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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.

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"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.

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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.

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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.

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 request 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 party 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.

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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.

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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.

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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. 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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