



## Black Blade Associates, Inc. End User License Agreement

THIS BLACK BLADE END USER LICENSE AGREEMENT ("**EULA**") is entered into by and between **BLACK BLADE ASSOCIATES, INC.**, a Virginia corporation ("**Black Blade**"), and the person or entity ("**End User**") who / which has purchased a Black Blade Product either directly from Black Blade or from an authorized Reseller of Black Blade Products pursuant to an agreement or purchase order, as of the effective date of such document ("**Effective Date**"). Any conflict between this EULA and any agreement or purchase order between End User and a Reseller shall be governed by this EULA.

**IMPORTANT—END USER SHOULD READ IMMEDIATELY UPON RECEIPT OF PRODUCT.** The End User hereby acquires title (*i.e.*, ownership) of the Equipment purchased as part of the Black Blade Product to which this EULA relates but all Black Blade Intellectual Property integrated into or delivered with such Product is hereby licensed to End User on the terms and conditions hereof and Black Blade retains title to such Intellectual Property. **BY RETAINING THE BLACK BLADE PRODUCT INCLUDED WITH THIS EULA FOR 14 DAYS (WHETHER OR NOT INSTALLED OR USED), END USER ACCEPTS AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS EULA. IF END USER DOES NOT AGREE TO THESE TERMS AND CONDITIONS, IT SHOULD NOT INSTALL, USE OR RETAIN THE PRODUCT AND SHOULD RETURN SUCH PRODUCT IMMEDIATELY (within 5 days) TO BLACK BLADE OR TO RESELLER FOR A FULL REFUND LESS DELIVERY COSTS.**

### 1. DEFINITIONS

1.1 "**Acceptance**" means End User's acknowledgement that the Product performs substantially in accordance with the Specifications, by oral or written statement or by End User's retention of the Product without objection for fourteen (14) days after receipt thereof, whether the Product is installed or used during such period (the "**Acceptance Period**"). Acceptance irrevocably waives any and all claims that the Product does not meet the Specifications or is defective.

1.2 "**Doc Bloc**" means one of the Products offered hereunder.

1.3 "**Documentation**" means any and all information in written, graphic or machine-readable form relating to the use, operation or Specifications for the Product.

1.4 "**Equipment**" means any and all hardware, parts, components and tangible materials integrated into or made available with a Product, exclusive of Software and Intellectual Property.

1.5 "**Intellectual Property**" or "**IP**" means any and all proprietary designs, processes, methods, Software, trade secrets, copyrights, patents, trademarks, industrial rights, moral rights, materials, data and information, whether or not registered, incorporated into or delivered with a Product, including Documentation provided therewith.

1.6 "**Product License**" means the rights and restrictions to the Product set forth herein.

1.7 "**Money Back Guarantee**" or "**Guarantee**" is as described in Section 5.

1.8 "**Product**" means Doc Bloc or any other Black Blade appliance delivered with this EULA.

1.9 "**Purchase Price**" means the payment required to purchase the Product, covering title to the Equipment and Product License fees.

1.10 "**RMA Process**" means the procedures required to return a Product or component as set forth in Section 5.3.

1.11 "**Services**" mean any and all delivery, installation, training, maintenance, repair and/or warranty services.

1.12 "**Software**" means any and all software programs, tools, applications and code (both source code and object code) incorporated into or relating to the Product, including all enhancements and modifications thereof and any Documentation relating thereto.

1.13 "**Specifications**" mean the installation, operating, maintenance, service and usage requirements for the Product.

1.14 "**Third Party Licensor**" means any third party licensor or manufacturer of Third Party Technology. To the extent Third Party Technology is integrated into the Product, the Product License constitutes a sub-license thereof.

1.15 "**Third Party Technology**" means any and all non-Black Blade Equipment, Software, Intellectual Property and material integrated into or delivered with the Product.

1.16 "**User(s)**" mean any person that End User permits to use, access or have possession of the Product, directly or indirectly, intentionally or unintentionally. "**Authorized Users**" are as defined in Section 2.2(a).

1.17 "**Warranty**" means collectively, the Product Warranty and Repair Warranty as described herein.

### 2. PRODUCT PURCHASE AND LICENSE

2.1 Product Purchase. Black Blade hereby sells, licenses and delivers to End User, and End User hereby purchases, licenses and receives from Black Blade, on the terms and conditions hereof, the Doc Bloc or any other Product provided with this EULA. Although styled as a "**purchase**" and "**sale**" of the Product, the parties hereby acknowledge and agree that conveyance of the Product involves two independent transactions: (a) transfer of title to the Equipment, and (b) the grant of a license to the Product Software, Intellectual Property and Third Party Technology integrated into or provided with the Product, for which the reference to a "sale" or "purchase" shall mean "**license on the terms hereof.**" All Black Blade obligations hereunder, including the Product License, shall be subject to End User's installation, maintenance and use of the Product in accordance with this EULA.

#### 2.2 Product License.

(a) License Terms; Authorized Users. Subject to the terms and conditions hereof, including payment of the Purchase Price in full, Black Blade hereby grants to End User a non-exclusive, perpetual (except upon breach of this EULA) and non-transferable right and license for End User to use the Product solely for End User's internal purposes in accordance with this EULA, the Documentation and any applicable Specifications (the "**Product License**"). Notwithstanding the non-transferability of this Product License, (i) if End User sells or transfers title to the Product as an integrated unit, the Product License shall automatically convey to the transferee and apply thereto in the same manner as it applied to the transferor; (ii) the End User may network the Product so that it may be used in End User's internal operations by employees, contractors, agents and representatives of End User and its subsidiaries and commonly-controlled entities (collectively, "**Authorized Users**"); and (iii) End User may make services involving the Product available to clients and customers of End User and its Authorized Users on a service bureau or Software-As-A-Service ("**SAAS**") model, so long as no transfer of the Product or disclosure or release of its IP to such persons occur. The Product License shall commence on the Effective Date hereof and shall continue thereafter for so long as this Agreement remains in effect (the "**License Term**"). All Product maintenance and repair shall be performed by Black Blade.

(b) License Restrictions. End User shall not itself, nor permit any others to, copy, distribute (except upon transfer of Product title or as

SAAS to clients), sub-license, modify, adapt, reverse engineer, decompile or otherwise seek access to the IP and/or Third Party Technology. End User agrees to protect the Intellectual Property and Third Party Technology from disclosure and unauthorized use. ATTEMPTING IN ANY WAY TO INVADE, MODIFY OR ALTER THE PRODUCT OR ANY INTELLECTUAL PROPERTY WILL VOID THE PRODUCT LICENSE AND TERMINATE THIS EULA.

2.3 All Other Rights Retained. Except for the Product License and sale of the Equipment, all right, title and interest in and to the design, manufacture, use and operation of the Product and to the Intellectual Property and Third Party Technology contained therein is retained by Black Blade and its Third Party Licensors. ALL RIGHTS ARE RESERVED. All Users shall be subject to this EULA but in no case shall any User other than End User be deemed a licensee of Black Blade hereunder. END USER IS SOLELY RESPONSIBLE AND LIABLE FOR ALL ACTIONS AND OMISSIONS OF ITS USERS.

2.4 Limited Third Party Technology Rights. Except for the Product License, nothing herein grants to End User any other rights or interests in any Third Party Technology, express, implied or by estoppel.

2.5 Product Documentation. The Documentation may be duplicated by End User solely for internal use with the Product; *provided that* (a) all proprietary markings and legends shall be duplicated on such copies, and (b) all copies of the Documentation remain the exclusive property of Black Blade and are subject to this Agreement.

2.6 Use of Product. End User shall use the Product only in accordance with the Documentation and Specifications. End User shall ensure that the Product is at all times properly maintained.

2.7 Transfer of Equipment Transfers License. Without prejudice to whether it constitutes a violation or termination of this Agreement, any sale, lease, bailment, assignment or other transfer of the Product (a "Transfer") transfers the Product License and any such transferees, automatically and without further action, agree to take and use the Product solely in compliance herewith.

### 3. COMPENSATION

3.1 Purchase Price. In consideration of the transfer of title to the Equipment and grant of the Product License, End User agrees to pay Black Blade the Purchase Price in full.

3.2 Deposit Non-Refundable. If End User cancels any order for the Product before delivery, any deposit, down payment or advance paid by End User is non-refundable and forfeited.

3.3 Payment Terms. Unless otherwise agreed by Black Blade in writing, End User shall pay the Purchase Price in full upon its order and before shipment by Black Blade. Any Black Blade invoice remaining unpaid after thirty (30) days from the date thereof shall be deemed "late," shall incur a five percent (5%) late fee and shall accrue interest at the rate of one and one-half percent (1.5%) per month until paid in full.

3.4 Services; Expenses. Except for any Services and expenses covered by the Product Guarantee or Warranty, End User shall pay or reimburse Black Blade for any and all Services and expenses incurred by Black Blade on End User's behalf.

3.5 Taxes; Fees. End User shall pay any and all taxes, assessments, levies, fees and any and all other charges, interest and penalties relating to End User's purchase and use of the Product.

### 4. TERM & TERMINATION

4.1 Term. This Agreement shall commence upon the Effective Date and shall continue thereafter until the earliest to occur of any of the Termination Events set forth in Section 4.2 below (the "Term").

4.2 Termination Events. This Agreement may be terminated by Black Blade upon ten (10) days written notice to End User upon the occurrence of any of the following events, unless End User cures such event to Black Blade's satisfaction during such 10-day period (collectively, the "Termination Events"):

(a) End User fails to make any payment to Black Blade when due,

(b) End User tampers with or alters the Product or Intellectual Property or violates the Product License in any way, or

(c) End User breaches any material term of this EULA.

4.3 Effect of Termination. Upon the effective date of any Termination Event, in addition to any and all remedies available to Black Blade:

(a) End User shall immediately cease all use of the Product,

(b) End User shall promptly pay Black Blade any unpaid fees or amounts due thereto,

(c) Black Blade shall have the right to recover or disable the Product and to recover any damages from End User, including attorneys' fees, and

(d) The provisions of Sections 2, 3, 4, 5, 6 and 7 shall survive any such termination in accordance with their terms.

### 5. GUARANTEE; WARRANTIES; DISCLAIMERS

5.1 Money-Back Guarantee. Black Blade unconditionally guarantees, for a period of thirty (30) days after initial shipment of the Product (the "Guarantee Period"), that the Product performs in accordance with the Specifications (the "Guarantee"). If the End User for any reason during the Guarantee Period is not satisfied with the Product, subject to timely compliance with the RMA Process, the End User may return the Product for a refund of End User's Purchase Price minus only the fees and charges referenced in the RMA Process. The Guarantee Period shall automatically expire and be void after 30 days from date of shipment.

5.2 Product and Repair Warranty. Attached hereto as Schedule A and incorporated herein by reference are the terms and conditions of the limited Product warranties granted by Black Blade to End User, including warranty exclusions, limitations and disclaimers (the "Product Warranty" and "Repair Warranty," collectively "Warranty"). BLACK BLADE DOES NOT WARRANT THAT THE PRODUCT WILL BE UNINTERRUPTED OR ERROR FREE.

5.3 Return Material Authorization (RMA) Process. The RMA Process is the procedure that End User must use to return a Product or Equipment component for refund, repair or credit under either the Guarantee or Warranty. First, the End User must call Black Blade's Warranty Claims Dept. prior to expiration of the Guarantee or Warranty to secure an RMA Form (also available at [www.blackbladeinc.com/RMA](http://www.blackbladeinc.com/RMA)) and an RMA number. The RMA number is valid only for 30 days from the date issued ("RMA Period") and only for the items listed in the RMA Form. **THE RMA ITEM MUST BE RECEIVED BY BLACK BLADE DURING THE RMA PERIOD.** A new RMA number is required if the item is not received by Black Blade within 30 days. The End User shall fully complete the RMA Form. The returned items will be tested only for the problems listed in the RMA Form, so End User should describe the problem clearly. Any physical damage or re-work done to the Product and any failure to return all Product parts & components will void the Guarantee and Warranty. The Product must be returned in its original condition and packing. Return shipping must be paid by End User and is non-refundable. Prior service & installation charges are non-refundable. All refunds are given on the Purchase Price actually paid by End User, after application of any discounts or credits. The cost of return shipping, any labor for work outside the Guarantee or Warranty and an eight (8%) restocking fee will be charged and deducted from the refund. Refunds are paid by Black Blade check, regardless of the form of the original purchase. Refund checks will be mailed 4-6 weeks after the return date of the merchandise. End User must print the RMA number legibly on top of the package -- **packages without valid RMA number will not be accepted.** Black Blade has no liability under the Guaranty, Warranty or otherwise for shortcomings, discrepancies, short-shipments or violations of the RMA Process. Any work done by Black Blade outside the scope of the Guarantee or Warranty shall be subject to Black Blade's standard labor rates, fees and charges.

5.4 Extended Warranty; Third Party Warranties. End User may purchase an extended Warranty from Black Blade for the Product or other items for periods following the Warranty Period. The terms and conditions of such Extended Warranties shall be as offered by Black Blade at such time. Black Blade will pass through to End User any Third Party Licensor warranties to the extent they may exist after the Warranty Period and to the extent permitted by such Third Party Licensors. Any Third Party Licensor claims by End User must be asserted directly with such third party manufacturers and Black Blade shall not have any liability therefor.

## 6. LIMITATIONS OF LIABILITY; INDEMNIFICATION

6.1 Limitations of Liability. BLACK BLADE SHALL NOT BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO, LOST REVENUE, LOST PROFITS, LOST DATA OR ANY OTHER LOSS ARISING OUT OF OR IN CONNECTION WITH THE SALE, USE OR INABILITY TO USE THE PRODUCT OR ANY ELEMENT OR COMPONENT THEREOF. BLACK BLADE'S LIABILITY FOR ANY AND ALL LOSSES AND DAMAGES ARISING OUT OF THIS AGREEMENT OR THE PRODUCT SHALL NOT EXCEED THE PRODUCT PURCHASE PRICE. End User acknowledges that Black Blade has set the Purchase Price of the Product in reliance upon the Warranty Disclaimers and Limitations of Liability set forth herein, which terms are an essential basis of the bargain between the parties.

### 6.2 Indemnification.

(a) By Black Blade. Subject to the terms and conditions of this Agreement, including Section 6.3(b) below, Black Blade hereby agrees to indemnify and hold End User harmless from and against any and all claims, liabilities, losses or damages, including attorneys' fees (collectively, "**Losses**") resulting from any third party claim that the use of the Product in accordance with the Specifications infringes any U. S. patent, trademark, copyright or other intellectual property right of such third party. BLACK BLADE MAKES NO REPRESENTATION OR WARRANTY REGARDING ANY THIRD PARTY TECHNOLOGY RIGHTS AND SHALL HAVE NO LIABILITY RELATING TO ANY THIRD PARTY TECHNOLOGY.

(b) Indemnification Conditions. Indemnification under Section 6.3(a) above is subject to the following conditions: (i) End User must notify Black Blade immediately upon receipt of any notice of a claim subject to possible indemnification, (ii) End User must keep Black Blade fully informed of any developments in connection with such claim, (iii) End User shall cooperate fully with Black Blade in the defense of any such claim, and (iv) Black Blade shall have the right to undertake the defense, compromise or settlement of any such claim on End User's behalf.

(c) By End User. End User hereby agrees to indemnify and hold Black Blade, and its officers, directors, employees, partners and agents, harmless from and against any and all Losses resulting from (i) any act or omission of End User or of any User of the Product, (ii) any breach or failure by End User or any User to comply with the Documentation or Specifications relating to use of the Product, or (iii) any material breach of this Agreement by End User or User.

6.3 Compliance with Laws; Product Notices. End User and its Users shall comply with all laws, rules and regulations applicable to use of the Product. End User shall not remove or tamper with any notices or labels affixed to the Product.

## 7. GENERAL PROVISIONS

7.1 Confidentiality. By purchasing and using the Product, End User and its Users will have access to proprietary and confidential information of Black Blade and its licensors. All non-public proprietary information received or learned by End User, including all data and material relating to the Intellectual Property, shall be and remain Black Blade's or its licensor's exclusive property. End User and its Users shall keep all such information confidential and shall not copy or disclose it to others without Black Blade's prior written approval.

7.2 Binding Effect; Assignments. This Agreement shall be binding upon the parties hereto and upon their successors and permitted assigns. Except in conjunction with the Transfer of the Product as a single integrated device, End User may not assign or transfer any right or benefit or delegate any duty or obligation under this Agreement without Black Blade's prior written consent.

7.3 Entire Agreement; Amendments; Waivers. This Agreement sets forth the complete and exclusive agreement between the parties relating to the subject matter hereof and merges and supersedes all prior agreements, representations and understandings between them. No amendment, modification or waiver of any provision of this Agreement shall be effective unless agreed by Black Blade in writing. No failure or delay in exercising any right or remedy hereunder shall constitute a waiver thereof.

7.4 Governing Law, Jurisdiction and Venue; Limitations on Causes of Action. This Agreement shall be governed by the laws of the Commonwealth of Virginia, excluding its principles of conflict of laws, and excluding the U.N. Convention on the International Sale of Goods. Exclusive jurisdiction and venue for any and all actions relating to this Agreement or the Product shall lie in the state courts located in Fairfax, Virginia or U.S. District Court for the Eastern District of Virginia located in Alexandria, Virginia, to which jurisdiction and venue is hereby consented to by each party. No legal action or proceeding related to or arising out of this Agreement may be brought more than two (2) years after the cause of action first accrued.

7.5 No Third Party Beneficiaries. No third parties are intended or shall be deemed to be third party beneficiaries of this Agreement.

7.6 Notices. All notices and communications under this Agreement shall be in writing and shall be sent by registered or certified mail, postage prepaid, to the receiving party at the address set forth in the Purchase Order or to such other address of which receiving party has given prior written notice. Any communication sent by facsimile shall be deemed to have been received five (5) days after the day properly sent.

7.7 Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable, the remaining provisions shall remain in full force and effect.

**Schedule A  
Manufacturer's Limited Warranty**

**1. Product Warranty**

(a) Product Limited Warranty. Subject to the terms and conditions of the EULA and this Schedule A, including Section 2 below, for a period of twelve (12) months after the date of shipment of the Product or any component thereof (the "**Warranty Period**"), whether installed or actually used, Black Blade represents and warrants to End User (and only End User) that such Product (i) will be free of material defects in workmanship and materials, and (ii) will perform substantially in accordance with the applicable Specifications under normal use and operation (collectively, the "**Product Warranty**"). Any defects for which written notice is not provided by End User during the Warranty Period, and for which the RMA Process is not fully complied with, shall not be covered by this Product Warranty.

(b) Prompt Inspection. End User shall thoroughly inspect the Product upon its receipt, including any and all devices, tools and items delivered therewith. End User shall notify Black Blade in writing of any short-shipment or "dead on arrival" deliveries related to the Product within ten (10) business days after End User's receipt thereof.

(c) Repair Warranty. For a period of three (3) months after any repair of the Product or component under the Product Warranty (a "**Repair**" and also a "**Warranty Period**"), Black Blade represents and warrants to End User only that the Repaired Product (i) will be free of material defects in workmanship and materials, and (ii) will perform substantially in accordance with the applicable Specifications under normal use and operation (the "**Repair Warranty**"). Should the 3-month Repair Warranty expire before the end of the original Product Warranty, the original 12-month Product Warranty shall also apply to such Repair. Any defective Repairs for which written notice is not provided by End User during the Repair Warranty Period, and for which the RMA Process is not fully complied with, shall not be covered by such Repair Warranty.

Any default occurring within an applicable Warranty Period will be repaired or replaced by Black Blade or other Authorized Maintenance Personnel so that the Product or item performs substantially in accordance with the Specifications.

Any defective device must be returned to Black Blade (Att'n: Warranty Claim Department), in accordance with the RMA Process and must be accompanied by a duly completed RMA Form, which will be checked against the terms of Warranty. The RMA Form must include such information as the Product Serial No., purchase date, Agreement Number, detailed description of failure and any other information requested by Black Blade, whether or not in the printed portions of the RMA Form.

(d) Maintenance. Any necessary repair work shall be conducted by Authorized Maintenance Personnel.

**2. Warranty Exclusions, Remedies & Disclaimers**

(a) Warranty Exclusions. The Product Warranty and Repair Warranty do not apply to the following deficiencies or non-conformities:

(i) Insignificant deviations from the Specifications, Documentation and any insignificant impairment of usability or consumption,

(ii) Normal wear and tear,

(iii) Damage caused from improper or careless handling by End User or Users, including improper storage and maintenance, violation of Product test requirements, excessive use, improper operating materials, unforeseen external influences and non-reproducible software errors,

(iv) Changes made or Repairs performed in an improper manner or by unauthorized personnel, and/or

(v) Any excluded cause or claim.

(b) Exclusive Remedy; Further Warranty Exclusions. END USER'S SOLE REMEDY UNDER THE PRODUCT WARRANTY AND REPAIR WARRANTY IS LIMITED TO THE REPLACEMENT OR REPAIR, AT BLACK BLADE'S OPTION, OF DEFECTIVE PRODUCTS, SOFTWARE AND/OR COMPONENTS. NOTWITHSTANDING THE PROVISIONS OF THIS SCHEDULE A OR THE EULA, THE PRODUCT WARRANTY AND REPAIR WARRANTY EXCLUDE, AND BLACK BLADE SHALL HAVE NO OBLIGATION TO REMEDY, ANY PRODUCT DEFECTS CAUSED OR MATERIALLY CONTRIBUTED TO BY: (a) ALTERATION, REPAIR, MAINTENANCE OR MODIFICATION OF THE PRODUCT BY ANY PERSON OR ENTITY OTHER THAN BLACK BLADE, (b) END USER'S IMPROPER STORAGE, MISHANDLING, ABUSE OR MISUSE OF THE PRODUCT; AND/OR (c) DAMAGE TO THE PRODUCT CAUSED BY FIRE, EXPLOSION, POWER FAILURE, LOSS OF CONNECTIVITY, SPAM, DENIAL OF SERVICE ATTACKS, BOTS, VIRUSES AND/OR ANY ACT OF NATURE.

(c) Disclaimers. EXCEPT AS EXPRESSLY SET FORTH IN THIS SCHEDULE A OR THE EULA, THE PRODUCT IS PROVIDED "AS IS" AND WITHOUT WARRANTY, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, NON-INTERFERENCE, INFORMATIONAL CONTENT, SYSTEM INTEGRATION AND ANY IMPLIED WARRANTIES FROM COURSE OF DEALING. BLACK BLADE DOES NOT WARRANT THAT THE PRODUCT OR COMPONENTS WILL BE ERROR FREE OR MEET END USER'S REQUIREMENTS. ALL BLACK BLADE WARRANTIES ARE SOLELY TO AND FOR THE BENEFIT OF END USER AND FOR NO OTHER PERSON OR ENTITY, INCLUDING BUT NOT LIMITED TO ANY OTHER USERS AND ANY CLIENTS OR CUSTOMERS OF END USER (*i.e.*, NO THIRD PARTY BENEFICIARIES).