

GENESYS CLOUD SERVICES AGREEMENT

This Genesys Cloud Services Agreement (together with all applicable Schedules and Services Order(s) executed hereunder, the “**Agreement**”) is entered into by and between **Choose a Genesys Entity** (“**Genesys**”) and [customer’s name] (“**Customer**”) and contains the terms and conditions that govern Customer’s access to and use of the Cloud Services (as defined below). This Agreement is effective as of the date the last party signs (the “**Effective Date**”).

1. DEFINITIONS

Affiliate: a business entity that: (i) Controls the subject party; (ii) is Controlled by such party; or (iii) is under common Control with such party but only during the time that such Control exists. “**Control(led)**” is the ability to determine the management policies of an entity through equity ownership of a majority of interests of such entity.

AWS Region: as defined and listed at https://aws.amazon.com/about-aws/global-infrastructure/regions_az/.

Cloud Services: Genesys-operated cloud offerings that are based on Genesys’ proprietary software deployed in a Genesys-managed cloud services environment, and the support for such offerings, the specific features and functionality of which are described in the Documentation and identified on a Services Order as being part of the Cloud Services. Cloud Services exclude Third Party Products and Genesys PS Apps.

Confidential Information: proprietary or other information which can reasonably be considered confidential due to its nature, or is marked as confidential, and any third-party confidential information, provided by one party (“**Discloser**”) to the other party hereto (“**Recipient**”).

Customer Data: Customer’s Confidential Information that is inputted and stored in the Cloud Services. Customer Data does not include the anonymized data incorporated into Service Improvements as defined in Section 10.2.

Customization: any alteration, derivation, or modification of the Cloud Services, whether developed by Genesys, Customer or any third party or by using Genesys tools, methods or training.

Documentation: the applicable technical instructions describing the operation of the Cloud Services found at <https://help.mypurecloud.com/>.

Genesys PS Apps: any Genesys-developed application sold separately as an add-on to the Cloud Services, including but not limited to any such applications available on AppFoundry.

Services Order: the document by which Customer orders, and Genesys agrees to provide, Cloud Services pursuant to this Agreement.

Third Party Product: any software or service proprietary to an entity other than Genesys or its Affiliates that is sold or licensed separately and that may integrate or interoperate with the Cloud Services, including free and open source software, offerings accessible through Genesys’ online marketplace located at <http://appfoundry.genesys.com> (other than Genesys PS Apps), or the provision of Genesys Cloud Voice as described at <https://help.mypurecloud.com/articles/about-genesys-cloud-voice/>.

2. ACCESS RIGHTS TO, SUPPORT AND SECURITY OF THE CLOUD SERVICES

2.1 **Access Rights.** Subject to the terms and conditions of this Agreement, Genesys grants Customer a non-exclusive, non-transferable, revocable, worldwide right to authorize individuals within Customer’s organization, its Affiliates and contractors to use and access the Cloud Services and Documentation solely for Customer’s internal business purposes during the Subscription Term. Customer has no right to receive a copy of the object code or source code versions of the Cloud Services.

2.2 **Support and Security.** Genesys will provide support for the Cloud Services designed to achieve the service levels described at <https://help.mypurecloud.com/articles/service-level-agreements/>, and security for the Cloud Services in accordance with the terms at <https://help.mypurecloud.com/articles/genesys-cloud-security-policy/>, which terms are incorporated herein by reference. Genesys reserves the right to make changes to the support and/or security terms for the Cloud Services during the Subscription Term. If, however, such a change results in the material degradation of the level of support for the Cloud Services or the level of protection of Customer Data and no workaround has been provided by Genesys, then Customer may terminate this Agreement by providing Genesys with written notice within 30 days from the date of notification of such change.

2.3 **Additional Terms.** Customer’s use or Genesys’ provision of any Third Party Products will be subject to the terms of the shrink-wrap, click-wrap or other accompanying license included or provided with such Third Party Products. Genesys shall have no liability or additional obligations to Customer in connection with Third Party Products. Genesys’ provision of professional services and/or training courses are subject to the terms and conditions located at <https://help.mypurecloud.com/articles/professional-services-terms-and-conditions/> and <https://beyond.genesys.com/explore/terms-and-conditions>, respectively, which are incorporated by reference herein. Additional country and/or region-specific provisions located at <https://help.mypurecloud.com/articles/global-genesys-cloud-service-terms-and-conditions/> will apply to Customer when accessing the Cloud Services from the referenced country(ies) or region(s). If Customer purchases Pointillist Services, as described at <https://www.genesys.com/pointillist>, and/or Genesys Cloud Analytics Add-on Services (“**A3S**”), the additional terms and conditions located at <https://help.mypurecloud.com/articles/global-genesys-cloud-service-terms-and-conditions/> will apply.

3. RIGHTS AND LIMITATIONS OF USE

3.1 **Proprietary Rights.** All intellectual property rights in the Cloud Services and the Documentation, and all updates, upgrades, enhancements, new versions, releases, corrections, copies, translations, adaptations and Customizations, are and shall remain the exclusive property of Genesys or its Affiliates, business partners, licensors or suppliers, as applicable, whether or not specifically recognized or perfected under applicable laws. All intellectual property rights in and to Customer Data are and shall remain Customer’s sole property, provided, however, that Customer grants Genesys, its Affiliates and contractors the right to access, process, store, transmit, and otherwise make use of the Customer Data and program code created or used by Customer with the Cloud Services to ensure its proper operation, fulfil Genesys’ obligations, or as otherwise consistent with this Agreement. Genesys will not rent or sell Customer Data.

3.2 **Use Restrictions.** Customer will not, and will not permit or authorize any third party to, (i) sell, rent, lease, transfer, sublicense, share or otherwise make the Cloud Services available to any third party, except as expressly authorized by this Agreement; (ii) create any derivative works, functionally equivalent product(s) or translations of the Cloud Services, or otherwise use the Cloud Services or Documentation other than as expressly permitted by this Agreement; (iii) copy any

feature, design or graphic in, or disassemble, reverse engineer or decompile, the Cloud Services; (iv) access or use the Cloud Services or Documentation to compete with Genesys or to assist a third party to do so; (v) remove or modify any proprietary markings or restrictive legends placed on the Cloud Services or Documentation; (vi) take any action that jeopardizes Genesys' rights or that of its Affiliates, business partners, licensors or suppliers in the Cloud Services and Documentation; (vii) violate any laws; (viii) use the Cloud Services in a manner that is defamatory, harassing, hateful, infringing or otherwise causes damage or injury to any person or property, including to Genesys and its Affiliates, business partners, licensors or suppliers; (ix) use the Cloud Services or Documentation for performance, benchmarking or comparison testing or analysis, or disclose to any third party or otherwise disseminate any results thereof, without Genesys' prior written consent; (x) use the Cloud Services or Documentation to provide or serve as outsourcing, service bureau, hosting, application service provider or online services to third parties; (xi) transmit viruses or other deleterious code; (xii) perform unauthorized penetration testing, vulnerability scans, or automated testing; or (xiii) damage, disable, overburden, including load testing, or impair the Cloud Services or any other party's use of the Cloud Services. Customer is liable for the use of the Cloud Services and Documentation by its Affiliates, personnel, third party service providers or any other third party acting on its behalf and shall ensure their compliance with this Agreement.

3.3 **Feedback.** To the extent not already owned by Genesys, Customer hereby grants Genesys a perpetual, exclusive, royalty-free, irrevocable, worldwide license to use or disclose any suggestions, enhancement requests, recommendations, proposals, ideas or other feedback Customer provides to Genesys concerning the Cloud Services, and create derivative works thereof, without restriction, compensation, obligation or liability of any kind to Customer or to any third party.

3.4 **Data Center Services.** The software used to provide the Cloud Services is located on servers that are controlled by Amazon Web Services ("AWS"). Customer shall comply with the AWS Acceptable Use Policy found at <https://aws.amazon.com/aup/> ("AWS AUP"), which is incorporated by reference herein.

4. CONFIDENTIALITY

4.1 **Confidentiality.** Recipient will safeguard the confidentiality of Discloser's Confidential Information and will take, at a minimum, the precautions Recipient takes to protect its own Confidential Information but, in any event, no less than reasonable care. Recipient will (i) not disclose or use Discloser's Confidential Information for any purpose other than as contemplated by, and consistent with, the terms of this Agreement, (ii) limit access to Discloser's Confidential Information only to its employees and agents who have a need to know such information and who are bound by written confidentiality obligations at least as protective as this Agreement (provided Recipient shall be liable for such parties' compliance with the terms hereof), and (iii) not sell, transfer, disclose or otherwise make Discloser's Confidential Information available to any third party without Discloser's prior written consent. For the purposes of this Agreement, Affiliates, their employees and consultants of either party shall not be deemed third parties; provided such Affiliates, employees and consultants reasonably need to know such Confidential Information and are bound to protect the confidentiality of Confidential Information in the possession of the Recipient either by their employment agreement or otherwise to an extent not less stringent than the obligations under this Agreement. If Recipient is required to disclose Discloser's Confidential Information to comply with a governmental or judicial order, Recipient will promptly notify Discloser of such a request, unless legally prohibited from doing so, so that Discloser may seek an appropriate protective order. If Discloser seeks a protective order, Recipient will reasonably cooperate in such effort at Discloser's expense. Subject to Recipient's compliance with the foregoing notice and cooperation obligations, Recipient may make the required disclosure if it is, upon the advice of counsel, compelled to disclose all or a portion of Discloser's Confidential Information.

4.2 **Exceptions.** Recipient's obligations to protect Discloser's Confidential Information does not apply to information that (i) is or becomes, through no act or omission of Recipient, publicly available, (ii) was known by Recipient at the time of receipt, as shown by Recipient's contemporaneous written records, (iii) is subsequently and rightfully provided to Recipient by a third party without restriction on disclosure, or (iv) is independently developed by Recipient without use of or access to Discloser's Confidential Information. Genesys' Confidential Information includes the Cloud Services, Documentation, and other technical information relating thereto.

4.3 **Return of Confidential Information.** The Recipient will return any tangible materials containing Confidential Information, and any copies or reproductions thereof, to the Discloser within 30 days after the Discloser's written request; provided, however, the Recipient shall be permitted to retain copy of such Confidential Information for the purpose of performing any continuing obligations under this Agreement (including any Services Order), for archival purposes or for compliance with legal retention obligations. Any Confidential Information retained by the Recipient shall be maintained subject to confidentiality obligations pursuant to the terms of this Section. Recipient agrees to undertake whatever action is reasonably necessary to remedy any breach of Recipient's confidentiality obligations or any other unauthorized disclosure or use of the Confidential Information by Recipient, its employees, its agents, or contractors. The Recipient acknowledges that monetary damages may not be a sufficient remedy for unauthorized disclosure of Confidential Information and that the Discloser shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction without the necessity of posting any bond.

5. TERM, PAYMENT AND TERMINATION

5.1 **Term.** The term of this Agreement will start on the Effective Date and continue until expiration of all outstanding Services Orders issued hereunder ("**Term**"). The initial subscription period will be specified in the first Services Order agreed by the Customer ("**Initial Subscription Term**"), which, except as otherwise specified in the applicable Services Order, will automatically renew for successive periods equal to the Initial Subscription Term (each, a "**Renewal Subscription Term**"), unless either party notifies the other party in writing of its intent not to renew at least 45 days prior to the start date of the upcoming Renewal Subscription Term. Pricing for Renewal Subscription Terms is subject to change. The Initial Subscription Term, the Renewal Subscription Term, and the ramp period, if applicable, are herein collectively referred as the Subscription Term.

5.2 **Payment Terms.**

5.2.1 Genesys will invoice Customer in advance upon acceptance of the Services Order, either annually in advance or in accordance with a different billing frequency stated in the Services Order. During the Subscription Term, if actual usage exceeds the subscription amount set forth in the Services Order, Genesys will charge Customer for such excess usage monthly in arrears, for each month the Customer exceeds such usage, at the on-demand subscription pricing listed therein. Unless the Services Order provides for a different payment term, all payments are due within 30 days of the invoice date using one of Genesys' acceptable payment methods. Except as otherwise stated in this Agreement, any prepaid amounts are non-refundable, and Services Orders are non-cancelable.

5.2.2. Subject to this Section, all past due payments will bear interest at the rate of 1.5% per month or such lower rate as permitted by law, and Customer is obligated to pay all collection costs incurred by Genesys. Except as otherwise specified in the Services Order, the fees do not include any taxes. If Customer disputes in good faith the amount of any invoice, Customer will timely pay the undisputed amount and will notify Genesys in writing of the disputed amount no later than the date payment would otherwise be due, providing the reasons for the dispute. The parties will attempt to resolve the dispute in good faith within 30 days after Genesys' receipt of Customer's notice of such dispute (the "**Resolution Period**"), during which time withholding of the disputed amount will not be considered a material breach of this Agreement and no interest will accrue for late payment of the disputed amount. Upon resolution of the dispute, Customer will pay the resolved

amount promptly but, in any case, within 10 days of mutual written agreement resolving the dispute. If the dispute is not resolved within the Resolution Period, each party will be entitled to pursue all available remedies.

5.2.3 Taxes. Customer is responsible for paying all sales taxes, use taxes, value added taxes, goods and services taxes, transaction taxes, or similar excise taxes including any duties, or similar items (collectively, “Sales Tax”) associated with the Services Order and reimbursing Genesys for any Sales Tax with respect to the amounts due under any Services Order. If Customer provides Genesys with an incorrect ship-to address or, where applicable, does not provide Genesys with a valid tax exemption certificate prior to placing an order, Genesys will not provide Customer with a credit for such Sales Tax and Customer will be responsible for getting a refund from the applicable tax authority. Genesys is responsible for all taxes on Genesys’ net income, and if Customer is required by any competent taxing authority to withhold taxes from payments made to Genesys hereunder, then Customer shall deduct such withholding tax from the payment to Genesys and in such event shall pay such tax to the taxing authority on behalf of Genesys (“Withholding Taxes”). Customer shall obtain for and provide to Genesys, within ninety (90) days after submitting such Withholding Taxes, the original tax certificate or receipt issued by the taxing authority evidencing such tax payment and sufficient to allow Genesys to apply for an appropriate tax credit. In the event Customer does not provide the original tax certificate or receipt issued by the taxing authority, Customer shall be liable for and shall reimburse Genesys for the amounts deducted as Withholding Taxes from the payment. The parties agree to take all reasonable steps to reduce or eliminate Withholding Taxes under applicable law including income tax treaties. Customer will not rely on Genesys to determine the applicability of Withholding Taxes and is ultimately responsible for assessing and paying any applicable Withholding Taxes.

5.3 Suspension. Genesys reserves the right to immediately suspend the Cloud Services, or a portion thereof, or reject or cancel the transmission of any information through the Cloud Services based upon (i) reasonable belief that the use of the Cloud Services is in violation of laws, or (ii) an imminent compromise to the security or integrity of the network. As practicable depending on the circumstances, Genesys will provide notice of the suspension to Customer. Subject to Section 5.2.2, Genesys may also suspend the Cloud Services for Customer’s failure to pay any amounts when due after providing notice of the suspension at least 30 days in advance.

5.4 Termination. Either party may terminate this Agreement upon written notice if the other party breaches a material term of this Agreement or a Services Order and, if susceptible to cure, fails to cure such breach within 30 days after initial notice of such breach. The following constitute examples of Customer’s material breaches: (i) violation of the AWS AUP, if Customer fails to cure the violation within 48 hours after Genesys provides notice, (ii) failure to pay Genesys any amounts due, and (iii) violation of Customer’s proprietary rights obligations. If, during the cure period referenced in this Section, Genesys documents an effort to promptly cure the breach, then, notwithstanding anything herein to the contrary, Customer will not terminate this Agreement while such good faith efforts are continuing. Genesys’ efforts to cure the breach may not exceed 120 days from Customer’s notice.

5.5 **Effects of Termination.**

5.5.1 Upon the effective date of termination or expiration of this Agreement, all rights granted hereunder shall terminate and Customer must (i) stop using the Cloud Services and Documentation, and (ii) return or destroy from all computing and storage equipment all Genesys Confidential Information in its possession or control, and all copies thereof, and verify such destruction or deletion by providing Genesys a statement signed by Customer’s duly authorized representative.

5.5.2 Within 30 days upon Customer’s termination of this Agreement or a Services Order as provided in Section 5.4, Genesys will refund Customer a pro rata portion of any prepaid but unused fees corresponding to the remainder of the Subscription Term. If Genesys terminates this Agreement or a Services Order as provided in Section 5.4, Customer will pay Genesys, within 30 days upon such termination, any unpaid charges incurred up to the effective date of termination and any fees payable under the applicable Services Order(s) in effect at the time of termination.

5.5.3 If Customer requires additional time to retrieve its Customer Data beyond the date of termination, Customer may request, and Genesys will grant, a 30-day extension to the Term of the Agreement; provided such request is made on or prior to the termination date. During the extended period, Customer will be charged for its usage of the Cloud Services. The Cloud Services will be terminated at the end of the extension period, unless Customer requests additional extension period(s) prior to the effective termination date. Except as otherwise provided herein, neither party shall have further obligations under this Agreement, except that the parties shall remain bound by the obligations which, by their nature, are intended to survive termination.

6. **WARRANTIES**

6.1 Cloud Services Warranty. Subject to Section 7.4 (General Exclusions), Genesys warrants to Customer that, during the Subscription Term, the Cloud Services will materially conform to the then-current description set forth in the Documentation. If Customer becomes aware of a warranty breach, Customer must notify Genesys in writing, upon which Genesys will, at its option, either: (i) modify the Cloud Services to materially conform to the current description; or (ii) provide a workaround solution that will reasonably meet Customer’s requirements. If neither option is achieved or achievable within a reasonable period of time after Customer’s written notification to Genesys, either party may terminate the affected Cloud Services by providing the other party 30 days’ written notice of such termination and an opportunity to cure within such 30 days, after which termination will become effective and Genesys will refund any pre-paid, unused fees to the Customer. The remedies provided in this Section constitute Customer’s sole and exclusive remedy for breach of the warranty described herein.

6.2 Disclaimer. EXCEPT FOR THE WARRANTIES EXPRESSLY PROVIDED IN THIS SECTION, GENESYS IS PROVIDING THE CLOUD SERVICES, DOCUMENTATION, AND SUPPORT “AS IS” AND DOES NOT MAKE, AND HEREBY DISCLAIMS ON BEHALF OF ITSELF AND ITS AFFILIATES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, COMPATIBILITY, SECURITY, TIMELINESS, COMPLETENESS OR ACCURACY. WITHOUT LIMITING THE FOREGOING, GENESYS DOES NOT WARRANT THAT USE OF THE CLOUD SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ALL DEFECTS WILL BE CORRECTED. TO THE EXTENT THAT GENESYS CANNOT DISCLAIM A WARRANTY AS A MATTER OF LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER APPLICABLE LAW.

7. **LIMITATION OF LIABILITY**

7.1 Unlimited Liability. THE LIABILITY CAP SET FORTH IN SECTION 7.2 AND LIABILITY EXCLUSIONS IN SECTION 7.3 SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM: (I) GENESYS’ INDEMNIFICATION OBLIGATIONS FOR AN IP CLAIM AS DEFINED IN SECTION 8.1; (II) CUSTOMER’S INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS AGREEMENT; (III) EITHER PARTY’S BREACH OF SECTION 4 (CONFIDENTIALITY) EXCEPT FOR BREACHES INVOLVING CUSTOMER DATA, INCLUDING SECURITY INCIDENT(S), WHICH WILL BE SUBJECT TO SECTION 7.2 (LIABILITY CAP); (IV) ANY FAILURE BY CUSTOMER TO PAY ANY FEES DUE UNDER THIS AGREEMENT, INCLUDING ANY INTEREST AND/OR COLLECTION COSTS; (V) BREACH OF CUSTOMER’S OBLIGATIONS UNDER SECTION 3.1 (PROPRIETARY RIGHTS) OR SECTION 3.2 (USE RESTRICTIONS); (VI) DEATH OR BODILY INJURY; (VII) FRAUD OR FRAUDULENT MISREPRESENTATION; OR (VIII) ANY OTHER LIABILITY WHICH CANNOT BE EXCLUDED BY OPERATION OF LAW, IN WHICH EVENT THE LIMITATION WILL BE THE MINIMUM AMOUNT REQUIRED BY LAW.

7.2 Liability Cap. SUBJECT TO SECTIONS 7.1 AND 7.3, THE MAXIMUM AGGREGATE LIABILITY OF EITHER PARTY AND ITS RESPECTIVE AFFILIATES TO THE OTHER PARTY, COLLECTIVELY, FOR ANY AND ALL LIABILITY EVENTS IN EACH LIABILITY PERIOD (AS DEFINED BELOW) WILL NOT EXCEED AN AMOUNT EQUAL TO THE FEES PAID AND PAYABLE BY CUSTOMER IN THE GIVEN LIABILITY PERIOD. “**LIABILITY PERIOD**” MEANS EACH 12 MONTH PERIOD COMMENCING ON THE EFFECTIVE DATE AND ON EACH ANNIVERSARY THEREAFTER. A LIABILITY EVENT (AS DEFINED BELOW) GIVING RISE TO A NUMBER OF SEPARATE LIABILITIES, CLAIMS OR CAUSES OF ACTION, AND/OR A SERIES OF CONNECTED LIABILITY EVENTS, WILL BE CONSIDERED A SINGLE LIABILITY EVENT AND DEEMED TO HAVE OCCURRED IN THE LIABILITY PERIOD IN WHICH THE FIRST LIABILITY EVENT OCCURRED. “**LIABILITY EVENT**” MEANS ANY INCIDENT, EVENT, STATEMENT, ACT OR OMISSION GIVING RISE TO ANY LIABILITIES, CLAIMS OR CAUSES OF ACTION UNDER OR IN CONNECTION WITH THE AGREEMENT, INCLUDING CONTRACT, WARRANTY, TORT (SUCH AS NEGLIGENCE), STRICT LIABILITY, MISREPRESENTATION, BREACH OF STATUTORY DUTY OR OTHERWISE. A LIABILITY EVENT THAT OCCURS: (I) PRECEDING THE EXECUTION OF THIS AGREEMENT, SHALL BE DEEMED TO HAVE OCCURRED DURING THE FIRST LIABILITY PERIOD; AND (II) SUBSEQUENT TO THE TERMINATION OR EXPIRATION OF THIS AGREEMENT, SHALL BE DEEMED TO HAVE OCCURRED DURING THE FINAL LIABILITY PERIOD IN WHICH THE AGREEMENT REMAINED IN FORCE.

7.3 Liability Exclusions. SUBJECT TO SECTION 7.1, NEITHER PARTY NOR ITS RESPECTIVE AFFILIATES WILL BE LIABLE TO THE OTHER PARTY FOR ANY: (I) INDIRECT AND/OR CONSEQUENTIAL LOSS; (II) SPECIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES; (III) LOSS OF GOODWILL (INCLUDING PECUNIARY LOSSES ARISING FROM LOSS OF GOODWILL); (IV) LOSS OF PROFITS OR REVENUE; (V) LOSS OF CONTRACT, SALES AND/OR BUSINESS; (VI) LOSS OF SAVINGS, INCLUDING ANTICIPATED SAVINGS; (VII) LOSSES RELATED TO A DISRUPTION OR WORK STOPPAGE, COVER DAMAGES (INCLUDING THE COST OF PROCURING AN ALTERNATIVE VENDOR, SOFTWARE OR SERVICE); (VIII) WASTED EXPENDITURE; OR (IX) LOSS OR CORRUPTION OF DATA, EXCEPT THAT ARISING FOLLOWING A BREACH OF SECTION 10.1 (CUSTOMER DATA) OR GENESYS’ SECURITY POLICY.

7.4 General Exclusions. GENESYS SHALL HAVE NO OBLIGATIONS, INCLUDING ANY DEFENSE OBLIGATIONS, OR ANY OTHER LIABILITY(IES), TO THE EXTENT ANY WARRANTY OR INDEMNITY CLAIM ARISES FROM: (I) CUSTOMER’S USE OF THE CLOUD SERVICES IN COMBINATION WITH OTHER PROGRAMS, HARDWARE, DATA OR SPECIFICATIONS, WHETHER SUPPLIED BY GENESYS OR NOT; (II) CUSTOMER’S NON-COMPLIANCE WITH THIS AGREEMENT OR THE DOCUMENTATION; (III) THE DEVELOPMENT OR USE OF ANY CUSTOMIZATIONS, OTHER THAN A CUSTOMIZATION UNDERTAKEN AND PERFORMED BY GENESYS, REGARDLESS OF WHETHER EXECUTED USING GENESYS TOOLS, TRAINING, OR METHODS DOCUMENTED BY GENESYS OR GENESYS’ CONTRACTORS OR AGENTS; (IV) GENESYS’ COMPLIANCE WITH CUSTOMER’S REQUESTS OR INSTRUCTIONS; (V) CUSTOMER’S BUSINESS METHOD(S) OR PROCESS(ES); (VI) CUSTOMER’S CONTENT CREATED OR USED WITH THE CLOUD SERVICES; OR (VII) ANY THIRD PARTY PRODUCT.

7.5 Risk Allocation. THE LIMITATIONS OF LIABILITY AND EXCLUSIONS CONTAINED IN THIS AGREEMENT WILL APPLY REGARDLESS OF (I) WHETHER ANY RESULTING DAMAGES ARE FORESEEABLE AND THE LEGAL THEORY ASSERTED, AND (II) THE SUCCESS OR EFFECTIVENESS (OR LACK THEREOF) OF ANY REMEDIES PROVIDED HEREIN. THESE LIMITATIONS AND EXCLUSIONS ARE REFLECTED IN THE PRICING FOR THE CLOUD SERVICES MADE AVAILABLE HEREUNDER, THEY REPRESENT AN AGREED-UPON ALLOCATION OF RISK BETWEEN THE PARTIES AND ARE AN ESSENTIAL PART OF THIS AGREEMENT. GENESYS WILL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY THE CLOUD SERVICES OR OTHER GOODS OR SERVICES PROVIDED FREE OF CHARGE.

8. INDEMNIFICATION

8.1 Genesys IP Indemnification. Genesys will defend Customer from and against any third party claims alleging that the Cloud Services, in its unaltered state, infringes or misappropriates such third party’s valid and enforceable patents, copyrights or trade secret rights (“**IP Claim**”), and will indemnify Customer from damages finally awarded against Customer with respect to such IP Claims. Genesys may at any time and at its option and expense: (i) obtain for Customer a license to continue using the Cloud Services, (ii) modify the Cloud Services so as to avoid infringement while preserving substantially equivalent functionality, or (iii) terminate this Agreement or the applicable Services Order, and the rights granted thereunder, and refund to Customer any prepaid, unused fees covering the remainder of the Subscription Term of the applicable Services Order. This Section states Genesys entire liability and Customer’s sole and exclusive remedy with respect to any infringement or claims of infringement of any third-party intellectual property rights related to the Cloud Services.

8.2 Customer’s Indemnification. Customer will defend Genesys and its Affiliates from and against any claims: (i) alleging that Customer’s content, Customer Data, methods or processes of doing or conducting business infringes or misappropriates a third party’s intellectual property rights, (ii) arising from Customer’s noncompliance with Section 3.1 (Proprietary Rights) or Section 3.2 (Use Restrictions), or (iii) arising under Section 7.4 (General Exclusions), and will indemnify Genesys and its Affiliates from any damages finally awarded with respect to such claims.

8.3 Indemnification Procedures. A party entitled to indemnification (“**Indemnified Party**”) will promptly notify the other party (“**Indemnifying Party**”) in writing of any claim and provide reasonable assistance to the Indemnifying Party with respect to handling such claim, at the Indemnifying Party’s expense. Failure to provide timely notice or reasonable assistance will relieve the Indemnifying Party of its indemnification obligations to the extent that the Indemnifying Party has been materially prejudiced thereby. The Indemnifying Party has the right, at its sole discretion, to defend and settle any claim, except that the Indemnifying Party may not agree to any settlement that does not unconditionally release the Indemnified Party without the Indemnified Party’s prior written consent. The Indemnified Party will be entitled to participate in the defense of any such claim using counsel of its choice, at its own expense.

9. COMPLIANCE WITH LAWS. Each party will comply with laws and regulations as applicable to such party, including all applicable anti-corruption and anti-bribery laws. Neither party will be responsible for the other party’s compliance with the laws applicable to the other party. Customer represents and warrants that (i) neither Customer nor any of the authorized users within Customer’s organization are on any government-issued list of restricted persons or entities, including the Consolidated List, Commerce Department Entity List, Denied Persons List or Unverified List, the Treasury Department Specially Designated Nationals and Blocked Persons List, and the State Department Debarred Parties List, and (ii) it will not export or re-export, directly or indirectly, any Cloud Services, Documentation, or Confidential Information provided by Genesys to any countries outside the United States except as permitted under the export control and sanctions laws and regulations of the United States and other countries that may prohibit or restrict access by certain persons or from certain countries or territories. Each party will ensure that neither it nor its Affiliates, subcontractors and agents, either directly or indirectly, seek, receive, accept, give, offer, agree or promise to give any money, facilitation payment, or other thing of value from or to anyone, including government or corporate officials or agents, as an improper inducement or reward for or otherwise on account of favorable action or forbearance from action or the exercise of influence. Each party will, upon request from the other party, provide evidence of the steps being taken to avoid prohibited actions, including the establishment of policies, practices, and/or business controls with respect to these laws. To the extent permitted by the relevant authority, each party will promptly inform the other party of any official investigation with regard to alleged breaches of the above laws that are related in any way to this Agreement.

10. CUSTOMER DATA

10.1 **Customer Data.** Customer Data will reside in the AWS Region selected by Customer throughout the Subscription Term of the relevant Services Order. Genesys will not change the AWS Region without Customer's prior written consent. Customer Data may be accessed outside the selected AWS Region solely for the purposes of providing services, including maintenance, support and/or responding to a troubleshooting request, provided however, Genesys must always comply with its obligations under applicable privacy legislation. Customer Data will be processed in accordance with data processing terms, if applicable and agreed between the parties. Customer represents and warrants that it has obtained all the consents necessary for Genesys to collect, access, process, store, transmit, and otherwise use Customer Data in accordance with this Agreement. Customer acknowledges that Genesys has no control over the content of Customer Data, and Genesys expressly disclaims any duty to review or determine the legality, accuracy or completeness of Customer Data.

10.2 **Service Improvements.** Genesys may aggregate data and information related to the performance, operation and use of services to conduct statistical analyses, benchmarking, research, development and other similar activities ("**Service Improvements**"). Genesys will not incorporate Customer Data in Service Improvements in a form that could identify Customer or Customer's customers and will use industry standard techniques to anonymize Customer Data prior to performing Service Improvements, unless otherwise consented to by Customer. Genesys retains all intellectual property rights in Service Improvements and may make them publicly available.

11. GENERAL

11.1 **Marketing.** Genesys may use Customer's name and logo in marketing materials in reference to Customer's use of the Cloud Services, subject to Customer's prior written approval of the content.

11.2 **Assignment.** Neither party may assign its rights or obligations under this Agreement, either in whole or in part, except (i) with respect to a sale of substantially all of its assets, merger or change in the party's ownership, (ii) to an Affiliate, or (iii) with the prior written consent of the other party, which shall not be unreasonably withheld. Notwithstanding the foregoing, if Customer is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of Genesys, then Genesys may terminate this Agreement upon written notice to Customer. The rights and liabilities of the parties hereto shall bind and inure to the benefit of their respective permitted successors and assigns.

11.3 **United States Government Usage.** The Cloud Services and Documentation are defined as "commercial items" under the Federal Acquisition Regulations and their use hereunder by the U.S. Government constitutes acknowledgment by the U.S. Government of Genesys' proprietary rights therein and thereto. If the Cloud Services are licensed by or on behalf of the U.S. Government or a state or local government in the United States, such government users shall obtain only the commercial license rights set forth in this Agreement, consistent with FAR 12.212.

11.4 **Subcontracting.** Genesys may subcontract certain services under this Agreement to third parties. Genesys shall be responsible for the performance of such subcontractors hereunder.

11.5 **Force Majeure.** Except for payment obligations, neither party will be responsible for any delay or failure to comply with its obligations under this Agreement resulting from acts beyond the reasonable control of such party, including acts of God, denial of service attacks, strikes, lockouts, riots, war, terrorism, pandemics, fire, communication line failures, power failures, earthquakes or other disasters, natural or man-made.

11.6 **Cumulative Remedies.** Except as otherwise provided herein, all remedies herein are cumulative, and the specification of a remedy will not preclude either party from pursuing other remedies available at law or in equity.

11.7 **Governing Law.** This Agreement shall be governed by the respective governing law, and any dispute related to this Agreement shall be subject to the exclusive jurisdiction of the respective courts, listed at <https://www.genesys.com/company/legal-docs/governing-law-jurisdiction-and-notices>, based on Customer's domicile, without reference to conflicts of law provisions. The parties agree to submit to the personal and exclusive jurisdiction and venue of such courts. The UN Convention for the International Sale of Goods shall not apply to this Agreement. The prevailing party to any dispute shall be entitled to recover its cost of enforcing a claim, including but not limited to attorneys' fees.

11.8 **Notices.** All notices under this Agreement shall be in writing and deemed to have been given when (i) personally delivered, (ii) sent by registered mail, postage prepaid (which shall be deemed to have been received on the third business day following the date on which it is mailed), or (iii) sent overnight by a commercial overnight courier that provides a receipt (which shall be deemed to be received on the next business day after mailing). In the case of Genesys, notice shall be sent to the address for the applicable Genesys entity as set forth at <https://www.genesys.com/company/legal-docs/governing-law-jurisdiction-and-notices>. Genesys will send notices to Customer to the address associated with Customer's account.

11.9 **Waiver.** No provision of this Agreement may be waived unless such waiver is in writing and signed by the party against which the waiver is to be effective. A party's failure to act with respect to a breach of this Agreement by the other party does not constitute a waiver of its rights with respect to subsequent or similar breaches.

11.10 **Severance.** If any provision of this Agreement is deemed invalid, illegal, or unenforceable, it will be considered stricken from this Agreement, and the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired.

11.11 **Complete Agreement.** This Agreement constitutes the complete agreement between the parties and supersedes all prior agreements and representations, written or oral, concerning the subject matter hereof. Use of any purchase order or other document Customer provides in connection with this Agreement will be for administrative convenience only and all terms and conditions stated therein will be void and of no effect. In the event of a conflict between the terms of this Agreement and a Services Order, the terms of the Services Order shall take precedence. Except as expressly provided herein, each party acknowledges and agrees that it is not relying upon any other statements, representations, warranties, promises, assurances, the delivery of future functionality or features, or the like. This Agreement may not otherwise be modified or amended except in writing signed by a duly authorized representative of each party, except that Genesys may modify any information on the links referenced in this Agreement at any time by posting a revised version on the applicable website. The modified terms will become effective upon posting. By continuing to use the Cloud Services after the effective date of any such modifications, Customer agrees to be bound by the modified terms.