#### **END USER LICENSE AGREEMENT**

## **IOLITE ESSENTIALS**

BY DOWNLOADING AND/OR CONTINUING USE OF FOLLOWING IOLITE ESSENTIALS SOFTWARE and associated source code, software, function libraries, applications, user manuals and documentation (SOFTWARE), YOU (AS AN INDIVIDUAL DOWNLOADING AND/OR CONTINUING TO USE THE SOFTWARE AND ANY SINGLE LEGAL ENTITY FOR WHICH YOU REPRESENT) (YOU) ARE ENTERING INTO A LEGALLY BINDING AGREEMENT WITH ELEMENTAL SCIENTIFIC LASERS (ESL). IN CONSIDERATION OF YOU DOWNLOADING AND/OR CONTINUING USE OF THE SOFTWARE, YOU AGREE TO BE BOUND BY, AND TO ABIDE BY, THESE TERMS AND CONDITIONS. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF AN ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THE EULA AND ARE AGREEING TO THE EULA ON ITS BEHALF.

Either clause 1 (Evaluation license) or clause 2 (Subscription License) will apply to Your use of the Software as applicable, in addition to clauses 3 to 14, which apply to all of these types of licenses.

### 1. Evaluation License

Subject to You complying with the conditions in clause 3, ESL grants to You a limited, non-exclusive, non-transferable, revocable license (excluding any right of sub-license) to download and use the Software:

- (a) in a manner consistent with its design and documentation;
- (b) for internal research purposes and only to evaluate whether to purchase a Subscription License (as defined below);
- (c) on one computer owned by You and located within Your premises for period of 14 days from the date of installation (Evaluation License).

You acknowledge that the version of the Software that You download has limited features, will function only for a limited period of time and has other limitations not present in the version of the Software available under the Subscription License (as defined below).

# 2. Subscription License

Subject to You complying with the conditions in clause 3 and paying the applicable license fees in accordance with clause 7, ESL will issue You with a product serial key (Product Key) and grants to You a limited, non-exclusive, non-transferable, revocable license (excluding any right of sub-license) to use the Software:

- (a) in a manner consistent with its design and documentation;
- (b) for research, governmental, and/or commercial purposes;
- (c) on one computer owned by You and located within Your premises; and
- (d) for the length of Your subscription period beginning on the date the Product Key is activated on the Software.

You acknowledge that Your license is associated with a specific subscription plan and subscription period (annual, multi-year, or other term). The Software is licensed only for the specified subscription period. You further acknowledge that the plan limits the number of devices allowed to use the Software as described

herein. ESL reserves the right to audit any subscription at any time. If a plan limit is exceeded, You will be required to upgrade your plan or purchase additional subscription(s) to comply with plan limitations. If You do not agree to pay the upgrade fee or purchase the additional subscription(s) within thirty (30) days of the demand, ESL may discontinue Your subscription without refunding any subscription fees.

### 3. Restrictions on use

You agree to only use the Software in accordance with these terms and applicable laws. Without limiting the previous sentence, You must not, without ESL's prior written agreement:

- (a) print, copy or reproduce the Software by any means or in any;
- (b) give, lease, assign, license, sub-license, transfer, distribute, disclose, release or disseminate the Software in any form to any other person (or purport to do so);
- (c) modify, adapt, alter, reverse engineer or decompile, or create derivative works or functionally equivalent software from, the Software;
- (d) alter, change, remove or obscure any notices or other indications (including copyright notices) as to the ownership of the Software; or
- (e) publicly release the Software, or incorporate the Software into any product to be made publicly or commercially available.

# 4. Ownership

You acknowledge and agree that, as between you and ESL, ESL and/or its related entities are the owner and/or licensee of the Software and, all intellectual property rights subsisting in the Software, and that the License does not transfer or assign to You (or any other person) any copyright or other intellectual property rights subsisting in the Software. You further acknowledge and agree that ESL will own any and all modifications, adaptations and alterations to the Software, or derivative works or functionally equivalent software created from the Software and that You assign to ESL all copyright (including future copyright) and other intellectual property rights subsisting in any such modifications, adaptations, alterations, derivative works or functionally equivalent software to ESL created by You, irrespective of whether ESL's prior written agreement was obtained.

## 5. Disclaimers

The Software is licensed to You on an "as is" basis and without any representation as to functionality, performance, suitability or fitness for purpose. You acknowledge and agree that, to the extent permitted under law, ESL makes no representations, warranties or guarantees:

- (a) in relation to the functionality, performance, availability, suitability, continuity, reliability, accuracy, currency or security of the Software; or
- (b) that the Software is free from computer viruses or any other defect or error which may affect Your software or systems or third party software or systems.

You further acknowledge and agree that ESL has no obligation to (and makes no representation that it will) maintain or update, or correct any errors or defects in, the Software.

### 6. Updates and Upgrades

You acknowledge that the license granted to you is to version 1 of the Software only (including any updates to version 1 to fix features or add minor software enhancements) but it does not include an upgrade whereby a new version (e.g. a version 2) is offered with significant changes or improvements to version 2. Upgrade fees will be set at the applicable time and made available to You. ESL reserves the right to discontinue support for all versions of the Software other than the then-current released version or updated Software.

# 7. Payment

The applicable license fee is billed in advance on an annual, multi-year, or other term (depending on your subscription commitment). The applicable license fee, as displayed on the payment page, must be paid in full prior to You downloading and using the Software. The license fee is in United States dollars (USD) and is exclusive of taxes. You must pay any applicable value added, goods and services, sales, gross receipts, or other transaction taxes, fees, charges or surcharges, or any regulatory cost recovery surcharges or similar amounts that are owed under this agreement and which ESL permitted to collect from you under applicable law. If payment of the license fee is not received by ESL for any reason (including from your credit card issuer or its agents), You agree to pay ESL the amount of the license fee due on demand. You are not entitled to a refund of the amount of any license fee paid to ESL for any reason, except as required under clause 12, or at ESL's discretion.

## 8. No Warranty

To the extent permitted by law, any conditions, warranties, guarantees, rights, remedies, liabilities and other terms implied or conferred by statute, custom or the general law that impose any liability or obligation on ESL are excluded under these terms.

## 9. Exclusion of liability

To the extent permitted by law, ESL excludes liability for all direct, indirect or consequential liabilities, losses, damages, costs and expenses (including, without limitation, loss of revenue, loss of goodwill, downtime costs, loss of profit, loss of or damage to reputation, loss under or in relation to any other contract, loss of data, loss of use of data or loss of anticipated savings or benefits), whether arising in contract, tort (including negligence) or otherwise, suffered or incurred by any person in connection with the Software (including Your downloading and/or use of the Software).

## 10. Indemnity

You indemnify ESL (and its related entities, subsidiaries, employees and agents) against all loss, actions, proceedings, costs and expenses (including legal fees), claims and damages of any kind whatsoever caused directly or indirectly by, or arising directly or indirectly out of or in connection with, Your downloading and/or use of the Software or any breach by You of these terms.

## 11. Privacy

You acknowledge and accept the iolite Privacy Policy available at

https://store.iolite.xyz/index.php/privacy-policy/. At all times, your information will be treated in accordance with the iolite Privacy Policy.

## 12. Cancellation and Termination

You are solely responsible for properly canceling your subscription. You may terminate a subscription at any time during Your subscription period. If you do not receive confirmation within five (5) business days of canceling your account, email <a href="mailto:support@iolite-software.com">support@iolite-software.com</a> to confirm cancellation of your account. If You cancel the service before the end of Your subscription period, Your payment is non-refundable, the Software will remain operational through the end of the subscription period, and You will not be charged for the next subscription period.

Without prejudice to any other rights or remedies that ESL may have against You under the agreement formed by these terms or at law, if You breach any of these terms, ESL may, by giving You written notice, suspend Your use of the Software or terminate this agreement. ESL may also terminate this EULA upon reasonable notice to You and provide a pro-rata refund of any prepaid fees.

Except as otherwise described herein, the termination of this agreement will result in the immediate and automatic revocation of the license. If ESL terminates this agreement (and revokes the License), You must immediately cease using the Software and (at ESL's option) delete or otherwise destroy all copies of the Software in Your possession.

### 13. Amendments

ESL can amend these terms as they apply to its customers generally (each a Common Amendment) by emailing details of the amendment and the date it comes into effect to You. If You can demonstrate to the reasonable satisfaction of ESL that the Common Amendment has a material, adverse impact on You, You may terminate the agreement on 90 days' written notice to ESL, however ESL is not required to refund any fees that have been paid by You in advance.

### 14. General

These terms constitute the entire agreement between You and ESL in relation to their subject matter and supersede and cancel all prior understandings, negotiations and agreements in connection with that subject matter. If any of provision of these terms is invalid or unenforceable, it may be severed from these terms and the remaining provisions of these terms continue in force. These terms are governed by the laws in force in the state of Nebraska, United States of America (excluding its conflict of law rules), and the federal laws of the United States. You unconditionally submit to the exclusive jurisdiction of the state and federal courts of Nebraska. The rights and obligations of the parties to this EULA shall not be governed by the United Nations Convention on the International Sale of Goods. You will abide by all applicable local, state, national, and foreign laws, and regulations in connection with the use of the Software, and You represent that You are not named on any U.S. government denied-party list and You shall not permit Authorized Users to access or use the Services in a U.S.-embargoed country or in violation of any U.S. export law or regulation.