

PureCloud Service Terms and Conditions

This PureCloud Service Agreement and the documents referenced herein (the “**Agreement**”) contain terms and conditions that govern your access to and use of the PureCloud Service (as defined below) and is an agreement between the Genesys entity identified in the Services Order (“**Genesys**,” “**we**,” “**us**,” or “**our**”) and you or the entity you represent (“**you**” or “**Customer**”). This Agreement takes effect when the Customer executes this Agreement (the “**Effective Date**”). You represent to us that you are lawfully able to enter into contracts and that you have legal authority to do so on behalf of Customer.

PART ONE – SUBSCRIPTION SERVICES

1. **Subscription Services.** We grant you a right to use the PureCloud Service in accordance with this Agreement and the applicable product descriptions found in the Services Order.
 1. The Software used to provide the PureCloud Service is located on servers that are controlled by Amazon Web Service (“**AWS**”), and (ii) the PureCloud Bridge Server (“**Bridge Server**”) at your sites. You may access and use the Software, but have no right to receive a copy of the object code or source code to the Software.
 2. You shall comply with the AWS Acceptable Use Policy found at <https://aws.amazon.com/aup/>.
 3. If identified in a Services Order, we may resell to you third party hardware and software. The terms and conditions governing the use of any such third party products will be the terms of the shrink-wrap, click-wrap or other third party license included with such products. We will pass through to you any warranties we receive from the supplier of such products, and to the extent such pass through is not allowed by the supplier, we will facilitate the filing of a warranty claim for any defective products. It is your responsibility to prepare and maintain the location where the hardware is installed so as to conform to any utility, climate control, wiring, networking and communication interface specifications, to perform all regular maintenance.
 4. In addition to third party products identified on a Services Order, you may also purchase third party products and services through our AppFoundry website. You will be required to accept the supplier’s terms and conditions through the AppFoundry website prior to activating your license to the AppFoundry product. Your use of the AppFoundry products is subject to such supplier terms and conditions, and not the terms and conditions of this Agreement. We are not a party to the terms and conditions of governing AppFoundry products, and all claims with respect to such AppFoundry products will be made with the supplier, and not Genesys. By activating an AppFoundry product, you are granting us permission to share your PureCloud Services configuration and user information with the AppFoundry supplier, only to the extent such information is required by the AppFoundry supplier in order to provide the product.
 5. If applicable, we will provide the professional services (“**Professional Services**”) identified in an Services Order or a statement of work (“**SOW**”) executed by the parties.
2. **Conditions of Use.** The right to use the PureCloud Service provided to you is non-exclusive, limited to the Term, non-transferrable (except for pre-approved assignments as detailed below) and is solely for your internal business use. We own and reserve all right, title, and interest in and to the PureCloud Service. You or any of your end users may not or attempt to: (i) license, sell, lease or otherwise make the PureCloud Service, or any like service, available to non-subscribers; (ii) use the PureCloud Service in a way that violates any law, regulation or mandate, or the terms of this Agreement; or (iii) take any action that jeopardizes our confidential or proprietary information or acquire any right in the PureCloud Service or in anything else shared with or made available to you. In addition, unusually high usage of the PureCloud Service may impair our ability to provide high quality services to others and/or indicate unauthorized use of

the PureCloud Services, in which case we may suspend or terminate your use. You acknowledge and agree that you alone decide the content and timing of your telephone calls.

3. **Customer Data.**

1. Our security and privacy policies addressing use of Customer Data, which are incorporated by reference, are located at <https://help.mypurecloud.com/articles/purecloud-security-compliance/>.

4. **Subscription Services Warranties.** We warrant to you that the PureCloud Service will function substantially as detailed in applicable service descriptions found at <https://help.mypurecloud.com/articles/feature-list/> (“Documentation”). Your sole and exclusive remedy for a breach of warranty shall be either: (i) allow us to modify the PureCloud Service to conform to the service descriptions; or (ii) allow us to provide a workaround solution that will reasonably meet your requirements. If neither option is commercially reasonable, we may terminate the Agreement and refund any pre-paid, unused fees.

5. **Provision of PureCloud Service.** We will make the PureCloud Service available 24 hours a day, 7 days a week, except for: (i) occasional planned downtime at non-peak hours (for which we will provide advance notice); or (ii) any unavailability caused by circumstances beyond our reasonable control, including failure or delay of your Internet connection, misconfiguration by you or any third party, issues on your network, or telecommunications services contracted by or for you, or (iii) unavailability as a result of the actions of AWS, including (a) any maintenance or planned downtime of the AWS services, (b) any fault or failure of the AWS services, or (c) AWS either terminating the AWS Customer Agreement or suspending our or your use of AWS services. Your use of the PureCloud Service is subject to our complete PureCloud Support Policies and Service Level Agreements (SLAs), which are provided at <https://help.mypurecloud.com/articles/service-level-agreements/>.

6. **Term and Payments.**

1. **Term.** This Agreement governs use of the PureCloud Services starting on the Effective Date and continues until the end of the Term. The Term shall begin after a period time intended to allow you to implement the PureCloud Services (“Ramp Period”). The Ramp Period shall be ninety (90) days, unless otherwise provided in the Services Order, and shall begin upon our acceptance of the Services Order. The Term shall begin upon the end of such Ramp Period. At the end of the Term, the Agreement shall renew on a month-to-month basis (with a monthly payment structure, as described below in 6.2.1), unless: (a) either party provides 30 days advance written notice of its intent to not renew; (b) the Services Order provides for a different automatic renewal period; or (c) the parties agree in writing to renew for a term of different duration. Pricing for any subsequent renewal period shall be at our then current list pricing, unless otherwise agreed upon in an Services Order.
2. **Payment Structure.** You must pay the fees listed on the relevant Services Order. Subscription payments will be structured differently based on the term you select from the three options below, and the payment structure will be set forth in the Services Order.
 1. **Monthly Term.** The actual monthly fees will be calculated based on usage and invoiced to you in arrears on a monthly basis. Payment shall be due within thirty (30) days of the date of an invoice, unless the Services Order provides for a different payment term. Subscription prices for the monthly term are subject to changes in our then current pricing. Note that subscription pricing for a monthly term is at a higher price than that for an annual term. During the Ramp Period, no monthly minimum shall apply. After the ramp period, there will be a monthly minimum that is set forth in the Services Order.
 2. **Annual Term.**

1. **Annual Payment.** You will be billed in advance for twelve months of subscription fees. Unless the Services Order provides for a different payment term, such payment shall be due within thirty (30) days of the Effective Date, regardless of whether or not a Ramp Period applies. This payment covers the Term of the Agreement, beginning upon the end of the Ramp Period. During the Ramp Period, you will be billed for actual usage at the pro-rated Annual Subscription rates set forth in the Services Order. After the Ramp Period, if actual usage in a month exceeds Annual Subscription amount set forth in the Services Order (prorated for a one month period), you will be charged for such excess usage at the Subscription Overage fee listed in the Services Order. All invoices are due within thirty (30) days of the date of such invoice, unless otherwise provided in the Services Order. Any prepaid amount is non-refundable.
 2. **Monthly Payment.** During the Ramp Period, you will be billed for actual usage at the Monthly Subscription rates set forth in the Services Order. Your Monthly Subscription fees will be set forth in the Services Order. After the Ramp Period, the Monthly Subscription represents a minimum billing amount. Any usage above the Monthly Subscription will be charged at the Subscription Overage fee listed in the Services Order.
 3. **Late Payments.** All past due payments will bear interest at the rate of 1.5% per month or such lower rate as is required by law. If any invoiced amounts are more than thirty (30) days overdue, we may immediately suspend your use of the PureCloud Service.
 4. **Taxes and Shipping.** Except as otherwise specified in the Services Order the fees do not include any taxes, levies, duties, or similar items including value-added, sales, use, or withholding taxes (collectively, “Taxes”). You are responsible for paying all Taxes associated with the Services Order and reimbursing us for any Tax paid by us with respect to the amounts due under the Services Order, excluding taxes based on our income. The fees identified in the Services Order are exclusive of shipping fees, and you will pay the shipping fees (if applicable) identified in the invoice.
7. **Termination.**
1. **Termination for Cause.** Either party may terminate this Agreement for cause upon written notice and after providing thirty (30) days for the breaching party to cure. If you terminate for cause, as your remedy we will refund any pre-paid, unused fees for the PureCloud Service.
 2. **Effect of Termination.** Upon termination or expiration of this Agreement: (a) your right to access to the PureCloud Services will immediately terminate; and (b) we will retain data for thirty (30) days, during which time the Customer may request a copy of its data. The following sections will survive the expiration or early termination of this Agreement for any reason: Confidentiality, Conditions of Use, Customer Data, Payments, Warranty Disclaimer, Indemnification Obligations, Limitation of Liability, and Miscellaneous.
8. **Confidentiality.** Our confidential information may include valuable intellectual property and you agree that information shared with or made available to you in connection with your use of the PureCloud Service is confidential and you will take reasonable care to prevent other parties from receiving this information. Confidentiality obligations do not apply to any information that (i) is now, or becomes, generally known or available; or (ii) is required to be disclosed by law.
9. **Warranty Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE PURECLOUD SERVICE, EQUIPMENT, AND OTHER SERVICES, DELIVERABLES, PRODUCTS

AND MATERIALS ARE PROVIDED “AS IS”. WE DISCLAIM ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, COMPATIBILITY, SECURITY, QUIET ENJOYMENT, TIMELINESS, COMPLETENESS, OR ACCURACY. WITHOUT LIMITING THE FOREGOING, WE DO NOT WARRANT THAT ACCESS TO OR USE OF THE PURECLOUD SERVICE OR OTHER SERVICES OR MATERIALS PROVIDED BY US WILL BE UNINTERRUPTED OR ERROR-FREE. IT IS YOUR RESPONSIBILITY TO SELECT THE SERVICE NECESSARY TO ACHIEVE YOUR INTENDED RESULTS. SOME JURISDICTIONS DO NOT PERMIT THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. YOU MAY HAVE OTHER RIGHTS WHICH VARY BY JURISDICTION. IF THE IMPLIED WARRANTIES ARE NOT ALLOWED TO BE EXCLUDED IN THEIR ENTIRETY, YOU AGREE THAT THEY WILL BE LIMITED TO THE GREATEST EXTENT AND SHORTEST DURATION PERMITTED BY LAW.

10. **Genesys Indemnification.** We will defend you against third party lawsuits claiming that the PureCloud Service infringes or misappropriates any U.S. patent, copyright, or trade secret, and we will pay any damages or costs finally awarded against you by a court of final jurisdiction with regard to such claim, or amounts agreed to in a monetary settlement of the action, so long as such claims do not arise from an Exclusion (as defined below). If your use of the PureCloud Service is enjoined, we may at our option: (i) obtain a license from such third party for your benefit; (ii) modify the PureCloud Service so that they no longer infringe; or (iii) if neither of these options is commercially feasible, require you to stop using the PureCloud Service, terminate this Agreement and refund to you any unused, prepaid fees.
11. **Customer Indemnification.** You will defend us against any third party lawsuits, governmental investigation or other claims in connection with any circumstances arising under the Exclusions. You will pay any damages or costs awarded against us by a court of final jurisdiction with regard to such claims, or amounts agreed to in a monetary settlement of the action.
12. **Exclusions.** “Exclusions” are conditions deemed excluded from warranty and/or defense or indemnity obligations, as follows: (i) your non-compliance with this Agreement; (ii) your business method(s) or process(es); or (iii) your content, Customer Data, or third party products.
13. **Indemnification Procedures.** A party entitled to indemnification (“**Indemnified Party**”) will promptly notify the other party (“**Indemnifying Party**”) of any indemnifiable claim (“**Claim**”) and provide reasonable assistance to the Indemnifying Party 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 by such failure. The Indemnifying Party will have the sole right 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).
14. **Exclusion of Consequential and Related Damages.** IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOST OR CORRUPTED DATA, LOST PROFITS, LOST BUSINESS OR LOST OPPORTUNITY), COVER DAMAGES, OR ANY OTHER SIMILAR DAMAGES UNDER ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, STRICT LIABILITY OR ANY OTHER THEORY), EVEN IF INFORMED OF THIS POSSIBILITY AND EVEN IF A REMEDY IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

15. **Limitation of Liability.** OUR TOTAL LIABILITY FOR ANY LOSS, COST, CLAIM OR DAMAGES HEREUNDER WILL NOT EXCEED THE FEES PAID OR PAYABLE TO US IN THE TWELVE (12) MONTHS PRECEDING THE CLAIM. THIS LIMITATION ON LIABILITY FORMS A FUNDAMENTAL BASIS OF THE BARGAIN HEREUNDER, IN THE ABSENCE OF WHICH, THE ANNUAL (OR LESS) TERM AND FEES WOULD HAVE BEEN DIFFERENT. THIS SECTION WILL NOT APPLY TO DAMAGES THAT CANNOT BE LIMITED OR EXCLUDED BY LAW (IN WHICH EVENT THE LIMITATION WILL BE THE MINIMUM AMOUNT REQUIRED BY LAW). **THIS SECTION AND OUR INDEMNIFICATION OBLIGATIONS TO YOU UNDER SECTION 10 REPRESENT YOUR SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT CLAIMS AND FOR MISAPPROPRIATION CLAIMS.**

16. **Miscellaneous.**

1. **Entire Agreement and Law.** This Agreement together with the Services Order and other documents referenced herein represent the entire agreement of the parties, and supersedes any prior or current understandings, whether written or oral. If there is a conflict between the Agreement and an Services Order or SOW, the Agreement will prevail. This Agreement will be governed by the laws of the State of Indiana. Any legal or equitable claim of any nature arising hereunder will be filed and maintained in the state or federal courts located in Marion County, Indiana. Nothing in this Agreement will prevent us from seeking immediate injunctive relief against you in the courts having jurisdiction over you.
2. **Assignment.** Customer may not assign or otherwise transfer any of its rights or obligations under this Agreement without our prior written consent, which will not be unreasonably withheld. Any attempted assignment in breach of this Section is void. You understand and agree that third parties, including but not limited to our affiliates (e.g. Genesys Telecom US, Inc.), may provide products and services to you in connection with the PureCloud Services, and you may be billed for such. Additionally, in order to comply with international tax codes, we may assign billing rights to international subsidiaries in the event that you use the PureCloud Services outside of the United States.
3. **Compliance with Law.** We will make every reasonable effort to operate in an ethical and law-abiding manner. However, it would be impossible for us to verify that everything you do or attempt to do with our products and services complies with every applicable law. You are responsible for ensuring that your use of all products and services is in accordance with laws and regulations that apply to you and your business or industry, including, but not limited to, the Telephone Consumer Protection Act of 1991. Neither party takes responsibility for the other party's compliance with applicable law. Further, you will not export or re-export, directly or indirectly, any products or our confidential or proprietary information to any countries outside the United States except as permitted under the U.S. Commerce Department's Export Administration Regulations. The products contain Commercial Computer Software under Federal Government Acquisition Regulations and agency supplements to them and are provided to the Federal Government and its agencies only under the Restricted Rights Provision of the Federal Acquisition Regulations applicable to commercial computer software developed at private expense and not in the public domain. You warrant that neither you, any affiliate, or any User are on any government-issued list of restricted persons or entities including the 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.
4. **Notice.** Notice may be given between the parties in accordance with the notice policy set forth at <https://help.mypurecloud.com/articles/notices/>.

5. **Waiver.** 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 thereby. Our failure to act with respect to a breach by you of this Agreement does not constitute a waiver of our rights with respect to subsequent or similar breaches.
6. **Remedies.** All remedies available to us will be cumulative and the specification of a remedy will not preclude us from pursuing other remedies available at law or in equity. Neither party will be liable by reason of any failure of performance hereunder if such failure arises out of causes beyond its reasonable control, despite its reasonable efforts and without its fault or negligence.
7. **Modifications.** We may modify any websites referenced in this Agreement at any time by posting a revised version on the PureCloud Website and by otherwise notifying you in accordance with Section 16.4. The modified terms will become effective upon posting or, if we notify you by email, as stated in the email message. By continuing to use the PureCloud Service after the effective date of any modifications to such websites, you agree to be bound by the modified terms. If we materially decrease any of our obligations or the functionality of the PureCloud Service, we will either obtain your consent or you may terminate this Agreement. Any modification to the terms and conditions of this Agreement outside of one of the referenced web links requires written mutual consent.
8. **Business Partners.** Our benefits, rights, and obligations related to Conditions of Use, Warranty Disclaimer, Customer Indemnification, Exclusion of Damages, Limitation of Liability, Confidentiality and Compliance with Law shall extend to our affiliates, related parties, business partners, licensors, and service providers.
9. **Your Users.** You take full responsibility for ensuring that all of your personnel, third party service providers, and all other third parties that access or use the PureCloud Services comply with this Agreement and you will be liable for their acts and omissions.

17. **Definitions.**

1. **“AppFoundry”** means our marketplace website where Customers may purchase third party software applications to integrate with the PureCloud Service.
2. **“Customer Data”** means your proprietary information and information about your customers (including Personal Data) submitted through PureCloud by You or Your Users. Customer Data does not include Service Improvements as defined below.
3. **“Personal Data”** means any information relating to your customers that is protected by applicable privacy law.
4. **“PureCloud Service”** means our cloud communications service, and associated equipment and services, as described in an Services Order.
5. **“PureCloud Website”** means the website used to access the PureCloud Service and any successor or related site designated by us.
6. **“Services Order”** means the document used to submit the order, identifying the PureCloud products and fees ordered herein, a copy of which will be emailed to you.
7. **“Software”** means Genesys-owned software used to provide PureCloud Services, including the software listed on an Services Order, excluding any software provided by Genesys’ business partners.
8. **“Term”** means the term of the PureCloud Services you selected, as set forth in the Services Order.

