

End User License Agreement

By using the Plume Product Software that is embedded on the Plume Products (each as defined in the Plume Membership and Cloud Services Agreement), you agree to the terms of this End User License Agreement (“EULA”) between you and Plume.

IF YOU DO NOT AGREE TO THE TERMS OF THIS EULA, YOU MAY NOT USE THE PRODUCT SOFTWARE AND YOU MAY CHOOSE TO PROMPTLY RETURN THE PRODUCT FOR A REFUND OF THE PRODUCT PURCHASE PRICE BY CONTACTING PLUME AT support@plume.com, AS FURTHER DESCRIBED IN THE SALES TERMS.

Your use of the website located at plume.com and all sub-domains (each, a “Site”) is governed by the Website terms of use. Your use of a Plume Membership and the Plume Cloud Services is governed by the Plume Membership and Cloud Services Agreement. Your purchase of the Plume Products (excluding the Plume Product Software) and Plume Membership subscription is governed by the Sales Terms and, as to the Plume Products, the Limited Warranty. This EULA does not govern your use of the Site, Plume Cloud Services, Plume Membership subscription, or your purchase of the foregoing or the Plume Products (excluding the Plume Product Software).

This EULA governs your access and use of the Plume Product Software. This EULA gives you specific legal rights, and you may also have other legal rights in addition, which vary from jurisdiction to jurisdiction. The disclaimers, exclusions, and limitations of liability under this EULA will not apply to the extent prohibited by applicable law. Some jurisdictions do not allow the exclusion of implied warranties or the exclusion or limitation of incidental or consequential damages or other rights, so those provisions of this EULA may not apply to you.

THIS IS A LEGAL AGREEMENT. BY ACCESSING AND USING THE Plume Product Software, YOU ARE ACCEPTING AND AGREEING TO THIS EULA ON BEHALF OF YOURSELF OR THE ENTITY YOU REPRESENT IN CONNECTION WITH THE ACCESS. YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ACCEPT AND AGREE TO THIS EULA ON BEHALF OF YOURSELF OR THE ENTITY YOU REPRESENT. YOU REPRESENT THAT YOU ARE OF SUFFICIENT LEGAL AGE IN YOUR JURISDICTION OR RESIDENCE TO USE OR ACCESS THE PRODUCT SOFTWARE AND TO ENTER INTO THIS EULA. IF YOU DO NOT AGREE WITH ANY OF THE PROVISIONS OF THESE TERMS, YOU SHOULD CEASE ACCESSING OR USING THE PRODUCT SOFTWARE.

AS DESCRIBED BELOW, YOU ARE CONSENTING TO AUTOMATIC SOFTWARE UPDATE OF THE PRODUCT SOFTWARE. IF YOU DO NOT AGREE, YOU SHOULD NOT USE THE PRODUCT SOFTWARE.

AS DESCRIBED BELOW, SECTION 9 DESCRIBES IMPORTANT LIMITATIONS OF THE PRODUCT SOFTWARE AND RELATED SERVICES, ESPECIALLY IN CONNECTION WITH LIFE SAFETY AND CRITICAL USES. PLEASE READ THESE DISCLOSURES CAREFULLY, AS YOU ARE ACKNOWLEDGING THEM AND ACCEPTING THEM.

1. LICENSE.

Subject to the terms of this EULA, Plume grants to you a limited and nonexclusive license (without the right to sublicense) to execute one (1) copy of the Plume Product Software, in executable object code form only, solely on the Plume Product that you own or control and solely for use in conjunction with the Plume Product for your personal, non-commercial purposes.

2. RESTRICTIONS.

You agree not to, and you will not permit others to, (a) license, sell, rent, lease, assign, distribute, transmit, host, outsource, disclose or otherwise commercially exploit the Plume Product Software or make the Plume Product Software available to any third party, (b) copy or use the Plume Product Software for any purpose other than as permitted in Section 1, (c) use any portion of the Plume Product Software on any device or computer other than the Plume Product that you own or control, (d) remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the Plume Product Software, or (e) modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Plume Product Software (except to the extent applicable laws specifically prohibit such restriction for interoperability purposes, in which case you agree to first contact Plume and provide Plume an opportunity to create such changes as are needed for interoperability purposes). You may not release the results of any performance or functional evaluation of any of the Plume Product Software to any third party without prior written approval of Plume for each such release.

3. AUTOMATIC SOFTWARE UPDATES.

Plume may from time to time develop patches, bug fixes, updates, upgrades and other modifications to improve the performance of the Plume Product Software and related services ("Updates"). These may be automatically installed without providing any additional notice or receiving any additional consent. You consent to this automatic update. If you do not want such Updates, your remedy is to stop using the Plume Product. If you do not cease using the Plume Product, you will receive Updates automatically. You acknowledge that you may be required to install Updates to use the Plume Product and the Plume Product Software and you agree to promptly install any Updates Plume provides. Your continued use of the Plume Product is your agreement to this EULA.

4. OWNERSHIP.

The Plume Product Software and all worldwide copyrights, trade secrets, and other intellectual property rights therein are the exclusive property of Plume and its licensors. Plume and its licensors reserve all rights in and to the Plume Product Software not expressly granted to you in this EULA. The Plume Product Software (and all copies thereof) is licensed to you, not sold, under this EULA. There are no implied licenses in this EULA. All suggestions or feedback provided by you to Plume with respect to the Plume Product Software shall be Plume' property. Plume may use, copy, modify, publish, or redistribute the submission and its contents for any purpose and in any way without any compensation to you. You also agree that Plume does not waive any rights to use similar or related ideas previously known to Plume, developed by its employees, or obtained from other sources.

5. OPEN SOURCE.

Certain items of software included with the Plume Product Software are subject to "open source" or "free software" licenses ("Open Source Software"). Some of the Open Source Software is owned by third parties. The Open Source Software is not subject to the terms and conditions of this EULA. Instead, each item of Open Source Software is licensed under the terms of the end user license that accompanies such Open Source Software. Nothing in this EULA limits your rights under, or grants you rights that supersede, the terms and conditions of any applicable end user license for the Open Source Software. If required by any license for particular Open Source Software, Plume makes such Open Source Software, and Plume' modifications to that Open Source Software, available by written request to Plume at the email or mailing address listed below.

6. TERM AND TERMINATION.

This EULA and the license granted hereunder are effective on the date you first use the Plume Product Software or Plume Product and shall continue for as long as you own the Plume Product, unless this EULA is terminated under this section. Plume may terminate this EULA at any time if you fail to comply with any term(s) hereof. You may terminate this EULA effective immediately upon written notice to Plume. Upon termination of this EULA, the license granted hereunder will terminate and you must stop all use of the Plume Product Software, but the terms of Sections 2 through 18 (inclusive) will remain in effect, after any such termination.

7. WARRANTY DISCLAIMER.

NOTWITHSTANDING ANYTHING TO THE CONTRARY AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PLUME PROVIDES THE PRODUCT SOFTWARE "AS-IS" AND DISCLAIMS ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS. PLUME DOES NOT GUARANTEE ANY SPECIFIC RESULTS FROM THE USE OF THE PRODUCT SOFTWARE. PLUME MAKES NO WARRANTY THAT THE PRODUCT

SOFTWARE WILL BE UNINTERRUPTED, FREE OF VIRUSES OR OTHER HARMFUL CODE, TIMELY, SECURE, OR ERROR-FREE.

YOU USE ALL PRODUCT INFORMATION (AS DEFINED BELOW), THE PRODUCT SOFTWARE, AND THE PRODUCT AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR (AND PLUME DISCLAIMS) ANY AND ALL LOSS, LIABILITY, OR DAMAGES, INCLUDING TO OTHER PERIPHERALS CONNECTED TO THE PRODUCT, COMPUTER, MOBILE DEVICE, AND ALL OTHER ITEMS IN YOUR HOME, RESULTING FROM YOUR USE OF THE PRODUCT INFORMATION, PLUME PRODUCT SOFTWARE, OR PLUME PRODUCT.

8. LIMITATION OF LIABILITY.

Nothing in this EULA and in particular within this “Limitation of Liability” clause shall attempt to exclude liability that cannot be excluded under applicable law.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN ADDITION TO THE ABOVE WARRANTY DISCLAIMERS, IN NO EVENT WILL (A) PLUME BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES, INCLUDING ANY DAMAGES FOR LOST DATA OR LOST PROFITS, ARISING FROM OR RELATING TO THE PRODUCTS OR PRODUCT SOFTWARE, EVEN IF PLUME KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, AND (B) PLUME’S TOTAL CUMULATIVE LIABILITY ARISING FROM OR RELATED TO THE PRODUCTS AND PRODUCT SOFTWARE, WHETHER IN CONTRACT OR TORT OR OTHERWISE, EXCEED THE FEES ACTUALLY PAID BY YOU TO PLUME’S OR PLUME’S AUTHORIZED RESELLER FOR THE PRODUCT AT ISSUE IN THE PRIOR 12 MONTHS (IF ANY). THIS LIMITATION IS CUMULATIVE AND WILL NOT BE INCREASED BY THE EXISTENCE OF MORE THAN ONE INCIDENT OR CLAIM. PLUME DISCLAIMS ALL LIABILITY OF ANY KIND OF PLUME’S LICENSORS AND SUPPLIERS.

9. NO EMERGENCY USE.

You acknowledge that the Plume Products and Plume Product Software are not certified for emergency response. The Plume Product Software provides you information (“Product Information”) regarding the Plume Products in your home and their connection with other products and services. All Product Information is provided “as is” and “as available”. We cannot guarantee that it is correct or up to date. In cases where it is critical, accessing Product Information through the Plume Product Software is not a substitute for direct access of the information in the home.

10. CONFIDENTIALITY. “CONFIDENTIAL INFORMATION”.

means the Plume Product Software and all other information disclosed to you that Plume characterizes as confidential at the time of its disclosure either in writing or orally, except for information which you can demonstrate: (a) is previously rightfully known to you without restriction on disclosure; (b) is or becomes, from no act or

failure to act on your part, generally known in the relevant industry or public domain; (c) is disclosed to you by a third party as a matter of right and without restriction on disclosure; or (d) is independently developed by you without access to the Confidential Information. You shall use your best efforts to preserve and protect the confidentiality of the Confidential Information at all times, both during the term hereof and for a period of at least 3 years after termination of this EULA, provided, however, that any source code you receive shall be held in confidence in perpetuity. You shall not disclose, disseminate or otherwise publish or communicate Confidential Information to any person, firm, corporation or other third party without the prior written consent of Plume. You shall not use any Confidential Information other than in the course of the activities permitted hereunder. You shall notify Plume in writing immediately upon discovery of any unauthorized use or disclosure of Confidential Information or any other breach of this EULA, and will cooperate with Plume in every reasonable way to regain possession of Confidential Information and prevent any further unauthorized use. If you are legally compelled to disclose any of the Confidential Information, then, prior to such disclosure, you will (i) immediately notify Plume prior to such disclosure to allow Plume an opportunity to contest the disclosure, (ii) assert the privileged and confidential nature of the Confidential Information, and (iii) cooperate fully with Plume in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of such disclosure and/or use of the Confidential Information. In the event such protection is not obtained, you shall disclose the Confidential Information only to the extent necessary to comply with the applicable legal requirements.

11. FOR U.S. GOVERNMENT END USERS.

The Plume Product Software is a “commercial item,” as that term is defined at 48 C.F.R. 2.101 (OCT 1995), and more specifically is “commercial computer software” and “commercial computer software documentation,” as such terms are used in 48 C.F.R. 12.212 (SEPT 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (JUNE 1995), the Plume Product Software is provided to U.S. Government End Users only as a commercial end item and with only those rights as are granted to all other customers pursuant to the terms and conditions herein.

12. EXPORT COMPLIANCE.

The Plume Product Software and related technology are subject to U.S. export control laws and may be subject to export or import regulations in other countries. You agree to strictly comply with all such laws and regulations and acknowledge that you have the responsibility to obtain authorization to export, re-export, or import the Plume Product Software and related technology, as may be required. You will indemnify and hold Plume harmless from any and all claims, losses, liabilities, damages, fines, penalties, costs and expenses (including attorney’s fees) arising from or relating to any breach by you of your obligations under this section.

13. GOVERNING LAW; VENUE.

The courts in some countries will not apply California law to some types of disputes. If you reside in one of those countries, then where California law is excluded from applying, your country's laws will apply to such disputes related to these terms. Otherwise, you agree that this EULA, and any claim, dispute, action, cause of action, issue, or request for relief relating to this EULA, will be governed by the laws of California, without giving effect to any conflicts of laws principles that require the application of the laws of a different jurisdiction. Any action or proceeding relating to this EULA must be brought in a federal or state court located in Santa Clara County, California and each party irrevocably submits to the jurisdiction and venue of any such court in any such claim or dispute, except that Plume may seek injunctive relief in any court having jurisdiction to protect its intellectual property or Confidential Information.

14. ASSIGNMENT.

Neither the rights nor the obligations arising under this EULA are assignable by you, and any such attempted assignment shall be void and without effect.

15. NOTICES.

Any notice to you may be provided by email to the address that you registered with Plume.

16. SEVERABILITY.

If any provision of this EULA is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

17. WAIVER.

All waivers by Plume will be effective only if in writing. Any waiver or failure by Plume to enforce any provision of this EULA on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

18. GENERAL.

The Plume Product Software is deemed irrevocably accepted upon your use of the Plume Product Software or Plume Product. Plume will have no responsibility to provide maintenance or support services with respect to the Plume Product Software. The parties are independent contractors. You acknowledge that the Plume Product Software contains valuable trade secrets and proprietary information of Plume, that any actual or threatened breach of Section 2 (Restrictions) of this EULA will constitute immediate, irreparable harm to Plume for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. The headings of Sections of this EULA are for convenience and are not to be used in interpreting this EULA. Except

as otherwise provided in this section, no amendment to this EULA will be valid unless it is in writing hand-signed by the parties. If you have questions regarding this EULA, please contact Plume.