

## END USER LICENSE AGREEMENT

CAREFULLY READ THE FOLLOWING AGREEMENT, INCLUDING ANY APPENDICES. BY CLICKING "ACCEPT" AND INSTALLING, ACCESSING, OR USING THE SOFTWARE, OR AUTHORIZING A THIRD PARTY TO DO SO ON YOUR BEHALF, YOU ARE ACCEPTING AND AGREEING TO BE BOUND BY THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, YOU, OR YOUR AUTHORIZED PARTY, MUST NOT CLICK "ACCEPT" AND MUST PROMPTLY REMOVE THE SOFTWARE AND ALL COPIES FROM YOUR SERVER OR DEVICE. YOU WILL NOT BE ABLE TO INSTALL, ACCESS OR USE THE SOFTWARE IF YOU, OR YOUR AUTHORIZED PARTY, DO NOT CLICK "ACCEPT". LAWFUL USE OF THE SOFTWARE IS CONDITIONAL UPON YOUR COMPLIANCE WITH THE TERMS OF THIS AGREEMENT.

### 1.0 Definitions

**"Agreement"** means this End User License Agreement, including, for clarity, appendices attached hereto, if any, which appendices shall take precedence over any conflicting terms.

**"Documentation"** means the end user reference and operating manuals that Mitel and its suppliers publish relating to the Software, excluding documentation subject to the GNU Free Documentation License or other free documentation license that permits reproduction.

**"Entitlement"** means a right to use the Software generally or a specific feature or functionality found therein. Entitlement types are described in the applicable documentation (e.g. Service Order or Purchase Order) and may be enabled by use of a Software License Key.

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**"Platform"** means individually and collectively servers (physical or virtual), workstation terminals, and mobile devices.

**"Software"** means the Mitel or Mitel Group branded software that accompanies this Agreement, including all setup, installation, and configuration software, together with any related software, such as integration software applications downloaded by You, including through, (a) the Mitel Networks Application Management Center (Mitel AMC), Mitel Software Licenses & services (SLS, CLS), Mitel Software Download Server (SWS), MiAccess portal, or other similar Mitel service, and (b) commercial mobile application stores. Software includes any and all copies, modifications, updates, upgrades, firmware, enhancements, and new releases of the Software, and excludes any Open Source Software.

**"Software License Key"** means a string of characters that must be input into the Software when it is installed, or prior to being downloaded by You in order to activate it for use with a specific system configuration and which needs to be entered whenever the Software (or software accompanying the installation) is installed, upgraded or moved to a new Platform.

**"Warranty Period"** means ninety (90) days from the earlier of the date: (a) You purchase the license for the Software; or (b) the Software is Delivered to You.

"Delivered" means the date the Software is downloaded by You or on Your behalf from a Mitel Group authorized site.

"You" and "Your" refers to the original and first user ("user" includes a business entity for this definition) that lawfully obtains a copy of or access to the Software or Documentation directly from the Mitel Group or indirectly from Mitel through an entity authorized by the Mitel Group.

### 2.0 License Rights

2.1 Upon payment(s) of the applicable Entitlement fees, Mitel grants to You a non-exclusive, non-transferable license to install, operate, and use the Software and Documentation on the applicable Platform(s) solely in accordance with Your Entitlement for Your internal business purposes.

2.2 Certain Software features and functionality require additional Entitlements above and beyond a basic Entitlement. Software is only permitted to be used in accordance with the Entitlements You have obtained. If You have purchased concurrent feature and functionality Entitlements, You may permit simultaneous access to or use of such features by up to the number of users or systems for which Entitlements have been purchased. Usage beyond this limit may constitute a breach of this Agreement. Mitel reserves the right to monitor usage and take appropriate action in the event of non-compliance.

2.3 You may make one copy of the Software for backup purposes and a reasonable number of copies of the Documentation for internal use.

2.4 Your right to use the Software may be: (a) contingent on You having an active and paid-up Software Assurance or product subscription; and/or (b) reliant on Mitel cloud services functions subject to separate terms and conditions which can be found at [www.mitel.com/legal/mitel-cloud-services-terms-and-conditions](http://www.mitel.com/legal/mitel-cloud-services-terms-and-conditions). If You choose not to purchase Software Assurance or product subscription from Mitel, Mitel cannot ensure the Software, accompanying software, and/or system configuration will operate as intended, or at all.

2.5 Except as expressly permitted in this Agreement, and/or to the extent that Mitel is not legally able to restrict You under the applicable law or third party license and then with notice to Mitel, You will not Yourself or allow anyone else to: (a) disassemble, reverse engineer, decompile or otherwise attempt to discover the source code or structural framework of the Software; (b) translate, modify, or create any derivative work of the Software or Documentation; (c) disclose, publish, sublicense, lend, rent, or lease the Software or Documentation; (d) copy the Software onto any public or distributed network; (e) use the Software to operate in or as a time-sharing, outsourcing, service bureau, application service provider or managed service provider environment; (f) copy or reproduce the Software or Documentation; or (g) dispose of the Software by any means whatsoever such that You are no longer directly using the Software, unless such disposal is expressly granted in writing by Mitel or by law and is subject to this Agreement or the then-current terms as provided by Mitel. Any violation of this Section results in immediate termination of license and will constitute an immediate cause of action under all applicable claims for Mitel and any entity affected.

2.6 This license will terminate automatically if: (a) You use or permit the use of the Software or Documentation in any manner not permitted by this Agreement; (b) a bankruptcy or insolvency proceeding is filed by or against You; (c) You make an assignment for the benefit of creditors; (d) an event or proceeding analogous to those set out at paragraphs (b) and (c) above occurs or takes place in any jurisdiction; or (e) for subscription based Entitlements, upon expiration of the time-based term. License may terminate if payment of applicable license and/or service fees, agreed-upon recurring fees, and/or Software Assurance/Software Support fees are not timely paid. Upon termination, You will immediately, as directed by Mitel, either return the Software and Documentation and all copies You have made, including without limitation modifications and merged portions

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### 4.0 Open Source Software

4.1 The Software may include or be distributed with Open Source Software. Use of Open Source Software is subject to the terms and conditions of the applicable open source license(s), which may be found in the Documentation, installation directory, or at a URL provided by Mitel.

4.2 Mitel makes no representations or warranties regarding Open Source Software and disclaims all liability arising from its use. Open Source Software is provided "as is," without warranty of any kind, including without limitation warranties of merchantability, fitness for a particular purpose, or non-infringement.

4.3 If required by applicable open source license terms, Mitel will provide You with a copy of the source code for Open Source Software upon written request to [legal@mitel.com](mailto:legal@mitel.com).

### 5.0 Intellectual Property Rights Indemnification

5.1 Subject to Section 5.3, 5.4 and 7.1 of this Agreement, Mitel agrees to indemnify, hold harmless and if requested by You, defend You against direct loss, damage or costs (including reasonable legal fees) incurred in connection with a third party claim made or brought against You arising from or relating to any third party claim or action filed against You based solely on Your use of the Software and/or Documentation in strict adherence to the terms of this Agreement, to the extent that it is based on a claim that the Software infringes a valid United States, Canadian, European (including United Kingdom), or Australian intellectual property right (other than a patent reading on a standard (e.g. IEEE) whether essential or not).

5.2 Subject to Section 5.1, 5.3, and 5.4 of this Agreement, Mitel may at its sole option and without further obligation to You either: (a) obtain the right for You to continue using the Software and/or Documentation; (b) replace or modify the Software and/or Documentation so that it becomes non-infringing; or (c) if such remedies are not reasonably available, to require return of the Software and/or Documentation including all copies thereof. You agree to indemnify and, if requested by Mitel, defend the Mitel Group against any claim or action filed against the Mitel Group to the extent that it is based on a claim that Your design, integration, specification, instruction, combination, connection, operation, or particular use infringes a valid United States, Canadian, European, or Australian intellectual property right.

5.3 Notwithstanding anything to the contrary contained in the Agreement, including Sections 5.1 and 5.2 above, neither the Mitel Group (which for purposes of this Section 5.3 includes its affiliates, subsidiaries and related companies, and their respective officers, directors, employees and agents) nor any of its suppliers makes any warranty of non-infringement or otherwise, and the Mitel Group and its suppliers will have no obligation to defend or indemnify You for any claims, demands, losses, damages, legal costs, or expenses made against or incurred by You for infringement of any third party patent, including contributory infringement and inducement to infringe, with respect to Your use of the Software and any associated services where such claims of alleged infringement arise from: (a) the sale or use of the Software pursuant to this Agreement or the provision of any service provided by the Mitel Group in combination with any product or service not owned, developed, or authorized by the Mitel Group; (b) Your alteration or modification of the Software; (c) Your failure to implement corrections or modifications provided by the Mitel Group if implementation would prevent the infringement; (d) the Mitel Group's implementation of a software design provided by You; (e) connection or operation of the Software with or in conjunction with hardware, software, or services not provided or authorized by the Mitel Group; or (f) Your noncompliance with the provisions of Section 5.6.

5.4 Mitel will not be responsible for determining whether You require a license to any third-party patents, or obtaining any such license on Your behalf, or paying any fees relating to any such license.

### 5.5. THIS SECTION 5 STATES YOUR SOLE AND EXCLUSIVE REMEDY AND THE MITEL GROUP'S (AND ITS SUPPLIERS) ENTIRE LIABILITY FOR ANY INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS COVERED UNDER THIS AGREEMENT.

5.6 Each party's indemnity obligations are subject to the following: (i) the indemnified party promptly notifying the indemnifier in writing of the claim provided that any failure by the indemnified party to promptly notify the indemnifying party will not relieve the indemnifying of its obligations except to the extent that indemnifying party is materially prejudiced by the delay; (ii) the defending party shall have sole control of the defense and all related settlement negotiations with respect to the claim (provided that except to the extent Mitel is defending a claim against itself, the defending party may not settle any claim unless it unconditionally releases the aggrieved party of all liability and obligation); and (iii) the indemnified party, at the indemnifier's cost, providing reasonable assist in the defense of such claim. If Mitel has requested You to defend a claim, and at any time, Mitel has a reasonable basis to believe that You cannot or may not be able to fulfill Your obligations under this Section, then, without limiting Your obligations under this Section, Mitel shall be entitled to provide You notice to that it has decided to become the defending party, and thereafter to assume control of the defense and/or settlement of any such claim. Once Mitel has notified You that it will be seeking an indemnity, unless otherwise expressly agreed in writing, all communications (including the notice) will be deemed Mitel's confidential information, which You may not disclose to any third party, other than Your legal advisors, without Mitel's prior express written permission, and in addition, all communications in respect of any such claim shall be subject to common interest privilege.

### 6.0 Limited Warranties

6.1 Mitel warrants that: (a) for the Warranty Period, the Software, as supplied by Mitel, if properly installed, will perform substantially in conformance with the Documentation; and (b) if the media on which the Software is stored is provided by Mitel, or an authorized distributor for Mitel, it will be free from defects in material and workmanship under normal use and service for a period of 90 days from delivery. Mitel does not warrant that the Software will be uninterrupted or error-free or that defects will be corrected.

6.2 In the event that during the Warranty Period the Software fails to perform substantially in accordance with the Documentation and materially affects service and/or prevents beneficial use of the Software, Mitel will use commercially reasonable efforts to correct the problem within a reasonable

period of time. If Mitel is unable to resolve the problem, Mitel will in its sole discretion, either: (a) replace the Software, (b) install a new release of the Software when it becomes generally available, or (c) return the Software to a prior release. The foregoing is Mitel's entire liability and Your sole and exclusive remedy under the above limited warranty.

6.3 The limited Software warranties provided to You under this Agreement shall become void if one of the following occurs: (a) the Software is not used properly in accordance with the Documentation or is otherwise abused, damaged, or negligently serviced or maintained by anyone other than Mitel, (b) maintenance is performed on the Software by anyone not authorized by Mitel, (c) the Software is not properly installed; (d) the Software is integrated or used in combination with products that are not approved by Mitel or (e) You breach a material term of this Agreement.

6.4 The limited Software warranties provided under this Agreement are subject to Mitel receiving timely written notice of any nonconformity with as much specificity as is known and as soon as You become aware of such nonconformity, but in any event prior to the expiration of the Warranty Period. Mitel shall have the right to inspect and test the Software to determine, in its reasonable opinion, whether the nonconformity is covered under the Software warranty.

6.5 YOU ASSUME FULL RESPONSIBILITY FOR THE SELECTION OF THE SOFTWARE TO ACHIEVE YOUR INTENDED PURPOSES, FOR THE PROPER INSTALLATION AND USE OF THE SOFTWARE AND FOR VERIFYING THE RESULTS OBTAINED FROM USE OF THE SOFTWARE. MITEL MAKES NO REPRESENTATION OR WARRANTY THAT THE SOFTWARE OR DOCUMENTATION WILL MEET YOUR REQUIREMENTS, OR THAT THE OPERATION OF THE SOFTWARE WILL BE INTERRUPTION OR ERROR FREE.

6.6 TO THE FULL EXTENT PERMITTED BY LAW, MITEL AND ITS SUPPLIERS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, TERMS AND CONDITIONS, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT AND THIS IS SO ACKNOWLEDGED BY YOU.

6.7 THE SOFTWARE IS NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, DIRECT LIFE SUPPORT MACHINES, OR WEAPONS SYSTEMS IN WHICH THE FAILURE OF THE SOFTWARE COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

6.8 IMPORTANT NOTE: Nothing in this Agreement is intended to or shall be construed as excluding or modifying any statutory rights, warranties or conditions which may be applicable to this Agreement, the Software or Documentation, and which by virtue of any national or state fair trade or other consumer legislation may not be modified or excluded. To the extent such legislation is applicable to Your license of the Software or is required by such legislation, any required warranty is limited in duration to ninety (90) days from the date of installation and Mitel and its suppliers' liability for any breach of any such warranty or condition shall be and is hereby limited to either: (a) the replacement of such Software; or (b) the correction of any defect in such Software or Documentation as Mitel, at its sole discretion, may determine to be necessary to correct the defect. All limited warranties are void if failure of the Software has resulted from Acts of God, accident, abuse, misapplication or electrical surge or any other cause beyond Mitel's control.

6.9 Mitel does not warrant or represent that the Software is immune from fraudulent or unauthorised intrusion or use (including its use to interconnect to long distance networks, computer virus and/or other malicious code of whatever nature). The Software has risks inherent to all software applications and, as such to the extent permitted by law or Mitel's contractual obligations, Mitel disclaims

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7.1 IN NO EVENT WILL THE MITEL GROUP OR ITS SUPPLIERS BE LIABLE TO YOU FOR ANY LOSS OF DATA, LOSS OF PROFITS OR SAVINGS, LOSS OF BUSINESS, LOSS OF REPUTATION OR GOODWILL OR ANY ECONOMIC LOSS OR INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, YOUR LICENSE, USE OR INABILITY TO USE THE SOFTWARE, DOCUMENTATION, CUSTOMER DATA, OR THE BREACH OF ANY EXPRESS OR IMPLIED WARRANTY OR CONDITION IN CONNECTION WITH THE SOFTWARE, DOCUMENTATION, AND THIS AGREEMENT EVEN IF THE MITEL GROUP OR ITS SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE NATURE OF THE CAUSE OF ACTION OR THEORY ASSERTED REGARDING SUCH DAMAGES.

7.2 Some jurisdictions do not allow limitation or exclusion of incidental or consequential damages in certain circumstances involving certain types of customer classes, so that the above limitation or exclusion may not apply to You to the extent that liability is by law incapable of exclusion or restriction.

7.3 IN NO EVENT SHALL THE MITEL GROUP'S TOTAL AGGREGATE LIABILITY, DIRECT OR INDIRECT, ARISING FROM OR IN CONNECTION WITH THE SOFTWARE, DOCUMENTATION, OR THIS AGREEMENT EXCEED THE LICENSE FEES PAID BY YOU FOR YOUR ENTITLEMENTS IN THE TWELVE MONTHS PRIOR TO THE CLAIM EXCEPT IN THE CASE WHERE YOUR ENTITLEMENT IS PERPETUAL, IN WHICH CASE THE LICENSE FEES PAID FOR YOUR ENTITLEMENT, REGARDLESS OF THE BASIS OF THE CLAIM FOR WHICH SUCH LIABILITY ARISES FROM.

7.4 To the extent permitted by applicable law, no action arising out of this Agreement may be brought by You more than eighteen (18) months after the cause of action has arisen.

7.5 The installation, configuration, and use of the Software may have legal implications. Customer acknowledges and agrees that customer (and not Mitel) is solely responsible for ensuring the installation, configuration, and use of the Software, including any features therein (e.g., call recording, emergency calling), is compliant with all applicable laws, rules and regulations. You are advised that the operation of E-911, its equivalent or other emergency service, requires accurate information contained in Your database and network/zone maps, if applicable, or the equivalent, which You are solely responsible for creating and managing. Additionally, operation of the Software may not be able to make calls to the appropriate emergency number, for example 911, in some locations. For the avoidance of doubt, Mitel as the licensor of Software under this Agreement is the multi-line telephone system (MLTS) manufacturer and is not the MLTS installer, manager, or operator. You agree to indemnify and, if requested by the Mitel Group, defend the Mitel Group against any claim or action filed against the Mitel Group to the extent that it is based on Your installation, configuration, and use of the Software, and/or Your failure to comply with all applicable laws, rules, and/or regulations.

## 8.0 Allocation of Risk

Provisions of this Agreement such as the warranty limitations, exclusive remedies, and limitations of liability are unrelated, independent allocations of risks between You and Mitel. Unenforceability of any such allocations shall not affect the enforceability of other such allocations. The fees paid by You for the Software reflects the allocations of risk contained in this Agreement.

## 9.0 Export Controls

9.1 You agree to comply fully with all relevant export laws and regulations of Canada, United States, and Europe and any other applicable export laws and regulations to ensure that the Software is not exported directly, or indirectly, in violation of such laws.

9.2 You represent and warrant that: (1) the Software will not be downloaded or used in, or transported to, a country that is subject to a U.S. Government embargo, or has been designated by the U.S. Government as a 'terrorist-supporting' country; and (2) neither You nor any user is listed on any U.S. Government list of prohibited or restricted parties.

#### 10.0 U.S. Government Restricted Rights

The U.S. Government accepts the Software and Documentation as commercial computer software and/or commercial computer software documentation in accordance with the license terms set forth in this Agreement, subject to the requirements of FAR 52.227-19 Commercial Computer Software-Restricted Rights (June 1987) or DFAR 227.7202-3 "Rights in commercial computer software or commercial computer software documentation, (effective 6/30/95). For uses with the U.S. Government, the Contractor/Manufacturer is Mitel Networks, Inc., 2160 E. Broadway Road Suite 103, Mesa, Arizona 85202.

#### 11.0 Entire Agreement, Governing Law and Venue, Data Collection

11.1 YOU AGREE THAT THIS AGREEMENT IS THE COMPLETE, FINAL AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN YOU AND MITEL AND SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT OR ANY OTHER COMMUNICATIONS RELATING TO THE USE OF THE SOFTWARE AND SERVICES OR ANY OF THE DOCUMENTATION.

11.2 Except as stated in Section 13.5, no amendment, modification or waiver of this Agreement will be valid unless set forth in a written instrument signed by both parties. This Agreement shall be governed by, and construed in accordance with, the laws in force in the Province of Ontario, Canada, exclusive of its conflict of laws provisions. In no event shall this Agreement be construed or enforced under the provisions of the United Nations Convention on Contracts for the International Sale of Goods or the United Nations Convention on the Limitation Period in the International Sale of Goods, the application of which are expressly excluded. Each of the parties acknowledges and hereby submits to the exclusive jurisdiction of the Courts located in the City of Ottawa, Ontario, Canada. Mitel and its suppliers are deemed to be third party beneficiaries of this Agreement.

11.3 In the event of any conflict between the terms of this Agreement and a separate agreement for the Software that You have signed with Mitel (the "Executed Agreement"), the terms and provisions of the Executed Agreement will govern.

11.4 Mitel may collect personal and non-personal data from Your use of the Software and You hereby agree to the collection. For more information on how Mitel collects, uses, and protects personal data, please refer to Mitel's Privacy Policy which can be found at [www.mitel.com/legal/policies](http://www.mitel.com/legal/policies).

#### 12.0 Authorized Mitel Dealer Sublicense Requirement

To the extent that this Software is first utilized, and/or configured or programmed by an authorized Mitel dealer, distributor, or system integrator and not an end user customer, then the dealer, distributor or system integrator understands and agrees that it has the duty to obtain an acceptable sub-license from the end user or notify the end user of the terms of this Agreement prior to end user's use of the Software.

#### 13.0 Miscellaneous Provisions

13.1 To the extent that any portion or provision of this Agreement is found by any court or competent authority to be invalid, unlawful, or unenforceable in any jurisdiction, that portion or provision shall be deemed not to be a part of this Agreement, it shall not affect the enforceability of the remainder of this Agreement nor shall it affect the validity, lawfulness or enforceability of that portion or provision in any other jurisdiction.

13.2 This Agreement is personal to You and You may not assign Your rights or delegate Your duties under the Agreement either in whole or in part without Mitel's prior written consent. Mitel may assign its rights and duties at any time for any reason. The Agreement will bind and inure to the benefit of each party's successors and permitted assigns.

13.3 The terms, conditions, and warranties contained in this Agreement that by their sense and context are intended to survive the performance hereof shall so survive the completion of performance, cancellation, or termination of this Agreement. Without limiting the generality of the foregoing, the parties agree that any limitations of liability, exclusions, and disclaimers of warranties and indemnification obligations are essential to the parties' entering into this Agreement and will survive the termination of the Agreement and will apply even if the Agreement is found to have failed of its essential purpose.

13.4 Except as otherwise set out in this Agreement, any notice provided hereunder shall be in writing and delivered by hand, registered mail or courier, or email to the Mitel address set out above and will be effective and deemed delivered upon receipt. Notwithstanding the foregoing, Mitel may send You notice by electronic means, such as .pdf email, which shall be deemed delivered on the business day following the day on which it was sent.

13.5 If Your Entitlement(s) are subscription based, then Mitel may make changes to these terms and any document referred herein from time to time by posting a new version at [www.mitel.com/legal/mitel-cloud-services-terms-and-conditions](http://www.mitel.com/legal/mitel-cloud-services-terms-and-conditions). Any changes in the new version are effective and deemed accepted by You on the date posted. If Mitel modifies these terms in a manner which, in our sole opinion, is likely to cause a material detrimental impact on You and the change is not in response to a change in legal or regulatory requirements, or a material change in our business, then the change will become effective thirty (30) days after Mitel provides notice. If during the thirty (30) day notice period You provide Mitel with written objection, then the change will not become effective until renewal of Your Entitlements. Nothing in this section will relieve You of payment of any already incurred fee.

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