

Eddyfi
Lyft™ Software and Service Plan (LSSP) / Lyft™ Software Licensing (LSL)
Terms

These terms govern the licensing of the Lyft Software (Lyft Software Licensing or LSL) and, as applicable, the offering of the Lyft Service – commercially marketed as the Lyft Software and Service Plan (LSSP) by Eddyfi (the “**Terms**”).

By purchasing the Lyft Instrument, you recognize that the Lyft Software is essential to operate the said Lyft Instrument and you agree to be bound by these Terms. If you disagree with any of the terms outlined herein, you may not use the Lyft Instrument or the Lyft Software under any circumstance.

1. Definitions

- 1.1. Eddyfi refers to Eddyfi NDT Inc., Eddyfi International LLC, or any other wholly Eddyfi-owned subsidiaries and affiliates.
- 1.2. The Lyft Instrument refers to an all-in-one, portable hardware device designed around the pulsed eddy current (PEC) technique. PEC is a non-destructive testing technique where a transient eddy current is established in an electrically conductive material and the properties of the induced magnetic field are used to characterize some features of the test material. The Lyft Instrument runs exclusively with the Lyft Software.
- 1.3. The Lyft Software or the Software refers to the source code that allows the use of the functionalities of the Lyft Instrument, including all media, printed materials and electronic documentation, and any updates, add-on components, upgrades, and/or supplements provided subsequent to the initial installed version at the purchase of a Lyft Instrument.
- 1.4. Licensee or Customer refers to the individual or single legal entity who acquires a Lyft Instrument, subscribes to the LSL or the LSSP, and agrees to use it under these Terms.
- 1.5. The licensing of the Lyft Software or LSL includes, from the renewal of the LSL, a 12-month Lyft Software license, and all software updates/upgrades for 12 months.
- 1.6. The Lyft Software and Service Plan or LSSP includes, from the date of delivery (INCOTERM 2010) of the Lyft Instrument or renewal of the LSSP, a 12-month Lyft Software license, an annual instrument calibration and 25-point preventive maintenance, all software updates/upgrades, all electronics / hardware and firmware updates/upgrades, a comprehensive warranty, which excludes however accidental or negligence damages, as well as technical support for 12 months. LSSP does not cover the Lyft probes, cables, and accessories.

2. Software License

- 2.1. The Software is licensed, not sold, only in accordance with the Terms.
- 2.2. The current license grants you, the Licensee, the non-exclusive right to use the Software on a Lyft Instrument.
- 2.3. THE SOFTWARE IS DESIGNED AND MANUFACTURED BY EDDYFI AND REMAINS ITS EXCLUSIVE PROPERTY. THE SOFTWARE IS NOT SOLD, BUT GRANTED UNDER LICENSE. The Licensee acknowledges that the Software is proprietary to Eddyfi, and that Eddyfi retains all rights, titles, and interest in the Software, including, without limitation, all copyrights and other proprietary rights. As more fully specified in 3.1, you may not use, reproduce, modify, sublicense, distribute, or dispose of the Software, in whole or in part, other than as permitted under the Terms. The rights granted herein do not convey any additional rights in the intellectual property of Eddyfi.

3. Software Restrictions

3.1. You must not and must not permit others to:

- a) Modify, adapt, reproduce, or translate the Software.
- b) Reverse engineer, decompile, decode, decrypt, disassemble, or otherwise attempt to discover the source code of the Software or in any way derive source code from the Software or create derivative rights from the Software.
- c) Circumvent technological measures intended to control access to the Software or develop, distribute, or use with the Software any products that circumvent the technological measures.
- d) Rent, lease, sell, distribute, loan, transmit, sublicense, assign, or transfer the Software or your rights in the Software, or authorize any portion of the Software to be copied onto another's device.

4. Lyft Software and Service Plan

- 4.1. Eddyfi will provide the Customer with the licensing of the Lyft Software (LSL) or the Lyft Software and Service Plan (LSSP), as the case may be and as respectively described in 1.5 and 1.6. Such descriptions may be the object of minor reviews and amendments at Eddyfi's discretion.
- 4.2. Eddyfi may limit or suspend the services offered under the LSL and LSSP if the Customer uses the Lyft Software and the Lyft services in an abusive, unauthorized or fraudulent manner, as determined by Eddyfi.
- 4.3. Eddyfi shall not be required to provide any Lyft services relating to problems or issues arising from (i) the Customer's use of the Lyft Instrument or related products and equipment in a manner that they were not designed for; (ii) the Customer's negligence, misuse, or modification of the Lyft Instrument or related products and equipment; (iii) versions of the Lyft Software other than the most recent version available at the time of service.

5. Subscription, LSL or LSSP Renewal, and Software Activation

- 5.1. The initial 12 months LSSP, as the case may be, is paid up front and delivered with the Lyft Instrument. Afterward, either the LSL or the LSSP must be renewed annually to ensure the functionality of the Lyft Instrument. The Terms shall apply to any renewal.
- 5.2. The initial LSSP and respective renewals of LSL or LSSP thereafter will expire exactly one year from the delivery date or the renewal date. Failure to make the timely renewal payment for the LSL or the LSSP will result in the inoperability of the Lyft Instrument.
- 5.3. The Software may require you to take certain steps to activate your Software or validate your LSL or your LSSP subscription. Failure to activate or validate the LSL or the LSSP subscription, or a determination by Eddyfi as abusive, fraudulent or unauthorized use of the Software contrary to section 3 may result in reduced functionality, inoperability of the Software, or a termination or suspension of the subscription.
- 5.4. Both the LSL and the LSSP will be offered by Eddyfi for five (5) years from the date of the Lyft Instrument's initial purchase and delivery (INCOTERM 2010). After five (5) years, Eddyfi may require that the Customer upgrades to the new generation of the Lyft Instrument if it is available at that time.

6. Warranty

- 6.1. The Software is provided "AS IS." To the maximum extent permitted by law, Eddyfi disclaims all warranties express or implied, including the implied warranties of non-infringement, merchantability, and fitness for a particular purpose. Eddyfi further disclaims any warranty that (a) the Software will meet your requirements or will be or error-free; (b) the results that may be obtained from the use of the Software will be effective, accurate, or reliable; (c) the quality of the Software will meet your expectations; or that (d) all errors or defects in the Software will be corrected.
- 6.2. Eddyfi will use commercially reasonable efforts to provide the Lyft services in a professional manner, but Eddyfi cannot guarantee that every question or problem raised by Customer can or will be resolved.
- 6.3. EXCEPT FOR ANY WARRANTY, CONDITION, REPRESENTATION, OR TERM TO THE EXTENT TO WHICH THE SAME CANNOT OR MAY NOT BE EXCLUDED OR LIMITED BY THE LAW APPLICABLE TO THE CUSTOMER IN ITS JURISDICTION, EDDYFI MAKES, AND THE CUSTOMER RECEIVES, NO WARRANTIES OR CONDITIONS OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, RELATED TO OR ARISING IN ANY WAY OUT OF THE TERMS (INCLUDING THE LICENSE GRANTED HEREIN AND THE LSL OR THE LSSP OR THE PROVISION OF MATERIALS OR SERVICES UNDER THE SAID TERMS (INCLUDING THE LYFT SOFTWARE AND SERVICE PLAN). EDDYFI SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7. Limitation of Liability

- 7.1. EDDYFI'S LIABILITY UNDER THE LICENSE GRANTED HEREIN AND THE SERVICES RENDERED UNDER THE LSL OR THE LSSP ARE LIMITED TO THE AMOUNTS PAID BY THE CUSTOMER FOR EITHER THE LSL OR THE LSSP DEPENDING ON THE SUBSCRIPTION CHOSEN. IN NO EVENT SHALL EDDYFI HAVE ANY LIABILITY FOR ANY SPECIAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATIONS, DAMAGES FOR LOST PROFITS, LOSS OF DATA, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OF EQUIPMENT OR FACILITIES, OR INTERRUPTION OF BUSINESS, ARISING IN ANY WAY FROM THESE TERMS UNDER ANY THEORY OF LIABILITY, WHETHER OR NOT EDDYFI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

8. Indemnity

- 8.1. The Customer agrees to indemnify and hold Eddyfi, its officers, directors, agents, employees, and partners harmless from and against any and all claims, liabilities, damages (actual and consequential), losses and expenses (including legal and other professional fees) arising from or in any way related to any third-party claims relating to the license granted herein, the services rendered under the LSL or the LSSP or your use of the Lyft Instrument, any violation of these Terms or any other actions connected with your use of the Software (including all actions taken under your account).

9. Termination

- 9.1. The Customer may stop using the Lyft Instrument and the LSL or the LSSP at any time with no refund from Eddyfi.
- 9.2. Notwithstanding the aforementioned, Eddyfi may terminate these Terms including the license granted herein and the services offered under the LSL or the LSSP, if:

- a) the Customer breaches any provisions of these Terms (or acts in a manner that clearly shows you do not intend to, or are unable to, comply with these Terms);
 - b) the Customer fails to make the timely payment of fees for the LSL or the LSSP, if any; or
 - c) Eddyfi is required to do so by law (for example, where the provisions of the Software or LSL or LSSP to you are, or become, unlawful).
- 9.3. Upon expiration or termination of these Terms, your indemnification obligations, our warranty disclaimers or limitations of liabilities, and dispute resolution provisions stated in these Terms will survive.

10. Export

- 10.1. The Licensee may not export the Software to countries on the Canadian Area Control List (ACL) or to entities and persons that are ineligible under the Export and Import Permits Act and its Regulations to receive commodities, technology and software. Licensee agrees to comply with all export and import laws and restrictions and regulations of any Canadian agency or authority and with all applicable export and import laws and restrictions and regulations of any foreign agency or authority, and not to export, re-export or import the Software or any direct product of the Software thereof in violation of any such restrictions, laws or regulations.

11. Governing Law and Jurisdiction

- 11.1. These Terms shall be construed and enforced in accordance with the laws in force in the Province of Quebec, Canada without giving effect to rules on conflict of laws.
- 11.2. At the option of Eddyfi, these Terms may also be construed and enforced in accordance with the laws in force in any other jurisdiction where the Lyft Instrument may be located, without giving effect to their rules on conflict of laws. At the exclusive discretion of Eddyfi, appropriate proceedings may also be filed in all jurisdictions where the Licensee or the Lyft Instrument is or may be located.
- 11.3. The parties agree that any claim whatsoever arising from or related to the interpretation, application, performance, term, validity, termination, or effects of these Terms shall be submitted to the Judicial District of Quebec City (Province of Quebec, Canada) for the hearing of said claims at the exclusion of any other jurisdiction that may otherwise be competent under the provisions of the law. The Customer hereby waives any claims which it may now or hereafter have that the aforementioned jurisdiction is not a convenient or proper venue for any proceedings in relation to these Terms.

12. Complete Understanding

- 11.4. These Terms constitute the entire Agreement between the parties concerning the use of the Software and the LSL or the LSSP and replaces any previous written or verbal debate, negotiation, or agreement. No modification to this license is valid without the express written consent of Eddyfi.

13. Trademarks

- 13.1. Eddyfi and the Eddyfi logo are registered trademarks of Eddyfi NDT Inc. Lyft, SmartPULSE, and the Lyft logo are trademarks or registered trademarks of Eddyfi International LLC.