

CounterPath Corporation End-User License Agreement

***IMPORTANT:** This is a softphone application and not a VoIP service. A SIP server or subscription with a SIP-based VoIP provider is required to make calls.*

****IMPORTANT: VOIP OVER MOBILE/CELLULAR DATA NOTICE**

Some mobile network operators may prohibit or restrict the use of VoIP functionality over their network and may also impose additional fees, or other charges in connection with VoIP. You agree to learn and abide by your cellular carrier's network restrictions. CounterPath Corporation will not be held liable for any charges, fees or liability imposed by your carrier for use of VoIP over mobile/cellular data.**

This is a legal agreement ("the Agreement") between you and CounterPath Corporation ("CPC"). This Agreement pertains to your use of the CPC software, technology, programs, documentation and updates which are provided to you by CPC (collectively, "the Software"). Please carefully read the terms and conditions below. If you do not agree to the terms of this Agreement, DO NOT accept the Agreement. By accepting the Agreement, you are consenting to, and agreeing to be bound by, the terms of this Agreement.

Emergency Calls. COUNTERPATH'S MOBILE SOFTWARE PRODUCTS MAY PROVIDE HANDLING DESIGNED TO REDIRECT EMERGENCY CALLS TO THE NATIVE CELLULAR DIALER WHEN POSSIBLE ON A REASONABLE COMMERCIAL EFFORTS BASIS, HOWEVER THIS FUNCTIONALITY IS ALSO DEPENDENT ON THE OPERATING SYSTEM OF THE MOBILE PHONE WHICH IS OUTSIDE OF OUR CONTROL AND SUBJECT TO CHANGE AT ANY TIME. YOU EXPRESSLY ACKNOWLEDGE THAT THE SOFTWARE, WHETHER FOR MOBILE OR FIXED DEVICES, IS NOT INTENDED, DESIGNED OR FIT FOR PLACING, CARRYING OR SUPPORTING EMERGENCY CALLS. WITHOUT LIMITING THE FOREGOING, YOU ACKNOWLEDGE THAT THE SOFTWARE IS NOT INTENDED, DESIGNED OR FIT FOR PLACING, CARRYING OR SUPPORTING ANY CALL TO ANY EMERGENCY SERVICE OR ANY CALL FOR THE PURPOSE OF OBTAINING ASSISTANCE, HELP OR AID IN THE EVENT OF AN EMERGENCY. NEITHER CPC NOR ANY OF ITS AFFILIATES, SUBSIDIARIES, PARENT COMPANIES, AGENTS, PARTNERS, OR EMPLOYEES ARE OR WILL BE LIABLE TO YOU OR ANY THIRD PARTY IN ANY RESPECT FOR ANY COSTS OR DAMAGES ARISING EITHER DIRECTLY OR INDIRECTLY FROM THE USE OF THE SOFTWARE FOR EMERGENCY CALLS, INCLUDING CALLS TO EMERGENCY SERVICES AND CALLS FOR THE PURPOSE OF OBTAINING ASSISTANCE, HELP OR AID IN THE EVENT OF ANY EMERGENCY.

Recording of Calls. If your Software includes the capability to record telephone conversations, please ensure that you abide by the laws in your jurisdiction regarding the recording of calls, including notifying the counterparty of such recording where required.

Terms of Use. The provisions of CPC's Terms of Use (<http://www.counterpath.com/terms>) and Privacy Policy (<http://www.counterpath.com/privacy>) are incorporated herein and made a part hereof.

Installation, License Use and Reservation of Rights. Subject to payment of all applicable fees, taxes, duties and charges, this Agreement grants you a personal, non-exclusive, non-transferable, non-sublicensable right to install, use, access, display and run one copy of the Software on a single computer, such as a workstation, terminal or other device ("Workstation Computer"). The Software may not be used by more than one processor at any one time on any single Workstation Computer. CPC reserves all rights in the Software not expressly granted herein, including without limitation ownership and proprietary rights.

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- A. THE DESCRIPTION, QUALITY, NON-INFRINGEMENT, MERCHANTABILITY, COMPLETENESS, OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE OF THE SOFTWARE, OR TITLE TO THE SOFTWARE;

- B. THE CONDITION OF THE SOFTWARE AS FREE FROM ANY VIRUS OR OTHER CODE THAT IS CONTAMINATING, MALICIOUS OR DESTRUCTIVE BY NATURE;
- C. THE CONDITION OF THE SOFTWARE AS ERROR FREE OR CAPABLE OF OPERATING WITHOUT PACKET LOSS OR INTERRUPTION;
- D. THE RELIABILITY OR QUALITY OF ANY CONNECTION TO OR ANY TRANSMISSION OVER THE INTERNET OR OTHER DATA COMMUNICATION PATH;
- E. THE QUALITY OF CALLS PLACED, CARRIED OR SUPPORTED BY THE SOFTWARE;

ALL SUCH REPRESENTATIONS, WARRANTIES AND CONDITIONS HEREBY BEING EXPRESSLY EXCLUDED AND DISCLAIMED. YOU ASSUME TOTAL RESPONSIBILITY AND RISK FOR YOUR USE OF THE SOFTWARE.

Limitation of Liability. IN NO EVENT SHALL CPC, ITS AFFILIATES, SUBSIDIARIES, PARENT COMPANIES, AGENTS, PARTNERS, OR EMPLOYEES BE LIABLE TO YOU OR ANY THIRD PARTY IN ANY RESPECT FOR ANY COSTS OR DAMAGES ARISING EITHER DIRECTLY OR INDIRECTLY FROM THE USE OF THE SOFTWARE INCLUDING WITHOUT LIMITATION ANY ACTUAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, OR FOR ANY LOSS OF REVENUE, PROFITS, USE, DATA, GOODWILL OR BUSINESS OPPORTUNITIES OF ANY KIND OR NATURE WHATSOEVER, ARISING IN ANY MANNER FROM ANY CAUSE OF ACTION OR CLAIM RELATING TO THIS AGREEMENT OR TO THE SOFTWARE OR TO THE USE OR INSTALLATION OF THE SOFTWARE. THIS LIMITATION OF LIABILITY APPLIES EQUALLY TO ANY THIRD PARTIES WITH WHOM CPC ENTERS INTO A BINDING AGREEMENT TO MARKET, DISPLAY AND/OR DISTRIBUTE THE SOFTWARE TO END USERS AND SUCH THIRD PARTIES SHALL NOT BE LIABLE TO YOU OR ANY OTHER THIRD PARTY FOR ANY OF THE DAMAGES SET FORTH ABOVE. SHOULD A COURT OF COMPETENT JURISDICTION ELECT TO HOLD CPC RESPONSIBLE FOR DAMAGES DESPITE THE LIMITATION OF LIABILITY SPECIFIED ABOVE, THE PARTIES AGREE THAT, IN NO EVENT SHALL THE TOTAL COLLECTIVE LIABILITY OF CPC FOR ALL CLAIMS UNDER THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY YOU TO CPC.

Indemnification. You agree to indemnify and hold CPC, its affiliates, subsidiaries, parent companies, agents, partners, officers, directors, employees, shareholders, licensors, suppliers, and any third party distributors harmless from and against any and all damages, losses, costs including attorney fees and expenses resulting from any violation by you of this Agreement or asserted by any third party due to or arising out of your use of or conduct with respect to the Software.

Export Control Laws. The export and re-export of CPC Software and other materials are controlled by the export laws and regulations of Canada and the United States, as they may be amended from time to time. Accordingly, you certify that you are aware of and will comply with all applicable export rules and regulations, including the responsibility to obtain a license for the export or re-export of the Software and other materials to any destination requiring such a license. In addition, the Software may not be exported or re-exported to any country to which Canada or the United States prohibits the export of goods, technology, or services or to nationals of those countries, wherever located. Moreover, the Software may not be distributed to persons on the Table of Denial Orders, the Entity List, or the List of Specially Designated Nationals maintained by the U.S. government. By downloading the Software, you are certifying that you are not a national of one of the above-listed countries or of any other country to which Canada or the United States embargoes goods, services, or technology and that you are not a person on the Table of Denial Orders, the Entity List, or the List of Specially Designated Nationals.

Modifications of the Software. CPC reserves the right to modify the Software at its sole discretion, without notice.. CPC's right to modify the Software applies to all aspects of the Software.

Intellectual Property Rights and Third Party Materials. All service marks, logos, trade names, trade dress, and trademarks of CPC (collectively "Marks") incorporated into the Software are the exclusive property of CPC and nothing in this Agreement shall grant you a license to use such Marks. All intellectual property rights in the Software, including without limitation all computer code, audio, graphics, multimedia, images, sounds, and text incorporated into the Software, are owned exclusively by CPC and are protected by United States and/or Canadian copyright laws and international copyright treaty provisions. Any unauthorized use or appropriation of the intellectual property embodied in or incorporated into the Software is expressly prohibited by law and may result in severe civil and criminal penalties. Additionally, other marks that appear on CPC's web sites may belong to third parties that are not affiliated with CPC. Links available on the web site may enable you to leave the CPC site. CPC does not control or endorse the content of third party web sites. The linked sites are not under the control of CPC, and CPC is not responsible for the contents of any linked site or any link contained in a linked site, or any changes or updates to such sites. You are responsible for taking all precautions to ensure that whatever page, program or download links you follow, whether on CPC's web sites or the sites of third parties, are free of viruses, worms, Trojan horses, and other items of a contaminating, malicious or destructive nature.

IP Addresses. Upon expiration, cancellation, or termination of this Agreement, you shall relinquish any IP address or addresses assigned to you by CPC.

Governing Law and Forum. This Agreement, its validity, construction, effect and enforcement, and the relationship between CPC and you shall be governed in accordance with the laws of the State of Nevada and the applicable federal laws of the United States of America in effect in the State of Nevada. Any dispute between you and CPC regarding this Agreement will be subject to the exclusive jurisdiction

of the state and federal courts in the State of Nevada. You agree to submit to exclusive jurisdiction in the State of Nevada, and you expressly waive all defenses to jurisdiction.

Entire Agreement. This Agreement, together with the provisions of CPC's Terms of Use (<http://www.counterpath.com/terms>) and Privacy Policy (<http://www.counterpath.com/privacy>), set forth the entire agreement and understanding between you and CPC relating to your use of the Software and supersedes all prior or contemporaneous communications, understandings, expectations, representations, discussions, undertakings or agreements with respect to the Software.

Severability. If any provision of this Agreement is held fully or partially invalid or unenforceable for any reason whatsoever, or adjudged to violate any applicable law, this Agreement is to be considered divisible as to such provision and such provision, to the extent that it is invalid or unenforceable, is to be deemed deleted from this Agreement, and the remainder of this Agreement shall be valid and binding as if such provision were not included herein. If any provision or part thereof of this Agreement is stricken in accordance with the provisions of this section, then this stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as is legally possible.

Non-Waiver. CPC's failure to insist upon or enforce strict performance of or strict compliance with any provision of this Agreement shall not be construed as a waiver of any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement.

Assignment of Rights. CPC may assign its rights and duties under this Agreement to any party at any time without notice to you.

Modifications of Agreement. Only CPC may modify this Agreement, the provisions of CPC's Terms of Use (<http://www.counterpath.com/terms>) or the provisions of CPC's Privacy Policy (<http://www.counterpath.com/privacy>). CPC may modify this Agreement, the provisions of CPC's Terms of Use (<http://www.counterpath.com/terms>) or the provisions of CPC's Privacy Policy (<http://www.counterpath.com/privacy>) at any time without providing notice to you. Any such modification shall be deemed effective immediately upon posting of the modified Agreement anywhere on CPC's website. You agree to check our web site periodically to review such modifications. Your continued access or use of the Software shall be deemed your acceptance of the modified Agreement.

Termination. For free or trial Software, CPC reserves the right to terminate this Agreement and your use of the Software at any time and for any reason or no reason at all. For royalty or fee bearing Software, CPC may terminate this Agreement: (a) upon notice to you if any amount payable to CPC is not paid within thirty (30) days of the date on which payment is due; (b) if you become bankrupt, make an assignment for the benefit of your creditors, or if your assets vest or become subject to the rights of any trustee, receiver or other administrator; (c) if bankruptcy, reorganisation or insolvency proceedings are instituted against you and not dismissed within 15 days; or (d) if you breach any provision of this Agreement and such breach is not rectified within 15 days of receipt of notice of the breach from CPC. Upon termination of this Agreement, you shall return or destroy all copies of the Software. All of your obligations arising prior to termination, and those obligations relating to confidentiality and non-use, shall survive termination.

You may terminate this Agreement at any time by ceasing to use the Software. The provisions contained herein shall survive termination of this Agreement.

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND UNDERSTAND IT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.