreign Assets Control (OFAC), or any applicable export laws, restrictions or regulations. These laws include restrictions on destinations, end users and end use. By accepting this Agreement, you confirm that you are not a resident or citizen of any country currently embargoed by the U.S. and that you are not otherwise prohibited from receiving the SOFTWARE.

Any notice delivered by NVIDIA to you under this Agreement will be delivered via mail, email or fax. You agree that any notices that NVIDIA sends you electronically will satisfy any legal communication requirements. Please direct your legal notices or other correspondence to NVIDIA Corporation, 2788 San Tomas Expressway, Santa Clara, California 95051, United States of America, Attention: Legal Department.

This Agreement and any exhibits incorporated into this Agreement constitute the entire agreement of the parties with respect to the subject matter of this Agreement and supersede all prior negotiations or discussions between the parties relating to this subject matter. Any additional and/or conflicting terms on documents issued by you are null, void, and invalid. Any amendment or waiver under this Agreement shall be in writing and signed by representatives of both parties.