



This End User License Agreement was last updated on December 14, 2023

## END USER AGREEMENT (“Agreement”)

**BEFORE YOU USE THE APPLICATION SUBJECT TO THIS LICENSE, PLEASE READ THIS DOCUMENT CAREFULLY. THIS IS A LEGAL AGREEMENT BETWEEN UBIcus CORPORATION (“LICENSOR”), AND THE ENTITY WHICH DOWNLOADED OR IS OTHERWISE ACCESSING OR USING THE APPLICATION AND THEREBY AGREEING TO THIS LICENSE (“LICENSEE”).**

**WARNING:** THE APPLICATION IS OWNED BY LICENSOR AND PROTECTED BY COPYRIGHT LAWS AND INTERNATIONAL COPYRIGHT TREATIES, AS WELL AS OTHER INTELLECTUAL PROPERTY LAWS AND TREATIES. UNAUTHORIZED REPRODUCTION OR DISTRIBUTION OF THE APPLICATION, OR ANY PORTION OF IT, MAY RESULT IN SEVERE CIVIL AND CRIMINAL PENALTIES, AND WILL BE PROSECUTED TO THE MAXIMUM EXTENT POSSIBLE UNDER THE LAW. THE APPLICATION IS LICENSED, NOT SOLD.

**ACCEPTANCE:** BY DOWNLOADING, ACCESSING OR USING THE APPLICATION, LICENSEE REPRESENTS AND AGREES THAT IT CONSENTS TO BE LEGALLY BOUND BY THE TERMS CONTAINED HEREIN. IF LICENSEE DOES NOT AGREE TO ALL OF THE TERMS, USE OF THE APPLICATION IS PROHIBITED. Further, Licensee agrees that by submitting an Order for the Application, Licensee has formed, executed, entered into, accepted the terms of and otherwise authenticated this Agreement, acknowledged and agreed that this Agreement is an electronic record for purposes of E-Sign, UETA and the Uniform Computer Information Transactions Act and as such is completely valid, has legal effect, is enforceable, and is binding on, and non-refutable by you or the entity on whose behalf you are acting and agreed that this Agreement is binding as between Licensee and Licensor. For purposes of this Agreement, “Order” means the purchase order or other document by which Licensee orders the Application.

1. **Genesys as Distributor.** Licensee acknowledges and agrees that the Genesys entity, or its licensed reseller, with whom Licensee placed the Order for the Application (as defined below) that is the subject matter of this Agreement is acting solely as a distributor for Licensor of the Application and that neither Genesys, nor its licensed resellers, has any obligations to Licensee other than to provide this Agreement and accept payment for the Application pursuant to an Order placed by Licensee.

2. **Grant of License.**

Subject to the terms and conditions of this Agreement and in consideration of the payment of the License Fee:

2.1 **Application/Service.** Licensor hereby grants Licensee a nonexclusive, nontransferable, limited license without right to sublicense, to use the Service (as defined below), or use the Application by either accessing servers or other storage devices owned by Licensee or accessing a storage environment maintained by a third-party hosting service provider controlled and/or contracted for directly by Licensee, in which case the Application will be downloaded by Licensee using a link provided by Licensor or uploaded by Licensor on Licensee’s behalf, in either case as Licensee indicates on the Order. Under either option, Licensee is granted the limited license to have the number of Users paid for by Licensee access and use the Application (defined below). The “Application” consists of Licensor’s proprietary software platform and includes without limitation proprietary application templates, and any images, photographs, animations, video, audio, music, text and “applets”, incorporated into the Application and any related Documentation and additional software identified on the applicable Order. The provision of access to and enablement of the use of the Application, directly or indirectly, through Licensor’s website or a third-party hosted environment managed by Licensor is also referred to herein as use of Licensor’s “Service.” The Application and Service shall be used solely for Licensee’s internal business purposes in accordance with online help documentation and as set forth on the Order by Licensee’s employees and contractors designated and paid for in the Order and authorized by Licensee to access or use the Application to perform services exclusively on behalf of Licensee (“Users”) and for no other purpose. The license includes no right to sublicense without the prior written consent of Licensor, except that Licensee can sublicense to an affiliate of Licensee if used for the benefit of Licensee.

2.2 The license is granted for the subscription term set forth in the applicable Order, and per User, per case and per environment, as set forth in the applicable Order. In the event that Licensee wishes to increase the number of users beyond the Users, cases and/or environments stated in the Order, Licensee must enter into a new Order to purchase additional subscriptions for such users, cases and/or environments. In addition, Licensee may have purchased the right, as prescribed in the Order, to use Licensor's Application to develop and configure a customized application, or to engage Licensor to provide professional services in accordance with **Exhibit A** hereto ("Professional Services") to develop a customized application ("Customized App") as described in Section 5.

2.3 In the event Licensor develops and releases a newer version of the Application, Licensee is not entitled to such newer version under this Agreement. This Agreement is for a license of intellectual property, rather than for the sale of goods (even though some tangible items may be provided) and this Agreement shall not be governed by the Uniform Commercial Code.

### 3. **Support Services and Service Level Agreement.**

The current terms are attached hereto as **Exhibit A**, and Licensor reserves the right to modify such terms. Licensor will provide Licensee with thirty (30) days' prior notice of any such material modifications. Support Services are an integral part of the Services and not billed separately during any subscription term, other than with respect to a Licensee which enters into a perpetual license of the Application and related maintenance services agreement, through which Support Services will be separately billed on an annual basis.

### 4. **Restrictions.**

The Application and Service are protected by Republic of Korea copyright law, international treaty provisions and potentially by other intellectual property rights. Unauthorized copying of the Application is expressly forbidden. Licensee may not: ① distribute copies of the Application or provide access to the Service to others, including but not limited to, unauthorized employees, consultants, affiliates, independent contractors or any other third party, except to authorized Users in order to utilize the Application/Service; or ② sell, loan, rent, lease, lend, transfer, assign, provide access to, or otherwise dispose to anyone else the Application, Service or the Content (as defined below). However, Licensee has the right to reassign User licenses to a new User who replaces an existing User (which latter person is no longer employed or engaged by Licensee, or no longer uses the Application or Service, or for other good reason). Licensee shall ensure that each User is issued a unique username and password to be used only by the intended User. "Content" means any data, information, graphics, materials, or other content provided to Licensee through the use of the Application/Service. Licensee may not modify, adapt, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Application; ③ modify or make derivative works of the Content or merge the Application/Service or the Content with other software or data; ④ use the Application/Service and/or Content to build a similar and/or competitive product, feature or service; or ⑤ create Internet "links" to the Application/Service or "frame" or "mirror" any Content on any other server or wireless or Internet-based device. 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. Except as expressly provided in this Agreement or by local law, Licensee may not otherwise make copies of the Application, including any printed or online materials accompanying the Application or accessible online (the "Documentation"). Licensee may copy such Documentation for its internal use only. IF LICENSEE TRANSFERS POSSESSION OF ANY COPY, OF THE APPLICATION, DOCUMENTATION OR RELATED MATERIAL TO ANOTHER PARTY IN VIOLATION OF THIS AGREEMENT, THIS LICENSE IS AUTOMATICALLY TERMINATED.

### 5. **Ownership of Application/Service; Customized App.**

5.1 All title and intellectual property rights in and to the Application and Service are owned by the Licensor. Licensee agrees that no title to the Application or Service is transferred to it, and that all rights not expressly granted to Licensee hereunder are reserved by Licensor.

5.2 To the extent that Licensee utilizes Licensor's proprietary Application or Service, including related applications and templates to develop and configure a Customized App or has engaged Licensor



to develop a Customized App on Licensee's behalf by means of Professional Services, Licensee shall retain ownership of such Customized App subject to Licensor's underlying ownership rights to the Application. Unless expressly agreed between Licensor and Licensee in a written agreement to the contrary, any features or functionality added to Licensor's proprietary platform as part of any engagement to build a Customized App shall become a part of the Application/Service and shall be owned by Licensor.

## **6. Account Information and Data.**

- 6.1 Licensor will either: create and email to Licensee an Application User ID and password, which will allow Licensee to access and use the Service, as set forth herein, or provide Licensee with a link to download a copy of the Application. Downloading the Application or failure of Licensee to reject the Application User ID and password within 10 days following delivery will be deemed acceptance by Licensee of all terms hereof. For the avoidance of doubt, Licensee shall be required to accept the terms of this Agreement prior to receiving access to or using the Application and use of the Application shall be deemed acceptance of all terms hereof.
- 6.2 Licensor does not own any data, information or material that Licensee submits to Licensor in the course of using the Application/Service ("Licensee Data"). Licensor will not modify the Licensee Data or disclose the Licensee Data; provided however, Licensor may retain, use, and disclose to any third parties Licensee Data if Licensee Data is aggregated with similar data collected from other customers and does not disclose or identify Licensee as the source of the Licensee Data.
- 6.3 Licensee, not Licensor, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Licensee Data, and Licensor shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Licensee Data.
- 6.4 Licensee, not Licensor, shall have sole responsibility for obtaining any permissions or consents to use any personally identifiable information or personal data that may comprise all or part of Licensee Data, in accordance with applicable laws on privacy and data protection.
- 6.5 During the term of this Agreement and upon termination, Licensor will make available to Licensee a file of the Licensee Data within 30 days of Licensee's written request. Licensee agrees and acknowledges that Licensor has no obligation to retain Licensee Data, and may delete such Licensee Data if this Agreement is terminated, unless Licensee requests to receive a copy of the Licensee Data at the time of termination and pays all outstanding fees owed to Licensor. Licensor may charge Licensee a modest fee to cover its expenses for providing the Licensee Data. Notwithstanding the foregoing, Licensor reserves the right to withhold, remove and/or discard Licensee Data without notice if Licensee materially breaches this Agreement, including, without limitation, through non-payment of the required subscription fees. Upon termination of this Agreement by Licensor for cause, Licensee's right to access or use Licensee Data immediately ceases, and Licensor shall have no obligation to maintain or forward any Licensee Data thereafter. Licensee agrees and acknowledges that Licensor has no obligation to retain Licensee Data and that such Licensee Data may be irretrievably deleted if Licensee account is 30 days or more delinquent.

## **7. License Fees; Excess Data Storage Fees.**

- 7.1 **License Fees.** Licensee will pay Genesys or its permitted reseller (as applicable) the annual subscription license fees in advance, as set forth in the Order in order to access and use the Application, whether through the Service or otherwise. Thereafter, payments must be made on the anniversary of each subscription term as set forth in the Order. All payment obligations are noncancelable and all amounts paid are nonrefundable. Licensee is responsible for paying for all licenses for each User, case or environment ordered for the entire term of the subscription as set forth in the Order, whether or not all such licenses are actively used. A Licensee-authorized administrator shall have the right to add licenses during the course of an annual subscription by contacting Licensor, Genesys or its permitted reseller, as applicable. Licenses added in the middle of any subscription year will be subject to the following: ① added licenses will be coterminous with the preexisting subscription term of Licensee's initial applicable Order; ② the subscription fees for the added licenses will be the per-license subscription fee currently in effect for the applicable subscription; and ③ licenses added in the middle of a month will be prorated



for that month. Licensee may not reduce the number of licenses during the then-current subscription term. Licensor reserves the right to modify its fees and charges and to introduce new charges for subscription renewal terms.

- 7.2 **Excess Data Storage Fees.** If utilizing the Service, the maximum disk storage space provided to Licensee at no additional charge is 1 (One) GB per User and disk storage space among Users may be shared to the extent that total storage space required for Licensee does not exceed maximum space for all Users combined. If the amount of disk storage required exceeds these limits for any particular Application/Service, Licensee shall be charged the data storage fee set forth in the applicable Order for each additional GB of storage added for such Service. Licensor will use reasonable efforts to notify Licensee when the average storage used per User reaches approximately 90% of the maximum; however, any failure by Licensor to so notify Licensee shall not affect Licensee's responsibility for such additional storage charges. Licensor reserves the right to establish or modify its general practices and limits relating to storage of Licensee Data.
- 7.3 **Audit.** 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/Service and Documentation to verify compliance with this Agreement. Licensee shall promptly provide Licensor or an authorized representative with access to records, hardware and employees in order to perform the audit.

## **8. Nonpayment and Overdue Fees**

- 8.1 Licensor reserves the right to suspend or terminate a subscription to the Application/Service (and Licensee's access thereto) and/or terminate this Agreement if Licensee has failed to pay Genesys or its permitted reseller and payment is more than 30 past due, or if Licensee's account is more than 30 days past due. Licensee will continue to be charged for licenses during any period of suspension. Licensor has the right to impose a reconnection fee after any period of suspension.
- 8.2 If any Fees are not received from Licensee by the due date, then at Licensor's discretion, such Fees may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

## **9. Assignment/Sublicense.**

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.

## **10. Term and Termination.**

This Agreement will remain in effect for the term set forth in the Order for licenses and Professional Services. Licensee may terminate this license at any time by discontinuing the Service, uninstalling or no longer accessing the Application and returning or destroying all Documentation and the related material together with all copies, modifications and merged portions in any form. This license also can be terminated by Genesys or Licensor upon conditions set forth elsewhere in this Agreement or if Licensee fails to comply with any term or condition of this Agreement. Other than pursuant to Section 4 (Restrictions) through which Licensor can terminate this Agreement immediately in applicable circumstances, Licensor can terminate any subscription license if notice of a material breach is given to Licensee, and then Licensee fails to cure such breach within 30 days after receipt of such breach notice. Any breach of Licensee's payment obligations or unauthorized use of the Application/Service or Content will be deemed a material breach of this Agreement. Licensee agrees upon such termination to uninstall or stop accessing the Application and destroy the Documentation together with all copies, modifications and merged portions in any form, and to provide Licensor with written certification of destruction. All terms of this Agreement which, by their nature, are intended to survive termination of this Agreement will survive termination, including all payment obligations, use restrictions, confidentiality obligations, ownership terms, Feedback, indemnification obligations, disclaimers, governing law and arbitration, exclusions and limitations of liability.

## 11. Damages.

In the event the Agreement is terminated due to Licensee's breach of its terms, Licensee agrees that it is virtually certain that Licensor would be damaged due to the unauthorized copying, distribution or reverse engineering of the Application and that the precise amount of such damages is difficult or impossible to calculate. Accordingly, in addition to all other remedies available to Licensor, Licensee agrees to the imposition of liquidated damages in an amount equal to the maximum statutory damages available per infringing copy of the Application under Republic of Korea copyright law (whether or not the Application is registered under such copyright law). Licensor shall be entitled to its reasonable attorney's fees and costs associated with enforcing its rights under this Agreement.

## 12. Limitation of Liability.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCE SHALL LICENSOR BE LIABLE TO LICENSEE ON ACCOUNT OF ANY CLAIM (WHETHER BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, NEGLIGENCE OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, PRINCIPLES OF INDEMNITY, THE FAILURE OF ANY LIMITED REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE, OR OTHERWISE) FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, OR FOR LOST DATA, OR FOR ANY DAMAGES OR SUMS PAID BY LICENSEE TO THIRD PARTIES, EVEN IF LICENSOR AND/OR GENESYS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IF LICENSEE IS DISSATISFIED WITH THE APPLICATION, OR LICENSOR'S PRODUCTS OR SERVICES, ITS SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USE OF THE APPLICATION. In no EVENT shall LICENSOR'S liability exceed the amount ACTUALLY PAID BY LICENSEE under this agreement. Licensee acknowledges and agrees that Licensee's only recourse for a claim for damages shall be through Licensor and that Genesys has no liability to Licensee relating to the Application, the Documentation or the use thereof.

## 13. Indemnification.

- 13.1 Licensor agrees to indemnify, defend and hold harmless Licensee, together with its officers, directors, employees, and agents, against any liability (including reasonable attorneys' fees) arising out of any third-party claim against Licensee alleging that the Application and/or Service infringes the intellectual property rights (including, but not limited to, patent rights, trademark and copyright rights) of such third party. Licensor will bear the expense of such defense and pay reasonable damages and attorneys' fees which are attributable to such claim, subject to this Agreement. The foregoing obligations do not apply to any claim based on or arising from: ① any modification of the Application and/or Service not done by Licensor or done strictly in accordance with Licensor's written instructions from Licensee, if the claim would not have arisen but for such modification; ② any failure by Licensee to implement updates or upgrades to the Application/Service as provided by Licensor, if the claim would not have arisen had such update or upgrade been implemented; ③ the combination, operation, or use of the Application or Service with non-Licensor programs, data or documentation not recommended by the Documentation or by Licensor in writing, if such infringement would have been avoided by the use of the Application or Service without such combination, operation or use; ④ any use of the Application or Service that is not expressly permitted under this Agreement or the Documentation; ⑤ Licensee's continued use of the infringing Application/Service after Licensor, at no additional charge, supplies or offers to supply modified or replacement non-infringing Application/Service; or ⑥ the Licensee Data or Content.
- 13.2 Licensee agrees to indemnify, defend and hold harmless Licensor, third party licensors, together with its officers, directors, employees, and agents, against any liability (including reasonable attorneys' fees) arising out of any claim made against Licensor arising out of or related to Licensee Data and Content, including without limitation any personally identifiable information or personal data (as such terms are defined by applicable privacy laws), and Licensee's or a User's use of the Application or Service in violation of this Agreement including, but not limited to, any claim that Licensee's or User's use infringes the intellectual property rights (including, but not limited to, patent, trademark and copyright rights) of any third party (unless such claim was caused by

Licensor). Licensee will bear the expense of such defense and pay any damages and attorneys' fees which are attributable to such claim.

- 13.3 Each party's indemnification obligations are conditioned on the indemnified party: ① promptly giving written notice of the claim to the indemnifying party; ② giving the indemnifying party, at the indemnifying party's expense, sole control of the defense and settlement of the claim (provided that the indemnifying party assumes the defense of the claim in timely manners so as not to prejudice the indemnified party, and further provided that the indemnifying party may not settle any claim unless the settlement unconditionally releases the indemnified party of all liability for the claim without acknowledgment by the indemnified party of fault or wrongdoing); ③ providing to the indemnifying party all available information in its possession and reasonable assistance in connection with the claim, at the indemnifying party's request; and ④ not compromising or settling such claim. The indemnified party may otherwise participate in the defense of the claim, at the indemnified party's sole expense (not subject to reimbursement).

#### **14. Warranty; Disclaimer.**

EXCEPT AS EXPRESSLY PROVIDED HEREIN, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE APPLICATION AND SERVICE, AND ANY RELATED 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 OR DELIVERY OF THE APPLICATION OR SERVICE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES ABOUT THE ACCURACY, COMPLETENESS, OR SUITABILITY OF ANY OF THE MATERIAL CONTAINED WITHIN THE APPLICATION, SERVICE OR DOCUMENTATION. LICENSOR MAKES NO WARRANTY THAT USE OF THE APPLICATION/SERVICE WILL BE UNINTERRUPTED, ERROR FREE, FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, COMPATIBLE WITH ANY HARDWARE OR SYSTEMS SOFTWARE CONFIGURATION, OR WILL MEET LICENSEE'S REQUIREMENTS. THE APPLICATION AND SERVICE, AND SUPPORT SERVICES, MAY BE SUBJECT TO LIMITATIONS, DELAYS AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. LICENSOR IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS. 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 Service or the use thereof.

#### **15. Confidentiality.**

Licensee acknowledges that Confidential Information (as hereinafter defined) is a valuable, special, and unique asset of Licensor and agrees that Licensee will not disclose or transfer (or seek to induce others to disclose or transfer) any Confidential Information for any purpose other than disclosure to Licensee's authorized employees, contractors and agents having a need to know who are bound in writing to maintain the confidentiality of the Confidential Information, and will not use (or permit Users or others to use) any Confidential Information except as necessary for the proper and lawful use of the Application and Service. 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, or if Licensor so instructs, will destroy all Confidential Information and provide an officer's certificate to such effect. The term "Confidential Information" means any and all of Licensor's trade secrets, technology, 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 code or Service. 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. Confidential Information disclosed to the other party: ① if disclosed in tangible or electronic form, shall be marked in writing as “confidential” or “proprietary,” ② if disclosed orally or visually, shall be designated at the time of disclosure as “confidential” or “proprietary,” or ③ should be known to be Confidential Information by a reasonable person even without any indication. Notwithstanding the foregoing, the Application will be considered Licensor’s Confidential Information whether or not marked as such. Licensee’s duty to hold Confidential Information (other than the Application and any trade secrets) in confidence expires five (5) years after this Agreement terminates; with respect to the Application and any trade secret, such obligation continues in perpetuity (or if a trade secret, until no longer protected as a trade secret). This Agreement shall be the Confidential Information of Licensor.

## 16. Privacy and Security.

Licensor’s privacy and security policies may be viewed at <https://www.ubicus.co.kr> Licensor reserves the right to modify its privacy and security policies in its reasonable discretion from time to time. Licensor occasionally may need to notify all Users of the Application/Service of important announcements regarding the operation of the products and services.

## 17. Marketing. Licensee agrees to the following marketing activities:

- 17.1 Licensor may ① refer to its selection by Licensee in commercials, other advertising or publications, and only with prior written approval may this be in such a manner as to state or imply that the Application/Service licensed hereunder are endorsed or preferred by Licensee; ② use Licensee name or logotype in customer lists on collateral, web sites or media communications
- 17.2 From time to time, Licensor may request Licensee and Licensee may choose to agree or not to participate in reference calls and/or site visits with noncompetitive new clients, partners, media and industry analysts; and
- 17.3 Licensee may agree to participate in case studies and provide quotes for use in marketing materials and Licensor agrees to obtain Licensee written approvals before public release.

## 18. Integration.

This Agreement ① constitutes the entire agreement between Licensor and Licensee relating to the Application, Service and Support Services; ② supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to its subject matter; and ③ prevails over any conflicting or additional terms of any order (other than the applicable 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 each party.

## 19. Independent Contractors.

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. Neither party shall have the power to obligate or bind the other party.

## 20. Non-Solicitation.

The parties agree that for the term of this Agreement, and twelve (12) months thereafter, neither party nor any of their respective subsidiaries, parents or other affiliates will, without the prior written consent of the other party, solicit for employment or hire any person employed by the other party. This obligation does not apply to solicitation of persons whose employment has terminated at least three (3) months prior to such solicitation or to an employee of one party voluntarily and without inducement responding to a non-targeted advertisement for employment in publications or other media of general, public circulation.

## 21. Governing Law; Arbitration.

Applicable law and venue shall be as follows: the governing law shall be the laws applicable in the Republic of Korea (excluding its legal provisions on conflicts of laws). Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement,

interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by final and binding arbitration in the Seoul City of Republic of Korea or LA County of California, before one arbitrator(s) with substantial experience in the technology industry. The arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures, and the arbitrator shall apply the laws applicable in the Republic of Korea or the State of California. Judgment on the arbitral award may be entered in any court having jurisdiction thereof. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The arbitrator shall, in the arbitral award, allocate all or part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees (and accountant's fees) of the prevailing party, for payment by the non-prevailing party, and shall determine the prevailing party for this purpose.

**22. Force Majeure.**

Licensor shall not be in default by reason of any failure or delay in performance of its obligations if such failure or delay arises out of causes beyond the reasonable control (whether caused directly or indirectly) of Licensor ("Force Majeure Event"). Force Majeure Event may include, but is not restricted to: Acts of God or of the public enemy; acts of government (including specifically but not exclusively any orders, rules, or regulations issued by any official or agency of any such government) in either its sovereign or contractual capacity; riots; fires; earthquake; floods; epidemics; quarantine restrictions; embargoes; strikes; labor difficulties; unusually severe weather; shortages in labor, fuel, materials and supplies; power failure; denial of service attacks; or any combination thereof. Licensor will promptly notify Licensee of the Force Majeure Event and resume performance as soon as possible.

**23. Miscellaneous.**

This Agreement may be executed in counterparts, each of which will be deemed an original, but all of such counterparts together shall constitute one and the same instrument. 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. 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. 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, foreign governmental acts in either a sovereign or contractual capacity, labor, fire, flood, epidemic, restrictions, strikes, and/or freight embargoes.

**24. Consent to Transfer.**

By placing an Order with Genesys, Licensee consents to have its data shared by Genesys with the Licensor but only to the extent necessary to enable the access and/or use of the Application/Service and to provide Support Services and Professional Services for the Application/Service that is the subject matter of this Agreement.

**25. Payment Terms.**

Licensee agrees to pay the Fees set forth in the Order for the Application. Licensor hereby acknowledges and agrees that any payments owed to it for the Application that is the subject matter of this Agreement shall be collected directly from Genesys or its permitted reseller and not Licensee.

## Exhibit A Professional Services

### 1. Purpose.

Licensor provides a variety of installation, implementation, consulting, technology and project-related services related to the Software Services (“**Professional Services**”) to its customers. This Schedule describes additional terms and conditions under which Licensee may engage Licensor to perform such services for Licensee.

### 2. Definitions.

The following definitions apply to this Exhibit and any related Statement of Work.

- 2.1 “**Deliverable**” means any materials specified in a SOW (or Order) for delivery by Licensor to Licensee.
- 2.2 “**Documentation**” means, for Professional Services, any written materials or specifications to be prepared by Licensor for Licensee and/or made accessible to Licensee under a particular SOW or Order.
- 2.3 “**Statement of Work**” (“**SOW**”) means a written document executed between the parties that includes at least the following information: (i) a description of the Professional Services and Deliverables; (ii) the parties’ responsibilities; and (iii) the Professional Services fees and method of calculation, unless such information is included in an Order.

### 3. Rules of Engagement

- 3.1 **Initiating Professional Services.** All Professional Services provided by Licensor to Licensee shall be implemented through individual SOW(s) and or Orders. A SOW/Order will become effective upon execution by authorized representatives of both parties.
- 3.2 **SOW Integration.** If the SOW or Order contains provisions inconsistent with this Exhibit, the SOW or Order provisions shall prevail with respect to that SOW or Order. This Exhibit by itself does not obligate a party to provide any Professional Services or enter into any SOW/Order.
- 3.3 **Change Order.** Any changes to the obligations of either party or to any other material aspect of a SOW/Order will require a written change order signed by both parties that describes the changes and any related cost adjustments.
- 3.4 **Acceptance.** Professional Services will be deemed satisfactory to and accepted by Licensee unless within ten (10) days after submission to Licensee, Licensee gives Licensor written notice of aspects in which the Professional Services do not meet the SOW/Order requirements. Upon receipt of such written notice, Licensor will use commercially reasonable efforts to make such changes as will be required to correct any deficiencies.

### 4. Responsibilities

- 4.1 **Assumptions.** The description of the Professional Services and related compensation amount in each SOW or Order will be based upon information Licensee provides to Licensor and upon any assumptions set forth in the SOW, and will be invoiced through Genesys or its permitted reseller. Licensee acknowledges that if the information provided by Licensee is incomplete or inaccurate, or if the stated assumptions are not correct, then the parties will modify the Order and/or SOW pursuant to Section 3.3 above.
- 4.2 **Licensee Assistance.** Licensee agrees that it will reasonably cooperate with and assist Licensor in Licensor’s performance of Professional Services.
- 4.3 **Project Managers.** Each party shall appoint a project manager (“**Project Manager**”) for each SOW/Order. Each party may replace its designated Project Manager at any time.
- 4.4 **Site Regulations.** Licensor’s employees performing the Professional Services on Licensee premises shall observe reasonable safety and security protocols of which Licensor is notified in writing.

## 5. Compensation and Invoicing

- 5.1 **Compensation for Professional Services; Expenses.** Licensee shall pay all the amounts specified in the relevant Order or SOW, including without limitation, compensation for Professional Services and all reasonable out-of-pocket expenses incurred in the performance of the Professional Services, and for any non-standard expenses incurred at the request of Licensee.
- 5.2 **Invoicing.** Unless otherwise agreed in a SOW or Order, Professional Service fees and expenses shall be calculated by Licensor on a monthly basis and invoiced to Licensee by Genesys or its permitted reseller within fifteen (15) days after the end of each month.

## 6. Intellectual Property

- 6.1 **License.** Subject to payment of all applicable fees for Professional Services and Deliverables provided to Licensee, Licensor grants to Licensee, and Licensee acquires, a nonexclusive, nontransferable (except pursuant to a permitted assignment of the Agreement), worldwide, perpetual, royalty-free license to use the Deliverables in connection with receiving the Application/Service and permitted use of the Application/Service.
- 6.2 **Ownership.** Licensor (and/or its licensors) retains on an exclusive basis all right, title and interest in and to any intellectual property developed, delivered and/or used by Licensor in the performance of the SOW and/or Order.
- 6.3 **Protection of Deliverables.** Licensee agrees to take all reasonable steps to protect Deliverables under the SOW, and any related Documentation, from unauthorized copying or use.
- 6.4 **Restrictions.** Except as expressly authorized in the SOW, Licensee agrees not to rent, lease, sublicense, distribute, transfer, copy, reproduce, display, modify or time share any Deliverable.

## 7. Termination of SOW/Order

- 7.1 **Termination for Cause.** A SOW may be terminated by either party effective immediately if a breach of any representation, warranty, covenant, condition or other obligation applicable to the SOW and/or Order by the other party remains uncured thirty (30) days after notice of such breach is given by the aggrieved party to the breaching party.
- 7.2 **Consequences of Termination.** In the event of termination of a SOW and/or Order, Licensee shall pay Genesys or its permitted reseller the amounts specified in the fees section of each such SOW or Order relating to work performed by Licensor prior to and including the date of termination, as well as any additional costs or expenses which Licensor had incurred or contracted for with respect to the Professional Services. Additionally, all property of each party in possession of the other party relating to such SOW and/or Order shall be returned. Licensee will return to Licensor any Deliverable provided to Licensee by Licensor under such SOW but not yet fully paid for by Licensee. Except in case of breach by Licensee, Licensee may retain a license under Section 6.1 to use incomplete Deliverables for which it has paid; however, all warranties regarding such Deliverables shall cease.