

# Nomadix® Energy Management System

## Product Terms of Use

These Product Terms of Use (“Terms”) are a part of the Nomadix End User License Agreement (“[EULA](#)”). Both the EULA and these Terms are applicable to the use of the Nomadix Energy Management System by the entity that has purchased, subscribed to, and licensed the Product (the “End User”). The End User acknowledges and agrees that the Product is provided by Nomadix as a service and on a subscription basis only as more fully set forth in the Nomadix Product Terms and Conditions found [here](#). Nomadix always retains ownership of and title to the Product, except with regard to physical hardware components transferred to a purchaser. End User acknowledges and agrees that neither End User nor any of its permitted third-party installers, users (e.g., guests, employees, and other ultimate users) together, “Permitted Users” are purchasing nor shall hold title to the Product.

ANY USE OF THE PRODUCT IS SUBJECT TO AND CONDITIONED UPON AGREEMENT TO AND COMPLIANCE WITH THESE TERMS. BY INSTALLING, CONFIGURING, MAINTAINING AND USING THE PRODUCT, YOU AS END USER SIGNIFY YOUR CONSENT ON YOUR OWN BEHALF AND ON BEHALF OF YOUR PERMITTED USER(S) TO BE BOUND TO THESE TERMS, AND THAT YOU HAVE THE LEGAL CAPACITY TO SO BIND THE PERMITTED USER(S). YOU AGREE AS END USER THAT IT IS YOUR OBLIGATION TO REQUIRE YOUR PERMITTED USERS TO ACCEPT THESE TERMS.

In the event of any conflict between the EULA and these Terms, the provision(s) in these Terms shall prevail.

The Product provided by Nomadix consists of the Thermostat and Thermostat Controller (“Thermostat Devices”), the documentation (“Documentation”), and the product portal (“Portal”). The Portal is subject to the Authorized User Terms of Use available at this [\[link\]](#).

### A. Obligations of the End User

The End User acknowledges and agrees the End User is responsible for ensuring that:

1. The Product has been installed, configured, and tested as provided in the Documentation.
2. When applicable, the computer and device network (“Network”) provided by the End User at the End User’s site have been designed, installed, and configured in full compliance with accepted standards regarding such Networks, including power (and backup power) and the guidelines in the Documentation.
3. Each Thermostat Device will always be powered on, will always have a reliable electrical supply (and/or fresh batteries), and when applicable will always be connected to the Internet via the Network supplied and supported by the End User.
4. Each user permitted by End User, whether an employee of End User or third party authorized to care and use of such Product has been trained by the End User in the proper care and use of the Thermostat Devices.
5. No modifications are made to the Product.
6. The Product is only accessible to properly authorized and trained users.
7. Every report of Thermostat Devices malfunction shall be addressed by the End User in a timely manner.

### B. Acceptable Use and Prohibited Activities

**The End User acknowledges and agrees on its own behalf and on behalf of Permitted Users that:**

Use of the Product and Thermostat Devices may be suspended or terminated by Nomadix in its sole discretion if there is a reasonable suspicion of fraudulent use, violation of restricted activities as provided below by way of example, which examples are not limited, or violation of applicable laws and/or regulations. End User agrees to make good faith efforts to minimize abuse, or fraudulent use and/or prohibited activities including any such fraudulent use or abuse by End User or Permitted Users, and to promptly report directly to Nomadix or through its Reseller any such abuse, or fraudulent use or prohibited activities of which End User becomes aware, and to cooperate in any investigation or prosecution initiated by Nomadix. End User shall use reasonable and good faith efforts to ensure that neither it nor Permitted User engages in the following activities:

1. Attempt or assist another to intentionally and fraudulently access, alter or interfere with the use of the Product;
2. Tamper with or make unauthorized use of the Product;
3. Use the Product in such a manner so as to unreasonably interfere with the use of the Product by other Permitted Users;
4. Use the Product on any stolen or lost media or platforms or by way of any unauthorized Network where the Product is not licensed to be installed;
5. Using or providing for use of methods and/or devices that are designed or likely to take advantage of, bypass, exploit, or otherwise avoid Documentation requirements of the Product(s) or prohibited uses of the Product(s);
6. Attempt to disassemble, reverse engineer or modify the Product.

**C. Advance Consent.**

Advance consent is hereby provided to Nomadix allowing Nomadix to forward the relevant communication and other information, including personal identification information associated with such misuse to the appropriate authorities. Advance consent is also provided to Nomadix allowing Nomadix to provide information in response to law enforcement and other governmental requests, including, but not limited to, subpoenas, court orders, and requests for wire taps etc. under applicable regulation and law associated with such misuse.

**D. END USER AGREES, AND ON BEHALF OF ITS PERMITTED USERS, AGREES TO RELEASE AND HOLD HARMLESS NOMADIX, ITS PARENT, AFFILIATES, SUBSIDIARIES, DIRECTORS, OFFICERS, EMPLOYEES AND VENDORS FROM ANY AND ALL CLAIMS FOR DAMAGES IN WHATEVER FORM INCLUDING BUT NOT LIMITED TO ANY CLAIMS, INCLUDING THIRD PARTY CLAIMS, FOR CONTRIBUTION, INDEMNITY OR SUBROGATION.**