
Appendix– Flow Down Terms: CallCabinet**1. DEFINITIONS**

In this Appendix the following terms and expressions shall have the following meanings:

Third Party in the context of this Appendix means CallCabinet Corporation

Third Party Services means various services and applications, including the Third Party Software, provided by Supplier whereby the Customer and/or end-user can record, store and retrieve audio files and related data, along with other related services as described on www.callcabinet.com, from time to time.

Third Party Software means the Third Party software specified in the MSA, to be provided to the Customer by Supplier pursuant to the Contract.

2. ORDER OF PRECEDENCE

In the event of any conflict or inconsistency between any of the provisions in the Contract and this Appendix, the provisions of this of this Appendix shall prevail.

3. USE

- 3.1. The Customer shall not use the Third Party Services outside of North America, the United Kingdom and the European Union without prior written approval from Supplier.
- 3.2. The Third Party Services are provided to Customer with an initial ninety (90) days rolling storage plan (“**Initial Storage Plan**”). The Initial Storage Plan will automatically purge call recordings at the end of the ninety (90) day period. In the event that Customer wishes Supplier to retain call recordings for longer than ninety (90) days, then this must be pre agreed in writing and additional storage rates shall apply.

4. THIRD PARTY’S RIGHTS

Supplier is an authorised reseller of the Third Party Services, and, as such, cannot represent that the Third Party will continue to manufacture any particular item or model of product indefinitely or even for any specific period, and the Third Party Services shall, at all times, be subject to the Third Party’s right to modify any of the specifications or characteristics of its products, to remove any element of the Third Party Services, and/or to cease manufacturing or supporting it.

5. LIMITATION OF LIABILITY

Supplier’s liability in connection with the Third Party Services shall be limited to the 100% of the Charges paid by the Customer in respect of the Third Party Software and Third Party Services in the twelve (12) months preceding a claim by the Customer.

6. WARRANTY

- 6.1. The Third Party Services are all provided on an “as is”, “with all faults” and “as available” basis. Supplier make no express warranties or guarantees about the Third Party Services or anything else. Supplier hereby disclaims and negates all other warranties.
- 6.2. TO THE MAXIMUM EXTENT PERMITTED BY LAW, SUPPLIER AND OUR OFFICERS, DIRECTORS, AGENTS, VENDORS, AND MERCHANTS DISCLAIM IMPLIED WARRANTIES THAT THE THIRD PARTY SERVICES ARE MERCHANTABLE, OF SATISFACTORY QUALITY, ACCURATE, TIMELY, FIT FOR A PARTICULAR PURPOSE OR NEED, OR NON-INFRINGEMENT. SUPPLIER DOES NOT GUARANTEE THAT THE THIRD PARTY SERVICES WILL MEET CUSTOMER’S REQUIREMENTS, IS ERROR-FREE, RELIABLE, WITHOUT INTERRUPTION OR AVAILABLE AT ALL TIMES. SUPPLIER DOES NOT GUARANTEE THAT THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE THIRD PARTY SERVICES WILL BE EFFECTIVE, RELIABLE, ACCURATE OR MEET CUSTOMER’S REQUIREMENTS. SUPPLIER MAKES NO WARRANTIES AS TO PRIVACY AND SECURITY OTHER THAN AS EXPRESSLY STATED IN THE THIRD PARTY PRIVACY POLICY. SUPPLIER MAKES NO IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY OR OTHER VIOLATION OF ANY RIGHTS OF ANY PERSON. FURTHER,

SUPPLIER DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS CONCERNING THE ACCURACY, LIKELY RESULTS, OR RELIABILITY OF THE USE OF THE MATERIALS ON THE THIRD PARTY SERVICES OR OTHERWISE RELATING TO SUCH MATERIALS OR ON ANY WEBSITES LINKED TO THE THIRD PARTY SERVICES. SUPPLIER DOES NOT GUARANTEE THAT CUSTOMER WILL BE ABLE TO ACCESS OR USE THE THIRD PARTY SERVICES AT TIMES OR LOCATIONS OF CUSTOMER'S CHOOSING. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY A SUPPLIER REPRESENTATIVE SHALL CREATE A WARRANTY.

- 6.3. Customer may have additional consumer rights under Customer's local laws that this Appendix cannot change.
- 6.4. THE WARRANTY FOR THE THIRD PARTY SERVICES ARE SET FORTH EXCLUSIVELY IN THIS APPENDIX.
- 6.5. THE THIRD PARTY SERVICES ARE PROVIDED FOR CUSTOMER'S CONVENIENCE ON AN "AS IS" AND "AS AVAILABLE" AND SUPPLIER AND ITS LICENSORS AND SUPPLIERS EXPRESSLY DISCLAIM ANY WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, AND NON-INFRINGEMENT.
- 6.6. SUPPLIER AND ITS LICENSORS AND SUPPLIERS MAKE NO WARRANTY THAT DEFECTS WILL BE CORRECTED OR THAT THE PRODUCTS: (I) WILL MEET CUSTOMER'S REQUIREMENTS; (II) WILL BE COMPATIBLE WITH CUSTOMER'S EQUIPMENT OR END USER EQUIPMENT; (III) WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS; OR (IV) WILL BE ACCURATE OR RELIABLE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY CUSTOMER FROM SUPPLIER OR THROUGH THE THIRD PARTY SERVICES SHALL CREATE ANY WARRANTY.
- 6.7. WHEN CUSTOMER INSTALLS, SETS-UP OR USES THE THIRD PARTY SERVICES CUSTOMER MAY BE GIVEN THE OPPORTUNITY TO ALTER DEFAULTS OR CHOOSE PARTICULAR SETTINGS. THE CHOICES CUSTOMER MAKES CAN CAUSE DAMAGE OR LEAD TO NON-RECOMMENDED OPERATION OF CUSTOMER'S EQUIPMENT OR CUSTOMER'S SYSTEMS. CUSTOMER ASSUMES ALL LIABILITY FOR SUCH DAMAGE WHEN CUSTOMER CHOOSES PARTICULAR SETTINGS OR SETS OR ADJUSTS DEFAULTS.
- 6.8. SUPPLIER MAKES NO REPRESENTATIONS, CERTIFICATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO THE ABILITY OF THE GOODS, SERVICES OR PRICES TO SATISFY ANY SUCH STATUTES AND REGULATIONS RELATING TO SALES TO GOVERNMENTS.

7. THIRD PARTY SOFTWARE LICENSE

- 7.1. Certain items of independent, third party code may be included in the Third Party Software that are subject to "open source software" e.g., the GNU General Public License, Lesser General Public License or other open source licenses (collectively, "**Open Source Software**"). The Open Source Software is licensed under the terms of the license that accompanies such Open Source Software. Nothing in this paragraph 7 limits Customer's rights under, or grants Customer rights that supersede, the terms and conditions of any applicable end user license for such Open Source Software. In particular, nothing in this paragraph 7 restricts Customer's right to copy, modify, and distribute such Open Source Software that is subject to the terms of the licensing accompanying such Open Source Software.
- 7.2. The License is terminable by Supplier and/or Third Party at any time. Unless explicitly provided otherwise in the License, under the License Customer may not:
 - 7.2.1. modify or copy the Third Party Software;
 - 7.2.2. use the Third Party Software for any commercial purpose not described in this Contract or on www.callcabinet.com, or for any public display (commercial or non-commercial);
 - 7.2.3. attempt to decompile or reverse engineer the Third Party Software;
 - 7.2.4. take any action which may cause the Third Party Software, or any portion thereof, to be subjected to the terms of any additional Open Source Software licensing.
 - 7.2.5. remove any copyright or other proprietary notations from the Third Party Software; or
 - 7.2.6. transfer the Third Party Software to another person or "mirror" the Third Party Software on any other server, without Supplier's written consent.
- 7.3. The License may be amended, modified or revoked by Supplier and/or Third Party at any time as provided in this Contract. The License will automatically terminate if (i) Customer breaches the terms of this License; or, (ii) if Customer's user account is closed or terminated for any reason.

-
- 7.4. Customer's permission to use the Third Party Software is conditioned upon Customer's agreement with Supplier that Customer:
- 7.4.1. will comply with this License;
 - 7.4.2. is solely responsible for the secrecy and security of Customer's user account credentials and any activity that occurs in Customer's user account; and
 - 7.4.3. is solely responsible for Customer's compliance with all Applicable Laws and maintaining the privacy rights of Customer's customers or other parties being recorded using the Third Party Software.

8. CONFIDENTIAL INFORMATION

Confidential Information provided in respect of Third Party Services shall be subject to the confidentiality obligations as set out at clauses 14.7 – 14.13 inclusive of the Conditions save that such confidentiality obligations shall survive for five (5) years beyond the expiration, non-renewal or termination of the receipt of Third Party Services under this Appendix.

9. COMPLIANCE WITH LAWS

Customer agrees to comply with all Applicable Laws and hereby agrees to indemnify and hold Supplier harmless against any claim for loss, damage, cost, expenses injury or death to Supplier and/or third parties caused by Customer's failure to comply with any such Applicable Laws.