

# Amelia General Terms of Use

Last Modified **October 28, 2020**

*Clarified mutual confidentiality clause*

These General Terms of Use (the "**General Terms**"), along with any applicable Additional Terms (set forth below) (collectively "**Terms**" or "**Site Terms**") govern your use of our website (the "**Site**"), customer support, and services such as DigitalWorkforce.ai and Digital Employees (collectively "**Services**"), and software that we include as part of the Services, as well as any applications, Sample Files and Content Files (defined below), scripts, source code, instruction sets, and related documentation (collectively "**Software**").

If you have entered into another agreement with us concerning specific Services or Software, then the terms of that agreement control where it conflicts with the Terms. **As discussed more in § 4 below, you retain all rights and ownership you have in your Content (defined below).**

BY ACCESSING OR USING THE SERVICES OR SOFTWARE IN ANY MANNER (WHETHER AUTOMATED OR OTHERWISE), YOU (A) ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND, AND AGREE TO THESE TERMS, AND (B) AFFIRM THAT YOU ARE AT LEAST 18 YEARS OF AGE (OR HAVE REACHED THE AGE OF MAJORITY IN THE JURISDICTION WHERE YOU RESIDE). IF YOU DO NOT AGREE TO THESE TERMS, DO NOT USE THE SERVICES OR SOFTWARE.

Also, if you do not comply with these Terms, and we don't take action right away, this doesn't mean we're OK with what you did, or we are giving up any rights that we may have (such as taking action in the future).

Now, let's get to it.

## 1. Your Agreement with Amelia, an IPsoft Company

### 1.1. Choice of Law and Contracting Entity.

- If you reside within the United States of America, including its territories and possessions, your relationship is with **Amelia US LLC (an IPsoft company)** (previously, with IPsoft Incorporated) and these Terms are governed by the laws of the State of New York, United States of America without regard to its conflict of law principles.
- If you have entered into your agreement with Us before *2020 September 01* and you reside outside of the United States of America, your relationship is with IPsoft EU Holding B.V., a Dutch private limited company, and the terms are governed by the laws of the Netherlands, without regard to its conflict of law principles.
- If you have entered into your agreement with Us after *2020 September 01* and you reside outside of the United States of America, your relationship is with **Amelia NL B.V. (an IPsoft company)**, a Dutch private limited company, and the terms are governed by the laws of the Netherlands, without regard to its conflict of law principles.

- You may have additional rights under the law. We do not seek to limit those rights where it is prohibited to do so by law.
- Collectively, "we", "us", and "IPsoft" refer to the company with whom you are contracting.

1.2. Additional Terms. Our Services and Software are either licensed or granted under a “right-to-use” and are not sold to you. Our Services and Software may also be subject to one or more of the additional terms below ("**Additional Terms**"). If there is any conflict between the terms in the General Terms and the Additional Terms, then the Additional Terms govern in relation to that Service or Software. The Additional Terms are subject to change.

- - - [Digital Employee Additional Terms](#)

1.3. Updates to the General Terms and Additional Terms. We may modify these General Terms, any Additional Terms or Subscription and Cancellation terms, for example, to reflect changes to the law or changes to our Services or Software. You should look at the Terms regularly. We will post notice of modifications to these General Terms and Additional Terms on this page. By continuing to use or access the Services or Software after the revisions are in effect, you agree to be bound by the revised Terms.

1.4. Updates to the Services and Software. We may modify, update, or discontinue the Services or Software (including any portions or features) at any time, without liability to you or anyone else. However, for changes to paid offerings, we will make reasonable efforts to notify you of the modification, update or discontinuation. If we discontinue the Services or Software in its entirety, we will also allow you a reasonable time to download your Content and we may provide you with a pro rata refund for any unused fees for that Service or Software that you prepaid.

**2. Privacy.** We take privacy seriously. We encourage you to review the IPsoft Privacy Policy and Privacy Statement, which will tell you how we may collect, use and protect your information and data.

You can find the Amelia Privacy Statement [here](#).

You can find our Data Transfer policy [here](#).

### **3. Usage of Services and Software.**

3.1. Rights Granted. Subject to your compliance with the Terms and the law, you may access and use the Services and Software.

3.2. IPsoft Intellectual Property. We (and our licensors) remain the sole owner of all right, title, and interest in the Services or Software. Except as stated in the Terms, we do not grant you

any rights to patents, copyrights, trade secrets, trademarks, or any other rights in respect to the items in the Services or Software. We reserve all rights not granted under the Terms.

3.3. Storage. When the Services provide storage, we recommend that you also back up your Content elsewhere regularly. We may create reasonable technical limits on file size, storage space, processing capacity, and other technical limits. We may suspend the Services until you are within the storage space limit associated with your account. At the end of your term, we will use commercially reasonable efforts to allow you to transition your Content out of the Services. The transition must be completed within 30 days from the date of the termination or expiration of your license term. At the end of this 30-day transition period, we reserve the right to delete your Content.

3.4. User-Generated Content. We may host user-generated content from our users. If you access our Services, you may come across user-generated content that you find offensive or upsetting. Your sole remedy is to stop viewing the content. If available, you may also report the offensive content to us at [webteam@amelia.com](mailto:webteam@amelia.com).

3.5. Sample Files. "Sample Files" are IPsoft-provided files such as sample automations, training files, stock images, and other files for use in tutorials, demonstrations, and for other trial purposes, that may be identified as sample files. Sample Files cannot be used for any other purpose than for which they were provided. You cannot distribute Sample Files on a stand-alone basis (i.e., in circumstances in which the Sample Files constitute the primary value of the product being distributed), and you cannot claim any rights in the Sample Files.

3.6. Content Files. "Content Files" means IPsoft assets provided as part of the Services and Software. Unless documentation or specific licenses state otherwise, we grant you a personal, non-exclusive, non-sublicensable, and non-transferable license to use the Content Files to create your end use (i.e., the derivative application or product authored by you) into which the Content Files, or derivations thereof, are embedded for your use ("End Use"). You may modify the Content Files prior to embedding them in the End Use. You may reproduce and distribute Content Files only in connection with your End Use, however, under no circumstances can you distribute the Content Files on a stand-alone basis, outside of the End Use.

3.7. Account Information. You are responsible for all activity that occurs via your account. Please notify IPsoft's Customer Support teams immediately if you become aware of any unauthorized use of your account. You may not (a) share your account information (except with an authorized account administrator); or (b) use another person's account. Your account administrator may use your account information to manage your use and access to the Services and Software. We reserve the right to monitor and enforce subscription plan limits and restrictions, including, but not limited to, the right to charge for overages.

3.8. Other Grants of Rights.

3.8.1. Evaluation Version. We may designate the Services or Software as "trial," "evaluation," "pilot," "proof of concept," or other similar designation ("Evaluation Version"). If you register for an Evaluation Version, IPsoft will make the applicable Evaluation Version available to you

on a trial basis, free of charge, until the earlier of (a) the end of the evaluation period for which you registered to use the Evaluation Version; (b) the start date of your paid Service subscription or purchase of Software; or (c) termination by IPsoft in our sole discretion (collectively, a-c are the “Evaluation Period”). Additional Evaluation Version terms and conditions may appear in the Evaluation Version registration process. Any such additional terms and conditions are incorporated into these Terms by reference and are legally binding.

*Any Content you enter into the Services or Software and any customizations made to the Services or Software by or for You, during Your usage of the Evaluation Version will be permanently lost unless You purchase the same Services or Software as those covered by the Evaluation Version, purchase applicable upgraded Services or Software, or export such Content, before the end of the Evaluation Period. You must export Your Content before the end of the Evaluation Period or Your Content will be permanently lost. Notwithstanding anything in these Terms to the contrary, during the Evaluation Period the Services and Software are provided “as-is” without any warranty and IPsoft shall have no indemnification obligations nor liability of any type with respect to the Services or Software for the Evaluation Period unless such exclusion of liability is not enforceable under applicable law in which case IPsoft’s liability with respect to the Services or Software provided during the Evaluation Period shall not exceed \$100.00. Without limiting the foregoing, IPsoft and its affiliates and its licensors do not represent or warrant to You that: (a) Your use of the Services or Software during the Evaluation Period will meet Your requirements, (b) Your use of the Services or Software during the Evaluation Period will be uninterrupted, timely, secure, or free from error, and (c) usage data provided during the Evaluation Period will be accurate.*

*Notwithstanding anything to the contrary in the “Warranties; Liability” section below, You will be fully liable under these Terms to IPsoft and its affiliates for any damages arising out of Your use of the Services or Software during the Evaluation Period, any breach by You of these Terms, and any of Your indemnification obligations hereunder. You will review the applicable Service or Software documentation during the Evaluation Period to become familiar with the features and functions of the Services or Software before making a purchase.*

3.8.2. *Prerelease Version.* We may designate the Services or Software, or a feature of the Services or Software, as a prerelease or beta version (“Prerelease Version”). A Prerelease Version does not represent the final product and may contain bugs that may cause system or other failure and data loss. We may choose not to commercially release the Prerelease Version. You must promptly cease using the Prerelease Version and destroy all copies of Prerelease Version if we request you to do so, or if we release a commercial version of the Prerelease Version. Any separate agreement we enter into with you governing the Prerelease Version will supersede these provisions.

3.9. Availability of the Site, Services, or Software. Webpages describing IPsoft Services and Software are accessible worldwide, but this does not mean all or part of our Services or Software are available in your country or that user-generated content available via the Services is legal or available in your country. Access to certain Services or Software in certain countries may be blocked by us or foreign governments. It is your responsibility to make sure your use of the

Services is legal or available where you use them. Services are not available in all languages. Please contact your local sales representative for availability information via our [Contact page](#).

3.10. Provision of Purchased Services. IPsoft will (a) make the Services, Software, and Content available to you pursuant to these Terms, (b) provide applicable IPsoft standard support for the Services or Software to a paying Customer at no additional charge, and/or enhanced support if purchased, (c) use commercially reasonable efforts to make online Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which IPsoft will give advance electronic notice), and (ii) any unavailability caused by circumstances beyond IPsoft's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving IPsoft employees), Internet service provider failure or delay, Non-IPsoft software or services, or denial of service attack, and (d) provide the Services or Software in accordance with laws and government regulations applicable to IPsoft's provision of its Services or Software to its customers generally (i.e., without regard for your particular use of the Services or Software), and subject to your use of the Services and Software in accordance with these Terms.

3.11. Support, Generally. Phone support for paid Service subscriptions is available from 8pm Sunday to 8pm Friday United States Eastern Time, with reduced hours during holidays in India, the Netherlands, and the US. We accept email questions 24 hours per day, 7 days a week. Email responses are provided during phone support hours only. We attempt to respond to email support questions within one business day; in practice, our responses are usually even faster. We do not promise or guarantee any specific response time. We may limit or deny your access to support if we determine, in our reasonable discretion, that you are acting, or have acted, in a way that results or has resulted in misuse of support or abuse of IPsoft representatives. Issues resulting from your use of APIs or your modifications to code in your subscribed Service may be outside the scope of support. We will only provide support for integrations which are listed as being supported by IPsoft.

## **4. Content.**

4.1. Content, Defined. "Content" means any material, such as audio files, video files, electronic documents, or images, that you upload and import into the Services or Software in connection with your use thereof.

4.2. IPsoft's Content, Generally. We may publish materials that are owned by IPsoft, its subsidiaries and affiliates, or IPsoft licensors, partners, and so forth. Everything we publish on the Site is protected by copyright laws and considered the intellectual property of the respective owners. If you use any materials published on the Site, you may do so, but only for your own internal non-commercial purposes, so long as all trademark(s), copyright(s) and other proprietary notices are intact and you do not edit the materials. IPsoft reserves any and all rights or permissions not expressly granted to you in these Terms.

4.3. Your Content and Ownership. **You retain all rights and ownership of your Content. IPsoft does not claim any ownership rights to your Content.**

4.4. Licenses to Your Content in Order to Operate the Services and Software. We require certain licenses from you to your Content in order to operate and enable the Services and Software. When you upload Content to the Services and Software, you grant us a nonexclusive, worldwide, royalty-free, sublicensable, and transferable license to use, reproduce, publicly display, distribute, modify (so as to better showcase your Content, for example), publicly perform, and translate the Content as needed in response to user driven actions (such as when you choose to privately store or share your Content with others). *This license is only for the purpose of operating or improving the Services and Software.*

4.5. Our Access to Your Content. Where permitted by law, we will only access, view, or listen to your Content in limited ways. For example, in order to perform the Services, we may need to access, view, or listen to your Content to (a) respond to support requests; (b) detect, prevent, or otherwise address fraud, security, unlawful, or technical issues; and (c) enforce the Terms. Our automated systems may analyze your Content using techniques such as machine learning. This analysis may occur when the Content is sent, received, or stored. From this analysis, we can improve the Services.

4.6. Sharing Your Content.

Some Services and Software, as well as the Site itself, may provide features that allow you to Share your Content with other users or to make it public. “Share” means to email, post, transmit, upload, or otherwise make available (whether to us or other users) through your use of the Services and Software. Other users may use, copy, modify, or re-share your Content in many ways. Please carefully consider what you choose to Share or make public as you are responsible for the Content that you Share.

We do not monitor or control what others do with your Content, and you are responsible for determining the limitations that are placed on your Content and for applying the appropriate level of access to your Content. If you do not choose the access level to apply to your Content, the system may default to its most permissive setting. It is your responsibility to let other users know how your Content may be shared and to adjust the setting related to accessing or sharing your Content.

You can only post Content if you own all the rights to that Content or if another rightsholder has given you permission. While we do not generally edit or monitor Content, we require that all users follow the following guidelines. If you do not follow these guidelines, we may remove the Content and/or limit or eliminate your access. We believe that these rules make everyone’s experience using the Services and Software better—the “Technology Golden Rule,” if you will.

- Be honest.
- Act like the professional you are and be respectful of others.
- Share information wisely and remember that all posts could be permanent.
- Keep information relevant to the discussions and free of advertising or solicitations.
- Only post things that you are lawfully able to post. This means don’t post anything that you are prohibited from sharing, you don’t have the necessary rights to post or anything that is harmful or disparaging to a third party (other users included)!

You do not transfer ownership of your Content simply by posting it. However, by posting Content, you grant us, our agents, licensees, and assigns an irrevocable, perpetual (non-exclusive) right and permission to reproduce, encode, store, copy, transmit, publish, post, broadcast, display, publicly perform, adapt, modify, create derivative works of, exhibit, and otherwise use your Content. You may revoke this license to your Content and terminate our rights at any time by removing your Content from the Service and notifying us of the specific Content for which such license is revoked. Some copies of your Content may be retained as part of our routine backups, however.

We are not responsible for, and do not endorse, Content posted by any other person. Accordingly, we may not be held liable, directly or indirectly, for any loss or damage caused to you in connection with any Content posted by another member. Further, you agree to indemnify, release, and hold us harmless from any all liability, claims, actions, loss, harm, damage, injury, cost or expense arising out of any Content you post.

4.7. Feedback. We love hearing from you, but please keep in mind that anything you submit to us is considered non-confidential. You have no obligation to provide us with ideas, suggestions, or proposals (“**Feedback**”). If you submit Feedback to us however, then you grant us a non-exclusive, worldwide, royalty-free, sublicensable, and transferable license to make, use, sell, have made, offer to sell, import, reproduce, publicly display, distribute, modify, and publicly perform the Feedback. We will be entitled to use the feedback free of any restrictions and may disseminate it in any form.

4.8. Copyrights and DMCA. For information regarding the Digital Millennium Copyright Act and our policy please see our DMCA Notice .

**5. Responsible Use Requirements.** In addition to the “Technology Golden Rule” discussed in § 4.6 above, we require that you use the Services and Software responsibly and in accordance with our Terms.

5.1. Misuse of the Services and Software. You must not misuse the Services or Software, including abstaining from the following prohibited acts: (a) copy, modify, host, stream, sublicense, or resell the Services or Software; (b) enable or allow others to use the Services or Software using your account information; (c) use the Software to construct any kind of database; (d) access or attempt to access the Services or Software by any means other than the interface we provide or authorize; (e) circumvent any access or use restrictions put into place to prevent certain uses of the Services or Software; (f) share Content, or engage in behavior that violates anyone’s intellectual property rights (“Intellectual Property Rights” means copyright, moral rights, trademark, trade dress, patent, trade secret, unfair competition, right of privacy, right of publicity, and any other proprietary rights); (g) upload or share any Content that is unlawful, harmful, threatening, abusive, tortious, defamatory, libelous, vulgar, lewd, profane, invasive of another’s privacy, or hateful; (h) impersonate any person or entity, or falsely state or otherwise misrepresent your affiliation with a person or entity; (i) attempt to disable, impair, or destroy the Services and Software; (j) upload, transmit, store, or make available any Content or code that contains any viruses, malicious code, malware, or any components designed to harm or limit the functionality of the Services or Software; (k) disrupt, interfere with, or inhibit any other user

from using the Services or Software (such as stalking, intimidating, or harassing others, inciting others to commit violence, or harming minors in any way); (l) engage in chain letters, junk mails, pyramid schemes, phishing, spamming, or other unsolicited messages; (m) place an advertisement of any products or services in the Services except with our prior written approval; (n) use any data mining or similar data gathering and extraction methods in connection with the Services; or (o) violate applicable law (including, but not limited to, applicable data privacy laws, such as COPPA, CPPA, GDPR, NY-SHIELD, etc.).

5.2. No Modifications; No Reverse Engineering. Except as expressly permitted in the Terms, you may not (a) modify, port, adapt or translate any portion of the Services or Software; or (b) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or any portion of any Service or Software. If the laws of your jurisdiction give you the right to decompile the Software to obtain information necessary to render the licensed portions of the Services or Software interoperable with other software, you must first request such information from us. We may, in our discretion, either provide such information to you or impose reasonable conditions, including a reasonable fee, on your decompilation of the Services or Software to ensure that our and our suppliers' proprietary rights in the Services and Software are protected.

5.3. Audit Rights. If you are a business, company, or organization, then we may, no more than once every 12 months, upon seven 7 days' prior notice to you, appoint our personnel or an independent third-party auditor who is obliged to maintain confidentiality to inspect (including manual inspection, electronic methods, or both) your records, systems, and facilities to verify that your installation and use of any and all Services or Software is in conformity with its valid licenses from us. Additionally, you will provide us with all records and information requested by us within 30 days of our request in order for us to verify that the installation and use of any and all Services and Software is in conformity with your valid licenses. If the verification discloses a shortfall in licenses for the Services or Software, you will immediately acquire any necessary licenses, subscriptions, and applicable back maintenance and support. If the underpaid fees exceed 5% of the value of the payable license fees, then you will also pay for our reasonable cost of conducting the verification.

5.4. Screening of Content. We do not review all Content uploaded to the Services or Software, but we may use available technologies, vendors, or processes to screen for certain types of illegal content (for example, child pornography) or other abusive content or behavior (for example, patterns of activity that indicate spam or phishing).

5.5. Disclosure. We may access or disclose information about you or your use of the Services or Software: (a) when it is required by law (such as when we receive a valid subpoena or search warrant); (b) to respond to your requests for customer service support; or (c) when we, in our discretion, think it is necessary to protect the rights, property, or personal safety of IPsoft, our users, or the public.

5.6. Confidentiality.

- **"Confidential Information"** means all nonpublic information, in any form, provided or made available by you or us (as applicable, the "Discloser") to the other party (as



applicable the “Recipient”) that is marked with a confidentiality marking or that the Recipient knows or should know to be confidential given the nature of the information. Confidential Information does not include any information that is: (a) already lawfully in the possession of, or known to, the Recipient without any obligation of confidentiality; (b) publicly available at the time of disclosure to the Recipient or which, after disclosure, becomes publicly available through no fault of the Recipient; (c) lawfully provided or disclosed to the Recipient by a non-party to these Terms without any obligation of confidentiality; or (d) independently developed by the Recipient, as established by documentary evidence, without the use of any Discloser's Confidential Information.

- The Recipient will: (i) protect the confidentiality of the Confidential Information of the Discloser with at least reasonable care, (ii) not use any Confidential Information of the Discloser for any purpose outside the scope of these Terms, (iii) not disclose Confidential Information of the Discloser to any unpermitted third party, and (iv) limit access to Confidential Information of the Discloser to those of Recipient's affiliates' employees, contractors and agents who need such access for purposes consistent with these Terms and who are similarly bound to confidentiality.
- This Section 5.6 does not alter our rights under Section 5.5 (Disclosure); however, Recipient may disclose the minimum amount possible of Confidential Information of the Discloser if compelled to do so by applicable law (for example, if compelled by a valid, jurisdictionally-proper court order). In that situation, the Recipient will (if permitted) promptly notify Discloser of such requirement to permit the Recipient to seek a protective order or object to the request for Confidential Information.

## **6. Fees and Payment.**

6.1. Taxes and Third-Party Fees. You must pay any applicable taxes and third-party fees (including, for example, telephone toll charges, mobile carrier fees, ISP charges, data plan charges, credit card fees, foreign exchange fees, and foreign transaction fees). We are not responsible for these fees. Contact your financial institution with questions about fees. We may take steps to collect the fees you owe us. You are responsible for all related collection costs and expenses. If you are located in a different country from the applicable IPsoft entity that you are transacting with (i.e., IPsoft Incorporated for USA-based customers and IPsoft EU Holding B.V. for customers in all other countries), your payments will be made to a foreign entity.

6.2. Payment Information. If you do not notify us of updates to your payment method, to avoid interruption of your service, we may participate in programs supported by your payment provider (such as your bank or credit card provider) to try to update your payment information. You authorize us to continue billing your account with the updated information that we obtain.

## **7. Termination.**

7.1. Termination by You. You may stop using the Services and Software at any time. Termination of your account does not relieve you of any obligation to pay any outstanding fees.

7.2. Termination by Us. If we terminate the Terms, or your use of the Service(s) for reasons other than for cause, we will make reasonable efforts to notify you at least 30 days prior to

termination via the email address you provide to us with instructions on how to retrieve your Content. Unless stated in any Additional Terms, we may, at any time, terminate your right to use and access the Services or Software if: (a) you breach any provision of the Terms (or act in a manner that clearly shows you do not intend to, or are unable to, comply with the Terms); (b) you fail to make the timely payment of fees for the Services or Software, if any; (c) you materially breach any provision of the Terms, and (i) the breach cannot be corrected; or (ii) we notify you of the breach and you fail to correct it within 14 days of the notice; (d) you physically, verbally, or through other means abuse, threaten, bully, or harass us or our personnel (in such circumstances, we may alternatively suspend or restrict your access to the Services or Software); (e) you have repeatedly made complaints in bad faith or without a reasonable basis, and continue to do so after we have asked you to stop (in such circumstances, we may alternatively suspend or restrict your access to the Services or Software); (f) we are required to do so by law (for example, where the provision of the Services or Software to you is, or becomes, unlawful); (g) we elect to discontinue the Services or Software, in whole or in part (such as if it becomes impractical for us to continue offering Services in your region due to change of law); or (h) there has been an extended period of inactivity in your free account.

7.3. Termination by Company Administrator. A company that purchases our Software or Services may terminate their users' access at any time. If your company administrator terminates your access, then you may no longer be able to access Content that you or other users of the company have shared on a shared workspace within that Service.

7.4. Survival. Upon the expiration or termination of the Terms, some or all of the Services and Software may cease to operate without prior notice. Any perpetual licenses you have will continue in full force and effect, however. Your indemnification obligations, our warranty disclaimers or limitations of liabilities, and dispute resolution provisions stated in the Terms will survive.

## **8. Warranties; Liability.**

8.1. DISCLAIMER OF WARRANTIES. *Unless stated in the Additional Terms, the Services and Software are provided "AS-IS" and on an "AS-AVAILABLE" basis. To the maximum extent permitted by law, we disclaim all warranties, express or implied, including the implied warranties of non-infringement, merchantability, quiet enjoyment, title, non-infringement, usefulness, completeness, quality, and fitness for a particular purpose. We make no commitments about the content within the Services. We further disclaim any warranty that (a) the Services or Software will meet your requirements or will be constantly available, uninterrupted, timely, secure, or error-free; (b) the results obtained from the use of the Services or Software will be effective, accurate, or reliable; (c) the quality of the Services or Software will meet your expectations; or (d) any errors or defects in the Services or Software will be corrected. To the extent that your jurisdiction does not permit the exclusion of express or implied warranties, the above may not apply. You may have additional rights under local law that this agreement cannot change.*

*We specifically disclaim all liability for any actions resulting from your use of any Services or Software. You may use and access the Services or Software at your own discretion and risk, and*

*you are solely responsible for any damage to your computer system or loss of data that results from the use of and access to any Service or Software.*

*If you post your Content on our servers to publicly Share through the Services, we are not responsible for: (a) any loss, corruption, or damage to your Content; (b) the deletion of Content by anyone other than IPsoft; or (c) the inclusion of your Content by third parties on other websites or other media.*

8.2. **LIMITATION OF LIABILITY.** *Unless stated in the Additional Terms, we are not liable to you or anyone else for any loss of use, data, goodwill, or profits, whatsoever, and any special, incidental, indirect, consequential, or punitive damages whatsoever, regardless of cause (even if we have been advised of the possibility of the loss or damages), including costs, expenses (such as attorneys' fees), losses, and damages (a) resulting from loss of use, data, or profits, whether or not foreseeable; (b) based on any theory of liability, including breach of contract or warranty, negligence, products liability, or other tortious action; or (c) arising from any other claim arising out of or in connection with your use of or access to the Services or Software. Nothing in the Terms limits or excludes our liability for gross negligence, for our, or our employees', intentional misconduct, or for death or personal injury.*

*Our total liability in any matter arising out of or related to the Terms is limited to US \$100 or the aggregate amount that you paid for access to the Service and Software during the three-month period preceding the event giving rise to the liability, whichever is larger. This limitation will apply regardless of the form or source of claim or loss, whether the claim or loss was foreseeable, and whether a party has been advised of the possibility of the claim or loss. You understand that IPsoft is unwilling to make the Services or Software available to you absent the foregoing limitations of liability, which form an essential basis of the bargain between the parties.*

*The limitations and exclusions in this § 8 apply to the maximum extent permitted by law.*

## **9. Dispute Resolution.**

9.1. **Process.** *If you have any concern or dispute, you agree to first try to resolve the dispute informally by contacting us. If a dispute is not resolved within 30 days of submission, any resulting legal actions must be resolved through final and binding arbitration, except that you may assert claims in small claims court if your claims qualify.*

9.2. **Rules.** *If the applicable contracting entity is IPsoft Incorporated, the American Arbitration Association (AAA) will administer the arbitration in New York County, New York, pursuant to its Comprehensive Arbitration Rules and Procedures. If the applicable contracting entity is IPsoft EU Holding B.V., the International Center for Dispute Resolution (ICDR) will administer the arbitration in Amsterdam, the Netherlands, pursuant to the ICDR International Dispute Resolution Procedures. There will be one arbitrator that you and IPsoft mutually select. The arbitration will be conducted in the English language, but any witness whose native language is not English may give testimony in the witness' native language, with simultaneous translation into English (at the expense of the party presenting the witness). Judgment upon the*

award rendered may be entered and will be enforceable in any court of competent jurisdiction having jurisdiction over you and IPsoft. IPsoft may, at its discretion, modify the seat of arbitration if it would be more convenient to the parties. 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.

9.3. Exceptions. If § 9.2 is ruled inapplicable, or arbitration is otherwise barred, proceedings shall be brought before a court of competent jurisdiction in (a) the state or federal courts located in New York County, New York, where IPsoft Incorporated is the contracting entity; or (b) the Netherlands Commercial Court, where IPsoft EU Holding B.V. is the contracting entity. The United Nations Convention on Contract for the International Sale of Goods does not apply to these Terms and is expressly excluded. The Uniform Computer Information Transactions Act (UCITA) does not apply to these Terms and is expressly excluded.

9.4. *No Class Actions*. You may only resolve disputes with us on an individual basis, and you may not bring a claim as a plaintiff or a class member in a class, consolidated, or representative action.

9.5. Injunctive Relief. Notwithstanding the foregoing, in the event of your or others' unauthorized access to or use of the Services or Software in violation of the Terms, you agree that we are entitled to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

## **10. Miscellaneous Terms.**

10.1. Third Party Links. The Site, Services, or Software may contain hyperlinks to third-party websites. While we will try to make it clear when a hyperlink is not one of ours, it is important that you realize that we make no representations or warranties regarding these third-party sites or any content that may be linked to through a third party hyperlink. Please keep in mind that a link to a third-party website means that we do not control or endorse those websites, or any goods or services sold on those websites. Similarly, the Sites may contain ads from third-parties. We do not control or endorse any products being advertised. (*Pro tip: if you "hover" over a hyperlink with your mouse, the actual web address that you will be redirected to will display at the bottom of your browser*).

10.2. Translations. We generally publish everything on the Site in English, but we try to accommodate our visitors and customers from around the globe with translations where we can. These translations may be done by computer (we love technology) but may not be reviewed with the same vigor as our other content is, so we cannot guarantee the accuracy or completeness of these translations. The English version of the Terms will be the version used when interpreting or construing the Terms.

10.3. Trade Control Laws. The Services or Software and your use of the Services and Software are subject to U.S. and international laws, restrictions, and regulations that may govern the import, export, and use of the Services and Software. You agree to comply with all such laws, restrictions, and regulations.

You represent that you are not a citizen of or located in any U.S. embargoed country or region on the U.S. OFAC (Department of Treasury) sanction list, including but not limited to the Balkans, Belarus, Burma, Cuba, , Iran, Iraq, Liberia, North Korea, and Zimbabwe (available at <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>). You further represent that are not on a U.S. government prohibited user list posted by the Department(s) of Commerce, State, and/or Treasury (available at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>), and will not use Services or Software for purposes prohibited by U.S. law.

You agree that you will not access, download, use, transfer, post, resell or export Services or Software in violation of U.S. export laws or regulations, or in violation of any applicable local laws or regulations; including but not limited to (a) providing Services or Software to anyone in a U.S. embargoed country or region, or on a U.S. prohibited user list, or (b) using the Services or Software for the development, design, manufacture or production of nuclear, missile, or chemical/ biological weapons.

Services and Software are “commercial products” or “commercial services” and according to DFAR §§ 252.227 7014(a)(1) and (5) are deemed to be “commercial computer software” and “commercial computer software documentation.” Consistent with DFAR § 227.7202 and FAR § 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement. If you are a government other than the U.S. Government, you agree to apply this clause under the equivalent applicable law so as to obtain the effect intended.

10.4. Other Legal Rights Disclaimer. Nothing in the Terms is intended to exclude, restrict, or modify any consumer rights or other legislation which may not be excluded, restricted, or modified by agreement.

10.5. Notices to IPsoft. You may send notices to us at the following address: IPsoft Incorporated, 17 State Street, New York, New York, 10004 USA, Attn: Legal Department – Notices.

10.6. Notice to You. We may notify you by email, postal mail, postings within the Services, or other legally accepted means.

10.7. Non-Assignment. You may not assign or otherwise transfer the Terms or your rights and obligations under the Terms, in whole or in part, without our written consent, and any such attempt will be void. We may transfer our rights under the Terms to a third party.

10.8. Headings. Headings used in these General Terms or Additional Terms are provided for convenience only and will not be used to construe meaning or intent.

10.9. Severability. If any provision of these General Terms or any Additional Terms is held invalid or unenforceable for any reason, the General Terms and any Additional Terms will continue in full force and effect.

10.10. No Waiver. Our failure to enforce or exercise any provision of the Terms is not a waiver of that provision.

10.11. Your Relationship with IPsoft. For all purposes of these Terms, you and IPsoft shall be and act independently and not as partner, joint venturer, agent, employee, or employer of the other. You do not have any authority to assume or create any obligation for or on behalf of IPsoft, express or implied, and you shall not attempt to bind IPsoft to any contract without its express written consent.

#### Prior Versions

- [Version prior to 2020-October-28 \(prior to clarified mutual confidentiality clause\)](#)
- [Version prior to 2020-September-01 \(company name change\)](#)