

LICENCE TERMS AND CONDITIONS

These are the terms on which PulseTec Solutions Pty Ltd, ACN 129 778 258 of 395 Canterbury Road, Vermont, Victoria, Australia ("Licensor") licences you ("you" or "your") to use the ClientConnect Software product and associated media, printed materials and "online" or electronic instructional documents (together "Software").

By installing and using the Software you agree to the following terms and conditions. You must select the "I accept the agreement" **option** during Software installation to indicate your acceptance.

If you are installing the Software on a computer that is not owned by you, you are bound to the terms of this Agreement both in your individual capacity and as an agent of the owner of the computer, and your actions will bind the owner of the computer. You represent and warrant to Licensor that you have the capacity and authority to enter into this Agreement on your own behalf as well as on behalf of the owner of the computer the Software is being installed upon.

If you do not agree, you may NOT USE OR INSTALL the Software but may return it to the Licensor or its authorised distributor within 30 days of purchase and obtain a refund of the licence fees paid for the Software.

1 GRANT OF LICENCE

- (a) Upon payment of the Licence Fee specified in the quotation provided by the Licensor or its authorised distributor ("Quotation"), the Licensor grants to you a perpetual, non-exclusive, non-transferable revocable licence to use the Software (in executable code) as modified or updated from time to time by any patches or maintenance releases for your internal business purposes subject to the terms and conditions of this Agreement and any restrictions contained in the Quotation.
- (b) You are entitled to install and use the Software only on the number of personal computers, studios or sites specified in the Quotation and for the sole purpose of operating your business.
- (c) You must not, except to the extent permitted by clause 2 and any law that cannot be excluded by the parties, copy, modify, disassemble, decompile or reverse engineer the Software nor merge it with any other software nor directly or indirectly permit any third party to do any of the foregoing.
- (d) You must not rent the Software or offer use of it to others through a service bureau or application service provider.

2 USE OF SAMPLE FORMS

- (a) The printed materials comprising part of the Software may contain forms, templates, sample data, or similar items ("Sample Forms") intended to provide a base starting point for use of the Software.
- (b) Upon payment of the Licence Fee, the Licensor grants to you a perpetual, non-exclusive, non-transferable revocable licence to copy the Sample Forms for use in conjunction with the Software subject to the terms and conditions of this Agreement.
- (c) Any copy made in accordance with clause 2(b) must maintain any proprietary or copyright notices incorporated within the Sample Forms.

3 UPGRADES, UPDATES, PATCH OR ENHANCEMENTS

If this copy of the Software is an upgrade, update, patch or enhancement of a prior release of the Software which was installed on the same computer, your rights under the prior licence agreement for the Software are terminated, and all use by you of the Software (including its prior versions) is solely under the terms of this Agreement.

4 TERM

4.1 Evaluation Version

- (a) If the Software is labelled as an EVALUATION VERSION, TRIAL VERSION or TRY & BUY VERSION or its functional equivalent (an "Evaluation Version"), the licence granted under this Agreement commences upon the installation of the Software and is effective for 30 days unless another period is specified in the Quotation.
- (b) Evaluation Version Software may include software code intended to disable its functionality after the expiration of the trial period. You may not take any actions to circumvent the operation of such disabling code, and you accept all risks that might arise from such disabling code.

4.2 Other Software

If the Software was not distributed as an Evaluation Version, or if you converted an Evaluation Version installation of the Software to a "Full Licence Version" by authorised use of the conversion mechanism provided with the Software, the licences granted under this Agreement commence upon the installation of the Software and are effective in perpetuity unless terminated in accordance with the terms of this Agreement.

5 PAYMENT

You must pay the Licence Fee in accordance with the Quotation.

6 GST

- (a) In this clause the expressions Consideration and GST have the meanings given to those expressions in *A New Tax System (Goods and Services Tax) act 1999* (Cth).
- (b) Unless otherwise expressly stated, all prices or other sums payable or Consideration to be provided under or in accordance with this Agreement are exclusive of GST.

7 CONFIDENTIALITY

- (a) You acknowledge that the ideas and expressions contained in the Software and any modifications or particulars of them that may be provided to you by the Licensor are confidential (except to the extent that they have entered the public domain other than through a breach of this Agreement by you). You undertake not to disclose such confidential information to any person other than your agents and employees and then only to enable the Software to be used in accordance with and for the purposes of this Agreement. You undertake to ensure that such persons maintain that confidentiality.
- (b) You undertake not to remove delete or obscure any copyright notices or confidentiality notices on or in the Software.

8 INTELLECTUAL PROPERTY RIGHTS

- (a) For the purposes of this Agreement, the term “Intellectual Property Rights” means all copyright, patents, registered and unregistered design rights, trademarks and service marks and applications for any of the foregoing, together with all trade secrets, know-how, rights to confidentiality and other intellectual and industrial property rights in all parts of the world.
- (b) You acknowledge that you obtain no Intellectual Property Rights whatsoever in the Software or any associated documentation. As between the parties all Intellectual Property Rights vest in the Licensor or its suppliers.

9 INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

- (a) If you become aware of any infringements or suspected infringements by any third party of any Intellectual Property Rights in the Software, you must immediately notify the Licensor and must at the request and expense of the Licensor take such action as the Licensor may reasonably deem appropriate to protect its Intellectual Property Rights.
- (b) If you become aware of any actual or potential claim which may be made against the Licensor or you alleging that the Software infringes any third party’s Intellectual Property Rights, you must immediately notify the Licensor of that claim.
- (c) Subject to clauses 9(d), 9(e) and 9(f), the Licensor will indemnify you against liability arising out of any claim brought by a third party against you which determines that your use of the software constitutes an infringement of any Intellectual Property Rights in Australia.
- (d) In the event that proceedings are brought or threatened by a third party against you alleging that your use of the Software constitutes an infringement of Intellectual Property Rights in Australia, the Licensor or its nominee may at its option and at its own expense conduct the defence of such proceedings. You must provide all necessary co-operation, information and assistance to the Licensor in the conduct of the defence and/or settlement of such proceedings.
- (e) The Licensor will not be required to indemnify you under clause 9(c) unless you:
 - (i) comply with clause 9(d); and
 - (ii) permit the Licensor, at the Licensor’s option and expense, to modify, alter or substitute the infringing part of the Software in order to avoid continuing infringement, or to procure for you the authority to continue the use and possession of the infringing Software.
- (f) The Licensor will not indemnify you to the extent that an infringement, suspected infringement or alleged infringement arises from:
 - (i) any use of the Software in breach of this Agreement or in a manner or for a purpose not reasonably contemplated or not authorised by the Licensor; or
 - (ii) modification or alteration of the Software without the prior written consent of the Licensor.
- (g) You will indemnify the Licensor against any loss, costs, expenses, demands or liability, whether direct or indirect, arising out of a claim by a third party alleging

infringement if the claim arises from an event specified in clause 9(f), or if you have failed to comply with any requirement of clauses 9(d) or 9(e).

10 WARRANTY

- (a) The Software has not been written to meet the individual requirements of you and is supplied on an “as is” basis. A failure of any part or the whole of the Software to be suitably for your requirements will not give rise to any right or claim against the Licensor.
- (b) The sole warranty given by the Licensor in connection with the Software is that the Software will perform substantially in accordance with the accompanying user documentation for a period of 90 days from the day of purchase of the Software or conversion of an Evaluation Version to Full License Version (as appropriate).
- (c) Your sole remedy for any breach of the warranty contained in clause 10(b) is that the Licensor will, at its option correct the identified defect in the Software, replace the Software with software of substantially similar functionality that is determined by the Licensor or refund the License Fee. You must provide sufficient information about the defect to enable the Licensor to reproduce it in the Licensor’s systems.
- (d) Nothing in this Agreement excludes, restricts or modifies any condition, warranty, right or remedy which is conferred on you by the *Trade Practices Act 1974* (Cth) or any other consumer protection legislation that cannot be excluded by mutual agreement (“the Acts”). Where the Licensor breaches a condition or warranty which has been implied by the Acts, its liability for breach will be limited to (where permissible by the Acts):
 - (i) in the case of the supply of goods:
 - (A) replacement or repair of the goods;
 - (B) supply of equivalent goods; or
 - (C) payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; and
 - (ii) in the case of the provision of services:
 - (A) the supply of the services again; or
 - (B) payment of the cost of having the services supplied again;whichever the Licensor sees fit to provide.

11 LIABILITY

- (a) Unless this Agreement expressly provides otherwise:
 - (i) to the maximum extent permitted by law, all express and implied conditions, warranties or liabilities (including liability as to negligence) regarding the condition, accuracy, suitability, quality or title to the Software are negated and excluded; and

- (ii) the Licensor gives no condition, warranty, undertaking or representation in relation to the condition, accuracy, suitability, quality of or title to the Software (including any data contained in or supplied in relation to it or reports generated or produced by or with the aid of any of them).
- (b) The liability of the Licensor to you for all loss, damage, costs, expenses, claims, demands, actions and proceedings arising out of or in connection with this Agreement, whether arising under common law (including negligence) or under statute, will be limited to the following extent:
 - (i) Notwithstanding anything in this clause 11(b) or in any other provision of this Agreement, the Licensor will not be liable for any direct or indirect lost profit or revenue, exemplary damages, loss of goodwill, deletion or corruption of electronically or digitally stored information or, without limiting the foregoing, any indirect or consequential loss or damage howsoever described or claimed.
 - (ii) The Licensor's liability to you for any proven loss or damage suffered by you relating to death or personal injury or damage to any real property or chattels caused by an act or omission of the Licensor will be limited for an aggregate of all claims to \$500.
 - (iii) Otherwise in respect to all other claims the Licensor's liability to you for all other proven loss and damage is limited for an aggregate of all claims, to the Licence Fees paid by you to the Licensor.

12 TERMINATION

- (a) The Licensor may terminate this Agreement immediately by notice to you if you breach this Agreement.
- (b) Upon termination of this Agreement, you must immediately cease to use the Software and return the Software and all user documentation (and all copies of either of them) to the Licensor. Where such Software and/or user documentation is incapable of return, you must permanently delete the Software and user documentation and provide a declaration to the Licensor that you have complied with this clause 12.
- (c) The requirements of this clause 12 are without prejudice to any other rights and remedies that the Licensor may have in respect of the breach.

13 DISPUTE RESOLUTION

- (a) Any claim or dispute between you and the Licensor or against any agent, employee, successor or assignee of the Licensor, whether related to this Agreement or otherwise, and any claim or dispute related to this Agreement or the relationship or duties contemplated under this Agreement, including the validity of this arbitration clause, shall be resolved by binding arbitration by the National Arbitration Forum to be held in Melbourne, Victoria under its Code of Procedure then in effect.
- (b) Any award of the arbitrator(s) may be entered as a judgment in any court of competent jurisdiction. Except as may be required by law, neither party nor an arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of both parties. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

14 PERSONAL INFORMATION

The personal information you provide will be used by the Licensor for the purpose of providing and marketing the Licensor's products and services to you. The Licensor may disclose your personal information to its contractors to assist in providing and marketing the Licensor's products and services to you. You can request access to the personal information the Licensor holds about you by contacting the Licensor in writing.

15 GENERAL

- (a) This written Agreement constitutes the entire agreement between the parties relating to the subject matter of this Agreement and supersedes all prior communications and agreements between the parties as to its subject matter, and each party agrees that unless expressly stated in this Agreement, that party has not relied on any representation, warranty or undertaking of any kind in relation to the subject matter of this Agreement.
- (b) If any provision, or any part of it, of this Agreement is unenforceable or void for any reason, then:
 - (i) where such provision can be read down as to give it a valid and enforceable operation of a partial nature it must be read down to the extent necessary to achieve that result; and
 - (ii) in any other case, such provision must be severed from this Agreement in which event the remaining provisions will continue in full force and effect as if the severed provision had not been included.
- (c) You must not, without prior written consent of the Licensor assign, lease, charge, sub-licence or otherwise transfer any of your rights or obligations under this Agreement in whole or in part.
- (d) Any notice given pursuant to this Agreement may be served personally or sent by registered mail to the address of the relevant party as last notified to the other party. Such notice will be deemed to have been served upon and received by the addressee when served personally at the time of such service or when posted, 48 hours in the case of local mail and 10 days in the case of international mail.
- (e) Money amounts are stated in Australian currency unless otherwise specified.
- (f) Neither party will be liable to the other for any delay or failure to perform its obligations under this Agreement as a result of a cause beyond its reasonable control ("Force Majeure"). If the Force Majeure continues for a period of more than 60 days, the party not affected by the Force Majeure may terminate this Agreement by written notice to the affected party.
- (g) Any delay or forbearance by either party in enforcing any provisions of this Agreement or any of its rights under this Agreement will not be construed as a waiver of such provision or right to subsequently enforce the same.
- (h) Clause headings have been included in this Agreement for convenience only and must not be considered part of, or be used in interpreting, this Agreement.
- (i) This Agreement is governed by the laws of Victoria, Australia and the parties submit to the exclusive jurisdiction of the Courts of Victoria, Australia and the Commonwealth of Australia.