

---

## END USER LICENCE AGREEMENT ("EULA")

---

### PLEASE READ THIS CAREFULLY BEFORE CONTINUING

BEFORE CLICKING TO START DOWNLOADING THE SOFTWARE YOU SHOULD CAREFULLY READ THE TERMS AND CONDITIONS OF THIS LICENCE AGREEMENT. BY DOWNLOADING YOU ARE AGREEING TO BE LEGALLY BOUND BY THE TERMS AND CONDITIONS OF THIS LICENCE AGREEMENT AND AGREE TO BECOME A LICENSEE. IF YOU DO NOT AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS LICENCE AGREEMENT YOU SHOULD NOT DOWNLOAD OR USE THE SOFTWARE.

When you accept the terms and conditions of this Licence Agreement by downloading or accepting the licence terms & conditions, COUNTERSOFT LIMITED (the "Licensor") shall immediately grant you (the "Licensee") a limited, non-exclusive, non-transferrable licence to Use the software and any and all accompanying documentation (the "Software") subject to the terms and conditions of this Licence Agreement.

You warrant and represent to the Licensor that this EULA shall be binding upon you the Licensee, and that the individual agreeing to be bound under the terms and conditions of this EULA is authorized or has been empowered to do so and is more than 18 years of age and is fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in this EULA, and to abide by and comply with the terms and conditions contained herein

When you use the Software, the Licensor may collect certain information about your computer to facilitate, evaluate and verify your use of the Software, which may be sent to a computer designated by the Licensor for its own internal use and shall not be shared with any third parties. This information is collected in the aggregate form, without identifying any user individually, for the purpose of performance and error diagnostics and for improving the Software to providing you with a better service and more relevant experience. As indicated above, if you do not desire to accept this EULA or agree to the terms and conditions of this EULA, you should not download or use the software. The software will continue to work even if your computer is not connected to the Internet or if your firewall policies do not allow such information to be sent to the Licensor's computer.

You acknowledge and agree that you are not an owner of the Software or any copies of the Software; that you have no right to further transfer or distribute the Software or any copies of the Software or provide access to the Software in any manner without the Licensor's prior written consent. You further agree not to challenge the enforceability or validity of this EULA or to initiate any proceedings inconsistent with the terms and conditions of this EULA.

This EULA has been prepared in the English language and the interpretation of this EULA shall be based on the English language. Any non-English version of this EULA is solely for accommodation purposes.

### 1. Use of the Software

- 1.1 In this Licence Agreement, "Use" shall be defined as including the installation of the Software by copying, transmitting or loading it into the permanent memory of a computer or other device (each a "Computer") for the processing of the system instructions or statements contained in the Software. "Use" shall also include copying the Software in machine-readable form for the

purposes of understanding the contents of such machine-readable material (which may be known as reverse-engineering).

- 1.2 A maximum of ONE copy of the Software may be made for back-up and/or disaster recovery purposes only.

## **2. Nature of the Software**

The Software is commercially licensed software. It is not open-source, freeware or shareware. The Licensor may demand a licence fee for Use of the Software in accordance with this Licence Agreement and only the Licensor may waive payment for the software.

## **3. Licensee's Undertakings**

By accepting the terms and conditions of this Licence Agreement you hereby undertake:

- 3.1 Not to copy the Software except as permitted by sub-Clause 1.2;
- 3.2 Not to disassemble, decompile or otherwise reverse-engineer the Software;
- 3.3 Not to install the Software on more than ONE Computer(s) at any one time in violation of this Licence Agreement;
- 3.4 To ensure that your employees, agents and other parties under your control who will use the Software do so in accordance with the terms and conditions of this Licence Agreement and are accordingly notified of the same;
- 3.5 To reproduce and include any and all copyright notices of the Licensor as they appear in or on the Software and any and all copies thereof;
- 3.6 Not to create any derivative or competing product based upon this software;
- 3.7 Not to permit or facilitate the Use of the Software in any manner which would constitute a breach of the terms and conditions of this Licence Agreement;
- 3.8 Not to place or distribute the Software on any website, ftp server or similar location without the express prior written consent of the Licensor;
- 3.9 Not to Use the Software for any purpose which may be deemed immoral, illegal, offensive, threatening, abusive or otherwise harmful; and
- 3.10 Not to remove or otherwise obscure any copyright notices of the Licensor displayed within the software.

## **4. Transferring the Software**

- 4.1 The Software is licensed only to you the Licensee. You may not rent, lease, sub-licence, sell, assign, pledge, transfer or otherwise dispose of the Software, on a temporary or permanent basis, without the prior written consent of the Licensor.

## **5. Limited Warranty**

- 5.1 Subject to the limitations and exclusions of liability below, the Licensor warrants to make best endeavours to ensure that the Software materially conforms with any documentation that accompanies it.
- 5.2 Subject to sub-Clause 5.1, the Software is provided "as is" without any warranty of any kind, whether express or implied, including but not limited to the implied warranties of merchantability, fitness for a particular purpose, title and non-infringement.

- 5.3 You acknowledge that any Trial or Free version of the software may have limited features, function for a limited time, have other limitations or include features not present in a non-trial or paid for version of the software.
- 5.4 The Licensor does not warrant that the Software will be error-free or that such errors will be corrected and the Licensee is solely responsible for all costs and expenses associated with the rectification, repair or damage caused by such errors.
- 5.5 The Licensor shall not be liable if the Software fails to operate in accordance with the limited warranty set out in sub-Clause 5.1 as a result of any modification, variation or addition to the Software not performed by the Licensor or caused by any abuse, corruption or incorrect use of the Software, including use of the Software with equipment or other software which is incompatible.
- 5.6 In the event that the Licensor incurs any liability of any kind, that liability shall be limited to the licence fee paid by the Licensee for the Software. Nothing in this Clause 5 nor in the remainder of this Licence Agreement shall limit or exclude the Licensor's liability for death or personal injury arising out of the Licensor's negligence nor for fraudulent misrepresentation.
- 5.7 The Software may contain libraries, utilities or other binary executable files belonging to third parties. Any illegal re-use of redistributable libraries, utilities or other binary executable files belonging to 3<sup>rd</sup> parties shall leave you the Licensee solely liable for damages and breach of third party software license agreements.
- 5.8 You agree to defend, indemnify and hold Licensor, its affiliates, subsidiaries, officers, directors, employees, consultants, agents, suppliers, licensors and resellers from any and all third party claims, whether foreign or domestic, and any and all liability, damages and/or costs including, but not limited to, reasonable attorney fees, arising from your Use of the Software and the distribution of the same.

## **6. Your Statutory Rights**

This Licence Agreement gives you specific legal rights and you may also have other rights that vary from one country to another. Some jurisdictions do not allow the exclusion of implied warranties, or certain kinds of limitations or exclusions of liability, so the limitations and exclusions included in this Licence Agreement may not apply to you. Other jurisdictions do allow limitations and exclusions subject to certain conditions. In either case the limitations and exclusions included in this Licence Agreement shall apply to the fullest extent permitted by the laws of such applicable jurisdictions. If any part of the limitations or exclusions in this Licence Agreement is held to be void or unenforceable, such part shall be deemed to be deleted from this Licence Agreement and the remainder of the limitation or exclusion shall continue in full force and effect. Any rights that you may have as a consumer (i.e. a purchaser for private as opposed to business, academic or government use) are not affected.

## **7. Intellectual Property Rights**

The Software and related documentation are copyright works of authorship and are also protected under applicable database laws. The Licensor retains ownership of the Software, all subsequent copies of the Software and all intellectual property rights subsisting therein, regardless of the form in which such copies may exist. This Licence Agreement is not a sale of the original Software or any copies thereof.

## 8. **Term and Termination**

- 8.1 This Licence Agreement is effective until terminated. You may terminate it at any time by destroying the Software together with all copies in any form.
- 8.2 This Licence Agreement shall also terminate upon conditions set out elsewhere in this Licence Agreement or if you fail to comply with any of the terms and conditions of this Licence Agreement.
- 8.3 You agree that, upon such termination, you will destroy the Software including any copies in whatever form.
- 8.4 Refunds full or partial are not provided as you are requested to fully evaluate the Software before purchasing it or using it in what can be construed as a Live, Production, or Operational environment.
- 8.5 We may terminate this Licence Agreement immediately and without notice if we reasonably suspect that you are using the Software for any purpose which contravenes the laws of the country of registration of the Licensor.

## 9. **General**

- 9.1 Each party irrevocably agrees that the courts of the country of registration of the Licensor, its subsidiary office, or reseller which issues an invoice for the Software, shall have exclusive jurisdiction to resolve any controversy or claim of whatever nature arising out of or in relation to this Licence Agreement and the place of performance of this Licence Agreement shall be that country and the laws of that country shall govern such controversy or claim.
- 9.2 This Licence Agreement constitutes the complete and exclusive statement of the Licence Agreement between the Licensor and you with respect to the subject matter of this Licence Agreement and supersedes all proposals, representations, understandings and prior agreements, whether oral or written, and all other communications between us relating to that subject matter.
- 9.3 Any Clause in this Licence Agreement that is found to be invalid or unenforceable shall be deemed deleted and the remainder of this Licence Agreement shall not be affected by that deletion.
- 9.4 Failure or neglect by either party to exercise any of its rights or remedies under this Licence agreement will not be construed as a waiver of that party's rights nor in any way affect the validity off the whole or part of this Licence Agreement nor prejudice that party's right to take subsequent action.
- 9.5 This Licence Agreement is personal to you and [subject to Clause 4] you may not assign, transfer, sub-contract or otherwise part with this Licence Agreement or any right or obligation under it without the Licensor's prior written consent.

## 10. **Revisions to Licensing Terms**

We reserve the right to revise the terms of this License by updating the License on our website or informing you via email. It is recommended that you routinely check the following website link to up-to-date license agreement:

<http://www.countersoft.com/eula.pdf>

Your Use of the Software shall be deemed to constitute the acceptance of any revised terms.

## 11. **Software Support**

All versions of the Software purchased directly from the Licensor are provided with 12 months support via email and free access to the Licensor's documentation and other Software support websites, such as an online helpdesk ("Product Support"). Regardless of whether the Software has been purchased directly from the Licensor or a reseller, customers must renew their annual support and maintenance agreement after the initial 12 month period to continue to be entitled to Product Support.

Customers who have purchased the Software and are entitled to Product Support will also be entitled to upgrades and new releases of the package they purchased at no additional cost.

### **Product Support for different versions**

**Express and Professional** package customers are entitled to free email support where the Licensor will endeavour to respond to emails within 24 hours. Telephone and GoToMeeting based support are not available to Express and Professional package customers.

**Premium** package customers are entitled to free email and telephone support. The Licensor will endeavour to respond to emails within 24 hours. Telephone support is available between the hours of 8am and 9pm GMT and is limited to a maximum of two phone calls per week. GoToMeeting based support is not available to Premium package customers.

**Enterprise** package customers are entitled to free email, telephone and GotoMeeting support. The Licensor will endeavour to respond to emails within 24 hours. Telephone support is available between the hours of 8am and 9pm GMT and is limited to a maximum of four phone calls per week. GoToMeeting support will be delivered at mutually agreed times and will be limited to a maximum of two sessions per calendar month with a maximum duration of one hour per session.

We reserve the right to withdraw or refuse telephone support without notice.

You accept that, although we will use reasonable endeavours to solve problems identified by purchasers of the Software, the nature of software is such that no guarantee can be provided that any particular problem will be solved.

Renewal of license is required within six months of expiry. Failure to renew within 6 months of expiry means the Licensee forgoes any entitlement to renew the expired license and would be required by the Licensor to purchase a new license to obtain Product Support.

## 12. **Privacy and Data Collection**

We may contact you to inform you of product updates or new products and you consent to such use of your personal data. Your contact details (email address) will never be disclosed to any other party.

We do not expose any data held within the SOFTWARE to any external sources.

We reserve the right if we sell the assets of our business to transfer personal data to the new owners or where required by law so to do.

We do not sell or otherwise disclose your email address.

We reserve the right to display your corporate logo on our website solely for demonstrating our client credentials. At your written request we will remove any such logo used on our website within 28 days.

**13. Software Usage Tracking**

We may collect software usage metrics for the sole purposes of product research and development. Purchasers of the Software can opt out of software usage metrics by requesting removal via [usage@countersoft.com](mailto:usage@countersoft.com).

**14. Acceptance of Licence**

You will be deemed to have accepted the terms of the Licence by downloading, installing or using the Software on any computer or by clicking the 'I Accept' button.

Any questions concerning this Licence Agreement or the Software should be directed to the Licensor. Contact details are available from <http://www.countersoft.com>.