

## END USER LICENSE AGREEMENT

PLEASE READ THIS END USER LICENSE AGREEMENT CAREFULLY BEFORE INSTALLING OR USING SOFTWARE FROM ONE CONVERGENCE. BY USING ONE CONVERGENCE PRODUCTS, YOU SIGNIFY YOUR ASSENT TO AND ACCEPTANCE OF THIS EULA AND ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THE TERMS. AN INDIVIDUAL ACTING ON BEHALF OF AN ENTITY (“**END USER**”) REPRESENTS THAT HE OR SHE HAS THE AUTHORITY TO ENTER INTO THIS EULA ON BEHALF OF THAT ENTITY. IF YOU DO NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN YOU MUST NOT INSTALL OR USE THE ONE CONVERGENCE PRODUCT. THIS EULA DOES NOT PROVIDE ANY RIGHTS TO ONE CONVERGENCE SERVICES SUCH AS SOFTWARE MAINTENANCE, UPGRADES OR SUPPORT (“**SUPPORT SERVICES**”). PLEASE REVIEW YOUR SERVICE OR SUBSCRIPTION AGREEMENT(S) THAT YOU MAY HAVE WITH ONE CONVERGENCE OR OTHER AUTHORIZED ONE CONVERGENCE RESELLERS REGARDING SERVICES AND ASSOCIATED PAYMENTS.

This end user license agreement (“**EULA**” or “**Agreement**”) governs the use of certain One Convergence (“**One Convergence**” or “**OC**”) software applications that include or refer to this license, and any related components, updates, appearance, structure and organization (“**Product**”), regardless of the delivery mechanism.

**1. LICENSE GRANT.** Subject to End User’s compliance with the terms of this Agreement, One Convergence grants to End User a limited, non-sublicensable, non-transferable, non-assignable, revocable, non-exclusive license to use Product, in object code form, only for End User’s internal use, for the purpose for which it is provided, and only in accordance with any OC-provided documentation. The Product may be accessed only for the specified timeframe, and is restricted by any other limitations, agreed to between OC, or an OC-authorized reseller, and End User during the purchase process.

**2. LICENSE RESTRICTIONS.** End User shall not, nor permit anyone else to, directly or indirectly: (i) copy, modify, resell, assign, sublicense, or distribute Product; (ii) alter or circumvent the license keys or other copy protection mechanisms in Product, or reverse engineer, disassemble, decompile or otherwise attempt to discover the source code or structure, sequence and organization of Product; (iii) separate Product into its component parts; (iv) unbundle or repackage Product for distribution; (v) use Product to develop any other product or services whether delivered internally or as an external service offering; (vi) use Product to develop a similar product or service; or (vii) publish or disclose to any third party any technical features, performance or benchmark tests, or comparative or competitive analyses relating to Product, except for internal use by End User or as may be authorized by OC in writing. Any future release, update, or other addition to functionality of Product made available by OC to End User shall be subject to the terms and conditions of this Agreement. This Agreement does not give End User any rights not expressly granted herein.

**3. PRE-RELEASE VERSION.** If mutually agreed to by both parties, OC may make available to End User a pre-release version (“**Pre-Release Product**”) of Product. End User acknowledges that the Pre-Release Product (i) may not be at the level of performance or features, or be compatible with the final version of Product; (ii) may not operate correctly; (iii) may be modified prior to being made available for general

release; (iv) may not be made available for general release; and (v) may not be used in a production environment. End User agrees to notify OC of any issues or problems in Pre-Release Product.

**4. TRIAL VERSION.** OC may provide to End User a limited trial version of Product (“**Trial Version**”). End User rights to install and use Trial Version will immediately terminate upon the earlier of (i) the expiration of the trial period; or (ii) such time that End User purchases a license to Product.

**5. THIRD PARTY SOFTWARE.** Product may use or include third party components or content (“**Third Party Content**”) and other copyrighted or publicly licensed material. Acknowledgments, licensing terms and additional disclaimers for Third Party Content are contained in their respective documentation, and End User use of Third Party Content is governed by their respective terms and conditions. End User is responsible for reviewing, accepting and complying with any Third Party Content terms of use or other restrictions. No third party licensor will have any obligation or liability to End User as a result of this Agreement or End User use of Third Party Content.

**6. FEEDBACK.** End User may provide feedback to OC regarding the use, operation, performance, and functionality of Product or Pre-Release Product (“**Feedback**”). End User grants to OC a perpetual, irrevocable, worldwide, sublicensable, fully paid-up and royalty-free right to modify and use Feedback in any manner, provided that Feedback is anonymized and does not identify End User.

**7. INTELLECTUAL PROPERTY RIGHTS.** The Product and each of its components are owned by OC and are protected under copyright law and under other laws as applicable. Title to Product and any component, or to any copy, modification, or merged portion shall remain with OC.. The “OC” trademark, “One Convergence” trademark, and the individual Product logo are trademarks or registered trademarks of OC. This EULA does not permit End User to distribute Product using OC’s trademarks, regardless of whether they have been modified.

**8. CONFIDENTIALITY. “Confidential Information”** includes any nonpublic information of a disclosing party (“**Discloser**”), whether disclosed orally or in written or digital media, received by the receiving party (“**Recipient**”), that is identified as “confidential” or with a similar legend at the time of such disclosure or that Recipient knows or should have known is the confidential or proprietary information of Discloser. OC’s Confidential Information includes all non-public information relating to, or derived from, Product and Support Services, including technical features, benchmark results, or performance results. Information does not constitute a party’s Confidential Information if it (i) is already known by Recipient without obligation of confidentiality; (ii) is independently developed by Recipient without use of Discloser’s Confidential Information; (iii) is publicly known without breach of this Agreement; or (iv) is lawfully received from a third party without obligation of confidentiality. Recipient shall (i) not use or disclose any Confidential Information except as expressly authorized by this Agreement or Discloser; (ii) protect Discloser’s Confidential Information using the same degree of care that it uses with respect to its own confidential information of a like nature, but in no event with safeguards less than a reasonably prudent business would exercise under similar circumstances; and (iii) limit access to Discloser’s Confidential Information to its employees, affiliates, agents, or authorized representatives having a need to know and who are bound by confidentiality obligations no less protective to those contained herein. Recipient shall take prompt and appropriate action to prevent unauthorized use or disclosure of Discloser’s Confidential Information. Recipient’s obligations under this Section survive termination and continue for five (5) years from the date of termination of Agreement. All tangible materials containing Confidential Information shall remain the property of Discloser. Upon termination, Recipient shall cease any use of Confidential Information. Upon Discloser’s written request, the receiving party shall promptly return (or at Discloser’s option, destroy) all documents and tangible materials containing any portion of, or summarizing, Discloser’s Confidential Information. At Discloser’s request, an authorized representative of Recipient shall provide a certificate attesting to compliance with this section. If any Confidential Information must be disclosed to any third party by reason of legal, accounting, or regulatory requirements, Recipient shall promptly notify Discloser of the order or request and permit Discloser (at its own expense) to seek an appropriate protective order.

**9. SUPPORT SERVICES.** During the term of Agreement, OC will provide End User with Support Services according to OC’s general support practices and procedures, and based on the Support Services purchased by End User. End User acknowledges that Product may contain features that allow OC to remotely and automatically identify, track and analyze certain aspects of use and performance of Product and/or the systems on which it is installed, as well as the operator and operating environment (including problems and issues that arise in connection therewith).

**10. FEES.** To the extent Product or Support Services are procured via a reseller – and End User pays such reseller for Product – End User will not owe fees directly OC. With respect to any other procurement of Product or Support

Services, End User shall pay OC (or its applicable authorized reseller) the fees (if any) for Product or Support Services as agreed to by the parties in writing at the time of purchase.

**11. NO ASSIGNMENT.** This Agreement, and End User’s rights and obligations herein, may not be assigned by End User without OC’s prior written consent, which consent will not be unreasonably withheld, and any attempted assignment in violation of the foregoing will be null and void.

**12. AUDIT.** OC shall have the right to inspect and audit End User’s facilities to confirm End User’s compliance with Agreement.

**13. LIMITATION OF LIABILITY.** Under no circumstances will OC or any OC authorized reseller under this EULA be liable to you for any incidental or consequential damages, including, without limitation, damages for lost profits, loss of goodwill, work stoppage, accuracy of results, or lost savings arising out of the use or inability to use Product, even if OC or an authorized reseller has been advised of the possibility of such damages. In no event shall OC’s liability or an authorized reseller’s liability under this EULA exceed the amount that End User paid to OC or an authorized reseller for Product during the twelve (12) month period prior to the date the cause of action accrues (but if no fees have been paid, the damages cap will be US \$1,000.00).

**14. WARRANTY DISCLAIMER.** OC provides Product “as is” and without warranty of any kind, and disclaims all express or implied warranties, including, without limitation, warranties of merchantability, fitness for a particular purpose, performance, accuracy, reliability and non-infringement. The Product is not designed or intended for use where failure of the Product could reasonably be expected to result in personal injury, loss of life, or property damage. End User is responsible for ensuring that it has appropriate data back-up, data recovery, and disaster recovery measures in place.

**15. INDEMNITY.** End User shall indemnify and hold harmless OC from any claims, damages, liabilities, costs and fees (including reasonable attorney fees) arising from End User’s use of Product as well as from End User’s negligence, willful misconduct or failure to comply with any term of this Agreement.

**16. TERMINATION.** The license in section 1, and End User’s rights to use Product, will terminate immediately in the event that (i) End User usage term has come to an end, or (ii) End User materially breaches any provision in this Agreement and, if capable of cure, fails to cure such breach within 30 days from the date of OC’s written notice to End User. Upon any such termination, End User shall promptly discontinue all use of the Software. Sections 2, 5, 6, 7, 8, 10, 11, 13, 14, 15, 17, 18, 19, 20, and 21, and all accrued rights to payment, shall survive termination.

**17. COMPLIANCE WITH LAWS.** Each party shall obey all applicable laws and regulations in the performance of its duties and tasks under this Agreement. Without limiting the foregoing, each party will comply with all applicable U.S. and foreign export control laws and regulations, including the Export Administration Regulations promulgated by the U.S. Department of Commerce

**18. GOVERNING LAW.** This Agreement will be governed by and construed in accordance with the laws of California without giving effect to any choice of law principles that would require the application of the laws of a different jurisdiction. Each party hereby irrevocably submits to the exclusive jurisdiction of (i) the state courts located in Santa Clara County, California; and (ii) the federal courts located in the Northern District of California, as well as these courts' respective courts of appeal, for the purposes of any suit, action or other proceeding arising out of Agreement. Notwithstanding the foregoing, either party shall be entitled to seek equitable relief in any appropriate forum. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement, and the parties hereby disclaim the application thereof.

**19. SEVERABILITY.** In the event that any provision of Agreement shall be held by a court to be unenforceable or

invalid under any applicable law, such unenforceability or invalidity shall not render Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such provision within the limits of applicable law.

**20. NOTICES.** All notices required under Agreement shall be in writing and shall be delivered by personal delivery, overnight deliver by a nationally recognized courier service, or registered mail (return receipt requested) and shall be deemed given upon personal delivery or confirmed receipt.

**21. ENTIRE AGREEMENT AND MODIFICATION.** This Agreement constitutes the entire agreement between End User and OC, and supersedes in their entirety any and all oral or written agreements previously existing between End User and OC with respect to the subject matter hereof. Agreement may be amended only in writing and signed by both parties.