

Konftel Global Software License Terms

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A. DEFINITIONS

(i) **“Affiliate”** means any entity that is directly or indirectly controlling, controlled by, or under common control with Konftel AB or End User. For purposes of this definition, “control” means the power to direct the management and policies of such party, directly or indirectly, whether through ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

(ii) **“Documentation”** means information published in varying mediums which may include product information, operating instructions and performance specifications that are generally made available to users of products. Documentation does not include marketing materials.

(iii) **“Software”** means computer programs in object code, provided by Konftel or an Konftel Channel Partner, whether as stand-alone products or pre-installed on hardware products, and any upgrades, updates, patches, bug fixes, or modified versions thereto.

B. SCOPE

These Software License Terms are applicable to anyone who installs, downloads, and/or uses Software and/or Documentation, obtained from Konftel or an Konftel reseller, distributor, direct partner, system integrator, service provider or other partner authorized to provide Software to End Users in the applicable territory (collectively “Konftel Channel Partner”). Some or all of the Software may be remotely hosted or accessible to You through the Internet. You are not authorized to use the Software if the Software was obtained from anyone other than Konftel or an Konftel Channel Partner.

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C. LICENSE GRANT

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only in support of the authorized use of the associated Software. Software installed on mobile-devices and clients, such as a laptop or mobile phone, may be used outside of the country where the Software was originally installed, provided that such use is on a temporary basis only.

(i) Right to Move License Entitlements

Notwithstanding the foregoing limitation permitting use of the Software only at the location where it is initially installed, You may move eligible right to use license entitlements (“RTU”) for certain specified Software from one location to another in accordance with Konftel’s then-current software license portability policy (“License Portability Policy”), which License Portability Policy is available upon request, subject to the conditions set forth in this Section C (i):

(a) You shall provide written notice within ten (10) days to Konftel of any RTU moves including but not limited to, the number and type of licenses moved, the location of the original Server and the location of the new Server, the date of such RTU moves and any other information that Konftel may reasonably request;

(b) You may only move RTU’s to and from Designated Processors or Servers supporting the same Software application;

(c) You must reduce the quantity of the licenses on the original Server by the number of RTU’s being moved to the new Server;

(d) You acknowledge that: (1) You may be charged additional fees when moving RTU’s as per Konftel’s then-current License Portability Policy, (2) maintenance services do not cover system errors caused by moves not performed by Konftel, (3) You are responsible for any programming, administration, design assurance, translation or other activity to make sure the Software will scale and perform as specified as a result of any license moves, and if any such transfer results in a requirement for Konftel system engineering or requires the use of on-site Konftel personnel, You will be charged the Time and Materials fees for such activity;

(e) If Your maintenance coverage differs on licenses on the same product instance at the location of the new Server, service updates, recasts and/or fees may apply and any fee adjustments for differences in coverage will only be made on a going forward basis as of the date Konftel receives notice of the RTU move; and

(f) You may move RTU’s from one Affiliate to another Affiliate provided that You comply with all of the conditions of this Section, including, without limitation, providing the name and address of the new Affiliate in Your written notice under subpart (a) above, and provided such new Affiliate agrees to be bound by these Software License Terms.

(ii) Non-Production License Grant. With respect to Software distributed by Konftel to You for non-production purposes, the scope of the license granted herein shall be to use the Software in a non-production environment solely for testing or other non-commercial purposes on a single computer or as otherwise designated by Konftel.

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E. DISCLAIMER

Any software security feature is not a guaranty against malicious code, deleterious routines, and other techniques and tools employed by computer “hackers” and other third parties to create security exposures. Compromised passwords represent a major security risk. Konftel encourages You to create strong passwords using three different character types, change Your password regularly and refrain from using the same password regularly. You must treat such information as confidential. You agree to notify Konftel immediately upon becoming aware of any

unauthorized use or breach of Your user name, password, account, or subscription. You are responsible for ensuring that Your networks and systems are adequately secured against unauthorized intrusion or attack and regularly back up of Your data and files in accordance with good computing practices.

F. GENERAL LICENSE RESTRICTIONS

To the extent permissible under applicable law, You agree not to: (i) decompile, disassemble, reverse engineer, reverse translate or in any other manner decode the Software; (ii) alter, modify or create any derivative works or enhancements, adaptations, or translations of the Software or Documentation; (iii) sell, sublicense, lease, rent, loan, assign, convey or otherwise transfer the Software or Documentation except as expressly authorized by Konftel in writing, and any attempt to do so is void; (iv) distribute, disclose or allow use of the Software or Documentation, in any format, through any timesharing service, service bureau, network or by any other similar means, such as hosting or cloud, except as expressly authorized by Konftel in writing; (v) allow any service provider or other third party, with the exception of Konftel's authorized maintenance providers who are acting solely on behalf of and for the benefit of End User, to use or execute any software commands that facilitate the maintenance or repair of any product; (vi) gain access to or the use of any Software or part thereof without authorization from Konftel; (vii) enable or activate, or cause, permit or allow others to enable or activate any logins reserved for use by Konftel or Konftel's authorized maintenance providers; (viii) publish the results of any tests run on the Software; (ix) disclose, provide, or otherwise make available to any third party any trade secrets contained in the Software or Documentation; (x) use the Software in a virtualized environment except as expressly authorized by these Software License Terms, or (xi) permit or encourage any third party to do any of the foregoing.

End User agrees not to allow anyone other than its authorized employees, agents or representatives who have a need to use the Software or Documentation to have access to the Software or Documentation. End User agrees to inform any third party to whom You give access to the Software or Documentation of these Software License Terms and shall obligate such third party to comply with such terms and provisions. End User shall be responsible for End User and any authorized third party's failure to comply with these Software License Terms and shall indemnify Konftel for any damages, loss, expenses or costs, including attorneys' fees and costs of suit, incurred by Konftel as a result of non-compliance with this Section.

Additional License Restrictions Applicable to the EU

Notwithstanding the limitations in Sections C and F, solely to the extent an End User's resale rights cannot be precluded or restricted by mandatory applicable law, End Users located in a member state of the European Union may resell licenses subject to the following conditions:

(i) Prior to resale of a license, End User will promptly, but not less than 30 days prior to a resale, notify Konftel in writing of its intention to resell a license.

(ii) Unless expressly agreed otherwise in writing, End User will not be permitted to resell less than its entire license to a buyer.

(iii) End User will resell the Software subject to these Software License Terms and shall ensure that the buyer is bound by these Software License Terms.

(iv) Upon resale of a license, End User shall immediately and permanently cease all use of and destroy all copies of the Software and any related materials in End User's possession or control and, upon Konftel's request, certify such destruction in writing. Konftel may audit End User's compliance with the foregoing in accordance with Section K below.

(v) End User will keep appropriate records of all license resale including, but not limited to, the name and location of the buyer and the number and types of licenses resold.

(vi) End User acknowledges that: (a) resale of a license is subject to any relevant Third Party Terms; (b) maintenance services do not cover system errors caused by license resale not performed by Konftel; (c) Konftel is not responsible for any programming, administration, design assurance, translation or other activity to make sure the Software will scale and perform as specified as a result of any license resale, and if any such resale results in a requirement for Konftel system engineering or requires the use of on-site Konftel personnel, End User will be charged the then applicable Konftel time and materials rates for such activity; (d) any resale of a maintenance services agreement between Konftel and the original licensee is subject to Konftel's prior written approval. Konftel reserves the right

to withhold such approval and/or offer the new licensee a maintenance services agreement subject to different terms and conditions; and (e) if not expressly agreed by Konftel in writing otherwise, the resale of licenses does not entitle the End User to cancel or partially cancel a maintenance services agreement during the agreed term.

If the Software is rightfully located in a member state of the European Union and End User needs information about the Software in order to achieve interoperability of an independently created software program with the Software, End User will first request such information from Konftel. Konftel may charge End User a reasonable fee for the provision of such information. End User agrees to protect such information in accordance with Section Q below, and shall use such information only in accordance with the terms and conditions under which Konftel provides such information. To the extent that the End User is expressly permitted by applicable mandatory law to undertake any activities related to achieving interoperability of an independently created software program with the Software, End User will not exercise those rights until End User has given Konftel twenty (20) days written notice of its intent to exercise any such rights.

G. PROPRIETARY RIGHTS NOTICES

You agree to retain, in the same form and location, all proprietary legends and/or logos of Konftel and/or Konftel's suppliers on any permitted copies of the Software or Documentation.

H. BACKUP COPIES.

End User may create a reasonable number of archival and backup copies of the Software and the Documentation.

I. UPGRADES

End User's right to use any upgrades to the Software shall be conditioned upon End User having a valid license to use the original Software and paying the applicable license fee to Konftel or an Konftel Channel Partner for such upgrade.

J. WARRANTY

Konftel's Global Product Warranty Policy for End Users, which details a limited warranty for Software and Software media and the applicable procedures, exclusions, and disclaimers, is available through the following website: <http://support.Konftel.com> (or such successor site as designated by Konftel). NEITHER KONFTEL NOR ITS SUPPLIERS MAKE ANY WARRANTY, EXPRESS OR IMPLIED, THAT SECURITY THREATS AND VULNERABILITIES WILL BE DETECTED OR SOFTWARE WILL RENDER AN END USER'S NETWORK OR PARTICULAR NETWORK ELEMENTS SAFE FROM INTRUSIONS AND OTHER SECURITY BREACHES. Please note that if You are acquiring the Software from an Konftel Channel Partner outside the United States of America or Canada, any warranty is provided to You by said Konftel Channel Partner and not by Konftel.

K. COMPLIANCE

Konftel and the Konftel Channel Partner who provided the Software have the right to inspect and/or audit (i) by remote polling or other reasonable electronic means at any time and (ii) in person during normal business hours and with reasonable notice End User's books, records, and accounts, to determine End User's compliance with these Software License Terms, including but not limited to usage levels. In the event such inspection or audit uncovers non-compliance with these Software License Terms, then without prejudice to Konftel's termination rights hereunder, End User shall promptly pay Konftel any applicable license fees. End User agrees to keep a current record of the location of the Software.

L. TERMINATION OF LICENSE; EFFECT OF TERMINATION/ EXPIRATION

If You breach these Software License Terms and if within ten (10) business days of Konftel's written request to cure, You have not cured all breaches of license limitations or restrictions, Konftel may, with immediate effect, terminate the licenses granted in these Software License Terms without prejudice to any available rights and remedies Konftel may have at law or in equity. Upon termination or expiration of the license for any reason, You must immediately destroy all copies of the Software and any related materials in Your possession or control and, upon Konftel's request, certify such destruction in writing. The provisions concerning confidentiality, the protec-

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M. LICENSE TYPES

Konftel grants You a license within the scope of the license types described below. Where the order documentation does not expressly identify a license type, the applicable license will be a Designated System License. The applicable number of licenses and units of capacity for which the license is granted will be one (1), unless a different number of licenses or units of capacity is specified in the documentation or other materials available to You. “**Designated Processor**” means a single stand-alone computing device. “**Server**” means a Designated Processor that hosts a software application to be accessed by multiple users. “**Instance**” means a single copy of the Software executing at a particular time: (i) on one physical machine; or (ii) on one deployed software virtual machine or similar deployment.

(i) Designated System(s) License (DS). End User may install and use each copy or an Instance of the Software only on a number of Designated Processors up to the number indicated in the order. Konftel may require the Designated Processor(s) to be identified in the order by type, serial number, feature key, Instance, location or other specific designation, or to be provided by End User to Konftel through electronic means established by Konftel specifically for this purpose.

(ii) Concurrent User License (CU). End User may install and use the Software on multiple Designated Processors or one or more Servers, so long as only the licensed number of Units are accessing and using the Software at any given time. A “Unit” means the unit on which Konftel, at its sole discretion, bases the pricing of its licenses and can be, without limitation, an agent, port or user, an e-mail or voice mail account in the name of a person or corporate function (e.g., webmaster or helpdesk), or a directory entry in the administrative database utilized by the Software that permits one user to interface with the Software. Units may be linked to a specific, identified Server or an Instance of the Software.

(iii) Database License (DL). End User may install and use each copy or an Instance of the Software on one Server or on multiple Servers provided that each of the Servers on which the Software is installed communicates with no more than one Instance of the same database.

(iv) CPU License (CP). End User may install and use each copy or Instance of the Software on a number of Servers up to the number indicated in the order provided that the performance capacity of the Server(s) does not exceed the performance capacity specified for the Software. End User may not re-install or operate the Software on Server(s) with a larger performance capacity without Konftel’s prior consent and payment of an upgrade fee.

(v) Named User License (NU). You may: (i) install and use each copy or Instance of the Software on a single Designated Processor or Server per authorized Named User (defined below); or (ii) install and use each copy or Instance of the Software on a Server so long as only authorized Named Users access and use the Software. “Named User,” means a user or device that has been expressly authorized by Konftel to access and use the Software. At Konftel’s sole discretion, a “Named User” may be, without limitation, designated by name, corporate function (e.g., webmaster or helpdesk), an e-mail or voice mail account in the name of a person or corporate function, or a directory entry in the administrative database utilized by the Software that permits one user to interface with the Software.

(vi) Shrinkwrap License (SR). You may install and use the Software in accordance with the terms and conditions of the applicable license agreements, such as “shrinkwrap” or “clickthrough” license accompanying or applicable to the Software (“Shrinkwrap License”).

N. THIRD PARTY COMPONENTS

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O. LIMITATION OF LIABILITY

Except for personal injury claims or willful misconduct, and to the extent permitted under applicable law, neither Konftel, Konftel affiliates, their licensors or suppliers, nor any of their directors, officers, employees, or agents shall be liable for (i) any incidental, special, punitive, exemplary, statutory, indirect or consequential damages, (ii) any loss of profits or revenue, loss or corruption of data, toll fraud, or cost of cover, substitute goods or performance, or (iii) any direct damages arising under these software license terms in excess of the fees paid for the software giving rise to the claim in the twelve month period immediately preceding the date the claim arose. Regardless of whether they were advised, had other reason to know, or in fact knew of the possibility thereof and regardless of whether the limited remedies fail of their essential purpose. These limitations of liability in this section will apply to any damages, however caused, and on any theory of liability, whether for breach of contract, tort (including, but not limited to, negligence), or otherwise.

P. PROTECTION OF SOFTWARE AND DOCUMENTATION

End User acknowledges that the Software and Documentation are confidential information of Konftel and its suppliers and contain trade secrets of Konftel and its suppliers. End User agrees at all times to protect and preserve in strict confidence the Software and Documentation using no less than the level of care End User uses to protect its own information of a confidential nature and to implement reasonable security measures to protect the trade secrets of Konftel and its suppliers.

Q. PERSONAL DATA

Your privacy is important to Konftel. Konftel's data privacy policy can be found at http://investors.Konftel.com/governance/data_privacy.asp (or such successor site as designated by Konftel). The download or use of the Software may require the processing of personal data (including, but not limited to contact name, company address, company phone or fax, or company email) pertaining to Your company or to Your company's personnel. Such data will be used by Konftel for communication, administrative, and operational purposes related to the Software, including but not limited to tracking Software activations, communicating regarding trouble tickets and alarms, and providing Software updates. Personal data required to download or use the Software must be submitted to Konftel. Failing the submission of such data, the download or use of the Software may not be possible. You or Your personnel have a right to access and correct erroneous personal data pertaining to You or Your personnel and to object for legitimate reasons to the processing and transfer of this data. You can exercise this right by contacting in writing the Data Privacy Officer of the applicable Konftel Affiliate.

R. HIGH RISK ACTIVITIES

The Software is not fault-tolerant and is not designed, manufactured or intended for any use in any environment that requires fail-safe performance in which the failure of the Software could lead to death, personal injury or significant property damage ("High Risk Activities"). Such environments include, among others, control systems in a nuclear, chemical, biological or other hazardous facility, aircraft navigation and communications, air traffic control, and life support systems in a healthcare facility. End User assumes the risks for its use of the Software in any such High Risk Activities.

S. IMPORT/EXPORT CONTROL

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U. ACKNOWLEDGEMENT

End User acknowledges that certain Software may contain programming that: (i) restricts, limits and/or disables access to certain features, functionality or capacity of such Software subject to the End User making payment for licenses to such features, functionality or capacity; or (ii) periodically deletes or archives data generated by use of the Software and stored on the applicable storage device if not backed up on an alternative storage medium after a certain period of time; or (iii) may rely on a third party analytics service to collect and generate aggregated user data which Konftel uses to improve product performance and its functionality. Please refer to the following website for more information: <http://www.google.com/privacy.html> (or such successor site as designated by Google). By accepting these Software License Terms and continued use of the Software, service, or subscription, You consent to the use of such an analytics service to analyze such data.

V. MISCELLANEOUS

These Software License Terms and any dispute, claim or controversy arising out of or relating to these Software License Terms ("Dispute"), including without limitation those relating to the formation, interpretation, breach or termination of these Software License Terms, or any issue regarding whether a Dispute is subject to arbitration under these Software License Terms, will be governed by New York State laws, excluding conflict of law principles, and the United Nations Convention on Contracts for the International Sale of Goods.

Any Dispute shall be resolved in accordance with the following provisions. The disputing party shall give the other party written notice of the Dispute. The parties will attempt in good faith to resolve each Dispute within thirty (30) days, or such other longer period as the parties may mutually agree, following the delivery of such notice, by negotiations between designated representatives of the parties who have dispute resolution authority. If a Dispute that arose anywhere other than in the United States or is based upon an alleged breach committed anywhere other than in the United States cannot be settled under these procedures and within these timeframes, it will be conclusively determined upon request of either party by a final and binding arbitration proceeding to be held in accordance with the Rules of Arbitration of the International Chamber of Commerce by a single arbitrator appointed by the parties or (failing agreement) by an arbitrator appointed by the President of the International Chamber of Commerce (from time to time), except that if the aggregate claims, cross claims and counterclaims by any one party against any or all other parties exceed One Million US Dollars at the time all claims, including cross claims and counterclaims are filed, the proceeding will be held in accordance with the Rules of Arbitration of the International Chamber of Commerce by a panel of three arbitrator(s) appointed in accordance with the Rules of Arbitration of the International Chamber of Commerce. The arbitration will be conducted in the English language, at a location agreed by the parties or (failing agreement) ordered by the arbitrator(s). The arbitrator(s) will have authority only to award compensatory damages within the scope of the limitations of these Software License Terms and will not award punitive or exemplary damages. The arbitrator(s) will not have the authority to limit, expand or otherwise modify the terms of these Software License Terms. The ruling by the arbitrator(s) will be final and binding on the parties and may be entered in any court having jurisdiction over the parties or any of their assets. The parties will evenly split the cost of the arbitrator(s)' fees, but each party will bear its own attor-

neys' fees and other costs associated with the arbitration. The parties, their representatives, other participants and the arbitrator(s) will hold the existence, content and results of the arbitration in strict confidence to the fullest extent permitted by law. Any disclosure of the existence, content and results of the arbitration shall be as limited and narrowed as required to comply with the applicable law. By way of illustration, if the applicable law mandates the disclosure of the monetary amount of an arbitration award only, the underlying opinion or rationale for that award may not be disclosed.

If a Dispute by one party against the other that arose in the United States or is based upon an alleged breach committed in the United States cannot be settled under the procedures and within the timeframe set forth above, then either party may bring an action or proceeding solely in either the Supreme Court of the State of New York, New York County, or the United States District Court for the Southern District of New York. Except as otherwise stated above with regard to arbitration of Disputes that arise anywhere other than in the United States or are based upon an alleged breach committed anywhere other than in the United States, each party to these Software License Terms consents to the exclusive jurisdiction of those courts, including their appellate courts, for the purpose of all actions and proceedings.

The parties agree that the arbitration provision in this Section may be enforced by injunction or other equitable order, and no bond or security of any kind will be required with respect to any such injunction or order. Nothing in this Section will be construed to preclude either party from seeking provisional remedies, including but not limited to temporary restraining orders and preliminary injunctions from any court of competent jurisdiction in order to protect its rights, including its rights pending arbitration, at any time. In addition and notwithstanding the foregoing, Konftel shall be entitled to take any necessary legal action at any time, including without limitation seeking immediate injunctive relief from a court of competent jurisdiction, in order to protect Konftel's intellectual property and its confidential or proprietary information (including but not limited to trade secrets).

If any provision of these Software License Terms is determined to be unenforceable or invalid, these Software License Terms will not be rendered unenforceable or invalid as a whole, and the provision will be changed and interpreted so as to best accomplish the objectives of the original provision within the limits of applicable law. The failure to assert any rights under the Software License Terms, including, but not limited to, the right to terminate in the event of breach or default, will not be deemed to constitute a waiver of the right to enforce each and every provision of the Software License Terms in accordance with their terms. If you move any Software, and as a result of such move, a jurisdiction imposes a duty, tax, levy or fee (including withholding taxes, fees, customs or other duties for the import and export of any such Software), then you are solely liable for, and agree to pay, any such duty, taxes, levy or other fees.

W. AGREEMENT IN ENGLISH

The parties confirm that it is their wish that these Software License Terms, as well as all other documents relating hereto, including all notices, have been and shall be drawn up in the English language only.

Les parties aux présentes confirment leur volonté que cette convention, de même que tous les documents, y compris tout avis, qui s'y rattachent, soient rédigés en langue anglaise.