

BY CLICKING THE ACCEPT BUTTON AND PROVIDING THE INFORMATION REQUESTED TO DOWNLOAD/ACCESS THE APPLICATION, YOU ACKNOWLEDGE THAT YOU HAVE READ THE FOLLOWING AGREEMENT, UNDERSTAND IT AND THAT THE LICENSEE (AS DEFINED BELOW) AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

#### END USER LICENSE AGREEMENT

#### 1. Background

- 1.1. This is a legal agreement between Softphone International Limited, a company registered in England with company number 11258237 ("Licensor"), and the Legal Entity (as defined below) or individual that has downloaded or is otherwise accessing and using the Application (as defined below) and thereby agreeing to the terms of this Agreement ("Licensee").
- 1.2. The subject matter of this Agreement is application software, the specific description for the application applicable to this Agreement is stated in the Order Documents ("Application")
- 1.3. The Licensor developed and is the sole legal proprietor of the Application ("Application")
- 1.4. References in this agreement to "this Agreement", any specified clause in this Agreement, any other document or any specified clause in any other document are to this Agreement, that document or the specified clause as in force for the time being and as amended, varied, novated or supplemented from time to time in accordance with the terms of the relevant document.
- 1.5. The Licensee's order documents ("Order Documents"), contain the specific terms of the license granted herein with regard to:
  - 1.5.1. The term that the license is valid for;
  - 1.5.2. The applicable License Fee (as defined in clause 10)
  - 1.5.3. The email address to which the Licensor shall effect delivery (pursuant to clause 4)

#### 2. Acceptance

- 2.1 By clicking the "accept" button and providing the information requested to download/access the Application, Licensee:
  - a) represents and agrees that he is at least 18 years of age;
  - b) represents and agrees that, if he is an individual using the Application on behalf of a corporation, partnership or other legal organization (Legal Entity), he is authorized to consent to these terms on behalf of such entity;
  - c) consents for himself or the relevant Legal Entity to be legally bound by the terms of this Agreement
  - d) further agrees that he has executed, entered into, accepted the terms of this Agreement and that the same is completely valid, has legal effect, is enforceable, is binding on, and is non-refutable by the Licensee.

#### 3. License.

- 3.1 The Application is licensed and not sold. This Agreement is for a license of intellectual property, as opposed to a sale of goods (even though some tangible items may be provided).
- 3.2 Subject to the terms and conditions of this Agreement and in consideration of the payment of the License Fee (defined in clause 10), Licensor hereby grants Licensee a non-exclusive, nontransferable, limited license, without right to sublicense, to install (if applicable), access and use the Application for the license/subscription term specified in Licensee's Order Documents, solely for Licensee's internal business purposes for use by Licensee's employees and contractors providing services exclusively on behalf of Licensee ("Users") and no other purpose.

#### 4. Delivery.

4.1. For the purpose of this Agreement, all references to deliveries shall mean delivery via electronic transmission.

4.2. Licensor will deliver the applicable license keys to the email addresses specified in Licensee's Order Documents, such delivery to be effected following the receipt by the Licensor of the applicable License Fees.

4.3. Licensee is responsible for installation of any software and acknowledges that Licensor has no further delivery obligation with respect to the software relating to the Application after delivery of the license keys.

#### 5. Duration

5.1. The Services are provided under subscription plans of various durations. The relevant subscription plan to each license is specified in Licensee's Order Documents.

5.2. Any subscription will be automatically renewed at the end of each subscription period unless a party informs the other party that he does not wish to renew the subscription at least seven days prior to the renewal date.

#### 6. Restrictions.

6.1. The Application is protected by copyright laws and international treaties relating to intellectual property.

6.2. Unauthorized reproduction, distribution or use of the Application or any portion of it, may result in civil and criminal penalties and will be prosecuted to the maximum extent possible under the law.

6.3. Except where specific acknowledgement is granted in writing, all copyright and other intellectual property rights in the Application and any developments, modifications or adaptations to or of it (whether or not permitted and without prejudice to the Licensor's other rights) are and remain the absolute property of Licensor.

6.4. Any third-party software incorporated in the Application is licensed only for use in conjunction with Licensor's proprietary software and Licensee has no further rights, title or interest unless otherwise provided in this Agreement.

6.5. Licensee shall not (a) distribute copies of the Application to others, including but not limited to, consultants, affiliates, independent contractors, Users or any other third party; (b) sell, loan, rent, lease, lend, transfer, assign or otherwise dispose to anyone else the Application; or (c) modify, adapt, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Application.

6.6. Licensee shall use the Application only for lawful purposes and in compliance with all applicable laws, including privacy and data collection and protection laws.

6.7. Licensee may be held legally responsible for any copyright infringement that is caused or incurred by Licensee's failure to abide by the terms of this Agreement, and or its failure to adopt reasonable safeguards to protect the loss or unintended disclosure of confidential information.

6.8. Except as expressly provided in this Agreement or by local law, Licensee may not otherwise make copies of the Application, including any written materials accompanying the Application (the "Documentation"). Licensee may copy such Documentation for its internal use only.

6.9. If Licensee transfers possession of any copy of the Application, Documentation or related material to another party in violation of this Agreement, the license is automatically terminated.

#### 7. Ownership of Application.

7.1. All title and intellectual property rights in and to the Application (including but not limited to any images, photographs, animations, video, audio, music, text and "applets", incorporated into the Application), the Documentation and any copies of the Application or Documentation are owned by Licensor.

7.2. Licensee agrees that no title to the Application or Documentation is transferred to it, and that all rights not expressly granted to Licensee hereunder are reserved by Licensor.

#### 8. Trademark

8.1. "Softphone", "Dynamics 365", "PureCloud", "Genesys" and other Licensor' logos are trademarks of, and proprietary to Licensor.

8.2. Licensee agrees not to display or use, in any manner, Licensor trademarks, without Licensor's prior permission.

#### 9. Support and Maintenance.

9.1. The Licensor will provide support and maintenance services for the Application in accordance with Appendix 1 to this Agreement, during the term of the license ("Support and Maintenance").

9.2. Support and Maintenance shall be deemed to include access to New Releases, if and when available. For the purpose of this clause 9, "New Releases" are bug fixes, patches, major or minor releases, or any other changes, enhancements, or modifications to the Application that Licensor makes generally commercially available.

9.3. Licensee may use any New Releases that Licensor provides during a valid support term in the same way that the Licensee uses the Application.

#### 10. License Fee.

10.1. Licensee will pay Licensor or its permitted reseller (if required by Licensor) the license fees (the "License Fee") set forth in Licensee's Order Documents.

10.2. Unless otherwise indicated in Licensee's Order Documents, Licensee shall pay the License Fees prior to installation of or access to the Application.

#### 11. Modification of Terms of Service

11.1. Licensor may modify the terms of the Support and Maintenance upon notice to Licensee at any time through a service announcement or by sending email to Licensee primary email address.

11.2. If Licensor makes significant changes to the Support and Maintenance that affect Licensee rights, Licensee will be provided with at least 30 days advance notice of the changes by email to Licensee's primary email address. In such a case, Licensee may terminate his use of the Application by providing Licensor notice by email within 30 days of being notified of the availability of the modified terms of Support and Maintenance if the Terms are modified in a manner that substantially affects Licensee rights in connection with use of the Application.

11.3 In the event of such termination, Licensee will be entitled to a pro-rata refund of the unused portion of any prepaid fees.

11.4. Licensee's continued use of the Application after the effective date of any change to the terms of the Support and Maintenance will be deemed to be Licensee's agreement to the modified terms.

#### 12. Test Application

12.1. The Licensee may also request permission from the Licensor to install a test version of the Application ("Test Application").

12.2. With respect to any Test Application ordered by Licensee, Licensor grants to Licensee a non-transferable, non-exclusive, revocable license, without any right to sublicense, to use the Test Application for a term of sixty (60) days from delivery, solely for Licensee's internal evaluation and internal demonstration purposes.

12.3. In addition to any other restrictions set forth in this Agreement, the Test Application shall not be used for production purposes.

12.4. Either party may terminate any Test Application license at any time by delivering written notice of termination to the other party.

12.5. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN CONTAINED, TEST APPLICATION, BY THEIR VERY NATURE, ARE PROVIDED ON AN "AS-IS" BASIS, WITHOUT WARRANTY OF ANY KIND, AND ARE PROVIDED WITHOUT BY THE LICENSOR WITHOUT CHARGE AND, THEREFORE LICENSOR SHALL NOT BE LIABLE IN ANY WAY FOR ANY DAMAGES SUFFERED BY LICENSEE RELATED TO ITS USE OF/INTERACTION WITH THE TEST APPLICATION.

12.6. UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, SHALL LICENSOR BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THE TEST APPLICATION.

13. Use Audit.

13.1. Licensor may, upon fifteen (15) days' advance notice and at its expense, conduct an audit, during Licensee's normal business hours, of Licensee's use of the Application and Documentation to verify compliance with this Agreement. Licensee shall provide Licensor or an authorized representative with access to records, hardware and employees in order to perform the audit.

14. Assignment/Sublicense.

14.1. Neither this Agreement nor any rights or obligations under this Agreement, in whole or in part, shall be sublicensed, assigned or otherwise transferred by Licensee and any attempt to do so will be null and void.

15. Termination.

15.1. Licensee may terminate this license at any time by uninstalling or no longer accessing the Application and returning or destroying all Documentation and any related material together with all copies, modifications and merged portions in any form.

15.2. Licensee will not be entitled to any refund of License Fees upon any termination of this Agreement or suspension of access to the Application.

15.3. Licensor may suspend access to the Application or terminate this Agreement and Licensee's license to the Application in the event Licensee breaches any term of this Agreement, and such breach remains unremedied for a period of ten (10) days following written notice of such breach to Licensee.

15.4. Licensee agrees upon such termination to uninstall or stop accessing the Application and to destroy the Documentation together with all copies, modifications and merged portions in any form, and to provide Licensor with written certification of destruction and non-use.

15.5. Clauses 6, 16, 17, 18 & 24 shall survive the expiration or termination of this Agreement and shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

16. Limitation of Liability.

16.1 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, (i) NEITHER LICENSOR NOR ITS THIRD PARTY LICENSORS OR RESELLERS SHALL BE LIABLE FOR ANY (A) SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, ARISING FROM OR RELATED TO A BREACH OF THIS AGREEMENT OR THE OPERATION OR USE OF THE APPLICATION, INCLUDING BUT NOT LIMITED TO SUCH DAMAGES, WITHOUT LIMITATION, AS DAMAGES ARISING FROM LOSS OF DATA, LOSS OF REVENUE OR PROFITS, DAMAGE TO EQUIPMENT, AND CLAIMS AGAINST LICENSEE BY ANY THIRD PERSON, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (B) CLAIMS MADE A SUBJECT OF A LEGAL PROCEEDING AGAINST LICENSOR MORE THAN ONE YEAR AFTER ANY SUCH CAUSE OF ACTION FIRST AROSE; and (ii) LICENSOR'S LIABILITY UNDER THIS AGREEMENT, WHETHER UNDER CONTRACT LAW, TORT LAW, WARRANTY, OR OTHERWISE SHALL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED THE AMOUNTS ACTUALLY RECEIVED BY

LICENSOR UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE DATE OF THE ACTION GIVING RISE TO THE CLAIM.

17. Indemnification.

17.1. Licensee agrees to indemnify, defend and hold harmless Licensor, together with its officers, directors, employees, licensors and agents (including resellers pursuant to clause 18 hereof), against any liability (including reasonable attorneys' fees) arising out of any claim made against Licensor arising out of or related to Licensee's or a User's use of the Application or Documentation in violation of this Agreement including, but not limited to, any claim that Licensee's or User's unauthorized use infringes the intellectual property rights (including, but not limited to, patent, trademark and copyright rights) of any third party. Licensee will bear the expense of such defense and pay any damages and attorneys' fees which are attributable to such claim.

18. Disclaimer of Warranties.

18.1. EXCEPT AS EXPRESSLY PROVIDED HEREIN, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE APPLICATION AND DOCUMENTATION ARE DELIVERED "AS IS" AND WITHOUT EXPRESS OR IMPLIED WARRANTY OF ANY KIND BY EITHER LICENSOR OR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION, DISTRIBUTION OR DELIVERY OF THE APPLICATION, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE OR FITNESS FOR A PARTICULAR PURPOSE. LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES ABOUT THE RELIABILITY, ACCURACY, COMPLETENESS, SECURITY OR SUITABILITY OF ANY OF THE MATERIAL CONTAINED WITHIN THE APPLICATION OR DOCUMENTATION. LICENSOR MAKES NO WARRANTY THAT THE APPLICATION WILL BE UNINTERRUPTED, ERROR FREE, FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, COMPATIBLE WITH ANY HARDWARE OR SYSTEMS SOFTWARE CONFIGURATION, OR WILL MEET YOUR REQUIREMENTS. THE APPLICATION IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS.

19. Reseller Orders.

19.1. This Agreement applies whether Licensee purchases the service directly from Licensor or through another organization authorized by Licensor to re-sell the Application license ("Reseller").

19.2. Resellers are not authorized to make any promises or commitments on Licensor's behalf, and Licensor is not bound by any obligations to Licensee other than what Licensor specifies in this Agreement.

19.3. If Licensor offers the Application through the "AppFoundry Marketplace" or otherwise directly or indirectly through Genesys Telecommunications Laboratories, Inc. or any of its affiliates (collectively, "Genesys"), Licensee acknowledges and agrees that Licensee's only recourse for a warranty claim shall be through Licensor, and Genesys has no liability to Licensee relating to the Application, the Documentation or the use thereof. Licensee agrees that Genesys is an intended third-party beneficiary of the indemnity contained in clause 16 hereof as a distributor or reseller of the Application.

20. Confidentiality.

20.1. Licensee acknowledges that Confidential Information (as hereinafter defined) is a valuable, special, and unique asset of Licensor and agrees that Licensee will not disclose, transfer, or use (or seek to induce others to disclose, transfer, or use) any Confidential Information for any purpose other than disclosure to Licensee's authorized employees and agents who are bound to maintain the confidentiality of the Confidential Information. Licensee shall notify Licensor in writing of any circumstances which may constitute unauthorized disclosure, transfer, or use of Confidential Information. Licensee shall use best efforts to protect Confidential Information from unauthorized disclosure, transfer, or use. Licensee shall not duplicate any material containing Confidential

Information except as authorized by Licensor in writing. Licensee shall return all originals and copies of materials containing Confidential Information upon termination of this Agreement for any reason whatsoever. The term "Confidential Information" means any and all of Licensor's trade secrets, confidential and proprietary information and all other information and data of Licensor that is not generally known to the public or other third parties who could derive economic value from its use or disclosure, including, but not limited to, the Application. Confidential Information shall be deemed to include technical data, know-how, research, product plans, products, services, customers, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed directly or indirectly in writing, orally or by drawings or observation.

#### 21. Privacy.

21.1. To view the Application privacy policy, click [<here>](#).

#### 22. Integration.

22.1. This Agreement, the Order Documents and any terms and conditions of use for the website through which the Application is downloaded/accessed (a) constitute the entire agreement between Licensor and Licensee relating to the Application; (b) supersede all prior or contemporaneous oral or written communications, proposals and representations with respect to its subject matter; and (c) prevail over any conflicting or additional terms of any order, acknowledgement, or similar communication between parties during the term of this Agreement. No modification to this Agreement will be binding, unless in writing and signed by a duly authorized representative of the parties.

#### 23. Independent Contractors.

23.1 The parties to this Agreement are independent contractors, and no agency, partnership, joint venture or employee-employer relationship is intended or created by this Agreement.

23.2. Neither party shall have the power to bind the other party.

#### 24. Governing Law

24.1. This Agreement will be governed by and construed in accordance with the laws of England and Wales without regard to conflicts of laws principles.

24.2. Any action or proceeding seeking to enforce any provision of, or based upon any right arising out of, this Agreement may be brought exclusively in the courts of England and Wales

24.3. The parties hereby consent to such jurisdiction and venue.

#### 25 Force Majeure

25.1. Neither party shall be in default by reason of any failure in performance of this Agreement if such failure arises, directly or indirectly, out of causes reasonably beyond the direct control or foreseeability of such party, including but not limited to, acts of God or of the public enemy, British or foreign governmental acts in either a sovereign or contractual capacity, labor, fire, flood, epidemic, restrictions, strikes, and/or freight embargoes

#### 26. Miscellaneous.

26.1. The waiver of any breach of this Agreement by either party shall not constitute a continuing waiver or a waiver of any subsequent breach of this Agreement.

26.2. If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement will not be affected and each such term or provision of this Agreement shall continue to be valid, binding and enforceable to the fullest extent permitted by law, except to the extent that such unenforceability may deprive a party of the benefits reasonably expected by that party as an inducement to enter into or to renew this Agreement.

26.3. The headings in this Agreement do not affect its interpretation. Except where the context otherwise requires, references to clauses are to the clauses of this Agreement.

26.4. Unless the context otherwise requires, references to one gender includes a reference to the other genders.