

SOFTWARE LICENSE AGREEMENT

DO NOT DOWNLOAD, INSTALL, ACCESS, COPY, OR USE ANY PORTION OF THE SOFTWARE UNTIL YOU HAVE READ AND ACCEPTED THE TERMS AND CONDITIONS OF THIS AGREEMENT. BY INSTALLING, COPYING, ACCESSING, OR USING THE SOFTWARE, YOU AGREE TO BE LEGALLY BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. If You do not agree to be bound by, or the entity for whose benefit You act has not authorized You to accept, these terms and conditions, do not install, access, copy, or use the Software and destroy all copies of the Software in Your possession.

This SOFTWARE LICENSE AGREEMENT (this "Agreement") is entered into between SK hynix NAND Product Solutions Corp. (DBA Solidigm), a Delaware corporation ("Solidigm") and You. "You" refers to you or your employer or other entity for whose benefit you act, as applicable. If you are agreeing to the terms and conditions of this Agreement on behalf of a company or other legal entity, you represent and warrant that you have the legal authority to bind that legal entity to the Agreement, in which case, "You" or "Your" shall be in reference to such entity. Solidigm and You are referred to herein individually as a "Party" or, together, as the "Parties".

The Parties, in consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which they acknowledge, and intending to be legally bound, agree as follows:

1. **PURPOSE.** You seek to obtain, and Solidigm desires to provide You, under the terms of this Agreement, Software solely for Your efforts to develop and distribute products integrating Solidigm hardware and Solidigm software. "Software" refers to certain software or other collateral, including, but not limited to, related components, operating system, application program interfaces, device drivers, associated media, printed or electronic documentation and any updates, upgrades or releases thereto associated with Solidigm product(s), software or service(s). "Solidigm-based product" refers to a device that includes, incorporates, or implements Solidigm product(s), software or service(s).

2. **LIMITED LICENSE.** Conditioned on Your compliance with the terms and conditions of this Agreement, Solidigm grants to You a limited, nonexclusive, nontransferable, revocable, worldwide, fully paid-up license during the term of this Agreement, without the right to sublicense, under Solidigm's copyrights (subject to any third party licensing requirements), to (i) internally prepare derivative works (as defined in 17 U.S.C. § 101) of the Software ("Derivatives"), if provided or otherwise made available by Solidigm in source code form, and reproduce the Software, including Derivatives, in each case only for Your own internal evaluation, testing, validation, and development of Solidigm-based products and any associated maintenance thereof; (ii) reproduce, display, and publicly perform an object code representation of the Software, including Your Derivatives, in each case only when integrated with and executed by an Solidigm-based product, subject to any third party licensing requirements; and (iii) distribute an object code representation of the Software, provided by Solidigm, or of any Derivatives created by You, solely as embedded in or for execution on an Solidigm-based product, and if to an end user, pursuant to a license agreement with terms and conditions at least as restrictive as those contained in the Solidigm End User Software License Agreement in Appendix A hereto.

If You are not the final manufacturer or vendor of an Solidigm-based product incorporating or designed to incorporate the Software, You may transfer a copy of the Software, including any Derivatives (and related end user documentation) created by You to Your Original Equipment Manufacturer (OEM), Original Device Manufacturer (ODM), distributors, or system integration partners ("Your Partner") for use in accordance with the terms and conditions of this Agreement, provided Your Partner agrees to be fully bound by the terms hereof and provided that You will remain fully liable to Solidigm for the actions and inactions of Your Partner(s).

3. **LICENSE RESTRICTIONS.** All right, title and interest in and to the Software and associated documentation are and will remain the exclusive property of Solidigm and its licensors or suppliers. Unless expressly permitted under the Agreement, You will not, and will not allow any third party to (i) use, copy, distribute, sell or offer to sell the Software or associated documentation; (ii) modify, adapt, enhance, disassemble, decompile, reverse engineer, change or create derivative works from the Software except and only to the extent as specifically required by mandatory applicable laws or any applicable third party license terms accompanying the Software; (iii) use or make the Software available for the use or benefit of third parties; or (iv) use the Software on Your products other than those that include the Solidigm hardware product(s), platform(s), or software identified in the Software; or (v) publish or provide any Software benchmark or comparison test results. You acknowledge that an essential basis of the bargain in this Agreement is that Solidigm grants You no licenses or other rights including, but not limited to, patent, copyright, trade secret, trademark, trade name, service mark or other intellectual property licenses or rights with respect to the Software and associated documentation, by implication, estoppel or otherwise, except for the licenses expressly granted above. You acknowledge there are significant uses of the Software in its original, unmodified and uncombined form. You may not remove any copyright notices from the Software.

4. **LICENSE TO FEEDBACK.** This Agreement does not obligate You to provide Solidigm with materials, information, comments, suggestions, Your Derivatives or other communication regarding the features, functions, performance or use of the Software ("Feedback"). If any portion of the Software is provided or otherwise made available by Solidigm in source code form, to the extent You provide Solidigm with Feedback in a tangible form, You grant to Solidigm and its affiliates a non-exclusive, perpetual, sublicenseable, irrevocable, worldwide, royalty-free, fully paid-up and transferable license, to and under all of Your intellectual property rights, whether perfected or not, to publicly perform, publicly display, reproduce, use, make, have made, sell, offer for sale, distribute, import, create derivative works of and otherwise exploit any comments, suggestions, descriptions, ideas, Your Derivatives or other feedback regarding the Software provided by You or on Your behalf.

5. **OPEN SOURCE STATEMENT.** The Software may include Open Source Software (OSS) licensed pursuant to OSS license agreement(s) identified in the OSS comments in the applicable source code file(s) or file header(s) provided with or otherwise associated with the Software. Neither You nor any OEM, ODM, customer, or distributor may subject any proprietary portion of the Software to any OSS license obligations including, without limitation, combining or distributing the Software with OSS in a manner that subjects Solidigm, the Software or any portion thereof to any OSS license obligation. Nothing in this Agreement limits any rights under, or grants rights that supersede, the terms of any applicable OSS license.

6. **THIRD PARTY SOFTWARE.** Certain third-party software provided with or within the Software may only be used (a) upon securing a license directly from the owner of the software or (b) in combination with hardware components purchased from such third party and (c) subject to further license limitations by the software owner. A listing of any such third-party limitations is in one or more text files accompanying the Software. You acknowledge Solidigm is not providing You with a license to such third-party software and further that it is Your responsibility to obtain appropriate licenses from such third parties directly.

7. **CONFIDENTIALITY.** The terms and conditions of this Agreement, exchanged confidential information, as well as the Software are subject to the terms and conditions of the Non-Disclosure Agreement(s) and/or Solidigm Pre-Release Loan Agreement(s) (referred to herein collectively or individually as "NDA") entered into by and in force between Solidigm and You, and in any case no less confidentiality protection than You apply to Your information of similar sensitivity. If You would like to have a contractor perform work on Your behalf that requires any access to or use of Software, You must obtain a written confidentiality agreement from the contractor which contains terms and conditions with respect to access to or use of Software no less restrictive than those set forth in this Agreement,

excluding any distribution rights and use for any other purpose, and You will remain fully liable to Solidigm for the actions and inactions of those contractors. You may not use Solidigm's name in any publications, advertisements, or other announcements without Solidigm's prior written consent.

8. **NO OBLIGATION; NO AGENCY.** Solidigm may make changes to the Software, or items referenced therein, at any time without notice. Solidigm is not obligated to support, update, provide training for, or develop any further version of the Software or to grant any license thereto. No agency, franchise, partnership, joint-venture, or employee-employer relationship is intended or created by this Agreement.

9. **EXCLUSION OF WARRANTIES.** THE SOFTWARE IS PROVIDED "AS IS" WITHOUT ANY EXPRESS OR IMPLIED WARRANTY OF ANY KIND INCLUDING WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. Solidigm does not warrant or assume responsibility for the accuracy or completeness of any information, text, graphics, links or other items within the Software.

10. **LIMITATION OF LIABILITY.** IN NO EVENT WILL SOLIDIGM OR ITS AFFILIATES, LICENSORS OR SUPPLIERS (INCLUDING THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS) BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, BUSINESS INTERRUPTION, OR LOST DATA) ARISING OUT OF OR IN RELATION TO THIS AGREEMENT, INCLUDING THE USE OF OR INABILITY TO USE THE SOFTWARE, EVEN IF SOLIDIGM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS PROHIBIT EXCLUSION OR LIMITATION OF LIABILITY FOR IMPLIED WARRANTIES OR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE LIMITATION MAY IN PART NOT APPLY TO YOU. THE SOFTWARE LICENSED HEREUNDER IS NOT DESIGNED OR INTENDED FOR USE IN ANY MEDICAL, LIFE SAVING OR LIFE SUSTAINING SYSTEMS, TRANSPORTATION SYSTEMS, NUCLEAR SYSTEMS, OR FOR ANY OTHER MISSION CRITICAL APPLICATION IN WHICH THE FAILURE OF THE SOFTWARE COULD LEAD TO PERSONAL INJURY OR DEATH. YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION. THE LIMITED REMEDIES, WARRANTY DISCLAIMER AND LIMITED LIABILITY ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN SOLIDIGM AND YOU. YOU ACKNOWLEDGE SOLIDIGM WOULD BE UNABLE TO PROVIDE THE SOFTWARE WITHOUT SUCH LIMITATIONS. YOU WILL INDEMNIFY AND HOLD SOLIDIGM AND ITS AFFILIATES, LICENSORS AND SUPPLIERS (INCLUDING THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS) HARMLESS AGAINST ALL CLAIMS, LIABILITIES, LOSSES, COSTS, DAMAGES, AND EXPENSES (INCLUDING REASONABLE ATTORNEY FEES), ARISING OUT OF, DIRECTLY OR INDIRECTLY, THE DISTRIBUTION OF THE SOFTWARE AND ANY CLAIM OF PRODUCT LIABILITY, PERSONAL INJURY OR DEATH ASSOCIATED WITH ANY UNINTENDED USE, EVEN IF SUCH CLAIM ALLEGES THAT SOLIDIGM OR AN SOLIDIGM AFFILIATE, LICENSORS OR SUPPLIER WAS NEGLIGENT REGARDING THE DESIGN OR MANUFACTURE OF THE SOFTWARE.

11. **TERMINATION AND SURVIVAL.** Solidigm may terminate this Agreement for any reason with thirty (30) days' notice and immediately if You or someone acting on Your behalf or at Your behest violates any of its terms or conditions. Upon termination, You will immediately destroy and ensure the destruction of the Software or return all copies of the Software to Solidigm (including providing certification of such destruction or return back to Solidigm). Upon termination of this Agreement, all licenses granted to You hereunder terminate immediately. All Sections of this Agreement, except Section 2, will survive termination.

12. **GOVERNING LAW AND JURISDICTION.** This Agreement and any dispute arising out of or relating to it will be governed by the laws of the U.S.A. and Delaware, without regard to conflict of laws principles. The Parties exclude the application of the United Nations Convention on Contracts for the International Sale of Goods (1980). The state and federal courts sitting in Delaware, U.S.A. will have exclusive jurisdiction over any dispute arising out of or relating to this Agreement. The Parties consent to personal jurisdiction and venue in those courts. A Party that obtains a judgment against the other Party in the courts identified in this section may enforce that judgment in any court that has jurisdiction over the Parties.

13. **EXPORT REGULATIONS/EXPORT CONTROL.** You agree that neither You nor Your subsidiaries will export/re-export the Software, directly or indirectly, to any country for which the U.S. Department of Commerce or any other agency or department of the U.S. Government or the foreign government from where it is shipping requires an export license, or other governmental approval, without first obtaining any such required license or approval. In the event the Software is exported from the U.S.A. or re-exported from a foreign destination by You or Your subsidiary, You will ensure that the distribution and export/re-export or import of the Software complies with all laws, regulations, orders, or other restrictions of the U.S. Export Administration Regulations and the appropriate foreign government.

14. **GOVERNMENT RESTRICTED RIGHTS.** The Software is a commercial item (as defined in 48 C.F.R. 2.101) consisting of commercial computer software and commercial computer software documentation (as those terms are used in 48 C.F.R. 12.212). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, You will not provide the Software to the U.S. Government. Contractor or Manufacturer is SK hynix NAND Product Solutions Corp. (DBA Solidigm), 3101 N. 1st St., San Jose, CA 95134.

15. **ASSIGNMENT.** You may not delegate, assign or transfer this Agreement, the license(s) granted or any of Your rights or duties hereunder, expressly, by implication, by operation of law, or otherwise and any attempt to do so, without Solidigm's express prior written consent, will be null and void. Solidigm may assign, delegate and transfer this Agreement, and its rights and obligations hereunder, in its sole discretion.

16. **ENTIRE AGREEMENT; SEVERABILITY.** The terms and conditions of this Agreement and any NDA with Solidigm constitute the entire agreement between the parties with respect to the subject matter hereof, and merge and supersede all prior or contemporaneous agreements, understandings, negotiations and discussions. Neither Party will be bound by any terms, conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof other than as expressly provided herein. In the event any provision of this Agreement is unenforceable or invalid under any applicable law or applicable court decision, such unenforceability or invalidity will not render this Agreement unenforceable or invalid as a whole, instead such provision will be changed and interpreted so as to best accomplish the objectives of such provision within legal limits.

17. **WAIVER.** The failure of a Party to require performance by the other Party of any provision hereof will not affect the full right to require such performance at any time thereafter; nor will waiver by a Party of a breach of any provision hereof constitute a waiver of the provision itself.

18. **PRIVACY.** YOUR PRIVACY RIGHTS ARE SET FORTH IN SOLIDIGM'S PRIVACY NOTICE, WHICH FORMS A PART OF THIS AGREEMENT.

APPENDIX A

SOLIDIGM END USER SOFTWARE LICENSE AGREEMENT

IMPORTANT - READ BEFORE COPYING, INSTALLING OR USING.

THE FOLLOWING NOTICE, OR TERMS AND CONDITIONS SUBSTANTIALLY IDENTICAL IN NATURE AND EFFECT, MUST APPEAR IN THE DOCUMENTATION ASSOCIATED WITH THE SOLIDIGM-BASED PRODUCT INTO WHICH THE SOFTWARE IS INSTALLED. MINIMALLY, SUCH NOTICE MUST APPEAR IN THE USER GUIDE FOR THE PRODUCT. THE TERM "LICENSEE" IN THIS TEXT REFERS TO THE END USER OF THE PRODUCT.

LICENSE. Licensee has a license under SK hynix NAND Product Solutions Corp. (DBA Solidigm) ("Solidigm") copyrights to reproduce Solidigm's Software only in its unmodified and binary form, (with the accompanying documentation, the "Software") for Licensee's personal use only, and not commercial use, in connection with Solidigm-based products for which the Software has been provided, subject to the following conditions:

- (a) Licensee may not disclose, distribute or transfer any part of the Software, and You agree to prevent unauthorized copying of the Software.
- (b) Licensee may not reverse engineer, decompile, or disassemble the Software.
- (c) Licensee may not sublicense the Software.
- (d) The Software may contain the software and other intellectual property of third-party suppliers, some of which may be identified in, and licensed in accordance with, an enclosed license.txt file or other text or file.
- (e) Solidigm has no obligation to provide any support, technical assistance or updates for the Software.

OWNERSHIP OF SOFTWARE AND COPYRIGHTS. Title to all copies of the Software remains with Solidigm or its licensors or suppliers. The Software is copyrighted and protected by the laws of the United States and other countries, and international treaty provisions. Licensee may not remove any copyright notices from the Software. Except as otherwise expressly provided above, Solidigm grants no express or implied right under Solidigm patents, copyrights, trademarks, or other intellectual property rights. Transfer of the license terminates Licensee's right to use the Software.

DISCLAIMER OF WARRANTY. The Software is provided "AS IS" without warranty of any kind, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

LIMITATION OF LIABILITY. NEITHER SOLIDIGM NOR ITS LICENSORS OR SUPPLIERS WILL BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, INTERRUPTION OF BUSINESS, OR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHETHER UNDER THIS AGREEMENT OR OTHERWISE, EVEN IF SOLIDIGM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

LICENSE TO USE COMMENTS AND SUGGESTIONS. This Agreement does NOT obligate Licensee to provide Solidigm with comments or suggestions regarding the Software. However, if Licensee provides Solidigm with comments or suggestions for the modification, correction, improvement or enhancement of (a) the Software or (b) Solidigm products or processes that work with the Software, Licensee grants to Solidigm a non-exclusive, worldwide, perpetual, irrevocable, transferable, royalty-free license, with the right to sublicense, under Licensee's intellectual property rights, to incorporate or otherwise utilize those comments and suggestions.

TERMINATION OF THIS LICENSE. Solidigm or the sublicensor may terminate this license at any time if Licensee is in breach of any of its terms or conditions. Upon termination, Licensee will immediately destroy or return to Solidigm all copies of the Software.

THIRD PARTY BENEFICIARY. Solidigm is an intended beneficiary of the End User License Agreement and has the right to enforce all of its terms.

U.S. GOVERNMENT RESTRICTED RIGHTS. The Software is a commercial item (as defined in 48 C.F.R. 2.101) consisting of commercial computer software and commercial computer software documentation (as those terms are used in 48 C.F.R. 12.212), consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4. You will not provide the Software to the U.S. Government. Contractor or Manufacturer is SK hynix NAND Product Solutions Corp. (DBA Solidigm), 3101 N. 1st St., San Jose, CA 95134.

EXPORT LAWS. Licensee agrees that neither Licensee nor Licensee's subsidiaries will export/re-export the Software, directly or indirectly, to any country for which the U.S. Department of Commerce or any other agency or department of the U.S. Government or the foreign government from where it is shipping requires an export license, or other governmental approval, without first obtaining any such required license or approval. In the event the Software is exported from the U.S.A. or re-exported from a foreign destination by Licensee, Licensee will ensure that the distribution and export/re-export or import of the Software complies with all laws, regulations, orders, or other restrictions of the U.S. Export Administration Regulations and the appropriate foreign government.

APPLICABLE LAWS. This Agreement and any dispute arising out of or relating to it will be governed by the laws of the U.S.A. and Delaware, without regard to conflict of laws principles. The Parties to this Agreement exclude the application of the United Nations Convention on Contracts for the International Sale of Goods (1980). The state and federal courts sitting in Delaware, U.S.A. will have exclusive jurisdiction over any dispute arising out of or relating to this Agreement. The Parties consent to personal jurisdiction and venue in those courts. A Party that obtains a judgment against the other Party in the courts identified in this section may enforce that judgment in any court that has jurisdiction over the Parties.

Licensee's specific rights may vary from country to country.