

XENON SOFTWARE END USER LICENSE AGREEMENT
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USE OF THE SOFTWARE WITHOUT SIGNIFYING YOUR AGREEMENT TO THESE TERMS IN THE MANNER INDICATED ABOVE IS STRICTLY PROHIBITED.

ADDITIONAL TERMS

This End User License Agreement, together with the Additional Terms, as they might change from time-to-time, shall constitute the entire agreement (collectively the **Agreement**).

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ADDITIONAL TERMS

TERM

This Agreement is effective upon your acceptance of its terms and conditions and your successful activation of the Software and shall continue until terminated. Licensor may terminate this Agreement with or without notice to You at any time and for any reason. Upon

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MAINTENANCE OF EQUIPMENT AND SOFTWARE

You acknowledge that updates to the Software may cause changes to the minimum system requirements to use the Software. Licensor reserves the right to make changes to the minimum system requirements from time to time. You agree to obtain, maintain and operate—at your own expense—all hardware and non-Xenon software required to use the Software. You agree, at your own expense, to periodically update the same as necessary due to updates in the Software.

DISPUTE RESOLUTION

This Agreement shall be governed in all respects by the laws of the State of Utah as they apply to agreements entered into and to be performed entirely within Utah between Utah residents, without regard to conflict of law provisions. You agree that any claim or dispute You may have against Licensor must be resolved by a court located in Utah County, Utah, except as otherwise agreed by the parties. You agree to submit to the personal jurisdiction of the courts located within Utah County, Utah, for the purpose of litigating all such claims or disputes.

NO AGENCY

No agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by this Agreement.

AMENDMENTS TO THE AGREEMENT

Licensor may amend this Agreement at any time by posting the amended terms on the Site at <https://www.xenonchex.com/terms-eula>. Except as stated elsewhere, all amended terms shall automatically be effective 30 days after they are initially posted. Additionally, we will endeavor to notify You of any such change using the contact information that You provided to us when You register on the site.

This Agreement may not be otherwise amended except in a writing signed by You and Licensor. This Agreement sets forth the entire understanding and agreement between us with respect to the subject matter hereof. The following Sections survive any termination of this Agreement: Disclaimer of Warranties, Limitation of Liability, Indemnity, Restrictions, Dispute Resolution, and Proprietary Information.

LIMITATION OF LIABILITY

Licensor's cumulative liability to You or any other party for any loss or damages resulting from any claims, demands, or actions arising out of or relating to this Agreement or the Software shall not exceed the license fee paid to Licensor for the use of the Software and Site, if any. Under no circumstances shall Licensor be responsible for user error including, but not limited to, erroneous data input, misuse of the Software or Site, incorrect interpretation of data or missing data. Licensor shall additionally not be responsible for errors in the transmission or storage of your data that are beyond its control or supervision.

PRIVACY POLICY

You hereby agree to Licensor's [Privacy Policy](#). If you have additional questions about Licensor's Privacy Policy, refer to www.xenonchex.com/privacy and/or contact Licensor directly.

PROPRIETARY INFORMATION

The Software and all information and materials related thereto constitute proprietary information and trade secrets of Licensor. You shall use your best efforts to ensure the confidentiality of the Software and all related materials and information supplied by Licensor. You warrant that You will not disclose, use, modify, copy, or reproduce the Software or any of the information or materials supplied by Licensor except in accordance with this Agreement or after first obtaining the written permission of Licensor.

You specifically agree to prevent your employees, agents, attorneys and representatives, if any, from disclosing such proprietary information and shall hold Licensor harmless and protect and indemnify Licensor in the event of any disclosure by such persons.

The non-disclosure provisions of this section shall continue beyond the term of the contract and shall be binding and enforceable even after termination of this Agreement.

INDEMNITY

You will indemnify and hold the Licensor, including our officers, directors, agents, subsidiaries, joint ventures and employees (collectively, "Indemnitees"), harmless from any costs, expenses (including legal costs and attorneys' fees), liabilities, penalties, fines, losses, damages, demands, third-party claims, judgments and/or other forms of liability, whether arising from personal or bodily injury, illness, or death, or tangible or intangible property damage or loss, or otherwise (collectively, "Claims"), in connection with, arising out of, or relating to: (a) any use of or inability to use, or reliance on, the Software by or on behalf of user; (b) any misstatements, inaccuracies, errors, omissions, delays, or interruptions in connection with the application; and/or (c) any diagnosis, recommendation, advice, treatment, procedure, or other action by or on behalf of user in connection with the purchase, download, access, viewing, or use of, inability to use, or reliance on the application with respect to any individual(s), regardless of the legal basis for the claim(s). You hereby assume and bear the entire risk with respect to the foregoing, and to the fullest extent permitted by law, releases Licensor and its Indemnitees from any liability relating to the foregoing.

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GOVERNING LAW

This Agreement shall be construed and governed in accordance with the laws of the State of Utah, without regard to the choice of law provisions of that state, and all actions, regardless of the form or nature of such, to enforce this license or for the breach of same shall be brought within one (1) year from the occurrence of the grounds for such action in either state or federal court in Utah County, Utah.

COSTS OF LITIGATION

If any action is brought by either party to this Agreement against the other party regarding the subject matter hereof, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorney fees and expenses of litigation.

SEVERABILITY

Should any term of this Agreement be declared void or unenforceable by any court of competent jurisdiction, such declaration shall have no effect on the remaining terms hereof.

NO WAIVER

The failure of either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches. It is specifically agreed that the breach of this Agreement, and in particular the section concerning non-disclosure of proprietary information, will result in irreparable injury and the party who claims such a breach shall be entitled to specific performance and injunctive relief to correct and enjoin such breach in addition to all other remedies which might be available.