

[Legal Index](#)[/ IPsoft End Customer Terms & Conditions](#)

IPsoft End Customer Terms & Conditions

IPsoft's End Customer T&Cs—for Partner-sold products and when referenced by IPsoft in orders.

Version: 2019 December 05

These IPsoft End Customer Terms & Conditions (the “**End Customer T&Cs**”) are between you and IPsoft Incorporated, located at 17 State Street, New York, New York 10004 (if you are contracting in the United States of America) or IPsoft EU Holding B.V., located at Amstelplein 1, 1096 HA, Amsterdam, the Netherlands (if you are not contracting in the United States of America) (collectively, “**IPsoft**”). If you are agreeing to these End Customer T&Cs not as an individual but on behalf of your company, then “**Customer**” or “**you**” means your company, and you are binding your company to these End Customer T&Cs. IPsoft may modify these End Customer T&Cs from time to time, subject to the terms in Section 26 (Changes to these End Customer T&Cs) below.

NOTE: These End Customer T&Cs only apply if your order or agreement references these End Customer T&Cs. If your order references the IPsoft General Terms of Use, then those terms apply.

1. Scope of the End Customer T&Cs.

These End Customer T&Cs govern your initial purchase as well as any future purchases made by you that reference these End Customer T&Cs. These End Customer T&Cs include our Privacy Policy, our IPsoft General Terms of Use (except to the extent that these End Customer T&Cs conflict with the IPsoft

[IPsoft Partner Program](#)

[IPsoft End Customer Terms & Conditions](#)

[IPsoft IPuniversity \(Training\) Terms and Conditions](#)

[Cookie Policy](#)

[Intellectual Property and DMCA](#)

[IPsoft General Terms of Use](#)

[Privacy](#)

[Data Transfers](#)

General Terms of Use), any Orders, and any other referenced policies and attachments. These End Customer T&Cs also apply to IPsoft enhancements, add-ons or plugins that you purchase or receive from IPsoft.

2.

Types of IPsoft Products.

These End Customer T&Cs govern (a) IPsoft's downloadable software products (currently designated as "on-premise" deployments) ("**Software**"), (b) IPsoft's hosted or cloud-based solutions (currently designated as "Cloud" deployments) ("**Hosted Services**"), and (c) any related support or maintenance services provided by IPsoft. Software and Hosted Services, together with related Documentation, are referred to as "**Products**". The Products and their permitted use are further described in IPsoft's standard documentation ("**Documentation**"). Section 6 (Software Terms) applies specifically to Software, and Section 7 (Hosted Services Terms) applies specifically to Hosted Services, but unless otherwise specified, other provisions of these End Customer T&Cs apply to all Products.

3.

Account Registration.

You may need to register for an IPsoft account in order to place orders or access or receive any Products. If you do so, any registration information that you provide to us must be accurate, current and complete. You must also update your information so that we may send notices, statements and other information to you by email or through your account. You are responsible for all actions taken through your accounts.

4.

Orders.

4.1. Directly with IPsoft.

IPsoft's Product ordering documentation or purchase flow ("**Order**") will specify your authorized scope of use for the Products, which may include: (a) number and type of Authorized Users (as defined below), (b) storage or capacity (for Hosted Services), (c) numbers of licenses, copies or instances (for Software), or (d) other restrictions or billable units (as applicable, the "**Scope of Use**"). The term "**Order**" also includes any applicable Product or Support and Maintenance renewal, or purchases you make to increase or upgrade your Scope of Use.

4.2. Reseller Orders.

These End Customer T&Cs apply whether you purchase our Products directly from IPsoft or through IPsoft-authorized resellers (each, a “**Reseller**”). If you purchase through a Reseller, your Scope of Use shall be as stated in the Order placed by Reseller for you, and Reseller is responsible for the accuracy of any such Order. Resellers are not authorized to make any promises or commitments on IPsoft’s behalf, and we are not bound by any obligations to you other than what we specify in these End Customer T&Cs.

5. Authorized Users.

Authorized Users may be your or your Affiliates’ employees, representatives, consultants, contractors, agents, or other third parties who are acting for your benefit or on your behalf. You may also permit your customers to have limited access to certain Products as Authorized Users. For certain Products, per-user pricing may apply. In the event that per-user pricing applies, it will be set forth on the applicable Order form for such Product. You are responsible for compliance with these End Customer T&Cs by all Authorized Users. All use of Products by you and your Authorized Users must be within the Scope of Use and solely for the benefit of you or your Affiliates. “**Affiliate**” means an entity which, directly or indirectly, owns or controls, is owned or is controlled by or is under common ownership or control with a party, where “control” means the power to direct the management or affairs of an entity, and “ownership” means the beneficial ownership of 50% (or, if the applicable jurisdiction does not allow majority ownership, the maximum amount permitted under such law) or more of the voting equity securities or other equivalent voting interests of the entity.

6. Software Terms.

6.1. Your License Rights.

Subject to the terms and conditions of these End Customer T&Cs, IPsoft grants you a non-exclusive, non-sublicenseable, and non-transferable license to install and use the Software during the applicable License Term in accordance with these End Customer T&Cs, your applicable Scope of Use, and the Documentation. The term of each Software license (“**License Term**”) will be specified in your Order. Your License Term will end upon any termination of these End Customer T&Cs, even if it is identified as “perpetual” or if no expiration date is specified in your Order. The Software may require a license key in order to operate, which will be delivered as described in Section 10.2 (Delivery).

6.2. Number of Instances.

Unless otherwise specified in your Order, for each Software license that you purchase, you may install one production instance of the Software on systems owned or operated by you (or your third party service providers so long as you remain responsible for their compliance with the terms and conditions of these End Customer T&Cs).

6.3. Your Modifications.

Subject to the terms and conditions of these End Customer T&Cs: (1) for any elements of the Software provided by IPsoft in source code form, and to the extent permitted in the Documentation, you may modify such source code solely for purposes of developing bug fixes, customizations and additional features for the Software and (2) you may also modify the Documentation to reflect your permitted modifications of the Software source code or the particular use of the Products within your organization. Any modified source code or Documentation constitutes **"Your Modifications"**. You may use Your Modifications solely with respect to your own instances in support of your permitted use of the Software, but you may not distribute the code to Your Modifications to any third party. Notwithstanding anything in these End Customer T&Cs to the contrary, IPsoft has no support, warranty, indemnification or other obligation or liability with respect to Your Modifications or their combination, interaction or use with our Products. You shall indemnify, defend and hold us harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) arising out of or in connection with any claim brought against us by a third party relating to Your Modifications (including but not limited to any representations or warranties you make about Your Modifications or the Software) or your breach of this Section 6.3. This indemnification obligation is subject to your receiving (i) prompt written notice of such claim (but in any event notice in sufficient time for you to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, or settlement of such claim; and (iii) all reasonably necessary cooperation of IPsoft at your expense.

6.4. Third Party Code.

6.4.1. The Products contain code and libraries that we license from third parties. Some of these licenses require us to flow certain terms down to you.

6.4.2. *Open Source Software in the Products.* The Products include components subject to the terms and conditions of "open source" software licenses. To the extent applicable, we will identify open source software included in a Product in or through the Product itself. Some of these licenses require us to provide the open source software to you on the terms of the open source license instead of the terms of the End Customer T&Cs. In that case, the terms of the open source license will apply, and you will have the rights granted in such licenses to the open source software itself, such as access to source code, right to make modifications, and right to reverse engineer. Notwithstanding the

foregoing, if you are using the Products in the form provided to you, in accordance with your permitted Scope of Use, with no distribution of software to third parties, then none of these open source licenses impose any obligations on you beyond what is stated in the End Customer T&Cs.

6.4.3. *Combining the Products with Open Source Software.* A requirement of some open source licenses, sometimes known as “copyleft licenses,” is that any modifications to the open source software, or combinations of the open source software with other software (such as by linking), must be made available in source code form under the terms of the copyleft license. Examples of copyleft licenses include the GPL or LGPL, Affero, CPL, CDDL, Eclipse, or Mozilla licenses. To the extent you are separately authorized by IPsoft to combine and distribute Products with any other code, you must make sure that your use does not: (i) impose, or give the appearance of imposing, any condition or obligation on us with respect to our Products (including, without limitation, any obligation to distribute our Products under an open source license); or (ii) grant, or appear to grant, to any third party any rights to or immunities under our intellectual property or proprietary rights in our Products. To be clear, you may not combine or otherwise modify our Products unless we expressly give you the right to do so under these End Customer T&Cs.

6.4.4. *Commercial Third-Party Code in the Products.*

6.4.4.1. The Products also include components that we license commercially from third parties (“Commercial Components”). For the avoidance of doubt, all of the restrictions for the Products in the End Customer T&Cs also apply to Commercial Components. Commercial Components are also subject to some additional requirements as set forth below.

6.4.4.2. You may use Commercial Components only in conjunction with, as part of, and through the Products as provided by IPsoft. You may not install, access, configure or use any Commercial Components (including any APIs, tools, databases or other aspects any Commercial Components) separately or independently of the rest of the Product, whether for production, technical support or any other purposes, or otherwise attempt to gain direct access to any portions of the Commercial Components, or permit anyone else (including your customers) to do any of these things.

6.4.4.3. Some Commercial Components may include source code that is provided as part of its standard shipment. Commercial Component source code will be governed by the terms for Commercial Components in this supplement and not the provisions in Section 6.3 (“Your Modifications”) of these End Customer T&Cs. Accordingly, notwithstanding any other terms of these End Customer T&Cs, you may not modify any Commercial Components. You will be financially responsible to the applicable third-party licensor (“Commercial Component Licensor”) for all damages and losses resulting from your or your

Authorized User's breach of this Section. You may not "benchmark" or otherwise analyze performance information for individual Commercial Component elements.

6.4.4.4. You understand that the applicable Commercial Component Licensor retains all ownership and intellectual property rights to the Commercial Component. Commercial Component Licensors (and any other third-party licensors of any components of the Products) are intended third party beneficiaries of the End Customer T&Cs with respect to the items they license and may enforce the End Customer T&Cs directly against you. However, to be clear, Commercial Component Licensors do not assume any of IPsoft's obligations under the End Customer T&Cs.

7.

Hosted Services Terms.

7.1. Access to Hosted Services (where applicable).

Subject to the terms and conditions of these End Customer T&Cs, IPsoft grants you a non-exclusive right to access and use the Hosted Services during the applicable Subscription Term (as defined below) in accordance with these End Customer T&Cs, your applicable Scope of Use, and the Documentation. If IPsoft offers client software (e.g., a desktop or mobile application) for any Hosted Service, you may use such software solely with the Hosted Service, subject to the terms and conditions of these End Customer T&Cs. You acknowledge that our Hosted Services are on-line, subscription-based products and that we may make changes to the Hosted Services from time to time.

7.2. Subscription Terms and Renewals.

Hosted Services are provided on a subscription basis for a set term specified in your Order ("**Term**"). Except as otherwise specified in your Order, all subscriptions will automatically renew for periods equal to your initial Term (and you will be charged at the then-current rates) unless you cancel your subscription. If you cancel, your subscription will terminate at the end of then-current billing cycle, but you will not be entitled to any credits or refunds for amounts accrued or paid prior to such termination.

7.3. Credentials.

You must ensure that all Authorized Users keep their user IDs and passwords for the Hosted Services strictly confidential and not share such information with any unauthorized person. User IDs are granted to individual, named persons and may not be shared. You are responsible for all actions taken using your accounts and passwords, and you agree to immediately notify IPsoft of any unauthorized use of which you become aware.

7.4. Your Data.

“Your Data” means any data, content, code, video, images or other materials of any type that you upload, submit or otherwise transmit to or through Hosted Services. You will retain all right, title and interest in and to Your Data in the form provided to IPsoft. Subject to the terms of these End Customer T&Cs, you hereby grant to IPsoft a non-exclusive, worldwide, royalty-free right to (a) collect, use, copy, store, transmit, modify and create derivative works of Your Data, in each case solely to the extent necessary to provide the applicable Hosted Service to you and (b) for Hosted Services that enable you to share Your Data or interact with other people, to distribute and publicly perform and display Your Data as you (or your Authorized Users) direct or enable through the Hosted Service. IPsoft may also access your account or instance in order to respond to your support requests.

7.5. Security.

IPsoft implements security procedures to help protect Your Data from security attacks. However, you understand that use of the Hosted Services necessarily involves transmission of Your Data over networks that are not owned, operated or controlled by us, and we are not responsible for any of Your Data lost, altered, intercepted or stored across such networks. We cannot guarantee that our security procedures will be error-free, that transmissions of Your Data will always be secure or that unauthorized third parties will never be able to defeat our security measures or those of our third-party service providers.

7.6. Storage Limits.

There may be storage limits associated with a particular Hosted Service. These limits are described in the services descriptions on our websites or in the Documentation for the particular Hosted Service. IPsoft reserves the right to charge for additional storage or overage fees at the rates specified on our website. We may impose new, or may modify existing, storage limits for the Hosted Services at any time in our discretion, with or without notice to you.

7.7. Responsibility for Your Data.

7.7.1. **Generally.** You must ensure that your use of Hosted Services and all Your Data is at all times compliant with our Terms and Conditions and all applicable local, state, federal, and international laws and regulations (“**Laws**”). You represent and warrant that: (i) you have obtained all necessary rights, releases and permissions to provide all Your Data to IPsoft and to grant the rights granted to IPsoft in these End Customer T&Cs and (ii) Your Data and its transfer to and use by IPsoft as authorized by you under these End Customer T&Cs do not violate any Laws (including without limitation those relating to export control and electronic communications) or rights of any third party, including without limitation any intellectual property rights, rights of privacy, or rights of publicity,

and any use, collection and disclosure authorized herein is not inconsistent with the terms of any applicable privacy policies. Other than its security obligations under Section 7.5 (Security), IPsoft assumes no responsibility or liability for Your Data, and you shall be solely responsible for Your Data and the consequences of using, disclosing, storing, or transmitting it.

7.7.2. Sensitive Data. You will not submit to the Hosted Services (or use the Hosted Services to collect): (i) any personally identifiable information, except as necessary for the establishment of your IPsoft account; (ii) any patient, medical or other protected health information regulated by HIPAA or any similar federal or state laws, rules or regulations; or (iii) any other information subject to regulation or protection under specific laws such as the Gramm-Leach-Bliley Act (or related rules or regulations) ((i) through (iii), collectively, “**Sensitive Data**”). You also acknowledge that IPsoft is not acting as your Business Associate or subcontractor (as such terms are defined and used in HIPAA) and that the Hosted Services are not HIPAA compliant. “**HIPAA**” means the Health Insurance Portability and Accountability Act, as amended and supplemented. Notwithstanding any other provision to the contrary, IPsoft has no liability under these End Customer T&Cs for Sensitive Data.

7.7.3. Indemnity for Your Data. You will defend, indemnify and hold harmless IPsoft from and against any loss, cost, liability or damage, including attorneys’ fees, for which IPsoft becomes liable arising from or relating to any claim relating to Your Data, including but not limited to any claim brought by a third party alleging that Your Data, or your use of the Hosted Services in breach of these End Customer T&Cs, infringes or misappropriates the intellectual property rights of a third party or violates applicable law. This indemnification obligation is subject to your receiving (i) prompt written notice of such claim (but in any event notice in sufficient time for you to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, or settlement of such claim; and (iii) all reasonable necessary cooperation of IPsoft at your expense.

7.8. Removals and Suspension.

IPsoft has no obligation to monitor any content uploaded to the Hosted Services. Nonetheless, if we deem such action necessary based on your violation of these End Customer T&Cs or in response to takedown requests that we receive following our guidelines for **Reporting Copyright and Trademark Violations**, we may (1) remove Your Data from the Hosted Services or (2) suspend your access to the Hosted Services. We will generally alert you when we take such action and give you a reasonable opportunity to cure your breach, but if we determine that your actions endanger the operation of the Hosted Service or other users, we may suspend your access immediately without notice. You will continue to be charged for the Hosted Service during any

suspension period. We have no liability to you for removing or deleting Your Data from or suspending your access to any Hosted Services as described in this section.

7.9. Deletion at End of Subscription Term.

We may remove or delete Your Data within a reasonable period of time after the termination of your Subscription Term.

7.10. Service-Specific Terms.

Some of our Hosted Services may be subject to additional terms specific to that service; if so, they will be communicated to you at the time of licensing.

8. Support and Maintenance.

IPsoft will provide the support and maintenance services for the Products described in the IPsoft support and maintenance applicable to your Order ("**Support and Maintenance**") during the period for which you have paid the applicable fee. Support and Maintenance is subject to the terms of the IPsoft Support Policy and will be provided at the support level and during the support term specified in your Order.

If you have purchased the Products through an IPsoft Partner and not directly from IPsoft, the Support and Maintenance will be performed in accordance with IPsoft's agreement with our IPsoft Partner.

The IPsoft Support Policy may be modified by IPsoft from time to time to reflect process improvements or changing practices.

9. Training Services.

We will provide training services purchased in an Order in accordance with the descriptions and conditions for those services set forth in the Order and the accompanying service descriptions or datasheets ("**Ancillary Services**"). IPsoft shall retain all right, title and interest in and to any materials, deliverables, modifications, derivative works or developments related to any training services we provide ("**Training Materials**"). Any Training Materials provided to you may be used only in connection with the Products subject to the same use restrictions for the Products. If applicable, you will reimburse IPsoft for reasonable travel and lodging expenses as incurred.

10.1. **Delivery.** We will deliver the applicable Software or login instructions (in the case of Hosted Services) to the email addresses specified in your Order when we have received payment of the applicable fees. All deliveries under these End Customer T&Cs will be electronic. For the avoidance of doubt, you are responsible for installation of any Software, and you acknowledge that IPsoft has no further delivery obligation with respect to the Software.

10.2. **Payment.** You agree to pay all fees in accordance with each Order. Unless otherwise specified in your Order, you will pay all amounts in U.S. dollars (unless otherwise agreed) at the time you place your Order. Other than as expressly set forth in Section 20 (IP Indemnification by IPsoft), all amounts are non-refundable, non-cancelable and non-creditable. In making payments, you acknowledge that you are not relying on future availability of any Products beyond the current License Term or Subscription Term or any Product upgrades or feature enhancements. If you purchase any Products through a Reseller, you owe payment to the Reseller as agreed between you and the Reseller, but you acknowledge that we may terminate your rights to use Products if we do not receive our corresponding payment from the Reseller.

10.3. **Taxes.** Your payments under these End Customer T&Cs exclude any taxes or duties payable in respect of the Products in the jurisdiction where the payment is either made or received. To the extent that any such taxes or duties are payable by IPsoft, you must pay to IPsoft the amount of such taxes or duties in addition to any fees owed under these End Customer T&Cs. Notwithstanding the foregoing, you may have obtained an exemption from relevant taxes or duties as of the time such taxes or duties are levied or assessed. In that case, you will have the right to provide to IPsoft any such exemption information, and IPsoft will use reasonable efforts to provide such invoicing documents as may enable you to obtain a refund or credit for the amount so paid from any relevant revenue authority if such a refund or credit is available.

11.

No-Charge Products.

We may offer certain Products to you at no charge, including free accounts, trial use, demonstration accounts, and access to Beta Versions as defined below ("**No-Charge Products**"). Your use of No-Charge Products is subject to any additional terms that we specify and is only permitted for the period designated by us. You may not use No-Charge Products for competitive analysis or similar purposes. We may terminate your right to use No-Charge Products at any time and for any reason in our sole discretion, without liability to you. You understand that any pre-release and beta products we make available ("**Beta Versions**") are still under development, may be inoperable or incomplete and are likely to

contain more errors and bugs than generally available Products. We make no promises that any Beta Versions will ever be made generally available. In some circumstances, we may charge a fee in order to allow you to access Beta Versions, but the Beta Versions will still remain subject to this Section 11 (No-Charge Products). All information regarding the characteristics, features or performance of Beta Versions constitutes IPsoft's Confidential Information. To the maximum extent permitted by applicable law, we disclaim all obligations or liabilities with respect to No-Charge Products, including any Support and Maintenance, warranty, and indemnity obligations.

12. Restrictions.

Except as otherwise expressly permitted in these End Customer T&Cs, you will not: (a) rent, lease, reproduce, modify, adapt, create derivative works of, distribute, sell, sublicense, transfer, or provide access to the Products to a third party, (b) use the Products for the benefit of any third party, (c) incorporate any Products into a product or service you provide to a third party, (d) interfere with any license key mechanism in the Products or otherwise circumvent mechanisms in the Products intended to limit your use, (e) reverse engineer, disassemble, decompile, translate, or otherwise seek to obtain or derive the source code, underlying ideas, algorithms, file formats or non-public APIs to any Products, except as permitted by law, (f) remove or obscure any proprietary or other notices contained in any Product, or (g) publicly disseminate information regarding the performance of the Products.

13. Your Development of Add-Ons.

13.1. [License to Developer Guides.](#)

From time to time, IPsoft may publish SDK's or API's and associated guidelines ("**Developer Guides**") to allow you to develop plugins, extensions, add-ons or other software products or services that interoperate or are integrated with the Products ("**Add-Ons**"). You may distribute your Add-Ons to third parties, but only for those Products permitted by IPsoft, and only in accordance with the Developer Guides.

13.2. [Conditions to Development of Add-Ons.](#)

Notwithstanding anything in these End Customer T&Cs to the contrary, IPsoft has no support, warranty, indemnification or other obligation or liability with respect to your Add-Ons or their combination, interaction or use with the Products. You shall indemnify, defend and hold us harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including

reasonable attorneys' fees and costs) arising out of or in connection with any claim brought against us by a third party relating to your Add-Ons (including but not limited to any representations or warranties you make about your Add-Ons) or your breach of this Section.

14.

License Certifications and Audits.

At our request, you agree to provide a signed certification that you are using all Products pursuant to the terms of these End Customer T&Cs, including the Scope of Use. You agree to allow us, or our authorized agent, to audit your use of the Products. We will provide you with at least 10 days advance notice prior to the audit, and the audit will be conducted during normal business hours. We will bear all out-of-pocket costs that we incur for the audit, unless the audit reveals that you have exceeded the Scope of Use. You will provide reasonable assistance, cooperation, and access to relevant information in the course of any audit at your own cost. If you exceed your Scope of Use, we may invoice you for any past or ongoing excessive use, and you will pay the invoice promptly after receipt. This remedy is without prejudice to any other remedies available to IPsoft at law or equity or under these End Customer T&Cs. To the extent we are obligated to do so, we may share audit results with certain of our third-party licensors or assign the audit rights specified in this Section to such licensors.

15.

Ownership and Feedback.

Products are made available on a limited license or access basis, and no ownership right is conveyed to you, irrespective of the use of terms such as "purchase" or "sale". IPsoft and its licensors have and retain all right, title and interest, including all intellectual property rights, in and to the Products (including all No-Charge Products), their "look and feel", any and all related or underlying technology, and any modifications or derivative works of the foregoing created by or for IPsoft, including without limitation as they may incorporate Feedback ("**IPsoft Technology**"). From time to time, you may choose to submit comments, information, questions, data, ideas, description of processes, or other information to IPsoft, including sharing Your Modifications or in the course of receiving Support and Maintenance ("**Feedback**"). IPsoft may in connection with any of its products or services freely use, copy, disclose, license, distribute and exploit any Feedback in any manner without any obligation, royalty or restriction based on intellectual property rights or otherwise. No Feedback will be considered your Confidential Information, and nothing in these End Customer T&Cs limits IPsoft's right to independently use, develop, evaluate, or market products, whether incorporating Feedback or otherwise.

16.

Confidentiality.

Except as otherwise set forth in these End Customer T&Cs, each party agrees that all code, inventions, know-how, business, technical and financial information disclosed to such party ("**Receiving Party**") by the disclosing party ("**Disclosing Party**") constitute the confidential property of the Disclosing Party ("**Confidential Information**"), provided that it is identified as confidential at the time of disclosure. Any IPsoft Technology and any performance information relating to the Products shall be deemed Confidential Information of IPsoft without any marking or further designation. Except as expressly authorized herein, the Receiving Party will hold in confidence and not use or disclose any Confidential Information. The Receiving Party's nondisclosure obligation shall not apply to information which the Receiving Party can document: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by employees of the Receiving Party who had no access to such information. The Receiving Party may also disclose Confidential Information if so required pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to the Disclosing Party). The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to appropriate equitable relief in addition to whatever other remedies it might have at law. For the avoidance of doubt, this Section shall not operate as a separate warranty with respect to the operation of any Product.

17.

Term and Termination.

These End Customer T&Cs is in effect for as long as you have a valid License Term or Subscription Term (the "Term"), unless sooner terminated as permitted in these End Customer T&Cs. Either party may terminate these End Customer T&Cs before the expiration of the Term if the other party materially breaches any of the terms of these End Customer T&Cs and does not cure the breach within thirty (30) days after written notice of the breach. Either party may also terminate the End Customer T&Cs before the expiration of the Term if the other party ceases to operate, declares bankruptcy, or becomes insolvent or otherwise unable to meet its financial obligations. You may terminate these End Customer T&Cs at any time with notice to IPsoft, but you will not be entitled to

any credits or refunds as a result of convenience termination for prepaid but unused Software, Hosted Services subscriptions, or Support and Maintenance. Except where an exclusive remedy may be specified in these End Customer T&Cs, the exercise by either party of any remedy, including termination, will be without prejudice to any other remedies it may have under these End Customer T&Cs, by law, or otherwise. Once the End Customer T&Cs terminates, you (and your Authorized Users) will no longer have any right to use or access any Products, or any information or materials that we make available to you under these End Customer T&Cs, including IPsoft Confidential Information. You are required to delete any of the foregoing from your systems as applicable (including any third-party systems operated on your behalf) and provide written certification to us that you have done so at our request. The following provisions will survive any termination or expiration of these End Customer T&Cs: Sections 7.7.3 (Indemnity for Your Data), 10.3 (Payment), 10.4 (Taxes), 11 (No-Charge Products) (disclaimers and use restrictions only), 12 (Restrictions), 13.2 (Conditions to Development of Add-Ons), 14 (License Certifications and Audits), 15 (Ownership and Feedback), 16 (Confidentiality), 17 (Term and Termination), 18.2 (Warranty Disclaimer), 19 (Limitation of Liability), 21 (Third Party Vendor Products), 24 (Dispute Resolution), 25 (Export Restrictions), and 27 (General Provisions).

18.

Warranty and Disclaimer.

18.1. Due Authority.

Each party represents and warrants that it has the legal power and authority to enter into these End Customer T&Cs, and that, if you are an entity, these End Customer T&Cs and each Order is entered into by an employee or agent of such party with all necessary authority to bind such party to the terms and conditions of these End Customer T&Cs.

18.2. WARRANTY DISCLAIMER.

ALL PRODUCTS ARE PROVIDED "AS IS," AND IPSOFT AND ITS SUPPLIERS EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, INCLUDING ANY WARRANTY OF NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, FUNCTIONALITY, OR MERCHANTABILITY, WHETHER EXPRESS, IMPLIED, OR STATUTORY. YOU MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW. IPSOFT SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES AND OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF IPSOFT. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER IPSOFT NOR ANY OF ITS

THIRD PARTY SUPPLIERS MAKES ANY REPRESENTATION, WARRANTY OR GUARANTEE AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF ANY PRODUCTS OR ANY CONTENT THEREIN OR GENERATED THEREWITH, OR THAT: (A) THE USE OF ANY PRODUCTS WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE; (B) THE PRODUCTS WILL OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM, OR DATA; (C) THE PRODUCTS (OR ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE PRODUCTS) WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS); (D) ANY STORED DATA WILL BE ACCURATE OR RELIABLE OR THAT ANY STORED DATA WILL NOT BE LOST OR CORRUPTED; (E) ERRORS OR DEFECTS WILL BE CORRECTED; OR (F) THE PRODUCTS (OR ANY SERVER(S) THAT MAKE A HOSTED SERVICE AVAILABLE) ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

19.

Limitation of Liability.

NEITHER PARTY (NOR ITS SUPPLIERS) SHALL BE LIABLE FOR ANY LOSS OF USE, LOST OR INACCURATE DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, COSTS OF DELAY OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. NEITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER SHALL EXCEED THE AMOUNT ACTUALLY PAID BY YOU TO US FOR PRODUCTS AND SUPPORT AND MAINTENANCE IN THE 12 MONTHS IMMEDIATELY PRECEDING THE CLAIM. NOTWITHSTANDING ANYTHING ELSE IN THESE END CUSTOMER T&CS, OUR AGGREGATE LIABILITY TO YOU IN RESPECT OF NO-CHARGE PRODUCTS SHALL BE US\$20. THIS SECTION 19 (LIMITATION OF LIABILITY) SHALL NOT APPLY TO (1) AMOUNTS OWED BY YOU UNDER ANY ORDERS, (2) EITHER PARTY'S EXPRESS INDEMNIFICATION OBLIGATIONS IN THESE END CUSTOMER T&CS, OR (3) YOUR BREACH OF SECTION 12 (RESTRICTIONS) OR SECTION 2 (COMBINING THE PRODUCTS WITH OPEN SOURCE SOFTWARE) OF THIRD-PARTY CODE IN IPSOFT PRODUCTS). TO THE MAXIMUM EXTENT PERMITTED BY LAW, NO SUPPLIERS OF ANY THIRD-PARTY COMPONENTS INCLUDED IN THE PRODUCTS WILL BE LIABLE TO YOU FOR ANY DAMAGES WHATSOEVER. The parties agree that the limitations specified in this Section 19 (Limitation of Liability) will survive and apply even if any limited remedy specified in these End Customer T&Cs is found to have failed of its essential purpose.

20.

IP Indemnification by IPsoft

•

We will defend you against any claim brought against you by a third party alleging that a Product, when used as authorized under these End Customer T&Cs, infringes a United States or European Union patent or registered copyright (a “**Claim**”), and we will indemnify you and hold you harmless against any damages and costs finally awarded by a court of competent jurisdiction or agreed to settlement by IPsoft (including reasonable attorneys’ fees) arising out of a Claim, provided that we have received from you: (a) prompt written notice of the claim (but in any event notice in sufficient time for us to respond without prejudice); (b) reasonable assistance in the defense and investigation of the claim, including providing us a copy of the claim and all relevant evidence in your possession, custody or control; and (c) the exclusive right to control and direct the investigation, defense, and settlement (if applicable) of the claim. If your use of a Product is (or in our opinion is likely to be) enjoined, if required by settlement, or if we determine such actions are reasonably necessary to avoid material liability, we may, at our option and in our discretion: (i) procure a license for your continued use of the Product in accordance with these End Customer T&Cs; (ii) substitute a substantially functionally similar Product; or (iii) terminate your right to continue using the Product and refund, in the case of Software, the license fee paid by you as reduced to reflect a three year straight-line depreciation from the license purchase date, and in the case of a Hosted Service, any prepaid amounts for the terminated portion of the Subscription Term. IPsoft’s indemnification obligations above do not apply: (1) if the total aggregate fees received by IPsoft with respect to your license to Software or subscription to Hosted Services in the 12 month period immediately preceding the claim is less than US\$50,000; (2) if the Product is modified by any party other than IPsoft, but solely to the extent the alleged infringement is caused by such modification; (3) if the Product is used in combination with any non-IPsoft product, software or equipment, but solely to the extent the alleged infringement is caused by such combination; (4) to unauthorized use of Products; (5) to any Claim arising as a result of (y) Your Data (or circumstances covered by your indemnification obligations in Section 7.7.3 (Indemnity for Your Data)) or (z) any third-party deliverables or components contained with the Products; (6) to any unsupported release of the Software; or (7) if you settle or make any admissions with respect to a claim without IPsoft’s prior written consent. THIS SECTION 20 (IP INDEMNIFICATION BY IPSOFT) STATES OUR SOLE LIABILITY AND YOUR EXCLUSIVE REMEDY FOR ANY INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS IN CONNECTION WITH ANY PRODUCT OR OTHER ITEMS PROVIDED BY IPSOFT UNDER THESE END CUSTOMER T&CS.

21.

Third Party Vendor Products.

IPsoft or third parties may from time to time make available to you third-party products or services, including but not limited to add-ons and plugins as well as implementation, customization, training, and other consulting services. If you procure any of these third-party products or services, you do so under a separate agreement (and exchange of data) solely between you and the third-party vendor. IPsoft does not warrant or support non-IPsoft products or services, whether or not they are designated by IPsoft as “verified” or otherwise and disclaims all liability for such products or services. If you install or enable any third-party products or services for use with IPsoft products, you acknowledge that IPsoft may allow the vendors of those products and services to access Your Data as required for the interoperation and support of such add-ons with the IPsoft products. IPsoft shall not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by third party add-on vendors.

22.

Publicity Rights.

We may identify you as an IPsoft customer in our promotional materials. You may request that we stop doing so by submitting an email to sales@IPsoft.com at any time. Please note that it may take us up to 30 days to process your request.

23.

Improving Our Products.

We are always striving to improve our Products. In order to do so, we need to measure, analyze, and aggregate how users interact with our Products, such as usage patterns and characteristics of our user base. We collect and use analytics data regarding the use of our Products as described in our Privacy Policy.

24.

Dispute Resolution.

24.1. Dispute Resolution; Arbitration.

In the event of any controversy or claim arising out of or relating to these End Customer T&Cs, the parties hereto shall consult and negotiate with each other and, recognizing their mutual interests, attempt to reach a solution satisfactory to both parties. If the parties do not reach settlement within a period of 60 days, any unresolved controversy or claim arising out of or relating to these End Customer T&Cs, or the breach thereof, shall be determined by binding arbitration administered by the International Centre for Dispute Resolution in

accordance with its International Arbitration Rules, with the arbitration taking place in one of the following cities as mutually agreed between the parties: London (England), Amsterdam (Netherlands), or New York, NY (USA). If the parties are unable to agree to one of these cities, then the arbitration shall proceed in New York, NY. The International Expedited Procedures shall apply in any case in which no disclosed claim or counterclaim exceeds 250,000 USD exclusive of interest and the costs of arbitration. The language of the arbitration shall be English. Consistent with the expedited nature of arbitration, pre-hearing information exchange shall be limited to the reasonable production of relevant non-privileged documents explicitly referred to by a party for the purpose of supporting relevant facts presented in its' case, carried out expeditiously. Except as may be required by law, neither a party nor its representatives may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of (all/both) parties. All negotiations and arbitration proceedings pursuant to this Section will be confidential and treated as compromise and settlement negotiations for purposes of all similar rules and codes of evidence of applicable legislation and jurisdictions.

24.2. Governing Law; Jurisdiction.

These End Customer T&Cs will be governed by and construed in accordance with the applicable laws of the State of New York, USA, without giving effect to the principles of that State relating to conflicts of laws. Each party irrevocably agrees that any legal action, suit or proceeding that is not otherwise subject to the arbitration provisions of Section 24.1 (Dispute Resolution; Arbitration) must be brought solely and exclusively in, and will be subject to the service of process and other applicable procedural rules of, the State or Federal court in New York, New York, USA, and each party irrevocably submits to the sole and exclusive personal jurisdiction of the courts in New York, New York, USA, generally and unconditionally, with respect to any action, suit or proceeding brought by it or against it by the other party. Notwithstanding the foregoing, IPsoft may bring a claim for equitable relief in any court with proper jurisdiction.

24.3. Injunctive Relief; Enforcement.

Notwithstanding the provisions of Section 24.1 (Dispute Resolution; Arbitration), nothing in these End Customer T&Cs shall prevent either party from seeking injunctive relief with respect to a violation of intellectual property rights, confidentiality obligations, or enforcement or recognition of any award or order in any appropriate jurisdiction.

24.4. Exclusion of UN Convention and UCITA.

The terms of the United Nations Convention on Contracts for the Sale of Goods do not apply to these End Customer T&Cs. The Uniform Computer Information Transactions Act (UCITA) shall not apply to these End Customer T&Cs regardless of when or where adopted.

25.

Export Restrictions.

The Products are subject to export restrictions by the United States government and import restrictions by certain foreign governments, and you agree to comply with all applicable export and import laws and regulations in your use of the Products. You shall not (and shall not allow any third-party to) remove or export from the United States or allow the export or re-export of any part of the Products or any direct product thereof: (a) into (or to a national or resident of) any embargoed or terrorist-supporting country; (b) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; (c) to any country to which such export or re-export is restricted or prohibited, or as to which the United States government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; or (d) otherwise in violation of any export or import restrictions, laws or regulations of any United States or foreign agency or authority. You represent and warrant that (i) you are not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list and (ii) that none of Your Data is controlled under the US International Traffic in Arms Regulations. The Products are restricted from being used for the design or development of nuclear, chemical, or biological weapons or missile technology without the prior permission of the United States government.

26.

Changes to these End Customer T&Cs.

We may update or modify these End Customer T&Cs from time to time, including any referenced policies and other documents. If a revision meaningfully reduces your rights, we will use reasonable efforts to notify you (by, for example, sending an email to the billing or technical contact you designate in the applicable Order, posting on our blog, through your IPsoft account, or in the Product itself). If we modify the End Customer T&Cs during your License Term or Subscription Term, the modified version will be effective upon your next renewal of a License Term, Support and Maintenance term, or Subscription Term, as applicable. In this case, if you object to the updated End Customer T&Cs, as your exclusive remedy, you may choose not to renew, including cancelling any terms set to auto-renew. With respect to No-Charge Products, accepting the updated End Customer T&Cs is required for you to continue using the No-Charge Products. You may be required to click through the updated End Customer T&Cs to show your acceptance. If you do not agree to the updated End Customer T&Cs after it becomes effective, you will no longer have a right to use No-Charge Products. For the avoidance of doubt, any Order is subject to the version of the End Customer T&Cs in effect at the time of the Order.

General Provisions

•

Any notice under these End Customer T&Cs must be given in writing. We may provide notice to you via email or through your account. Our notices to you will be deemed given upon the first business day after we send it. You may provide notice to us by post to: IPsoft Incorporated, ATTN: Legal Department, 17 State Street, 14th Floor, New York, New York 10004 with a copy via email to **notices@ipsoft.com**.

Your notices to us will be deemed given upon our receipt. Neither party shall be liable to the other for any delay or failure to perform any obligation under these End Customer T&Cs (except for a failure to pay fees) if the delay or failure is due to unforeseen events which are beyond the reasonable control of such party, such as a strike, blockade, war, act of terrorism, riot, natural disaster, failure or diminishment of power or telecommunications or data networks or services, or refusal of a license by a government agency. You may not assign these End Customer T&Cs without our prior written consent. We will not unreasonably withhold our consent if the assignee agrees to be bound by the terms and conditions of these End Customer T&Cs. We may assign our rights and obligations under these End Customer T&Cs (in whole or in part) without your consent.

The Products are commercial computer software. If you are an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Products, or any related documentation of any kind, including technical data and manuals, is restricted by the terms of these End Customer T&Cs in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. The Products were developed fully at private expense. All other use is prohibited. These End Customer T&Cs is the entire agreement between you and IPsoft relating to the Products and supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to the Products or any other subject matter covered by these End Customer T&Cs. If any provision of these End Customer T&Cs is held to be void, invalid, unenforceable or illegal, the other provisions shall continue in full force and effect. These End Customer T&Cs may not be modified or amended by you without our written agreement (which may be withheld in our complete discretion without any requirement to provide any explanation). As used herein, "including" (and its variants) means "including without limitation" (and its

variants). No failure or delay by the injured party to these End Customer T&Cs in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder at law or equity. The parties are independent contractors. These End Customer T&Cs shall not be construed as constituting either party as a partner of the other or to create any other form of legal association that would give on party the express or implied right, power or authority to create any duty or obligation of the other party.



IPsoft Amelia
@IPsoft



Curious to learn how
[#ArtificialIntelligence](#) can help
[#healthcare](#) workers handle crises like
the [#opioidepidemic](#) and the
[#coronavirus](#)? Watch this
[video](#) by IPsoft.