



VMWARE EQUIPMENT TERMS FOR DEVICES

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These VMware Equipment Terms for Devices (“Terms”) are between you and VMware. “You” means you individually or the entity that you represent. “VMware” means VMware, Inc., a Delaware corporation, if Your address is in the United States, or VMware International Unlimited Company, a company organized and existing under the laws of Ireland, if Your address is outside the United States. Capitalized terms used in these Terms are defined throughout these Terms and in Section 11 (“Definitions”).

1. EQUIPMENT; GENERALLY.

- 1.1. **Devices.** You may use the Devices specified in an Order accepted by VMware, subject to these Terms. If Your Order is for the purchase of Devices, Section 2 applies to You. If Your Order is for the rental of Devices, Section 3 applies to You.
- 1.2. **Territory.** You may only use and install Device(s) in the Territory.
- 1.3. **Acceptance of Orders; Delivery.** All ordering, invoicing, payment, shipment, and cancellation terms for Your Order will be as agreed between You and Your chosen VMware authorized channel partner. VMware will Deliver the Device(s) to the VMware authorized channel partner subject to the VMware Equipment Delivery Policies found at www.vmware.com/download/eula.html. Orders for Device(s) are deemed to be accepted upon Delivery of the Device(s) specified in the Order. VMware will use reasonable commercial efforts to Deliver the Device(s) to the VMware authorized channel partner within a reasonable time. The VMware authorized channel partner will be responsible for directing its carrier to transport the Device(s) to the ship-to address, as agreed between You and Your chosen VMware authorized channel partner.
- 1.4. **Installation.** As between You and VMware, You are responsible for installation of the Device(s), except when additional On-site Services have been ordered as described in Section 9 below.
- 1.5. **Software.** Any VMware software included with the Device(s) is governed by separate terms, available at <https://www.vmware.com/download/eula.html>. You may only use that software in accordance with those terms and only in connection with Your use of Device(s).

2. DEVICE PURCHASES.

- 2.1. If You are purchasing Device(s):
 - (i) title passes to You on Delivery of each Device;
 - (ii) the Equipment Warranty in Section 5.1 begins at the earlier date of (a) Delivery or (b) the start date of an applicable Subscription Term, and ends 12 months from the start date of an applicable Subscription Term. You may purchase additional warranty and replacement services, which are described in the VMware Hardware Replacement Services Datasheet;
 - (iii) risk of loss for Devices transfers from VMware to the VMware authorized channel partner upon Delivery and remains with the VMware authorized channel partner until the Device is delivered to You; and
 - (iv) You are solely responsible for Your data and bear all risk of data loss as a result of Your use of Devices.

3. DEVICE RENTALS.

- 3.1. **General.** This Section 3 applies if You rent the Device for a Rental Period as specified in an Order.
- 3.2. **Risk of Loss.** Risk of loss for Devices transfers from VMware to the VMware authorized channel partner upon Delivery and remains with the VMware authorized channel partner until the Device is delivered to You. As between You and VMware, risk of loss for a Device remains with You until it is returned to VMware after expiry of the Rental Period or disposed of pursuant to these Terms.
- 3.3. **Return of Devices.** Upon expiration or any earlier termination of the Rental Period, You must either: (i) return the Device(s) to VMware, at Your own cost, within 30 days of the expiry of the Rental Period if returning from within the United States or 45 days of the expiry of the Rental Period if returning from outside the United States, or (ii) if the Rental Period is for 36 months or more, You may elect not to return the Device(s) to VMware in which case You must dispose of the Device(s), in accordance with all applicable laws. In such circumstances, You will be deemed to have elected to dispose of the Device(s) rather than return it to VMware if the Device(s) are not received by VMware within the time for return as stated in this Section. If You return the Device(s), it must be returned in the same condition as it was delivered to You, reasonable wear and tear excepted. You must not use, or authorize the use by others of,

the Device(s) beyond the expiry of the Rental Period. Before returning or disposing of the Device(s), You are responsible, at Your own cost, for de-installing any data storage devices placed into the Device(s) and erasing any data stored in the Device(s).

3.4. Substitution. During the Rental Period, VMware may require You to accept substitute Device(s), which will be at least functionally equivalent to the original Device(s) delivered. If replacement Device(s) are delivered to You, You must return the original Device(s) (at VMware's cost) following the instructions provided by VMware. These Terms will apply to any replacement Device(s).

3.5. Title. VMware retains title to Device(s) at all times, except if You elect not to return Device(s) in accordance with Section 3.3(ii) in which case title passes to You at the end of the Rental Period.

3.6. Protection of Devices. For the Rental Period, You must keep adequate insurance to protect the parties' respective interests in the Devices in full force and effect. You are responsible for any damage to or loss or destruction of the Device(s) during the Rental Period, and if You return the Device(s) on expiry of the Rental Period, during shipment of the Device(s) back to VMware.

3.7. Warranty. Section 5.1 (Equipment Warranty) applies for the Rental Period.

4. RESTRICTIONS ON USE.

4.1. You must not resell, lease, abandon (other than disposal in accordance with Section 3.3) or give away any Device(s).

4.2. You must not use the Device(s):

- (i) in any way prohibited by law, regulation, or governmental order or decree;
- (ii) to violate any rights of others;
- (iii) to try to gain unauthorized access to, test the vulnerability of, or disrupt the Device(s) or any other service, device, data, account, or network;
- (iv) to distribute spam or malware;
- (v) in a way that could harm the Device(s) or impair anyone else's use of it;
- (vi) in any way intended to work around the Device(s)'s technical limitations;
- (vii) to disable or defeat any capacity-limiting feature of the Device(s), or otherwise use Device(s) or associated VMware software or service offerings at a greater capacity rate than the rate for which You have subscribed;
- (viii) with any unsupported hardware or software (as described in the applicable Documentation); or
- (viii) to rent access to or use of the Devices to third parties, except your Affiliates, unless you are enrolled in a VMware partner program that expressly authorizes that use.

4.3. You must not:

- (i) allow anyone other than VMware or its designee to service Device(s);
- (ii) allow any third party to use the Device(s), other than your Affiliates or a third-party IT service provider who is providing IT services to You on Your premises; or
- (iii) without VMware's express consent encumber, pledge, or place or caused to be placed any security interest on any Device.

4.4 From time to time VMware may request You to provide information to confirm Your compliance with these Terms. You must comply with any requests from VMware for such information within a reasonable time, but in any event within ten (10) business days of receipt of the request.

5. LIMITED WARRANTY.

5.1. Equipment Warranty. VMware warrants that, during the applicable warranty period, Device(s) will be free from material defects in materials and workmanship and will perform substantially in accordance with the applicable Documentation. The warranty coverage for the microcode, firmware and operating system software that enables Device(s) to perform as described in the Documentation will be no less than that which applies to the applicable Device(s). VMware is the only party authorized to perform warranty services on Device(s). If You experience a warranty issue, please see: <https://kb.vmware.com/s/article/53907>. VMware will perform all warranty repairs and/or replacements in accordance with the VMware Hardware Replacement Services Datasheet.

5.2. Exclusions. The Equipment Warranty in Section 5.1 does not apply in relation to problems that arise from: (i) any third-party items or services with which the Device(s) is used or other causes beyond VMware's control; (ii) installation, operation, or use not in accordance with VMware's instructions or applicable Documentation; (iii) use in an environment, in a manner, or for a purpose for which the Device(s) were not designed; (iv) any modification, alteration, or repair by anyone other than VMware or its authorized

representatives; (v) causes attributable to normal wear and tear; (vi) use directly or indirectly in supporting activities prohibited by U.S. or other export regulations; (vii) use by parties appearing on the most current U.S. export exclusion list; (viii) relocation to countries subject to U.S. trade embargo or restrictions; or (iv) installation, operation or use of the Device(s) after expiry of the applicable warranty period. VMware has no obligation for Device(s) purchased from any entity other than VMware or a VMware authorized channel partner. VMware has no obligation for Device(s) used outside the Territory without VMware's consent. Device(s) are not fault-tolerant and are not designed or intended for use in hazardous environments requiring fail-safe performance, such as any applications in which the failure of the Device(s) could lead directly to death, personal injury, or physical or property damage (collectively, "High-Risk Activities"). VMware expressly disclaims any express or implied warranty of fitness for use for or in relation to High-Risk Activities.

- 5.3. Remedies.** If You notify VMware of a warranty claim during the applicable warranty period, then VMware will, at its sole option, either remedy the non-compliance or replace the affected Device(s) (with new or refurbished parts) at VMware's discretion, pursuant to the VMware Hardware Replacement Services Datasheet. If instructed by VMware, You must return to VMware the applicable defective Device(s). If You receive a replacement but do not return the defective item to VMware, then You must pay VMware for that item. This Section 5.3 states VMware's entire liability and Your exclusive remedy for breach of the Equipment Warranty in Section 5.1, above.
- 5.4. DISCLAIMER OF WARRANTIES.** OTHER THAN THE LIMITED WARRANTY SET FORTH IN SECTION 5.1 ABOVE, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, VMWARE, FOR ITSELF AND ITS SUPPLIERS, DISCLAIMS ALL WARRANTIES RELATING TO THE DEVICE(S) OR TO ANY MATERIALS OR SERVICES PROVIDED TO YOU UNDER THESE TERMS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. VMWARE AND ITS SUPPLIERS DO NOT WARRANT THAT DEVICE(S) WILL OPERATE UNINTERRUPTED OR WILL BE FREE FROM DEFECTS OR ERRORS, OR THAT ANY DEVICE(S) WILL MEET (OR ARE DESIGNED TO MEET) YOUR BUSINESS REQUIREMENTS.
- 6. TERM & TERMINATION.**
- 6.1. TERM.** These Terms are effective on Delivery or the start date of the applicable Subscription Term, whichever is earlier. These Terms continue until they are terminated in accordance with this Section 6.
- 6.2. Termination for Cause.** Either You or VMware may terminate these Terms effective immediately upon written notice to the other party if that party: (a) commits a breach of these Terms and fails to cure within thirty (30) days of notice of the breach; (b) commits a material breach of these Terms that cannot be cured; or (c) terminates or suspends its business.
- 6.3. Termination for Insolvency.** Either You or VMware may terminate these Terms effective immediately upon written notice to the other party if the other party: (a) becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to control of a trustee, receiver or similar authority; or (b) becomes subject to any bankruptcy or insolvency proceedings.
- 6.4. Effect of Termination.** Upon the effective date of termination of these Terms: (i) all rights to the Device(s) granted to You pursuant to these Terms will immediately cease; and (ii) You must cease all use of the Device(s).
- 6.5. Survival.** Any provision that, by its nature and context, is intended to survive termination or expiration of these Terms, will survive.
- 7. INDEMNIFICATION BY VMWARE.**
- 7.1. Defense and Indemnification.** Subject to the remainder of this Section 7, VMware will defend You against any Infringement Claim and indemnify You from the resulting costs, fines, and damages finally awarded against You to the third party by a court of competent jurisdiction or a government agency or agreed to by VMware in settlement. The foregoing obligations are applicable only if You: (a) promptly notify VMware in writing of the Infringement Claim; (b) allow VMware sole control over the defense for the claim and any settlement negotiations, and any related action challenging the validity of the allegedly infringed patent, trademark, or copyright; and (c) reasonably cooperate in response to VMware's requests for assistance. VMware will not, without Your prior written consent, which will not be unreasonably withheld, conditioned, or delayed, enter into any settlement that obligates You to admit any liability or to pay any unreimbursed amounts to the party bringing the claim.
- 7.2. Remedies.** If the allegedly infringing Device(s) become, or in VMware's opinion are likely to become, the subject of an Infringement Claim, VMware may, at VMware's option and expense: (a) procure the rights necessary for You to keep using the affected Device(s); (b) replace or modify the affected Device(s) to make it non-infringing; or (c) terminate Your right to use the Device(s) and discontinue related warranty services, and upon Your certified destruction of the Device(s) refund the fees paid by You for the Device(s), less straight-line depreciation over a three (3) year useful life beginning on the date of Delivery. Nothing in this Section 7.2 limits VMware's obligation pursuant to Section 7.1 to defend and indemnify You, provided that You replace the allegedly infringing Device(s) upon VMware making alternate Device(s) available to You, or you stop using the allegedly infringing Device(s) upon receiving VMware's notice terminating Your right to use the Device(s).
- 7.3. Exclusions.** VMware will have no obligation under this Section 7 or otherwise with respect to any claim based on: (a) use or installation of the Device(s) outside of the Territory; (b) combination of Device(s) with non-VMware products (other than non-VMware products that are listed on the Order and used in an unmodified form); (c) use of Device(s) for a purpose or in a manner for which

they were not designed or in a manner not permitted by these Terms; (d) use of any older version of Device(s) when use of a newer Device(s) would have avoided the infringement; (e) any modification to the Device(s) made without VMware's express written approval; (f) any Device(s) provided on a no-charge, beta, or evaluation basis; or (g) any claim that relates to open source software or freeware technology or any derivatives or other adaptations thereof that is not embedded by VMware into Device(s) listed on VMware's commercial price list.

7.4. Sole and Exclusive Remedy. THIS SECTION 7 STATES YOUR SOLE AND EXCLUSIVE REMEDY AND VMWARE'S ENTIRE LIABILITY FOR ANY INFRINGEMENT CLAIMS.

8. LIMITATION OF LIABILITY

8.1. Disclaimer. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL VMWARE OR VMWARE'S SUPPLIERS BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE, LOSS OF DATA, LOSS OF REVENUE, LOSS OF GOODWILL, BUSINESS INTERRUPTION, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, PRODUCT LIABILITY, OR OTHERWISE. THIS LIMITATION WILL APPLY REGARDLESS OF WHETHER ANY PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE FOREGOING LIMITATION MAY NOT APPLY.

8.2. Cap on Monetary Liability. VMWARE'S LIABILITY FOR ANY CLAIM UNDER THESE TERMS WILL NOT EXCEED: (1) FOR DEVICES, THE FEES YOU PAID FOR PURCHASE OR RENTAL OF THE AFFECTED DEVICE GIVING RISE TO THE CLAIM, OR (2) FOR VMWARE HARDWARE REPLACEMENT SERVICES, THE FEES YOU PAID FOR THE HARDWARE REPLACEMENT SERVICE FOR THE AFFECTED DEVICE. THE LIMITATIONS OF LIABILITY IN THIS SECTION 8.2 WILL NOT APPLY TO (i) VMWARE'S INDEMNIFICATION OBLIGATIONS UNDER THESE TERMS OR (ii) ANY LIABILITY WHICH MAY NOT BE EXCLUDED BY APPLICABLE LAW.

8.3. Further Limitations. VMware's suppliers have no liability of any kind under these Terms. VMware's liability with respect to any third-party software embedded in Device(s) is subject to this Section 8. You may not bring a claim under these Terms more than eighteen (18) months after the cause of action arises.

9. ONSITE SUPPORT SERVICES.

9.1. Onsite Support Services; Generally. You may order On-Site Services as an optional add-on service, described in the VMware Hardware Replacement Services Datasheet. If you order On-site Services, this Section 9 applies to You.

9.2. Personnel. VMware will determine the personnel assigned to perform the On-site Services. VMware personnel will be instructed to conduct themselves in a courteous and professional manner, and where reasonably possible, to comply with Your reasonable facility access and security guidelines.

9.3. Other Responsibilities. VMware acknowledges its full responsibility for the actions of its personnel while performing On-Site Services. In no event, however, will VMware personnel be required by You to execute any additional documents or other instruments, on their own or VMware's behalf, in connection with or as a prerequisite to entering Your premises to deliver the On-Site Services.

9.4. On-Site Services Warranty. VMware further warrants that the On-Site Services will be performed in a workmanlike manner in accordance with the standards of the industry and will be performed by personnel with the required training, background and experience to perform such services. You must notify VMware of any alleged breach of this warranty before within ten (10) days from the date the On-Site Services are performed. VMware's entire liability and Your sole remedy for VMware's breach of this warranty will be for VMware to reperform the On-Site Services.

9.5. Services Disclaimer. THE EXPRESS WARRANTY SET FORTH IN SECTION 9.4 ABOVE IS IN LIEU OF ALL OTHER WARRANTIES, AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, VMWARE DISCLAIMS, ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE REGARDING OR RELATING TO THE SERVICES OR DELIVERABLES, OR ANY OTHER MATERIALS FURNISHED OR PROVIDED TO YOU UNDER THESE TERMS. VMWARE WILL NOT BE LIABLE FOR ANY THIRD-PARTY SERVICES OR PRODUCTS IDENTIFIED OR REFERRED TO YOU BY VMWARE. NO EMPLOYEE, AGENT, REPRESENTATIVE OR AFFILIATE OF VMWARE HAS THE AUTHORITY TO BIND VMWARE TO ANY REPRESENTATIONS OR WARRANTIES OUTSIDE OF THIS AGREEMENT.

10. MISCELLANEOUS.

10.1. Payment. You agree to pay any invoices issued by VMware to You pursuant to these Terms, if any, within 30 days of the date of the invoice. All amounts payable must be remitted in the currency specified in the invoice and are exclusive of any taxes, duties, or similar charges imposed by any government or other authority. If you are required to pay any withholding tax, charge or levy in respect of any payments due to VMware pursuant to these Terms, you must gross up payments actually made so that VMware receives all sums due in full and free of any deduction for any such withholding tax, charge or levy.

- 10.2. Assignment.** Without VMware's prior written consent, You may not assign these Terms, or any right or obligation under these Terms or in connection with an Order, or delegate any performance, in whole or in part, by operation of law or otherwise, except in connection with the sale of all or substantially all of Your assets.
- 10.3. Force Majeure.** Neither party will be liable for any delay or failure to perform its obligations under these Terms, except for Your payment obligations, due to any cause beyond its reasonable control, which may include labor disputes or other industrial disturbances, systemic electrical, telecommunications or other utility failures, earthquakes, storms or other acts of nature, global pandemic, embargoes, riots, acts or orders of government, acts of terrorism, or war.
- 10.4. Compliance With Laws.** Each party must comply with all laws, rules, and regulations applicable to the actions contemplated by these Terms.
- 10.5. Export Control and Government Regulations.** You acknowledge that the Device(s) are subject to the U.S. Export Administration Regulations, as well as any other U.S. economic sanctions laws and regulations, and may be subject to the export control laws of the applicable territory, and that diversion contrary to applicable export control laws is prohibited. Certain versions of the Device(s) are classified under ECCN 5A002 a.1 and 5D002 c.1 per 740.17 (b)(2) and may require an export license to certain government end users. You represent that (1) You are not, and are not acting on behalf of, (a) any person who is a citizen, national, or resident of, or who is controlled by the government of any country to which the United States has prohibited export transactions; or (b) any person or entity listed on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons, or the U.S. Commerce Department Denied Persons List, Entity List or any other list of parties subject to sanctions under any U.S. economic sanctions laws or regulations; and (2) You will not permit the Device(s) to be used for, any purposes prohibited by law, including, any prohibited development, design, manufacture or production of missiles or nuclear, chemical or biological weapons. Information regarding export classifications can be found at <https://www.vmware.com/help/export-control.html>.
- 10.6. Conflict Materials.** As of the date of these Terms, Devices are not manufactured with Conflict Minerals (as defined in CFR Parts 240 and 249b) that were sourced in the Democratic Republic of Congo or adjoining countries ("DRC").
- 10.7. Hazardous Materials.** As of the date of these Terms, Devices do not contain "Hazardous Materials," being a substance or material capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and designated as hazardous under section 5103 of Federal hazardous materials transportation law, as set forth in 49 CFR 171.8.
- 10.8. Waiver.** Failure to enforce a provision of these Terms will not constitute a waiver. Waiver of a breach of any provision of these Terms will not constitute a waiver of any later breach of that provision, or waiver of a breach of any other provision. Any waiver must be in writing and signed by the applicable party.
- 10.9. Severability.** If any part of these Terms are held to be invalid or unenforceable, the remaining provisions of these Terms will remain in force to the extent feasible.
- 10.10. Construction.** The headings of sections of these Terms are for convenience and are not to be used in interpreting these Terms. As used in these Terms, the word "including" means "including but not limited to".
- 10.11. Language.** These Terms are in English, and the English language version governs any conflict with a translation into any other language.
- 10.12. Order of Precedence.** These Terms supersede and control over any conflicting or additional terms and conditions of any purchase order, acknowledgement or confirmation, or other document issued by You regarding Device(s).
- 10.13. Entire Agreement.** These Terms, accepted Orders, and any amendments to these Terms, contain the entire agreement of the parties with respect to Device(s), and supersede all previous or contemporaneous communications, representations, proposals, commitments, understandings, and agreements, whether written or oral, between You and us regarding Device(s). These Terms may be amended only in writing signed by authorized representatives of both parties.
- 10.14. Governing Law.** These Terms are governed by the laws of the State of California (excluding its conflict of law rules), and the federal laws of the United States. To the extent permitted by law, the state and federal courts located in Santa Clara County, State of California will be the exclusive jurisdiction for disputes arising out of or in connection with these Terms. The U.N. Convention on Contracts for the International Sale of Goods does not apply.
- 10.15. Notices.** Any notice from VMware to You under these Terms will be delivered via mail, email or fax. Any notice or correspondence from You to VMware must be in writing, addressed to: VMware, Inc., 3401 Hillview Avenue, Palo Alto, California 94304, United States of America, Attention: Legal Department.
- 11. DEFINITIONS**
- 11.1. "Affiliate"** means an entity that is directly or indirectly controlled by, is under common control with, or controls that party, with "control" being an ownership, voting or similar interest representing fifty percent (50%) or more of the total interests then outstanding of that entity.

- 11.2. “**Delivery**” of the Edge Device(s) occurs when VMware loads the Device(s) on the carrier’s vehicle at VMware’s designated point of shipment.
- 11.3. “**Devices**” means the Edge Network Intelligence device or VMware branded SD-WAN™ networking equipment, including components, options and spare parts, listed on VMware’s commercial price list, as specified in Your Order.
- 11.4. “**Documentation**” means that documentation that is generally provided to customers by VMware with the Device(s), as revised by VMware from time to time, and which may include end user manuals, operation instructions, installation guides, release notes, and on-line help files regarding use of the Device(s).
- 11.5. “**Hardware Replacement Services Datasheet**” means the VMware Hardware Replacement Services Datasheet available at www.vmware.com/support/policies, which is incorporated by reference to these Terms, and VMware Hardware Replacement Services, including On-site Services, are the services described in that datasheet.
- 11.6. “**Infringement Claim**” means any claim by a third party that any Device infringes any patent, trademark, or copyright of the third party, or misappropriates a trade secret (but only to the extent that the misappropriation is not a result of Your actions).
- 11.7. “**Order**” means an order received by VMware from a VMware authorized channel partner, reflecting the particulars of Your order for Devices which You placed on a VMware authorized channel partner.
- 11.8. “**Rental Period**” means the period of time specified in the applicable Order, for which You have paid the applicable rental fees, commencing on Delivery or the start date of the applicable Subscription Term of the Device(s), whichever is earlier.
- 11.9. “**Subscription Term**” will have the same meaning as the “Subscription Term” as defined in the VMware Terms of Service available at www.vmware.com/download/eula.html, if applicable to You.
- 11.10. “**Territory**” means the country or countries where Your Device(s) has been originally delivered and activated. A VMware Enterprise License Agreement may expand the “Territory” in which You may install and use Device(s).