# **NVIDIA cuDNN License Agreement**

# **Important Notice**

READ CAREFULLY: This Software License Agreement ("Agreement") for NVIDIA cuDNN, including computer software and associated documentation ("Software"), is the Agreement which governs use of the SOFTWARE of NVIDIA Corporation and its subsidiaries ("NVIDIA") downloadable herefrom. By downloading, installing, copying, or otherwise using the SOFTWARE, You (as defined below) agree to be bound by the terms of this Agreement. If You do not agree to the terms of this Agreement, do not download the SOFTWARE.

### **Recitals**

Use of NVIDIA's SOFTWARE requires three elements: the SOFTWARE, an NVIDIA GPU or application processor ("NVIDIA Hardware"), and a computer system. The SOFTWARE is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The SOFTWARE is not sold, and instead is only licensed for Your use, strictly in accordance with this Agreement. The NVIDIA Hardware is protected by various patents, and is sold, but this Agreement does not cover the sale or use of such hardware, since it may not necessarily be sold as a package with the SOFTWARE. This Agreement sets forth the terms and conditions of the SOFTWARE only.

# 1. Definitions

# 1.1. Licensee

"You", "Your" or "Licensee" shall mean the entity or individual that downloads and uses the SOFTWARE.

# 1.2. Software

"SOFTWARE" shall mean the deliverables provided pursuant to this Agreement. SOFTWARE may be provided in either source or binary form, at NVIDIA's discretion.

# 2. Grant of License

# 2.1. Rights and Limitations of Grant

Provided that Licensee complies with the terms of this Agreement, NVIDIA hereby grants Licensee the following limited, non-exclusive, non-transferable, non-sublicensable right to use the SOFTWARE -- and, if the SOFTWARE is provided in source form, to compile the SOFTWARE -- with the following limitations:

### 2.1.1. Usage Rights

Licensee may install and use multiple copies of the SOFTWARE on a shared computer or concurrently on different computers, and make multiple back-up copies of the SOFTWARE, solely for Licensee's use within Licensee's Enterprise. "Enterprise" shall mean individual use by Licensee or any legal entity (such as a corporation or university) and the subsidiaries it owns by more than 50 percent.

### 2.1.2. Additional Licensing Obligations

Licensee acknowledges and agrees that its use of certain third party components included with the SOFTWARE may be subject to additional licensing terms and conditions as set forth or referenced in Attachment A of this Agreement.

### 2.1.3. Limitations

#### No Reverse Engineering

If the SOFTWARE is provided in binary form, Licensee may not reverse engineer, decompile, or disassemble the SOFTWARE, nor attempt in any other manner to obtain the source code.

#### No Separation of Components

The SOFTWARE is licensed as a single product. Except as authorized in this Agreement, Software component parts of the Software may not be separated for use on more than one computer, nor otherwise used separately from the other parts.

#### No Rental

Licensee may not rent or lease the SOFTWARE to someone else.

#### **No Modifications**

If the SOFTWARE is provided in source form, Licensee may not modify or create derivative works of the SOFTWARE.

### 3. Term and Termination

This Agreement will continue in effect for two (2) years ("Initial Term") after Your initial download and use of the SOFTWARE, subject to the exclusive right of NVIDIA to terminate as provided herein. The term of this Agreement will automatically renew for successive one (1) year renewal terms after the Initial Term, unless either party provides to the other party at least three (3) months prior written notice of termination before the end of the applicable renewal term.

This Agreement will automatically terminate if Licensee fails to comply with any of the terms and conditions hereof. In such event, Licensee must destroy all copies of the SOFTWARE and all of its component parts.

#### **Defensive Suspension**

If Licensee commences or participates in any legal proceeding against NVIDIA, then NVIDIA may, in its sole discretion, suspend or terminate all license grants and any other rights provided under this Agreement during the pendency of such legal proceedings.

### 4. Copyright

All rights, title, interest and copyrights in and to the SOFTWARE (including but not limited to all images, photographs, animations, video, audio, music, text, and other information incorporated into the SOFTWARE), the accompanying printed materials, and any copies of the SOFTWARE, are owned by NVIDIA, or its suppliers. The SOFTWARE is protected by copyright laws and international treaty provisions. Accordingly, Licensee is required to treat the SOFTWARE like any other copyrighted material, except as otherwise allowed pursuant to this Agreement and that it may make one copy of the SOFTWARE solely for backup or archive purposes.

RESTRICTED RIGHTS NOTICE. Software has been developed entirely at private expense and is commercial computer software provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the U.S. Government or a U.S. Government subcontractor is subject to the restrictions set forth in the Agreement under which Software was obtained pursuant to DFARS 227.7202-3(a) or as set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software - Restricted Rights clause at FAR 52.227-19, as applicable. Contractor/manufacturer is NVIDIA, 2701 San Tomas Expressway, Santa Clara, CA 95050.

# 5. Applicable Law

This Agreement shall be deemed to have been made in, and shall be construed pursuant to, the laws of the State of Delaware. The United Nations Convention on Contracts for the International Sale of Goods is specifically disclaimed. The courts of Santa Clara County, California shall have exclusive jurisdiction and venue over any dispute arising out of or relating to this Agreement.

# 6. Disclaimer of Warranties and Limitations on Liability

# 6.1. No Warranties

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE IS PROVIDED "AS IS" AND NVIDIA AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES, EITHER

EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT.

### **6.2.** No Liability for Consequential Damages

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL NVIDIA OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE, EVEN IF NVIDIA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

### 6.3. No Support

NVIDIA has no obligation to support or to provide any updates of the Software.

### 7. Miscellaneous

### 7.1. Feedback

Notwithstanding any Non-Disclosure Agreement executed by and between the parties, the parties agree that in the event Licensee or NVIDIA provides Feedback (as defined below) to the other party on how to design, implement, or improve the SOFTWARE or Licensee's product(s) for use with the SOFTWARE, the following terms and conditions apply the Feedback:

# 7.1.1. Exchange of Feedback

Both parties agree that neither party has an obligation to give the other party any suggestions, comments or other feedback, whether verbally or in written or source code form, relating to (i) the SOFTWARE; (ii) Licensee's products; (iii) Licensee's use of the SOFTWARE; or (iv) optimization/interoperability of Licensee's product with the SOFTWARE (collectively defined as "Feedback"). In the event either party provides Feedback to the other party, the party receiving the Feedback may use any Feedback that the other party voluntarily provides to improve the (i) SOFTWARE or other related NVIDIA technologies, respectively for the benefit of NVIDIA; or (ii) Licensee's product or other related Licensee technologies, respectively for the benefit of Licensee. Accordingly, if either party provides Feedback to the other party, both parties agree that the other party and its respective licensees may freely use, reproduce, license, distribute, and otherwise commercialize the Feedback in the (i) SOFTWARE or other related technologies; or (ii) Licensee's products or other related technologies, respectively, without the payment of any royalties or fees.

### 7.1.2. Residual Rights

Licensee agrees that NVIDIA shall be free to use any general knowledge, skills and experience, (including, but not limited to, ideas, concepts, know-how, or techniques) ("Residuals"), contained in the (i) Feedback provided by Licensee to NVIDIA; (ii) Licensee's products shared or disclosed to NVIDIA in connection with the Feedback; or (c) Licensee's confidential information voluntarily provided to NVIDIA in connection with the Feedback, which are retained in the memories of NVIDIA's employees, agents, or contractors who have had access to such Residuals. Subject to the terms and conditions of this Agreement, NVIDIA's employees, agents, or contractors shall not be prevented from using Residuals as part of such employee's, agent's or contractor's general knowledge, skills, experience, talent, and/or expertise. NVIDIA shall not have any obligation to limit or restrict the assignment of such employees, agents or contractors or to pay royalties for any work resulting from the use of Residuals.

### 7.1.3. Disclaimer of Warranty

FEEDBACK FROM EITHER PARTY IS PROVIDED FOR THE OTHER PARTY'S USE "AS IS" AND BOTH PARTIES DISCLAIM ALL WARRANTIES, EXPRESS, IMPLIED AND STATUTORY INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. BOTH PARTIES DO NOT REPRESENT OR WARRANT THAT THE FEEDBACK WILL MEET THE OTHER PARTY'S REQUIREMENTS OR THAT THE OPERATION OR IMPLEMENTATION OF THE FEEDBACK WILL BE UNINTERRUPTED OR ERROR-FREE.

# 7.1.4. No Liability for Consequential Damages

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE FEEDBACK, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

# 7.2. Freedom of Action

Licensee agrees that this Agreement is nonexclusive and NVIDIA may currently or in the future be developing software, other technology or confidential information internally, or receiving confidential information from other parties that maybe similar to the Feedback and Licensee's confidential information (as provided in Section 7.1.2 above), which may be provided to NVIDIA in connection with Feedback by Licensee. Accordingly, Licensee agrees that nothing in this Agreement will be construed as a representation or inference that NVIDIA will not develop, design, manufacture, acquire, market products, or have products developed, designed, manufactured,

acquired, or marketed for NVIDIA, that compete with the Licensee's products or confidential information.

### 7.3. No Implied Licenses

Under no circumstances should anything in this Agreement be construed as NVIDIA granting by implication, estoppel or otherwise, (i) a license to any NVIDIA product or technology other than the SOFTWARE; or (ii) any additional license rights for the SOFTWARE other than the licenses expressly granted in this Agreement.

### 7.4. Miscellaneous

If any provision of this Agreement is inconsistent with, or cannot be fully enforced under, the law, such provision will be construed as limited to the extent necessary to be consistent with and fully enforceable under the law. This Agreement is the final, complete and exclusive agreement between the parties relating to the subject matter hereof, and supersedes all prior or contemporaneous understandings and agreements relating to such subject matter, whether oral or written. This Agreement may only be modified in writing signed by an authorized officer of NVIDIA. Licensee agrees that it will not ship, transfer or export the SOFTWARE into any country, or use the SOFTWARE in any manner, prohibited by the United States Bureau of Industry and Security or any export laws, restrictions or regulations.

### 7.5. Survival

The parties agree that the following sections of the Agreement will survive the termination of the License: Section 4, Section 5, Section 6, and Section 7.

# 8. Attachment A

# **Additional Licensing Obligations**

The following third party components included in the SOFTWARE are licensed to Licensee pursuant to the following terms and conditions:

1. Some of the cuDNN Library routines were derived from code developed by the University of Tennessee and are subject to the Modified Berkeley Software Distribution License as follows:

```
Copyright (c) 2010 The University of Tennessee.

All rights reserved.

Redistribution and use in source and binary forms, with or without modification, are permitted provided that the following conditions are met:

* Redistributions of source code must retain the above copyright
```

- notice, this list of conditions and the following disclaimer.
- \* Redistributions in binary form must reproduce the above copyright notice, this list of conditions and the following disclaimer listed in this license in the documentation and/or other materials provided with the distribution.
- \* Neither the name of the copyright holders nor the names of its contributors may be used to endorse or promote products derived from this software without specific prior written permission.

THIS SOFTWARE IS PROVIDED BY THE COPYRIGHT HOLDERS AND CONTRIBUTORS "AS IS" AND ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE DISCLAIMED. IN NO EVENT SHALL THE COPYRIGHT OWNER OR CONTRIBUTORS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION) HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OF THIS SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.