

## End User License Agreement for Onsight Connect, Onsight Workspace, Onsight NOW, and Onsight Flow software\*

\* Note to Licensees – the most recent version of this agreement may be found on Librestream’s website – see <http://librestream.com/support-archives/termsfuse/>

**Important** – please read this agreement carefully.

Librestream is willing to license the Software to Licensees and allow Licensees to use the Software as contemplated herein only upon the condition that each Licensee accepts and agrees to be bound by all of the terms and conditions contained in this agreement that apply to that Licensee’s use of the Software.

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As a Licensee, you agree to be subject to receiving information regarding Onsight releases, feedback, training, and account updates.

If any potential Licensee does not agree to all of these terms and conditions, then Librestream is not willing to license any of the Software to that Licensee or to allow that Licensee to use any of the Software or any Librestream product. In such a case:

- (a) do not download, install or use any Software
- (b) if you have already acquired the Software, return the Software for a pro-rated refund or, if the Software is supplied as part of a Librestream product, return that Librestream product for a refund, and
- (c) if you have already installed the Software on a Computing Device, delete the Software from that Computing Device.

### 1. DEFINITIONS.

1.1 “**Agreement**” means this End User License Agreement, including any Schedule attached hereto.

1.2 “**Computing Device**” means any electronic and/or computing device that is capable of running the Librestream Software, including a Librestream Product.

1.3 “**Confidential Information**” means (a) the Software and any portions, components or sub-files thereof; (b) the structure, sequence, internal design and organization of the Software and the concepts, methods of operations and ideas disclosed therein, together with all associated interface information; (c) any trade secrets relating to the Software and/or any Librestream Product; (d) any tangible items marked "confidential" or with a similar designation by Librestream or any of its distributors or other representatives or by any Third Party Licensor, and/or any information disclosed visually or verbally and identified by Librestream or any such distributor or other representative as confidential at the time of disclosure; and (e) the terms and conditions of this Agreement.

1.4 “**External Guest User Account**” means a User Account that is not an Individual User Account and that is intended for use by a variety of individuals not directly employed by Licensee on a short-term, temporary basis. Only available with a Master License.

1.5 “**Individual User Account**” means a User Account that has been assigned to a specific individual.

1.6 “**Intellectual Property**” means any patents, patent rights, trademarks, service marks, registered designs, topography and semiconductor mask work rights, applications for any of the foregoing, copyrights, know-how, unregistered design rights, trade secrets and any other similar protected rights in any country.

1.7 “**Librestream**” means Librestream Technologies Inc.

1.8 “**Librestream Product**” means any product developed by or for Librestream that incorporates any of the Software in any manner whatsoever.

1.9 “**Librestream Software**” means any software that is proprietary to Librestream and that is not Third Party Software, and includes in particular the Librestream software identified in **Schedule A** hereto.

1.10 “**Licensee**” means, collectively, each and every person who downloads any of the Software, who installs any of the Software and/or who uses any of the Software and/or any Computing Device on which any of the Software has been installed or has otherwise been incorporated.

1.11 “**Master License**” means a license comprising numerous Individual User Accounts and External Guest User Accounts.

1.12 “**party**” means each of Licensee and Librestream, and “**parties**” means both Licensee and Librestream.

1.13 “**person**” includes an individual, a sole proprietor, a partnership, a corporation, a trust, a syndicate, a joint venture and any other business or legal entity of any nature or kind whatsoever.

1.14 “**Purchase Order**” means the purchase order or other documentary evidence of any nature or kind whatsoever that is related to this Agreement and that was submitted to and accepted in writing by Librestream.

1.15 “**Software**” means, collectively, the Librestream Software and the Third Party Software, and includes:

- (a) all of the contents of the files, disk(s), CD-ROM(s) or other media or downloads of any of the Software which are installed on any Computing Device (including firmware), or which are otherwise made available online by Librestream or any Third Party Licensor including:
  - (i) all Librestream or Third Party Licensor computer information or software; and
  - (ii) any and all related instructional or supplementary documentation in human or machine readable form supplied or otherwise made available by Librestream or any Third Party Licensor; and
- (b) all Upgrades in respect of which Licensee has paid the applicable license, subscription, maintenance and/or support fee(s).

1.16 “**Subscription Licensing**” or “**Subscription License**” means a license that is granted by Librestream pursuant to this Agreement to use the Software for a specified period of time, subject to termination in accordance with the provisions of Section 10.

1.17 “**Third Party Licensors**” means, collectively, those third parties who are the respective owners of the Third Party Software, and “**Third Party Licensor**” means any such third party.

1.18 “**Third Party Software**” means the software of a person other than Librestream that is embedded with the Librestream Software or that is otherwise provided to a Licensee by Librestream along with the Librestream Software.

1.19 “**Third Party Software License Agreement**” means a license agreement for a particular Third Party Software product, in the form attached to this End User License Agreement as a Schedule or in the form expressly referenced in any such Schedule.

1.20 “**use**” or “**using**” includes downloading, installing or copying any of the Software, running any of the Software, or otherwise benefiting from the functionality of any of the Software and/or any Computing Device on which any of the Software has been installed or has otherwise been incorporated.

1.21 “**User Account**” means an account required for any individual or group of individuals who wish to use a Subscription License.

1.22 “**Upgrades**” means all upgrades, modified versions, updates, additions and copies of any Software (including related documentation) which are provided, installed or made available online or otherwise by Librestream or any Third Party Licensor.

## **2. LIMITED LICENSE.**

2.1 Subject to Licensee's strict compliance with the terms and conditions of this Agreement, Librestream hereby grants to Licensee, during the term of this Agreement, a worldwide, non-transferable, non-exclusive, revocable, royalty-free limited license to use the Software for Licensee's internal business purposes on Computing Devices owned or under the control of Licensee and for no other purpose whatsoever.

2.2 A Licensee may not:

- (a) use the Software on any Computing Device for which that Licensee does not have a valid license key/release key for

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(b) use, or allow the use of, the Software on an Individual User Account Subscription Licensing basis on more than four Computing Devices running concurrently for any particular Individual User Account, it being acknowledged and agreed by Licensee that the Software will not run for an individual on a Computing Device, on an Individual User Account Subscription Licensing basis, unless and until the individual to whom an Individual User Account has been issued or assigned has successfully logged in to his/her User Account.

2.3 Any use of the Software which is not expressly authorized by this Agreement is strictly prohibited. Without limiting the generality of the foregoing and notwithstanding any other provision of this Agreement, in no event may Licensee do any of the following or permit any third party to do any of the following:

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(c) circumvent in any manner whatsoever the activation process that needs to be followed in order to use the Software as authorized by this Agreement; or

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(e) reverse engineer, decrypt, disassemble or decompile the Software or any portion thereof, or otherwise reduce the Software of any portion thereof to human-readable form, except to the extent otherwise expressly permitted under applicable law notwithstanding this prohibition; or

(f) create any derivative works based upon the Software or any portion thereof or take any actions that would cause the Software or any portion thereof to become subject to the GPL, the LGPL or any other open source license (unless that portion is already expressly subject to the GPL, the LGPL or any other open source license, as expressly noted in any Third Party Software License Agreement); or

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2.4 The Software is licensed, not sold, and is protected by the copyright laws of Canada and other countries and by international treaty provisions. All right, title and interest in and to the Software and any copies thereof, regardless of form or media, shall remain solely with Librestream or the Third Party Licensors, as the case may be. Except as expressly provided herein, this Agreement does not grant Licensee any rights under any of Librestream's or any Third Party Licensor's patents, copyrights, trade secrets, trademarks or other Intellectual Property rights. Librestream and each Third Party Licensor retain all rights not explicitly granted herein.

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2.6 User Accounts are only valid for the period of time for which a Licensee has paid the applicable license, subscription or other fee directly to Librestream or to a Librestream distributor or other representative. Once such period of time expires with no further payment then that User Account will become invalid and Licensee will no longer be able to use the Software via that User Account.

2.7 An Individual User Account and the username and password for that User Account are personal to the individual to whom that User Account is assigned, and are not to be shared with any other person under any circumstances. Notwithstanding the foregoing, Licensee shall be responsible for any use of the Software licensed to Licensee pursuant to this Agreement, regardless of whether or not such use is authorized by this Agreement and/or by Licensee.

2.8 Under a Master License, any User Accounts that are not allocated as specific Individual User Accounts may be used

as External Guest User Accounts. External Guest User Accounts may not be used by Licensee or any person directly employed by Licensee but may be assigned to other outside individuals such as suppliers, customers, subcontractors, or other individuals not directly employed by Licensee as part of the specific nature of Licensee's business. Licensee shall be solely responsible for any use by Licensee or by any third party of the Software issued to Licensee by Librestream or any Librestream distributor or other representative, regardless of whether or not any such third party use was authorized by this Agreement, by Librestream and/or by Licensee.

### **3. UPGRADES.**

3.1 Notwithstanding any other provision of this Agreement:

(a) Licensee has no license or other right to use any Upgrade unless Licensee, at the time of acquiring that Upgrade, already holds a valid license to use the Software that is the subject of that Upgrade and has paid to Librestream the applicable license, subscription, maintenance and/or support fee to use that Upgrade; and

(b) Licensee shall not use any Upgrade in any manner that is different from its use of the Software that was the subject of that Upgrade, unless Licensee is otherwise validly licensed to use that Upgrade and complies with Section 3.1(a).

### **4. AUDIT RIGHTS AND INDEMNITY.**

4.1 Licensee shall, within thirty (30) days following Licensee's receipt of written request from Librestream or any Librestream distributor or other representative, fully document and certify all uses of the Software that Licensee has made within the period of twelve (12) months prior to the date of receipt of such request. In addition, Licensee shall, upon reasonable advance written notice and during normal business hours, provide access and allow Librestream or any Librestream distributor or other representative to inspect Licensee's books, records and computer systems in order to confirm Licensee's compliance with this Agreement.

4.2 In the event that any such request response or audit determines that Licensee is or was using the Software in a manner that exceeds or exceeded its license rights, Licensee shall immediately pay to Librestream on demand any amount(s) that are required to rectify such excessive use. This remedy shall be in addition to, and not in lieu of, any other right or remedy that Librestream may have pursuant to this Agreement or otherwise with respect to such excessive use.

4.3 In the event that any such request response or audit determines that Licensee is otherwise not in compliance with this Agreement, this Agreement shall immediately terminate as contemplated in Section 10.1. Such termination shall be in addition to, and not in lieu of, any other right or remedy that Librestream may have pursuant to this Agreement or otherwise with respect to such non-compliance.

4.4 Licensee shall indemnify Librestream and save Librestream harmless from and against any and all losses, damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees) that arise out of or are attributable in any manner whatsoever to any non-compliance on the part of Licensee or those for whom it is in law responsible with any provision of this Agreement.

### **5. CONFIDENTIAL INFORMATION.**

Licensee shall not disclose to any third party, or use for any purpose not expressly permitted herein, any Confidential Information. Licensee agrees to take all reasonable measures to protect the Confidential Information and to prevent unauthorized disclosure thereof, which measures shall be at least as stringent as those measures Licensee takes to protect its own confidential information of like kind and which shall in no event be less than would be taken by a prudent business person in similar circumstances. Notwithstanding the foregoing, all Confidential Information, any and all documents and other tangible material and/or objects containing or representing Confidential Information and any and all copies thereof shall be and always remain the property of Librestream or the Third Party Licensors, as the case may be.

### **6. REPRESENTATIONS AND WARRANTIES.**

6.1 Librestream warrants that the Librestream Software will perform in substantial conformance to the applicable Librestream published specifications for that Librestream Software for a period of 12 months from the date of shipment from Librestream or from the date of downloading by Licensee, whichever is earlier, provided that (a) the Librestream Software remains unmodified by anyone other than Librestream; (b) the Librestream Software is and has always been operated under normal and proper conditions on the Computing Device on which that Librestream Software is licensed to be used; (c) the Librestream Software has not been used in any manner for which it was not designed; (d) the Librestream Software has not been used with any unauthorized software, hardware or third party equipment; (e) Licensee is not in breach of this Agreement; and (f) notice of any claim under this limited warranty is received in writing by Librestream within the 12 month limited warranty period.

6.2 Licensee's sole and exclusive remedy (at law, in equity or otherwise), and the sole and entire responsibility and liability of Librestream, with respect to any claim under the limited warranty set forth in Section 6.1, is for Librestream to use commercially reasonable efforts to bring the non-warranty-compliant Librestream Software into substantial conformance with its published specifications as quickly as reasonably possible under the circumstances.

6.3 Librestream cannot warrant that the functionality of the Software will satisfy any or all of Licensee's requirements, that the Software will work in combination with any hardware or software products provided by third parties, that the operation of the Software will be uninterrupted or error free, or that all errors or defects in the Software will be corrected. Software upgrades, if any, will be provided at the sole discretion of Librestream. Licensee acknowledges and agrees that software in general is not error-free, and that the existence of minor errors or defects in the Software does not mean that the Software does not perform in substantial conformance with its applicable published specifications. Librestream shall not be responsible for the reconstruction of any corrupted or lost data files.

6.5 Librestream reserves the right to at any time provide a limited warranty for any Librestream Software that is different from the limited warranty set forth in Sections 6.1 and 6.2. The text of any such different limited warranty will be posted on Librestream's website. Licensees should periodically visit Librestream's website to determine if a different limited warranty is then being provided by Librestream. In the event of any inconsistency between any such other limited warranty and the limited warranty set forth in Sections 6.1 and 6.2, the inconsistency shall be resolved in favor of such other limited warranty.

## **7. NO LIABILITY FOR INDIRECT DAMAGES.**

Regardless of circumstances and regardless of the form of action, whether in contract under this Agreement or in tort, including negligence or products liability, and to the maximum extent permitted by applicable law, in no event shall Librestream or any Third Party Licensor have any liability for any indirect, incidental, consequential, special, punitive or exemplary losses or damages of any nature or kind whatsoever, arising out of this Agreement and/or Licensee's use of, delay in using or inability to use the Software, any Confidential Information and/or any Computing Device, including but not limited to lost or corrupted data of Licensee or any third party, lost profits or lost goodwill, business interruption or loss of information, failure to realize savings, or for any claim or demand against Licensee by any third party, even if Librestream or any Third Party Licensor may have been advised of the possibility of such losses or damages or even if such losses or damages were reasonably foreseeable.

## **8. LIMITED LIABILITY FOR DIRECT DAMAGES.**

Regardless of circumstances and regardless of the form of action, whether in contract under this Agreement or in tort, including negligence or products liability, and to the maximum extent permitted by applicable law, the cumulative liability of Librestream and the Third Party Licensors for Licensee's direct damages arising out of or resulting in any manner whatsoever from this Agreement and/or Licensee's use of, delay in using or inability to use the Software, any Confidential Information and/or any Computing Device, including without limitation any uncured material default, breach or failure on the part of Librestream or any Third Party Licensor under this Agreement, shall in no event exceed ten dollars (\$10.00), in Canadian currency.

## **9. TERM AND TERMINATION.**

9.1 The licenses granted pursuant to this Agreement for use of the Software on a Subscription Licensing basis are time limited, as described in Section 2.6. Licensee may terminate the licenses and this Agreement upon 90 days' written notice to Librestream solely in the event of a failure by Librestream to meet its obligations as detailed in the End User License Agreement. Without prejudice to any other right or remedy which may be available to Librestream, the licenses and this Agreement shall immediately terminate without the necessity of any notice from Librestream in the event that Licensee:

(a) fails to comply with any provision of this Agreement; or

(b) makes any voluntary arrangement with its creditors for the general settlement of its debts or becomes subject to the supervision of a bankruptcy tribunal; or

(c) has an order made against it, or passes a resolution, for its winding-up, or has a lien holder take possession of, or has a receiver or similar officer appointed over, all or substantially all of its property or assets.

9.2 Upon termination of this Agreement for any reason, Licensee agrees to immediately cease use of, and to return or destroy, at Librestream's sole option, the Software and any other Confidential Information in Licensee's possession, custody or control, together with all copies, including but not limited to deletion of the foregoing from any Computing Device on which the Software or any portion thereof may have been installed, and to certify such return or destruction in

writing. Licensee also agrees that, if its license related to use of the Software on a Subscription Licensing basis, Librestream may immediately terminate all User Accounts that relate to Licensee, thereby denying Licensee and all of the individuals to whom Licensee has assigned a User Account any further access to and use of the Software.

9.3 Notwithstanding anything to the contrary contained herein, the bold faced and capitalized wording at the beginning of this Agreement and Sections 2.1(c), 2.2(a), 2.3, 2.4, 2.6, 2.7, 2.8, 2.9, 4, 5, 6, 7, 8, 9.2, 10, 11 and 12 (and the relevant definitions in Section 1) shall survive any termination of this Agreement for any reason whatsoever.

## **11. EXPORT.**

Some of the Software and Confidential Information is subject to United States export control laws and regulations, and some or all of the Software may be subject to export or import regulations in other countries as well. Licensee agrees that it will not export, re-export, transfer or import any of the Software, any of the Confidential Information or any Librestream Product in violation of any applicable laws or regulations of the United States or any other country. Licensee is responsible for obtaining any licenses or authorizations required to export, re-export, transfer or import all or any portion of the Software and Confidential Information or any Librestream Product.

## **12. ADDITIONAL TERMS AND CONDITIONS**

Additional terms and conditions which form an integral part of this agreement, specific to the type of Computing Device on which the Software is downloaded, installed and/or used, are included in Schedule C.

## **13. GOVERNMENT DEPARTMENTS.**

In the event that Licensee is a governmental entity, only the department(s) or agency(s) specifically licensed in the Purchase Order to use the Software shall have the right to use the Software. Governmental departments or agencies not so specifically licensed must have a separate license and must pay additional license fees.

## **14. GENERAL PROVISIONS.**

14.1 Licensee shall not assign or otherwise transfer this Agreement or any of its rights and/or obligations hereunder, whether in whole or in part, including by operation of law, without the prior express written consent of Librestream.

14.2 Licensee hereby acknowledges that its breach of this Agreement may cause irreparable harm and significant injury to Librestream and/or one or more of the Third Party Licensors in an amount that may be difficult to ascertain and for which a remedy at law may be inadequate. Accordingly, Licensee agrees that, in addition to any other rights and remedies it may have, Librestream shall have the right to seek injunctive relief in any court of competent jurisdiction to enforce Licensee's obligations under this Agreement.

14.3 This Agreement shall be construed and governed by the laws in force in the province of Manitoba, excluding its conflict of laws rules. The parties consent to the jurisdiction of all the courts in Manitoba, and agree that, except for requests for injunctive relief pursuant to Section 12.2, venue shall lie exclusively in Manitoba. The Parties exclude in its entirety the application to this Agreement of the United Nations Convention on Contracts for the International Sale of Goods.

14.4 When any notice is required or authorized hereunder, such notice shall be given in writing by recognized delivery service or personal delivery addressed to the other party. Notices shall be sent to Licensee at the address set forth in the Purchase Order and to Librestream at Suite 110, 895 Waverley Street, Winnipeg, Manitoba, Canada R3T 5P4. Either party may change its address for notice hereunder by providing the other party with ten (10) days written notice thereof. Notices shall be effective upon receipt by the recipient.

14.5 The original of this Agreement has been written in the English language, and the governing language of this Agreement shall be English. Licensee hereby waives and agrees not to assert any right to have this Agreement written in the language of Licensee's place of residence or that of any individual to whom Licensee has assigned a User Account.

14.6 A waiver of any default hereunder or of any of the terms or conditions of this Agreement shall not be deemed to be a continuing waiver or a waiver of any other default or of any other term or condition, but shall apply solely to the instance to which such waiver is directed. The exercise of any right or remedy provided in this Agreement shall be without prejudice to the right to exercise any other right or remedy provided at law or in equity.

14.7 In the event any provision of this Agreement is found to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired, and a valid, legal and enforceable provision of similar intent and effect shall be substituted for such invalid, illegal or unenforceable provision.

14.8 This Agreement constitutes the entire agreement between the parties with respect to the license of the Software and the other subject matter of this Agreement, and supersedes and terminates all other prior and/or contemporaneous verbal and/or written agreements and understandings with respect thereto. No modifications to this Agreement shall be enforceable except when in writing and signed by an authorized signatory of the party to be bound thereby. Without limiting the generality of the foregoing, the terms and conditions of any purchase order or other document submitted by Licensee to Librestream or to any Librestream distributor or other representative shall not be binding on Librestream unless definitively accepted in writing by Librestream.

14.9 Licensee represents and warrants that (i) he/she is not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) he/she is not listed on any U.S. Government list of prohibited or restricted parties.

14.10 Librestream bears no responsibility and/or liability for obtaining opt-in consent for the use of sensitive personal data should Licensee use any of Librestream's products to acquire, distribute, and/or store sensitive personal data.

14.11 This agreement shall immediately and automatically be effective and enforceable upon any downloading of any of the Software, any installation of any of the Software on any Computing Device, or any use of any of the Software or any Librestream Product. It shall not be a requirement to the effectiveness and enforceability of this Agreement that any Licensee or Librestream execute this Agreement.

**Schedule A – Librestream Software and Librestream Notices**

**Schedule B – Third Party Software and Third Party Licensor Notices**

**Schedule C – Additional Terms and Conditions**

All schedules may be found here: <https://librestream.com/eula-schedules/>