

# BULL Agreement for Escala IFL Core Features

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The terms of this BULL Agreement for IFL Core Features ("Agreement") govern Customer's use of the Escala Systems Integrated Facility for Linux feature on each Machine specified herein..

## 1. Definitions

When used in this Agreement in capitalized form, the terms listed below have the following meanings:

**Eligible Machine** – a BULL Escala server configured with an Escala IFL Core Feature.

**Escala IFL Core Feature** – marketing identifiers: CPKG753-ELJ8, CPKG732-ELJ5, CPKG732-ELJ7, CPKG733-ELJ6, CPKG687-ELJ1, or CPKG687-ELJ4 on a BULL Escala server. Each Escala IFL Core Feature equates to four (4) processor cores.

Other capitalized terms have the meaning ascribed to them in the terms incorporated herein.

## 2. Authorized Use of Escala IFL Core Features

Customer is authorized to execute only some or all of the following workload on an Escala IFL Core Feature in one or more logical partitions dedicated to such workload:

- 2.1. any Linux operating system that is supported by BULL for use on the BULL Escala server; and
- 2.2. any Program, provided such Program is executing under an operating system specified in Section 2.1 above.

## 3. Customer Responsibilities

### 3.1. General Acknowledgement

Customer acknowledges that a lower price has been charged for Escala IFL Core Features as compared to the price of general purpose processor core features because Customer right to use Escala IFL Core Features is limited as provided in this Agreement.

### 3.2. LPAR and VSPP Configurations

For each Eligible Machine that runs AIX or VIOS, Customer will create either (i) one or more virtual shared processor pools (each a "VSPP") for all logical partitions (each an "LPAR") executing any of the AIX or VIOS or other operating systems (each such VSPP is a "General Purpose VSPP"); (ii) one or more dedicated processor LPARs executing any of the AIX or VIOS or other operating systems (each such LPAR is a "General Purpose Dedicated Core LPAR"); or (iii) any combination of General Purpose VSPPs and General Purpose Dedicated Core LPARs. The combined maximum pool processing capacity of all General Purpose VSPPs must not exceed the amount determined by "N-i-d", where "N" is the total number of active cores on the Eligible Machine, "i" is the number of Escala IFL Core Features on the Eligible Machine, and "d" is the number of general purpose cores assigned to General Purpose Dedicated Core LPARs.

For each Eligible Machine, Customer may create either (i) one or more dedicated processor LPARs executing the Linux operating system (each a "Linux Dedicated Core LPAR"), (ii) one or more VSPPs dedicated to LPARs executing the Linux operating system (each a "Linux VSPP"), or (iii) any combination of Linux Dedicated Core LPARs and Linux VSPPs. The Linux Dedicated Core LPARs and the Linux VSPPs may consume up to "N" cores of Eligible Machine processing capacity.

## 4. Verification

Upon reasonable notice, BULL or BULL's authorized reseller may verify Customer's compliance with the terms of this Agreement. Such verification will be conducted in a manner that minimizes disruption to Customer's business and may be conducted on Customer's premises, during normal business hours. BULL may use an independent auditor to assist with

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such verification provided BULL has a written confidentiality agreement in place with such auditor. If BULL uses an auditor, BULL will be responsible for payment of all auditor-related expenses. Customer agrees to provide to BULL and its auditors accurate screen capture snapshots, written records, system outputs, and other information sufficient to provide auditable verification that Customer is in compliance with this Agreement. The rights and obligations set forth in this paragraph remain in effect during the term of this Agreement and for two years thereafter. BULL will notify Customer in writing if any such verification indicates that Customer is not in compliance with the terms of this Agreement. Customer agrees to promptly pay directly to BULL the charges that BULL specifies in an invoice for: (i) termination as determined under the terms of Section 6 below; and (ii) any charges determined as a result of such verification.

## 5. Incorporated Information; Relationship to Other Agreements

By signing this Agreement, Customer represents and warrants that by acquiring the Escala IFL Core Feature, Customer has reviewed and agrees to all of the BULL terms and conditions that are applicable to the Eligible Machine and incorporated by reference into this Agreement, and agrees that such terms and conditions are enforceable between the parties.

If a BULL Customer Agreement or an equivalent master agreement is in effect between Customer and BULL, such agreement is incorporated by reference into this Agreement. Otherwise, the terms under the following headings in Part 1 and Part 2 (as applicable) of the BULL limited Hardware Product Warranty (provided at the following address: <http://support.bull.com/ols/product/platforms/escala/warranty>) are incorporated by reference into this Agreement: "Limitation of Liability", "Governing law and venue". In addition, the terms of the BULL License Agreement for Machine Code (provided at the following address: **Error! Hyperlink reference not valid.** <http://support.bull.com/ols/product/platforms/escala/warranty/license-use>) are incorporated by reference into this Agreement, and govern Customer's use of Machine Code on each Eligible Machine. In the event of a conflict between any incorporated terms and the terms of this Agreement, the terms of this Agreement prevail.

## 6. Termination

### 6.1 Termination of Rights; No Transfer

Customer's authorization for use of each Escala IFL Core Feature on an Eligible Machine terminates upon Customer's transfer of the Eligible Machine to another party, including return of the Eligible Machine to a leasing company. As such, no right for use of an Escala IFL Core Feature is transferable to another party.

Customer's authorization for use of each Escala IFL Core Feature on an Eligible Machine terminates upon Customer's material breach of the terms of this Agreement, provided Customer receives notice of such breach and reasonable time, not to exceed fifteen (15) calendar days, to comply.

### 6.2 Conversion Requirement

Prior to any transfer of an Eligible Machine to another party, or upon termination due to breach, as specified in Section 6.1 above, Customer agrees to acquire, either directly from BULL or from a BULL authorized reseller, a conversion of each Escala IFL Core Feature to a general purpose processor. Customer acknowledges understanding that each such conversion will be billable at BULL's or BULL's authorized reseller, as applicable, then-current price.

## 7. General

Customer may not assign, or otherwise transfer, this Agreement or Customer's rights under this Agreement, or delegate Customer's obligations, without BULL's prior written consent. Any attempt to do so is void.

# BULL Agreement for Escala IFL Core Features

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In the event that any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.

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This Agreement, including its incorporated terms, is the complete agreement between Customer and BULL regarding BULL's provision and Customer's use of the Escala IFL Core Features for each Eligible Machine specified in this Agreement. In entering into this Agreement, neither party is relying on any representation that is not specified in this Agreement. Additional or different terms in any written communication from Customer (such as a purchase order) are void.

Each party accepts, on behalf of its Enterprise, the terms of this Agreement by signing this Agreement (or another document that incorporates it by reference) by hand or electronically. Once signed, (i) any reproduction of this Agreement made by reliable means (for example, electronic image, photocopy or facsimile) is considered an original, and (ii) each Escala IFL Core Feature configured for use on an Eligible Machine is subject to it.

Agreed to:  
{Customer Legal Name} ("Customer")

Agreed to:  
BULL SAS ("BULL")

By \_\_\_\_\_  
Authorized signature

By \_\_\_\_\_  
Authorized signature

Name (type or print):

Name (type or print):

Date:

Date:

Customer identification number:

Agreement number:

Customer address:

BULL address: