

INNOVMETRIC SOFTWARE INC.
END-USER LICENSE AGREEMENT

IMPORTANT NOTICE TO USER - READ CAREFULLY:

THIS IS A CONTRACT. BY INDICATING YOUR ACCEPTANCE BELOW, YOU ACCEPT ITS TERMS AND CONDITIONS INCLUDING, IN PARTICULAR, LIMITATIONS ON THE USE OF THE LICENSED PRODUCTS AND THE LIABILITY.

This InnovMetric Software Inc. ("InnovMetric") End-User License Agreement ("Agreement") is a legal agreement between you, either an individual or a single entity ("Licensee"), and InnovMetric for the Licensed Products (as defined below). By installing, copying, or otherwise using the Licensed Products, you agree to be bound by the terms of this Agreement. You agree that this Agreement is enforceable like any written negotiated agreement signed by you. If you do not agree to all the terms of this Agreement, do not install or use the Licensed Products, and contact InnovMetric.

WHEREAS, InnovMetric, a Canadian corporation, is the lawful owner of and/or has the right to license the proprietary computer programs described in this Agreement.

WHEREAS, Licensee wishes to license use of the compiled code of the Licensed Products, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. PREAMBLE

The preamble is part of the present Agreement.

2. DEFINITIONS

The following terms are used in this Agreement, as defined in this paragraph:

2.1 "Licensed Software" shall mean Software products composed of InnovMetric's computer programs in machine-readable compiled code, intermediate code or interpreted form, and associated program updates and upgrades, and related items such as hardware (dongles) and software keys.

2.2 "Licensed Materials" shall mean "online" or electronic user manuals and specifications, and any other media, printed materials, and "online" or electronic documentation, provided by InnovMetric to the Licensee for use with Licensed Software.

2.3 "Licensed Products" shall mean the Licensed Software and the Licensed Materials commercialized under the tradenames PolyWorks®, PolyWorks|Inspector™, PolyWorks|Modeler™, PolyWorks|Reviewer™, PolyWorks|Talisman™, PolyWorks|DataLoop™, PolyWorks|PMI+Loop™, PolyWorks|ReportLoop™, and PolyWorks|AR™.

2.4 "Error" shall mean any reproducible functional defect in the Licensed Software resulting in the Licensed Software not conforming with the Licensed Materials.

2.5 "Internal Use" shall mean the use of Licensed Software on the Licensee's computing devices.

2.6 "Users" shall mean the directors, officers, and employees of the Licensee or any other person using the Licensed Products.

2.7 "Open Source Library" shall mean object code that is statically or dynamically linked to the Licensed Software and that contains, or is derived from, any computer source code licensed pursuant to a license that is identified as an open source license by the Open Source Initiative (opensource.org) or other similar licensing or distribution models for computer code offered free of charge.

3. LICENSE

3.1 Terms

InnovMetric hereby grants Licensee a nonexclusive, nontransferable license to use the Licensed Products solely for its own internal use only and for no other purpose.

For purchased perpetual Licenses only—excluding licenses leased for a predetermined period of time, evaluation licenses, as well as temporary "one-year use" licenses—the license is granted for an indefinite period.

For licenses leased for a predetermined period of time, for evaluation licenses, and for temporary "one-year use" licenses, the license is granted for a period beginning at the installation date and for the duration of the lease, evaluation period, "one-year use" period, or other period as agreed between InnovMetric and Licensee.

For subscriptions purchased for a predetermined period of time, the license is granted for the duration of the subscriptions to the first differentiated users or devices that connect to the license server. Users are allowed the concurrent use of two different computing devices.

Licensee is responsible to clearly advise all Users, as described in section 2.6, of all obligations contained in this Agreement.

4. PROTECTION OF PROPRIETARY RIGHTS

4.1 Right to Use Licensed Products

Licensee acknowledges that no right, title, or interest, other than the right to use the Licensed Products, is transferred or granted by this Agreement. Licensee is prohibited from selling, renting, leasing, making available to third parties, and sublicensing the Licensed Products.

4.2 Open Source Libraries

The use and operation of the Licensed Software may require the concurrent use of the Open Source Libraries listed at the following hyperlink: <https://downloads.polyworks.com/doc/PolyWorksAcknowledgments.pdf> (the "List of Open Source Libraries"). Licensee acknowledges that InnovMetric shall be entitled to update the List of Open Source Libraries, as the use of Open Source Libraries varies upon each new release. InnovMetric represents and warrants that it has the right to authorize the use of such Open Source Libraries by Licensee in conjunction with the Licensed Software, in full compliance with the licensing terms of such Open Source Libraries. Where and to the extent required pursuant to the licensing terms of such Open Source Libraries, InnovMetric will provide or make available a copy of the source code of such Open Source Libraries to Licensee. Licensee's use of such Open Source Libraries is governed by the terms of this Agreement, not the usual licensing terms of such Open Source Libraries. InnovMetric represents and warrants that it is authorized to license the use of such Open Source Libraries as per the terms of this Agreement. Licensee releases all third-party owners or licensors of such Open Source Libraries of any and all liability flowing from representations, conditions, warranties and covenants made or provided pursuant to this Agreement that go above and beyond those representations, conditions, warranties and covenants made or provided under the usual licensing terms of such Open Source Libraries, as applicable between InnovMetric and such third-party owners or licensors.

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Licensee will take appropriate action, by agreement or otherwise, with such employees and/or other users, to inform them of the trade secret, proprietary, and confidential nature of the Licensed Products so as to obtain their compliance with the terms of this section. In the event that Licensee, or any of its present or former employees and/or other users breach the confidentiality obligations of this Agreement, Licensee shall be jointly and severally liable to InnovMetric for any loss incurred by InnovMetric resulting directly or indirectly from such breach.

4.5 Restrictions on Copying

Licensee will hold the Licensed Products in strict confidence. InnovMetric hereby grants the Licensee the right to make copies of the Licensed Products for backup purposes only.

4.6 Reverse Engineering

Licensee is prohibited from reverse engineering, decompiling, disassembling, or creating any derivative work of the Licensed Products. Licensee shall not allow anyone to modify, disassemble, or decompile the Licensed Products, or create any derivative work in any possible way.

4.7 Relief

Licensee acknowledges and agrees that the Licensed Products, as well as all other information in whatever medium disclosed to Licensee hereunder, are unique and commercially valuable and that any breach by Licensee of the terms of this Agreement with respect to protection against disclosure or distribution of the Licensed Products or such information would result in an irreparable and continuing injury to InnovMetric for which money damages would be inadequate. In the event of such a breach or anticipated breach by Licensee, InnovMetric shall be entitled to immediate injunctive relief or any other recourse and to specifically enforce the terms of this Agreement, in addition to any other remedy to which InnovMetric may be entitled at law or in equity.

4.8 Noncompetition

Licensee agrees that it shall not use the Licensed Products to assist in the development or design of a computer software program or other technology that is intended to provide substantially similar or similar functionalities, or graphical user interfaces (GUI), substantially similar or similar to the Licensed Products.

4.9 Development of Utility

The Licensed Software shall not be used to develop, nor shall Licensee market, any conversion utility or aid specific to the Licensed Software enabling or facilitating users to convert from the Licensed Software to alternative software not marketed by InnovMetric.

4.10 Floating License Usage Report

The Licensee hereby acknowledges that the grant of a license to use the Licensed Products pursuant to a 'floating license' mode is subject to pricing which may vary upon the actual place of use of the Licensed Products. By purchasing a floating license, the Licensee agrees that InnovMetric may request, not more than once a year, a written usage report. In these instances, an authorized officer of the Licensee would then certify in writing the annual percentage of floating license usage per country. The Licensee shall cooperate with any reasonable requests of InnovMetric to facilitate any such audit.

5. OWNERSHIP AND COPYRIGHT PROTECTION

InnovMetric, its affiliates and suppliers retain all right, title, and interest in and to the Licensed Products. The Licensed Products are intellectual property of InnovMetric, its affiliates and its suppliers. The Licensed Products are protected by law, including without limitation the copyright laws of Canada, the United States and other countries, and by international treaty provisions. PolyWorks is a registered trademark of InnovMetric. InnovMetric, PolyWorks|Inspector, PolyWorks|Modeler, PolyWorks|Reviewer, PolyWorks|Talisman, PolyWorks|DataLoop, PolyWorks|PMI+Loop, PolyWorks|ReportLoop and PolyWorks|AR are trademarks of InnovMetric. All other trademarks are the property of their respective owners. Licensee may not alter any trademarks, trade names, product names, logos, copyrights or other proprietary notices, legends, symbols, or labels in the Licensed Products. Licensee acknowledges that no right, title, or interest, other than the right to use the Licensed Products as described herein is transferred by the present Agreement.

6. WARRANTY

6.1 Ownership of Copyrights

InnovMetric warrants that it has the right to grant this license to use the Licensed Products as contemplated hereunder.

6.2 Infringement

InnovMetric will indemnify and hold harmless Licensee from and against any action brought against Licensee alleging that the Licensed Products infringe third-party intellectual property rights, to the extent that:

6.2.1 InnovMetric is notified promptly in writing by Licensee of the claim;

6.2.2 InnovMetric has sole control of the defense of the claim and all negotiations of any settlement or compromise, provided that any such settlement or compromise provide for the general release of all claims against InnovMetric;

6.2.3 the claim is not based on the use of a Licensed Software's version other than the most recent and nonmodified version by Licensee;

6.2.4 the Licensee has not prejudiced InnovMetric position's in any way by, without limiting the generality of the foregoing, its admissions and/or declarations.

InnovMetric shall have the opportunity, where a third party claims an infringement of its intellectual property, at all times, either before, during or after any proceedings, to provide the Licensee with the right to use such element of intellectual property or replace same in order to cease such infringement.

6.3 Nonapplication of Warranty

Paragraph 6.2 of this section is not applicable if the claim is based upon:

6.3.1 the use of other than a current unaltered release of Licensed Software if the infringement would have been avoided by the use of a current unaltered release of Licensed Software;

6.3.2 the combination, operation, or use of any Licensed Products with any programs or software not provided by InnovMetric, if the infringement would have been avoided by the combination, operation or use of Licensed Products with other programs, software or data; or

6.3.3 the use of Licensed Software in other than the operating environment specified for it by InnovMetric if the infringement would have been avoided by use in the operating environment specified by InnovMetric.

6.4 Documentation

InnovMetric warrants that the Licensed Software conforms with Licensed Materials for a period of twelve (12) months from the date of this Agreement, unless such term is otherwise renewed or extended.

6.5 Limitation of Warranty

Except as expressly provided in this section, InnovMetric makes no warranty, express or implied, with respect to the Licensed Products. Without limiting the generality of the foregoing, InnovMetric makes no warranty or merchantability or fitness for a particular purpose or that the Licensed Products are error free or that Licensee's use of the Licensed Products will be uninterrupted. InnovMetric will promptly correct all errors discovered within a period of ninety (90) days from delivery, upon notification by Licensee, if the following conditions are and were always respected since delivery date:

6.5.1 the Licensed Software is and was properly used as set forth in the Licensed Materials;

6.5.2 the Licensed Products were not changed nor modified by Licensee or a third party upon Licensee's request.

6.5.3 the Licensed Products were not used in ultrahazardous activities;

6.5.4 the Licensed Products have not been subjected to abnormal physical or electrical stress, misuse, negligence or accident.

6.6 Prerelease Software Product

If the Licensed Software the Licensee has received with this Agreement is a precommercial release or beta Software ("Prerelease Software"), Licensee acknowledges that the Prerelease Software version does not represent the final product from InnovMetric, and may contain bugs, errors, and other problems that could cause system or other failures and data loss. Consequently, the Prerelease Software is provided to the Licensee "AS-IS", and InnovMetric disclaims any warranty or liability obligations of any kind to the Licensee.

7. TERMINATION

7.1 Default

Either party may terminate this Agreement upon written notice to the other party without advance notice if the other party materially breaches the terms of this Agreement and such default continues uncorrected for a period of ten (10) days after notice in writing thereof to such other party.

7.2 Bankruptcy or Insolvency

The fact that one of the parties becomes insolvent or is adjudged bankrupt; makes a proposal for the benefit of its creditors; has a receiver appointed; files a petition of bankruptcy; initiates reorganization proceedings; causes or permits to occur any similar event under the laws of its domicile; or ceases to conduct its operations in the normal course of business; or is wound up will be interpreted as a default under the terms of the present Agreement.

7.3 Effect of Termination

7.3.1 License. Upon termination, all licenses granted pursuant to this Agreement and any Maintenance and Support Agreement executed by both parties will cease.

7.3.2 Return and Destruction of Proprietary Information. Licensee will immediately return to InnovMetric the Licensed Products and all whole or partial copies thereof, including all backup copies, modifications, and documentation thereof and purge all copies of the Licensed Products from all computer processors or storage media on which Licensee has installed or permitted others to install Licensed Products. Licensee will certify in writing to InnovMetric no later than thirty (30) days after termination that it has entirely complied with this requirement and that no Proprietary Information remains in its possession.

7.3.3 Compliance with Agreement Notwithstanding Termination. Notwithstanding the termination of the present Agreement, Licensee agrees to comply with section 4 of said Agreement.

8. LIMITATION OF LIABILITY

IN NO EVENT WILL INNOVMETRIC, ITS AFFILIATES OR SUPPLIERS BE LIABLE FOR (1) SPECIAL, DIRECT, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR (2) ANY DAMAGES RESULTING FROM LOSS OF USE, OR LOSS OF DATA, OR LOSS OF PROFITS, BUSINESS INTERRUPTION, OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE LICENSED PRODUCTS OR ANY INFORMATION PROVIDED HEREUNDER, WHETHER IN AN ACTION BASED ON CIVIL LIABILITY, CONTRACT OR TORT, INCLUDING NEGLIGENCE. IN NO EVENT WILL INNOVMETRIC, ITS AFFILIATES OR SUPPLIERS TOTAL LIABILITY FOR ANY DAMAGES AWARDED IN ANY ACTION BASED ON CIVIL LIABILITY, CONTRACT OR TORT ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE AMOUNT PAID FOR THE PRESENT LICENSE EVEN IF INNOVMETRIC, ITS AFFILIATES OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. INNOVMETRIC WILL NOT HAVE ANY LIABILITY FOR ANY DAMAGES ARISING FROM THE USE OF THE PRODUCTS IN ANY HIGH-RISK ACTIVITY, INCLUDING, BUT NOT LIMITED TO, THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, MEDICAL SYSTEMS, LIFE SUPPORT, OR WEAPONS SYSTEMS.

9. MISCELLANEOUS

9.1 Notice

Any notice, request, instruction, legal proceedings or other instrument to be given, served, or provided under this Agreement by either party shall be deemed given and received when in writing and delivered personally or by confirmed telefax or five (5) days after being sent by certified or registered mail, postage prepaid, to InnovMetric or Licensee at the address of each as indicated below, provided that either party may change such address, only by written notice to the other party:

If to InnovMetric: InnovMetric Software Inc., 2014 Cyrille-Duquet, Suite 310, Quebec, Quebec, Canada, G1N 4N6, tel: (418) 688-2061, fax (418) 688-3001.

If to Licensee: Current address of Licensee as mentioned on the purchase order or as otherwise specified by Licensee.

9.2 Waiver

No delay or failure of either party in exercising any right and no partial single exercise of any right shall be deemed to constitute a waiver of that right or any other right under this Agreement. No action arising out of this Agreement, regardless of form, may be brought by either party more than one (1) year after the cause of action has accrued.

9.3 Severability

If any provision, or portion thereof, of this Agreement is declared invalid by a Court of law or is unenforceable under any applicable statute or rule of law, it is to that extent to be deemed omitted.

9.4 No Assignment

The rights of Licensee under this Agreement may not be assigned, in whole or in part, and any attempted assignment of rights, duties or obligations hereunder without such consent shall be null and void.

9.5 Amendments and Modifications

This Agreement may not be amended, altered, or modified and no right hereunder may be waived except by a written agreement signed by authorized representatives of the parties.

9.6 Entire Understanding

This Agreement sets forth the entire understanding between the parties with respect to the matters set forth herein. This Agreement shall supersede all prior representations, understandings or agreements, whether written or oral, express or implied, with respect thereto and prevail over any other party's terms signed in present and in future, except where it is expressly agreed to give priority another party's End User Licence Agreement.

9.7 Governing Law

This Agreement is governed exclusively by the laws applicable in the Province of Quebec, Canada. Notwithstanding any other agreement or provision to the contrary, the parties acknowledge that the license was acquired in the Province of Quebec, Canada. Any other treaty convention or contracts according to international laws or the United Nations Convention do not apply. The Licensee irrevocably agrees that the courts of the Province of Quebec, Canada shall have exclusive jurisdiction in relation to any claim, dispute, or difference concerning the present Agreement and any matter arising therefrom, and irrevocably waive any right that it may have to object to an action being brought in those courts, or to claim that the action has been brought in an inconvenient forum, or that those courts do not have jurisdiction. Nothing in this clause shall limit the right of InnovMetric to take proceedings against Licensee in any other court of competent jurisdiction.

9.8 Language

InnovMetric, and the Licensee by his acceptance below, acknowledge having requested that this document be drafted in English only. InnovMetric Logiciels inc., et le Licencié par son acceptation des présentes, reconnaissent qu'ils ont demandé que le présent document soit rédigé en anglais seulement.