

English

PLEASE READ THE FOLLOWING SOFTWARE LICENSE AGREEMENT ("LICENSE") CAREFULLY BEFORE USING THE SOFTWARE OR DOWNLOADING THE SOFTWARE UPDATE. THIS LICENSE GOVERNS THE PURCHASE, USE, UPDATE AND RENEWAL OF USE OF SOTI SOFTWARE. BY INSTALLING THE SOFTWARE, YOU ARE AGREEING TO BE LEGALLY BOUND BY THE TERMS AND CONDITIONS OF THIS LICENSE AS WELL AS SOTI'S TERMS OF USE AND PRIVACY POLICY PROVIDED FOR ON THE SOTI WEBSITE. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE DO NOT INSTALL OR USE THE SOFTWARE AND PROMPTLY EXIT THE SETUP SOFTWARE AND RETURN ALL ACCOMPANYING ITEMS (INCLUDING ALL FORMS OF DOCUMENTATION) TO THE ORIGINAL PLACE OF ORIGIN.

1. DEFINITIONS

"Device" means any computing device/instrument that is supported by the Software.

"Documentation" means all reference materials provided with the Software.

"Licensee" means the end user or the entity, who agrees to the terms and conditions of this License and to whom this License is granted. "You" and "Your" will be understood as the Licensee interchangeably as required in the wording of the License for comprehension purposes.

"Licensee Data" means all electronic data or information submitted by Licensee to the Software and Services.

"Software" means the SOTI MobiControl product and, but not limited to, the following components:

MobiControl Manager
MobiControl Package Studio
MobiControl Deployment Server
MobiControl Device Agent
MobiControl Web Console
MobiScan®

2. PROPRIETARY RIGHTS

The Software, the components and all related Documentation, Software development kits, and application program interfaces are licensed, not sold, to the Licensee by SOTI for use only under the terms of this License. SOTI and its suppliers reserve all rights not expressly granted to the Licensee.

The Software, including but not limited to the source code, its components, Documentation, design and structure, and any copies thereof is the proprietary property of SOTI or its suppliers and is protected by copyright laws and international copyright treaty provisions as well as other intellectual property laws and treaties. All title and copyrights in and to the Software, or any copy, modification or merged portion of the Software shall at all times remain with SOTI.

Licensee exclusively owns all rights, title and interest in and to all of Licensee Data.

3. GRANT OF LICENSE

3.1 SOTI Duty

SOTI grants, upon payment of the License fee, the Licensee a non-transferable, nonexclusive, worldwide, perpetual right to:

- a) install and use the MobiControl Device Agents and MobiScan on the number of Devices this license is purchased for. This is not a concurrent use license for Devices;
- b) install and use the MobiControl Manager, MobiControl Web Console, and MobiControl Package Studio components on as many servers, desktop or notebook computers as the Licensee deems necessary;
- c) install the MobiControl Deployment Server component on the number of servers this license is purchased for; and
- d) make one copy of the Software solely for backup or archival purposes.

3.2 Licensee Duty

The Licensee shall (i) be responsible for compliance with this Agreement, (ii) be solely responsible for the accuracy, quality, integrity and legality of Licensee Data and of the means by which Licensee acquired Licensee Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Software, and notify SOTI promptly of any such unauthorized access or use, and (iv) use the Software only in accordance with the information provided to Licensee, content made available on the SOTI website, and applicable laws and government regulations.

4. FEES AND PAYMENT

4.1 Payment

Licensee will provide SOTI or its respective authorized representative with prompt payment in an acceptable form of payment such as, but not limited to, bank transfer, credit card, or company cheque. Such payments shall be made in advance on a monthly, annually or in accordance with any different billing frequency stated in the applicable order form.

It is the Licensee's responsibility to ensure and maintain that all information for accounting, billing and technical purposes is current and accurate for services to be offered to the Licensee.

4.2 Suspension of Service and Acceleration

Unless otherwise documented and agreed to, if any amount owing by Licensee under this or any other agreement for SOTI's Software is thirty (30) or more days overdue, SOTI may, without limiting SOTI's other rights and remedies, accelerate Licensee's unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend SOTI's Service to Licensee until such amounts are paid in full.

4.3 Taxes

Licensee is responsible for paying all taxes associated with purchases hereunder. If SOTI has the legal obligation to pay or collect taxes for which the Licensee is responsible under this paragraph, the appropriate amount shall be invoiced to and paid by Licensee, unless Licensee provides SOTI with a valid tax exemption certificate authorized by the appropriate taxing authority.

5. MANDATORY ACTIVATION

Activation associates the use of the Software for a specific Licensee installation. During said activation, the Software will send information about itself and the installation to SOTI and/or its suppliers. The information transferred is specific to the Software and the License purchased. Information includes the product version, registration code installation ID, and the number of Devices registered in the system. BY USING THE SOFTWARE, YOU CONSENT TO THE TRANSMISSION OF THIS INFORMATION. In addition to the initial activation, the Software will periodically and autonomously send the same information stated above to verify the current activation status of the Software. This is to automatically reflect changes to the License for the given installation.

6. LOCATION BASED SERVICES

The Software's location based services ("LBS") can be used with Devices that are equipped with a GPS receiver or devices that utilize cellular based location capabilities. The LBS feature in the Software is powered by Microsoft's Bing Maps technology. The service **Terms of Use** and **Privacy Statement** for Microsoft's Bing Maps technology may be accessed at: <http://www.microsoft.com/maps/assets/docs/terms.aspx>; <http://privacy.microsoft.com/en-us/default.mspx> . In order to access this third-party system, the product registration code is passed from the Software to the SOTI and/or its suppliers LBS Server, which in turn requests a non-identifying token from Microsoft's Bing Maps service on behalf of the end user.

7. RESTRICTIONS

Except as and only to the extent expressly permitted in this License and by applicable law, the Licensee may not:

- (a) transfer, assign, sublicense, sell, resell, lease, lend or rent the Software or use, copy (with the exception of Article 3 d), modify or distribute the Software in whole or part;
- (b) decompile, reverse engineer, disassemble, modify, or create derivative works of the Software or any part thereof;

- (c) apply any procedure or process to the Software in order to ascertain, derive, and/or appropriate for any reason or purpose, the source code or source listings for the Software or any algorithm, process, procedure, trade secret information contained in the Software;
- (d) use the Software to store or transmit infringing, libelous, or otherwise unlawful or tortuous material, or to store or transmit material in violation of third-party privacy rights; or
- (e) interfere with or disrupt the integrity or performance of the Software or third-party data contained therein;

If the Licensee does any of the foregoing, Your rights under this license will automatically terminate. Such termination shall be in addition and not in lieu of any criminal, civil or other remedies available to SOTI and/or its suppliers.

Malware: Licensee represents, warrants and covenants that Licensee will not cause or knowingly allow harmful software to be stored on, transmitted, or used with the Software, including but not limited to, the generation or dissemination of computer viruses, Trojan horses, time bombs, denial of service attacks, key logging and other monitoring software, worms, logic bombs, or other code or programs whose effect is to negatively impact the operation or performance of the Software or the safety, security, or privacy of users or owners of the Software, or to negatively impact the operation or performance of the wireless networks with which the Software may interact (“Networks”) or to permit unauthorized use of or access to such Networks. Licensee may not knowingly use Software in any way that could cause harm to the Software or the Networks or impair their use by others. Licensee may not use Software to attempt unauthorized access to any service, system, data, account, or Network.

8. USE OF DATA

8.1 Diagnostic and Usage Data

If Licensee opts in to diagnostic and usage collection, you agree that SOTI and its subsidiaries and agents may collect, maintain, process and use diagnostic, technical, usage and related information, including but not limited to technical information about your Device, system and application software, and peripherals, that is gathered periodically to facilitate the provision of Software updates, product support and other services to you (if any) related to the Software, and to verify compliance with the terms of this License. SOTI may use this information, as long as it is collected in a form that does not personally identify you, to provide and improve SOTI’s products and services. To enable SOTI’s partners and third party providers to improve their software, hardware and services designed for use with SOTI products, SOTI may also provide any such partner or third party provider with a subset of diagnostic information that is relevant to that partner’s or provider’s software, hardware and/or services, as long as the diagnostic information is in a form that does not personally identify you.

8.2 Location Data

SOTI and its partners and licensees may provide certain services through your Device that rely upon location information. To provide and improve these services, where available, SOTI and its partners and licensees may transmit, collect, maintain, process and use your location data, including the real-time geographic location of your Device, and location search queries. The location data and queries collected by SOTI are collected in a form that does not personally identify you and may be used by SOTI and its partners and licensees to provide and improve location-based products and services. By using any location-based services on your Device, you agree and consent to SOTI's and its partners' and licensees' transmission, collection, maintenance, processing and use of your location data and queries to provide and improve such products and services. You may withdraw this consent at any time by disabling the location-based features in your Device. Not using these location features will not impact the non-location-based functionality of your Device. When using third party applications or services on your Device that use or provide location data, you are subject to and should review such third party's terms and privacy policy on use of location data by such third party applications or services.

8.3 Protection of Licensee Data

Without limiting the above, SOTI shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Licensee Data. SOTI shall not (a) modify Licensee Data, (b) disclose Licensee Data except as compelled by law or as expressly permitted in writing by Licensee, or (c) access

Licensee Data except to provide the Software and related services or prevent or address service or technical problems, or at Licensee request in connection with customer support matters.

8.4 Privacy Policy

At all times Licensee information will be treated in accordance with SOTI's Privacy Policy.

9. LIMITED WARRANTY

Except as specifically stated in this License, the Software is provided and licensed "AS IS" without warranty of any kind, either express or implied, including, but not limited to the implied warranties of merchantability and fitness for a particular purpose. SOTI warrants that the Software will substantially perform the functions or generally conform to the Software's specifications published by SOTI and included in this package.

SOTI does not warrant that the functions contained in the Software will meet your requirements or that the operation of the Software will be entirely error free or appear precisely as described in the Software documentation. SOTI does not guarantee the performance of the software for use under every possible configuration, including but not limited to failure of the Software due to third party software or the Licensee's computer hardware or network. If the Software does not substantially perform the functions or generally conform to the Software's specifications published by SOTI, the Licensee may within thirty (30) days of delivery write to SOTI to report a significant defect. If SOTI is unable to correct the defect within ninety (90) days of receiving your report, the Licensee may terminate the license and this agreement by returning the Software with the original receipt and the Licensee's money will be refunded.

10. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL SOTI OR ITS SUPPLIERS BE LIABLE FOR DAMAGES OF THIRD PARTIES CLAIMED AGAINST THE LICENSEE OR FOR PERSONAL INJURY, DEATH, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF REVENUE OR FAILURE TO REALIZE EXPECTED SAVINGS, LOSS AND/OR HARM OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES INCLUDING COSTS ASSOCIATED WITH DATA USAGE OVER COMMUNICATION NETWORKS (E.G. CELLULAR), ARISING OUT OF OR RELATED TO LICENSEES USE OR INABILITY TO USE THE SOFTWARE, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF SOTI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER WILL SOTI AND ITS SUPPLIERS BE LIABLE FOR ANY DIRECT DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, ANY ALLEGED OR ACTUAL IMPROPER USE OR INSTALLATION OF THE SOFTWARE BY LICENSEE, ALLEGED OR ACTUAL NEGLIGENT ACTS OR OMISSIONS, WILLFUL MISCONDUCT, FRAUD OR FAILURE OF THE SOFTWARE DUE TO THIRD PARTIES SOFTWARE OR THE LICENSEE'S COMPUTER NETWORK. IN ANY CASE THE TOTAL LIABILITY OF SOTI AND ITS SUPPLIERS SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY LICENSEE FOR THE SOFTWARE WITHIN TWELVE (12) MONTHS PRECEDING THE CLAIM ("PERIOD") LESS THE AMOUNT CONSUMED FOR SUPPORT AND MAINTENANCE IN THE PERIOD PRECEDING THE CLAIM.

11. INDEMNIFICATION

Either party shall hold harmless the other party including its staff, officers, directors, partners and controlling persons from and against any and all third party claims, arising out of or relating to the indemnifying party's: (i) alleged or actual negligent acts or omissions, willful misconduct or fraud in connection with this Agreement, (ii) alleged or actual breach of this Agreement; (iii) alleged or actual violation of any statute, law, ordinance or regulation, or (iv) alleged or actual infringement of any patent, copyright, trademark, trade secret or other intellectual property or other rights of a third party.

12. TERM AND TERMINATION

12.1 Term of Agreement

This Agreement commences on the date Licensee accepts it and continues until all perpetual or subscriptions Licenses granted in accordance with this Agreement have expired or been terminated. If Licensee uses the Software for a free trial period and does not purchase a perpetual or subscription License before the end of that period, this Agreement will terminate at the end of the free trial period.

12.2. Term of Purchased Subscription Licenses

Subscription Licenses purchased by Licensee commence on the start date specified in the applicable registration form and continue for the subscription term specified therein. Except as otherwise specified in the applicable registration form, all subscriptions shall automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least thirty (30) days before the end of the relevant subscription term. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless SOTI has provided the Licensee written notice of a pricing increase at least thirty (30) days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter.

12.3 Termination for Cause

Either party may terminate this Agreement for cause: (i) upon thirty (30) days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

Licensee agrees that SOTI may, at its sole discretion, at any time discontinue providing or limit access to the services, Software, website, any areas of the website or content provided on or through the website. SOTI will terminate or limit Licensee's access to or use of the services, Software or website if, under appropriate circumstances, Licensee is determined to be a repeat infringer of third party copyright rights. Licensee agrees that SOTI shall not be liable to Licensee or any third-party for any termination or limitation of Licensee's access to or use of the services, Software, website, or any content on or through the website.

12.4 Refund or Payment upon Termination

Upon any termination for cause by Licensee, SOTI or the respective authorized representative shall refund Licensee any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Upon any termination for cause by SOTI, Licensee shall pay any unpaid fees covering the remainder of the term after the effective date of termination. In no event shall any termination relieve Licensee of the obligation to pay any fees payable to SOTI or its respective authorized representative for the period prior to the effective date of termination.

13. MISCELLANEOUS

13.1 Applicable Law

This License shall be construed in accordance with the laws of the Province of Ontario excluding its conflict of law provisions. The Licensee agrees to sole venue in the provincial or federal courts located in the Province of Ontario, and hereby consents to the jurisdiction of such courts over itself in any action relating to this License.

13.2 Amendments & Severability

This License may not be amended or modified unless in writing, as mutually agreed and signed, by both SOTI and the Licensee. If any provision of this License is found to be invalid or unenforceable to any extent, then the invalid portion shall be deemed conformed to the minimum requirements of law to the extent possible. In addition, all other provisions of this License shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

13.3 Waiver

Neither the failure nor any delay by any Party in exercising any right under this License will operate as a waiver of such right.

13.4 Notice

Any questions or concerns regarding this License should be made in writing to the following:

SOTI Inc, 5770 Hurontario Street, Suite 1100, Mississauga, Ontario, Canada, L5R 3G5

Attn: Legal / Contracts

Email: legal@soti.net

Phone: + 1 905 624 9828 or 1 888 624 9828

Fax: + 1 905 624 3242

14. PRODUCT SUPPORT AND MAINTENANCE SERVICES

Product Support and Maintenance Services (“Services”) may be purchased for a term (“Service Contract”), typically in increments of twelve (12) months. SOTI shall perform for Licensee, Services with respect to the Software as long as Licensee has a valid Service Contract with SOTI terms of which are governed by the SOTI MobiControl Service Level Terms document which is incorporated by reference into this License. SOTI has the right to deny access to the Services should the Licensee fail to have an active Service Contract. It is understood that SOTI cannot guarantee the Services if Licensee tampers or modifies the SQL Database unless explicitly discussed and agreed with SOTI.

The following Services are included:

SOTI Technical Support Service

SOTI Skin Catalogue Service

SOTI Location Based Service

SOTI Messaging Service

SOTI Enrollment Service

SOTI Agent Builder Service

Free software upgrades (Major & Minor releases)