

# **End-User License Agreement**

PLEASE READ THIS END-USER LICENSE AGREEMENT CAREFULLY BEFORE USING THE SOFTWARE. REGARDLESS OF HOW YOU ACQUIRE THE SOFTWARE (ELECTRONICALLY, PRE-LOADED, ON MEDIA OR OTHERWISE), DOWNLOADING, INSTALLING OR USING THE SOFTWARE SHALL INDICATE YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS CONTAINED IN THIS END-USER LICENSE AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS END-USER LICENSE AGREEMENT, YOU MAY NOT DOWNLOAD, INSTALL OR USE THE SOFTWARE.

## **1.0 Definitions.**

1.1) 'Licensor' means Genuitec L.L.C.; 1.2) 'Licensee' means anyone that downloads and/or install the software on one or more computers; 1.3) 'Software' means the release version of the software product as defined in section 1.12, including any Content, as downloaded by Licensee or as provided on distribution media in physical or electronic form; 1.4) 'Licensed Content' refers to Licensor created Eclipse plugin and software bundles, text or other materials provided by licensor or a third party, for use exclusively with the Software pursuant to the terms of this Agreement; 1.5) 'User Content' means Licensee-created Eclipse plugin and software bundles, text or other materials for personal use or to share with other Licensees in connection with the Software or Online Services; 1.6) 'Online Services' means the Licensor Online Services and the Third Party Online Services available in connection with the use of the Software or Licensed Content; 1.7) 'Term' refers to the effective duration of the license agreement following possession of the software; 1.8) 'Agreement' shall mean this End User License Agreement; 1.9) 'Content' means all software and information in executable, binary or text form included in the distribution media, on-line or in electronic form, embedded data, programming, HTML, files, images, graphics, icons, Documentation and all other content or materials incorporated in or generated under the terms of this Agreement; 1.10) 'Documentation' refers to published product specifications and accompanying documentation; **1.11**)'Update' shall refer to maintenance releases specific to the Software, as they will be made by Licensor under no obligation or commitment to do so; 1.12) Pulse, Pulse Private Label, OneInstall and Secure Delivery Center (SDC) are Software products subject to this End User License Agreement.

#### 2.0 License to Use the Software.

The Software, including Licensed Content, is protected by copyright under United States, foreign laws and international treaties. Unauthorized use of the Software or Licensed Content may violate copyright, trademark and other laws. Subject to all of the terms and conditions of the Agreement, Licensor grants to Licensee a limited, non-exclusive, non sub-licensable, non-assignable license to (i) install and use the Software on one or more computers; (ii) use the Software and to access Online Services or to publish User Content to Online Services, alone or in combination with Licensed Content (subject, in each case, to the applicable Software Terms of Service or Third Party Terms of Service); and (iii) make copies of the Software in machine-readable form. The Agreement will terminate automatically without further notice if Licensor fails to comply with any of the provisions of the Agreement. Upon termination, Licensor shall destroy all copies of the Software and Licensed Content including any partial copies thereof. The terms of the Agreement will apply to all Updates provided to Licensee. This grant is not a transfer of title, and under this license, Licensee may not: a) republish, upload, post or transmit in any way the Software or Licensed Content except as expressly authorized pursuant to the Agreement; b) reproduce, modify or create derivative works from the Software or Licensed Content except as expressly authorized pursuant to the Agreement; c) attempt to decompile, disassemble or reverse engineer any Software or Licensed Content; d) remove any copyright or other proprietary notations from the Software or Licensed Content; e) distribute, transfer, sale, lease, sublicense, assign or otherwise make available, directly or indirectly, the Software or Licensed Content, in part or in whole, including any search output or results, to any other person; f) except as may be specifically provided in the Agreement, permit the Software or Licensed Content to be accessed through an electronic network beyond Licensee's normal places of business; or g) 'mirror' the Software or Licensed Content on external servers.

#### 3.0 Limitation of Liability.

Licensor assumes no responsibility for the selection or use of the Software to achieve any intended purpose, for the proper use of Software or for verifying the results obtained from use of the Software. Licensee recognizes that the Software will interact with software provided by other suppliers, and accepts that Licensor assumes no responsibility for such use, interaction, performance issues, or failure to achieve any desired results. The Software is not designed nor intended to be used to administer Licensee's mission critical systems or operations. We warrant that for a period of 90 days after delivery of this copy of the Software: a) if the Software is provided on physical media by Licensor, the physical media on which this copy of the Software is provided to you will be free from defects in materials and workmanship under normal use, and b) the Software will perform in substantial accordance with the Documentation. To the extent permitted by applicable law, the foregoing limited warranty is in lieu of all other warranties or conditions, express or implied, and Licensor disclaims any and all implied warranties or conditions, including any implied warranty of title, non-infringement, merchantability or fitness for a particular purpose, regardless of whether Licensor knows or had reason to know of Licensee's particular needs. No employee, agent, dealer or distributor of Licensor is authorized to modify this limited warranty, nor to make any additional warranties. In no event will Licensor be liable for any damages, including any lost profits, lost savings, or other incidental or consequential damages arising from the use or the inability to use the Software (even if Licensor or an authorized dealer or distributor has been advised of the possibility of these damages), arising from any user Content created and/or published by Licensee, or for any claim by any other party.

### 4.0 Termination of Agreement.

The Agreement takes effect upon Licensor's use of the Software and remains effective until terminated. The Agreement shall immediately and automatically terminate without notice or any other act upon i) the expiry of the Term; ii) the attempted illegal copying, distribution, transfer, assignment, lease or sale of the Software, or rights thereto, without the prior written consent of Licensor; or iii) notice in writing given by Licensor upon the violation by that party of any provision of the Agreement. Upon termination of the Agreement, Licensee will forthwith cease use of the Software and destroy all of the original and copies of the Software and Licensed Content, or any portion thereof, in any form, including stored in electronic form on any of its computer equipment. Upon Licensor's request, Licensee will provide a written certification that all the copies of the Software and Licensed Content, in whole or in part in any form have been destroyed. Failure to do so may result in additional fees and charges being levied against Licensee. Any and all use of the Software or Licensed Content by Licensee following termination of this Software Licensee Agreement is prohibited and may result in additional fees and charges being levied against Licensee.

## 5.0 Confidentiality.

The Software contains trade secrets and proprietary know-how that belong to the Licensor and it is being made available to Licensee in strict confidence. Any use or disclosure of the Software, or of its algorithms, protocols or interfaces, other than in strict accordance with the Agreement may be actionable as a violation of licensor trade secret rights.

## 6.0 Indemnity.

Licensee will indemnify Licensor and hold it harmless from and against any and all claims which a third party may assert against Licensor by reason of or as a consequence of Licensees use of the Software, including without limitation any claims arising from any User Content created and/or published by Licensee

## 7.0 General Provisions.

The Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, oral and written, express or implied, by and between any of the parties with respect to the subject matter of this Agreement. No amendment or modification of the Agreement shall be binding unless in writing and signed by a duly authorized representative of Licensor. The Agreement shall be governed by and construed in accordance with the laws of the State of Texas and federal laws of the United States. Any actions at law or in equity arising out of or in relation to the Agreement may be filed only in the state or federal courts of Dallas, Texas, U.S.A. and Licensee hereby consents and submits to the personal and exclusive jurisdiction of such courts. If any one or more of the provisions contained in the Agreement should be invalid, illegal or unenforceable in any respect in any jurisdiction, the validity, legality and enforceability of such provision or provisions shall not in any way be affected or impaired as a result of such event in any other jurisdiction and the validity, legality and enforceability of the remaining provisions contained in the Agreement shall not in any way be affected or impaired as a result of such event.

### 8.0 Copyright and Trademark Notices.

All Software and Licensed Content is Copyright © 2004-2013 Genuitec. 2221 Justin Rd #119-340, Flower Mound, TX 75028. Any rights not expressly granted herein are reserved to the Licensor.