

## English

PLEASE READ THE FOLLOWING SOFTWARE LICENSE AGREEMENT ("LICENSE") CAREFULLY BEFORE USING THE SOFTWARE OR DOWNLOADING THE SOFTWARE UPDATE. THIS LICENSE GOVERNS THE PURCHASE, USE, UPDATE AND RENEWAL OF USE OF SOTI SOFTWARE. BY INSTALLING THE SOFTWARE, YOU ARE AGREEING TO BE LEGALLY BOUND BY THE TERMS AND CONDITIONS OF THIS LICENSE AS WELL AS SOTI'S TERMS OF USE AND PRIVACY POLICY PROVIDED FOR ON THE SOTI WEBSITE. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE DO NOT INSTALL OR USE THE SOFTWARE AND PROMPTLY EXIT THE SETUP SOFTWARE AND RETURN ALL ACCOMPANYING ITEMS (INCLUDING ALL FORMS OF DOCUMENTATION) TO THE ORIGINAL PLACE OF ORIGIN.

### 1. DEFINITIONS

"Device" refers to any RIM device/instrument that operates using a version of the BlackBerry OS version 4.6 and above.

"Documentation" means all reference materials provided with the Software.

"Licensee" means the end user or the entity, who agrees to the terms and conditions of this license agreement and to whom this License is granted. "You" and "Your" will be understood as the Licensee interchangeably as required in the wording of the License for comprehension purposes.

"Software" means the PocketController Pro for BlackBerry software and the following components:

- SOTI PocketController Pro Device Agent
- SOTI PocketController Pro Desktop Console

"SOTI" means SOTI Incorporated the licensor of the Software.

### 2. PROPRIETARY RIGHTS

The Software, the components and all related Documentation are licensed, not sold, to the Licensee by SOTI for use only under the terms of this License. SOTI reserves all rights not expressly granted to the Licensee.

The Software, including but not limited to the source code, its components, Documentation, design and structure, and any copies thereof is the proprietary property of SOTI and is protected by copyright laws and international treaty provisions. Title to the Software, or any copy, modification or merged portion of the Software, shall at all times remain with SOTI.

BlackBerry®, RIM®, Research In Motion®, SureType® and related trademarks, names and logos are the property of Research In Motion Limited and are registered and/or used in the U.S. and countries around the world. Used under license from Research In Motion Limited.

### 3. GRANT OF LICENSE

SOTI hereby grants, upon payment of the License fee, the Licensee a non-transferable, nonexclusive, worldwide, perpetual right to:

- a) Install and use the Software on the number of Devices this license is purchased for. This is not a concurrent use license for Devices;
- b) Make one copy of the Software solely for backup or archival purposes, or
- c) Transfer the Software to a single hard disk or other memory device provided the Licensee keeps the original solely for backup or archival purposes, or
- d) Transfer the Software to a single system, which includes a host computer with a hard disk and one Device, provided you keep the original solely for backup or archival purposes. The backup copy must include all copyright information contained in the original. You may not copy the written materials accompanying the Software.

#### **4. RESTRICTIONS**

Except as and only to the extent expressly permitted in this License and by applicable law, the Licensee may not:

- (a) transfer, sublicense, lend or rent the Software or use, copy (with the exception of Article 3 b), modify, resell or distribute the Software in whole or part;
- (b) decompile, reverse engineer, disassemble, modify, or create derivative works of the Software or any part thereof.

If You do any of the foregoing, your rights under this license will automatically terminate. Such termination shall be in addition and not in lieu of any criminal, civil or other remedies available to SOTI.

#### **5. LIMITED WARRANTY**

Except as specifically stated in this License, the Software is provided and licensed "as is" without warranty of any kind, either express or implied, including, but not limited to the implied warranties of merchantability and fitness for a particular purpose. SOTI warrants that the Software will substantially perform the functions or generally conform to the Software's specifications published by SOTI and included in this package.

SOTI does not warrant that the functions contained in the Software will meet Licensee's requirements or that the operation of the Software will be entirely error free or appear precisely as described in the Software Documentation. SOTI does not guarantee the performance of the software for use under every possible configuration, including but not limited to failure of the Software due to third parties software or the Licensee's computer network.

If the Software does not substantially perform the functions or generally conform to the Software's specifications published by SOTI, Licensee may within thirty (30) days of delivery write to SOTI to report a significant defect. If SOTI is unable to correct the defect within ninety (90) days of receiving report, Licensee may terminate the license and this agreement by returning the Software with the original receipt and money paid by Licensee will be refunded.

#### **6. LIMITATION OF LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL SOTI BE LIABLE FOR DAMAGES OF THIRD PARTIES CLAIMED AGAINST THE LICENSEE OR PERSONAL INJURY, DEATH, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF REVENUE, OR FAILURE TO REALIZE EXPECTED SAVINGS, LOSS OF DATA, BUSINESS INTERRUPTION AND/OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES INCLUDING COSTS ASSOCIATED WITH DATA USAGE OVER COMMUNICATION NETWORKS (E.G. CELLULAR), ARISING OUT OF OR RELATED TO LICENSEES USE OR INABILITY TO USE THE SOFTWARE, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF SOTI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER WILL SOTI BE LIABLE FOR ANY DIRECT DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, ANY ALLEGED OR ACTUAL IMPROPER USE OR INSTALLATION OF THE SOFTWARE BY LICENSEE, ALLEGED OR ACTUAL NEGLIGENT ACTS OR OMISSIONS, WILLFUL MISCONDUCT, FRAUD OR FAILURE OF THE SOFTWARE DUE TO THIRD PARTIES SOFTWARE OR THE LICENSEE'S COMPUTER NETWORK. IN ANY CASE SOTI'S TOTAL LIABILITY SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY LICENSEE FOR THE SOFTWARE OR FIVE HUNDRED UNITED STATE DOLLARS (\$500 USD) WHICHEVER AMOUNT IS LESS.

## 7. MISCELLANEOUS

- 7.1 Term and Termination. This License is perpetual. Licensee rights under this License will terminate automatically without notice from SOTI if Licensee fails to comply with any term(s) of this License which may be updated and modified from time to time by SOTI without providing the Licensee with prior notification. Upon the termination of this License, Licensee shall cease all use of the Software and destroy all copies, full or partial, of the Software.
- 7.2 Applicable law. This License shall be governed by the laws of the Province of Ontario and by the Federal Laws of Canada applicable in the Province of Ontario.
- 7.3 Severability. If any part of this License is found to be illegal, unenforceable, or invalid, the remaining portions of this License will remain in full force and effect.
- 7.4 Waiver. Neither the failure nor any delay by any Party in exercising any right under this License will operate as a waiver of such right.
- 7.5 Amendment. This License may only be amended with a signed document that states it is changing this License.
- 7.6 Notice. Any questions or concerns regarding this License should be made in writing to the following:

SOTI Inc, 5770 Hurontario Street, Suite 1100, Mississauga, Ontario, Canada, L5R 3G5  
Attn: Legal / Contracts  
Email: legal@soti.net  
Phone: + 1 905 624 9828 or 1 888 624 9828  
Fax: + 1 905 624 3242

## 8. PRODUCT SUPPORT AND MAINTENANCE SERVICES

The License includes twelve (12) months of Product Support and Maintenance Services (“Services”). The following Services are included:

- SOTI Technical Support Service  
SOTI will provide support by telephone, email and via live remote sessions to Licensee between the hours of 9:00 A.M. and 5:00 P.M. EST, Monday through Friday, excluding Canadian statutory holidays. Support Services include the following:
  - Phone Support Service: +1-905-624-9828 or toll free in North America 1-888-624-9828
  - Email Support Service: support@soti.net
  - Live Remote Support Service
- SOTI Skin Catalogue Service
- Software upgrades (Major & Minor releases)