

Hydrostatix Master Suite™  
End User License Agreement

IMPORTANT NOTICE: READ THIS AGREEMENT CAREFULLY. THIS IS A LEGAL AGREEMENT BETWEEN HYDROSTATIX, LLC ("HYDROSTATIX") AND YOU, ACTING AS AN INDIVIDUAL AND, IF APPLICABLE, ON BEHALF OF THE INDIVIDUAL AND/OR ENTITY ON WHOSE COMPUTER THE SOFTWARE IS TO BE INSTALLED (COLLECTIVELY REFERRED TO IN THIS AGREEMENT AS "YOU" OR "YOUR"). IF YOU CLICK THE "ACCEPT" OPTION OR INSTALL THE HYDROSTATIX MASTER SUITE SOFTWARE PRODUCT ACCOMPANYING THIS AGREEMENT (THE "SOFTWARE") YOU WILL BE BOUND BY THIS AGREEMENT. BY CLICKING THE "ACCEPT" OPTION OR INSTALLING THIS SOFTWARE, YOU REPRESENT TO HYDROSTATIX THAT YOU HAVE BEEN AUTHORIZED BY THE INDIVIDUAL AND/OR ENTITY ON WHOSE COMPUTER THE SOFTWARE IS TO BE INSTALLED TO ENTER INTO THIS AGREEMENT. YOU ALSO AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN AGREEMENT SIGNED BY YOU.

You are not required to accept these terms but, unless and until you do, the Software will not install and you will not be authorized to use the Software.

ANY USE OF THE SOFTWARE, AND ANY RESALE OR FURTHER DISTRIBUTION OF THE SOFTWARE, OTHER THAN AS EXPRESSLY AUTHORIZED BY THIS AGREEMENT, CONSTITUTES A MATERIAL BREACH OF THIS AGREEMENT AND MAY VIOLATE APPLICABLE COPYRIGHT LAWS.

NOTICE: THE SOFTWARE MAY CONTAIN A "TIME OUT" FEATURE THAT WILL RENDER THE SOFTWARE INOPERATIVE AT THE END OF THE TERM (AS DEFINED BELOW).

#### END USER SOFTWARE LICENSE AGREEMENT

##### 1. License Grant; Related Provisions.

a. Grant of a Single User License. Hydrostatix, subject to the terms and conditions of this Agreement, hereby grants to you a non-exclusive and non-transferable license during the Term to use the Software solely in executable or object code form, on a single computer.

b. Licensing Fees and Usage Term of Single User License. Beginning June 1, 2017, all existing users of the Software (i.e., individuals and/or entities who downloaded the Hydrostatix Master Suite on or before May 31, 2017 and individuals and/or entities who have previously been granted a free trial of the Software) shall pay Hydrostatix a licensing fees in consideration for a single user license.

All new users of the Software (i.e., individuals and/or entities who download the

Hydrostatix Master Suite for the first time on or after June 1, 2017), shall be granted a free trial of the Software for a period of seven days. After the free trial period, licensing fees must be paid in accordance with the then-current fee schedule. Each time period shall begin on the day payment is made. All paid fees are non-refundable. No exceptions shall be made, except at the sole discretion of Hydrostatix. Hydrostatix also reserves the right to periodically increase the licensing fees required for use of the Software. In that event, Hydrostatix will provide you with the opportunity to approve such fees. If you fail or refuse to approve such fees within the time frame specified by Hydrostatix, we may, in our sole discretion, terminate your current use of the Software or continue to support your current use of the Software without the payment of the increased fees.

c. Limitations. You shall not, and shall not permit any third party to: (i) duplicate the Software for any purpose other than as reasonably necessary to use the same as contemplated by this Agreement; (ii) install the Software on a second computer except for temporary transfer in the event of computer malfunction; (iii) reverse engineer, disassemble, decompile, translate, reconstruct, transform or extract the Software or any portion of the Software except as expressly authorized by law; (iv) change, modify or otherwise alter the Software except as expressly authorized by law; (v) transfer, pledge, rent, share or sublicense the Software other than in connection with the sale or other transfer of the computer on which it is initially installed; (vi) grant any third party access to or use of the Software on a service bureau, timesharing, subscription service, rental or application service provider basis or otherwise; or (vii) defeat or circumvent, attempt to defeat or circumvent, or authorize or assist any third party in defeating or circumventing controls on the installation or use of copies of the Software. To the extent that you permit a third party to duplicate the Software pursuant to section (i) of this paragraph (regarding duplication of this Software for a purpose that is reasonably necessary to use the same as contemplated by this Agreement) the third party and the person and/or entity on whose computer the duplicate copy is installed shall be bound to the terms of this Agreement.

d. Updates to Software. Hydrostatix reserves the right to update, change, modify, add to, discontinue, or retire any aspect, part, or feature of the Software, at any time, at its sole discretion. The resulting updates, changes, modifications, additions, and deletions (collectively referred to henceforth as "Updates") shall be deemed Software for all purposes under this Agreement. Hydrostatix may provide notice of such Updates by posting a notice on the Hydrostatix website, via pop-up window, or dialog box. Even though you may not actually receive the notice unless and until you launch the Software or visit the website, any such notice will be deemed delivered on the date Hydrostatix first makes it available on the Hydrostatix website, via pop-up window or dialog box, regardless of when you actually receive it. Hydrostatix shall have no obligation to provide you with notice of any Updates in any other manner. You acknowledge and agree that you must routinely download and permit installation of

Updates in order to obtain maximum benefit from the Software. If you are dissatisfied with the Software or any subsequent Updates, your sole remedy shall be to terminate your use of the Software.

2. **Term and Termination.** The term of this Agreement (the "Term") will commence on the date you download the Software, and will continue until the end of the trial period for new users and the end of the pay period for existing users as referenced in paragraph 1(b). You may terminate this Agreement at any time by deinstalling the Software and destroying all copies of the Software in your possession or control. Hydrostatix may terminate this Agreement at any time for any reason or no reason. Hydrostatix will make commercially reasonable efforts to provide notice of termination on the Hydrostatix website, via pop-up window, or dialog box. Even though you may not actually receive the termination notice unless and until you launch the Software or visit the website, any such notice will be deemed delivered on the date Hydrostatix first makes it available on the Hydrostatix website, via pop-up window or dialog box, regardless of when you actually receive it. Hydrostatix shall have no obligation to provide you with notice of termination of this Agreement in any other manner.

3. **Ownership.** Hydrostatix reserves all rights in the Software not expressly granted by this Agreement. All copyrights, trademarks and other conceivable intellectual property rights in and to the Software are owned by Hydrostatix or its licensors, and are protected by United States and foreign copyright laws, international treaties and other applicable laws. Any copy of the Software you are allowed to make pursuant to this Agreement must contain the entire copyright and other notices included with the original copy of the Software.

**4. NO EXPRESS OR IMPLIED WARRANTIES. HYDROSTATIX DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE SOFTWARE, MEDIA AND ANY OTHER SUBJECT MATTER OF THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTY OF NONINFRINGEMENT. HYDROSTATIX DOES NOT WARRANT THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. HYDROSTATIX PROVIDES THIS SOFTWARE TO YOU "AS IS" AND YOUR RELIANCE ON THIS SOFTWARE, THE FINAL PRODUCTS CREATED WITH THIS SOFTWARE, AND ON THE AVAILABILITY OR ACCURACY OF THE SOFTWARE SHALL BE ENTIRELY AT YOUR OWN RISK. IN ADDITION, YOU AGREE THAT YOU FULLY UNDERSTAND AND ACCEPT THAT IT IS YOUR RESPONSIBILITY TO VERIFY THAT THE STATEMENT OF FACT DATA THAT IS IMPORTED INTO THE LAYTIME MASTER APPLICATION CORRESPONDS TO THE OFFICIAL STATEMENT OF FACTS (SIGNED BY THE SHIP CAPTAIN) FOR A GIVEN VOYAGE.**

**5. INDEMNITY. REGARDLESS OF ANY OTHER PROVISION OF THIS AGREEMENT TO THE**

**CONTRARY, YOU AGREE TO INDEMNIFY, DEFEND, HOLD HARMLESS, AND RELEASE HYDROSTATIX, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SHAREHOLDERS, AND LICENSORS FROM AND AGAINST ALL LOSSES, DAMAGES (INCLUDING PUNITIVE AND/OR EXEMPLARY DAMAGES, ACTUAL DAMAGES, CONSEQUENTIAL DAMAGES, SPECIAL DAMAGES AND INCIDENTAL DAMAGES), DEMANDS, SUITS, LIENS, LIABILITIES, FINES, PENALTIES, OBLIGATIONS, COSTS, JUDGMENTS, INTEREST, AWARDS (INCLUDING ATTORNEYS' FEES AND OTHER EXPENSES OF LITIGATION OR DEFENSE), AND CLAIMS (INCLUDING CLAIMS BY THIRD PARTIES) ARISING OUT OF ACTS IN ANY MANNER, DIRECTLY OR INDIRECTLY, CAUSED, OCCASIONED, OR CONTRIBUTED TO IN WHOLE OR IN PART, OR CLAIMED TO BE CAUSED, OCCASIONED OR CONTRIBUTED TO IN WHOLE OR IN PART, BY REASON OF OR BECAUSE OF ANY ACT, OMISSION, WILLFUL MISCONDUCT, STRICT LIABILITY, FAULT, OR NEGLIGENCE -- WHETHER SOLE, JOINT, CONTRIBUTORY, COMPARATIVE, CONCURRENT, PASSIVE, ACTIVE OR GROSS -- OF HYDROSTATIX, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SHAREHOLDERS, OR LICENSORS ARISING OUT OF, INCIDENT TO, OR RELATED TO: A) DATA DISCREPANCIES, INACCURACIES, OR MISCALCULATIONS CONTAINED IN FINAL PRODUCTS CREATED WITH THE USE OF THE SOFTWARE; B) THIS AGREEMENT; C) THE SOFTWARE PROVIDED HEREUNDER; D) CYBER CRIMES AND/OR DATA THEFT COMMITTED BY THIRD PARTIES; OR E) YOUR USE OF OR RELIANCE ON THIS SOFTWARE.**

**6. LIMITATION OF LIABILITY OF HYDROSTATIX. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL HYDROSTATIX, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SHAREHOLDERS, OR LICENSORS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY ACTUAL, DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, STATUTORY, SPECIAL OR PUNITIVE AND/OR EXEMPLARY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES INCURRED FOR LOSS OF BUSINESS PROFITS OR REVENUE, LOSS OF PRIVACY, LOSS OF USE OF ANY COMPUTER OR SOFTWARE INCLUDING THE SOFTWARE, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, DATA, OR OTHER PECUNIARY LOSS), WITHOUT REGARD TO CAUSE OR THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, LIABILITY IN CONTRACT OR TORT – INCLUDING NEGLIGENCE) ARISING OUT OF, INCIDENT TO, OR RELATED TO: A) DATA DISCREPANCIES, INACCURACIES, OR MISCALCULATIONS CONTAINED IN FINAL PRODUCTS CREATED WITH THE USE OF THE SOFTWARE; B) THIS AGREEMENT; C) THE SOFTWARE PROVIDED HEREUNDER; D) CYBER CRIMES AND/OR DATA THEFT COMMITTED BY THIRD PARTIES; OR E) YOUR USE OF OR RELIANCE ON THIS SOFTWARE, EVEN IF HYDROSTATIX, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SHAREHOLDERS, OR LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES ARE FORESEEABLE. IN NO EVENT SHALL HYDROSTATIX'S LIABILITY RELATED TO: A) DATA DISCREPANCIES, INACCURACIES, OR MISCALCULATIONS CONTAINED IN FINAL PRODUCTS CREATED WITH THE USE OF THE SOFTWARE; B) THIS AGREEMENT; C) THE SOFTWARE PROVIDED HEREUNDER; D) CYBER CRIMES AND/OR DATA THEFT COMMITTED BY THIRD PARTIES; OR E) YOUR**

**USE OF OR RELIANCE ON THIS SOFTWARE EXCEED FIVE DOLLARS (US \$5.00). THIS LIMITATION SHALL APPLY EVEN IN THE EVENT OF A FUNDAMENTAL OR MATERIAL BREACH OF THE FUNDAMENTAL OR MATERIAL TERMS OF THIS AGREEMENT.**

7. Miscellaneous.

a. Notice. Hydrostatix may deliver any notice required by this Agreement via pop-up window, dialog box or other device, even though you may not receive the notice unless and until you launch the Software. Any such notice will be deemed delivered on the date Hydrostatix first makes it available through the Software, irrespective of when you actually receive it.

b. Privacy. You acknowledge that Hydrostatix collects certain information regarding the users of the Software, including certain personally identifiable information. You hereby consent to Hydrostatix's collection and use of such information, and agree that Hydrostatix's collection and use of such information will be governed by Hydrostatix's Privacy Policy, currently published at [www.hydrostatix.com](http://www.hydrostatix.com), as Hydrostatix may revise the same from time to time.

c. U.S. Government License. Any Software provided to the U.S. Government is provided with the commercial license rights and restrictions described elsewhere herein. Hydrostatix reserves all rights, including unpublished rights, under the United States copyright laws.

d. Complete Agreement. This Agreement constitutes the complete Agreement between the parties and supersedes all previous and contemporaneous communications, representations or agreements, either oral or written, with respect to the subject matter hereof. By clicking "I Agree", you also agree that any agreement(s) entered into between you and Hydrostatix subsequent to this Agreement, if any, must be in writing and signed by a duly authorized representative of Hydrostatix in order for such agreement to be enforced against Hydrostatix or its officers, directors, employees, agents, shareholders, or licensors.

e. Amendments; Waiver. This Agreement may not be modified or changed in whole or in part in any manner other than by an Agreement in writing duly signed by Hydrostatix. Hydrostatix's failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right.

f. Severability. The parties desire and intend that all of the provisions of this Agreement be enforceable to the fullest extent permitted by law. If any provision of this Agreement or the application thereof to any person or circumstances is, to any extent, construed to be illegal, invalid or unenforceable, in whole or in part, then such provision will be construed in a manner to permit its enforceability under applicable law to the fullest extent permitted by law. In any case, the remaining terms of this Agreement or

the application thereof to any person or circumstance, other than those that have been held illegal, invalid or unenforceable, will remain in full force and effect.

g. Source Code. Any distribution, resale, or publishing of the source code of the Software is strictly prohibited.

h. Governing Law/Consent to Jurisdiction/Forum Selection. This Agreement will be governed and interpreted in accordance with the laws of the State of Texas. The parties hereto agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State and Federal courts located in Harris County, Texas. The aforementioned choice of venue is intended by the parties to be mandatory and not permissive in nature, thereby precluding the possibility of litigation between the parties with respect to or arising out of this Agreement in any jurisdiction other than that specified in this paragraph. Each party hereby waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this paragraph, and stipulates that the State and Federal courts located in the County Harris County, Texas shall have in personam jurisdiction and venue over each of them for the purpose of litigating any dispute, controversy, or proceeding arising out of or related to this Agreement. Each party hereby authorizes and accepts service of process sufficient for personal jurisdiction in any action against it as contemplated by this paragraph by registered or certified mail, return receipt requested, postage prepaid, to its address for the giving of notices as set forth in this Agreement. Any final judgment rendered against a party in any action or proceeding shall be conclusive as to the subject of such final judgment and may be enforced in other jurisdictions in any manner provided by law.

i. Injunctive Relief. You agree that a breach of this Agreement which adversely affects Hydrostatix's proprietary rights in the Software may cause irreparable injury to Hydrostatix for which monetary damages would not be an adequate remedy and that Hydrostatix shall be entitled to equitable relief in addition to any remedies it may have hereunder or at law.

j. Export Controls. You acknowledge that portions of the Software are of U.S. origin. You agree to comply with all applicable U.S. and international laws governing export and reexport of the Software, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments.

k. Language. This Agreement was originally prepared in the English language. Although Hydrostatix may provide one or more translations for your convenience, the English version will control in the case of any conflict or discrepancy.

l. Ambiguities. In the event of a dispute over the meaning or application of this

Agreement, it shall be construed fairly and reasonably and neither more strongly for nor against any of the parties hereto.

m. Force Majeure. You agree that Hydrostatix shall not be liable to you or any third parties for any damages or losses due, occasioned or caused as a result of any conditions beyond its control including, but not limited to acts of God, natural disasters, Government restrictions, and/or any other cause beyond the reasonable control of Hydrostatix. You hereby indemnify Hydrostatix and its officers, directors, employees, agents, shareholders, and licensors against claims resulting from such conditions or causes in accordance with Paragraph 5 herein.