

COMMANDER CRM

TERMS OF USE

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1. Grant of License

Three (3) User License.

As long as you meet any application payment obligations and comply with this agreement, MIC Systems grants you a limited, nonexclusive, nontransferable, revocable license to use the Software on up to 3 internet access devices for the period of use provided in the ordering and activation terms.

2. Restrictions

LICENSEE AGREES THAT IT SHALL NOT, IN WHOLE OR IN PART, AT ANY TIME DURING THE TERM OF OR AFTER ANY EXPIRATION OR TERMINATION OF THIS AGREEMENT: (a) SELL, ASSIGN, SUBLICENSE, LEASE, RENT, TIMESHARE, GRANT A SECURITY INTEREST IN, DISTRIBUTE OR OTHERWISE TRANSFER THE SOFTWARE; (b) DISCLOSE THE SOFTWARE TO ANY OTHER INDIVIDUAL OR ENTITY WITHOUT THE PRIOR WRITTEN CONSENT OF MIC SYSTEMS; (c) MODIFY, TRANSLATE, ADAPT, REVERSE ENGINEER, DECOMPILE, DISASSEMBLE OR OTHERWISE ATTEMPT TO DISCOVER ANY SOURCE CODE FOR, OR CREATE DERIVATIVE WORKS BASED ON, THE SOFTWARE OR MERGE THE SOFTWARE INTO

ANY OTHER SOFTWARE; or (d) ALLOW ANY THIRD PARTY TO DO ANY OF THE ACTS DESCRIBED IN SECTIONS 2(a) THROUGH 2(d) ABOVE.

3. Limited Warranty

For a period of thirty (30) days from the Effective Date, MIC Systems warrants that: (a) the Software will be free from defects in material and workmanship under normal use; and (b) the Software will operate substantially in accordance with and conform to the MIC Systems documentation for the Software. In the case of discovered defects, MIC Systems' entire liability and Licensee's exclusive remedy will be that MIC Systems will, at its sole discretion, provide Licensee with either corrections to the nonconforming Software or a refund of Licensee's license fee for the current month's license fee such Software (one month).

4. Disclaimer of Warranties

LICENSEE EXPRESSLY UNDERSTANDS AND AGREES AS FOLLOWS:

(a) EXCEPT FOR THE LIMITED WARRANTIES PROVIDED IN SECTION 4 ABOVE, THE SOFTWARE AND ANY OTHER MATERIALS PROVIDED PURSUANT TO THIS AGREEMENT ARE PROVIDED TO LICENSEE ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTY OF ANY NATURE. MIC Systems EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE SOFTWARE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE, EVEN IF MIC Systems HAS BEEN INFORMED OF SUCH PURPOSE, AS WELL AS ALL WARRANTIES ARISING FROM A COURSE OF DEALING OR CUSTOM OF TRADE WITH RESPECT TO THE SOFTWARE. LICENSEE'S USE OF THE SOFTWARE IS AT LICENSEE'S SOLE RISK. NO AGENT OF MIC Systems IS AUTHORIZED TO ALTER OR EXCEED THE WARRANTY OBLIGATIONS OF MIC Systems AS EXPRESSLY SET FORTH HEREIN.

(b) MIC Systems MAKES NO WARRANTY THAT (i) THE SOFTWARE WILL MEET LICENSEE'S REQUIREMENTS, (ii) THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SOFTWARE WILL BE ACCURATE OR RELIABLE (INCLUDING BUT NOT LIMITED TO FORMS, PRINTOUTS, CALCULATIONS, ETC.), OR (iv) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED.

(c) NO ACCOUNTING, FINANCIAL, LEGAL OR TAX ADVICE OR COUNSEL IS GIVEN, OR SHALL BE DEEMED TO HAVE BEEN GIVEN, BY THE SOFTWARE, OR MIC Systems EMPLOYEES, AGENTS OR REPRESENTATIVES.

5. Limitation of Liability

IN NO EVENT SHALL MIC Systems OR ITS LICENSORS OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS OR REPRESENTATIVES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, REVENUE, GOODWILL, DATA, OR USE, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION), OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES INCURRED BY CLIENT OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT OR BASED ON A WARRANTY, IN ANY WAY RELATING TO THIS AGREEMENT OR RESULTING FROM THE USE OF OR INABILITY TO USE THE SOFTWARE, OR THE PERFORMANCE OR NON-PERFORMANCE OF THE SOFTWARE, INCLUDING THE FAILURE OF ESSENTIAL PURPOSE, EVEN IF MIC Systems HAS BEEN NOTIFIED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES. IN NO EVENT SHALL MIC Systems OR ITS LICENSORS BE LIABLE FOR ANY DAMAGES IN EXCESS OF THE AGGREGATE AMOUNT OF FEES PAID BY LICENSEE TO MIC Systems DURING THE PRECEDING TWELVE (12) MONTHS HEREUNDER. THIS LIMITATION OF LIABILITY WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE AND INDEPENDENT OF ANY FAILURE OF ESSENTIAL PURPOSE OF THE LIMITED WARRANTY AND REMEDIES PROVIDED HEREUNDER.

6. Terms of Sale and Refund Policy

All sales are final, and no refunds will be given. If you do not agree to and accept these policies, do not purchase a license for this software.

7. Term or Termination

(a) Term.

The term of this Agreement shall commence upon the Effective Date and will continue until terminated in accordance with its terms. During the term of any technical support and maintenance services initially purchased by Licensee or any renewal term thereof, Licensee has the right to renew such services for additional time periods by paying to MIC Systems its then-current standard technical support and maintenance renewal fees for the number of users then covered by this Agreement. Any such technical support and maintenance services will terminate if Licensee does not renew them prior to any expiration date.

(b) Termination.

MIC Systems may terminate this Agreement effective upon written notice if Licensee fails to comply with any of the terms and conditions of this Agreement. This Agreement shall

terminate immediately without notice from MIC Systems if the license fee is refunded for any reason, including without limitation pursuant to the Limited Warranty in Section 4.

(c) Effect of Termination.

Upon any expiration or termination of this Agreement, Licensee shall: (i) cease using the Software and any other materials provided pursuant to this Agreement, (ii) cause its employees and agents to destroy materials provided pursuant to this Agreement and (iv) make no further use of any of the Software and any other materials provided pursuant to this Agreement for any purpose. Notwithstanding the foregoing, the terms of Sections 2, 3, 5, 6, 7, 8, 10, 11 and 12 shall survive any expiration or termination of this Agreement.

8. Subscription and Cancellation

(a) Subscription.

The subscription shall commence upon the Effective Date and will continue for the Subscription Term specified in the order form.

(b) Fees.

Fees will be fixed during the Subscription Term set forth in your order form; quoted and payable in US dollars; based upon the minimum 3 User configuration and any additional licenses purchased, even if actual usage is lower; and such fees are non-cancelable and non-refundable.

(c) Renewal.

The Subscription Term shall automatically renew for additional equal-length terms, unless Licensee gives MIC Systems notice of non-renewal at least 30 days prior to the end of the relevant Subscription Term. All fees will be due on the applicable anniversary date, and any pricing or Subscription User changes for such renewal term will be reflected on such invoice. MIC Systems reserves the right to modify the fees set forth in a specific order form in connection with Subscription Term renewal of such order form. We reserve the right to adjust the pricing for our services or any components thereof at any time and without notice.

(d) Cancellation.

MIC Systems may change the service at any time and for any reason without notice. We may cancel or suspend your service or a portion of your service at any time and for any reason without notice, including if you violate the terms of this contract. If we do, your right to use the service will stop right away. Cancellation of the service will not change your obligation to pay any charges due on your billing account. If we cancel the service without

cause, we will refund the unused portion of your service charge for that period on a pro rata basis. You may cancel your service at any time for any reason, subject to 30 days written notice. Cancellation of the service by you will not alter your obligation to pay all charges made to your billing account. All subscription fees are non-cancelable and non-refundable.

9. Publicity

Unless otherwise stated by Licensee in writing, Licensee agrees that MIC Systems may use Licensee's name, including Licensee's trademark(s) or trade name(s), and comments about the Software in connection with publicity and marketing of the Software.

10. Usage of Collected Data

During the process of using the Software, certain information may be uploaded to MIC Systems servers. Such information may include but not be limited to Your inventory and Your deals. MIC Systems may use this information for statistical purposes. The source from which this information was collected, and the individual private information will not be shared with any outside organizations and/or agencies.

11. Text Marketing

Consent to Contact: In utilizing the Text Marketing tools ("Services"), you affirm that you have secured all necessary consents and permissions from the recipients of your messages. These permissions are required by applicable laws, regulations, and industry standards, including but not limited to the Telephone Consumer Protection Act (TCPA), CAN-SPAM Act, and other applicable federal, state, local, or international laws.

- **Responsibility for Compliance:** You bear sole responsibility for obtaining these necessary consents, and for ensuring that all communications sent through our Services are in full compliance with all relevant laws, regulations, and industry standards. MIC Systems shall not be held liable for any damages, penalties, costs, or other consequences resulting from any failure on your part to obtain the necessary consents or to maintain compliance with all applicable laws, regulations, or industry standards.
- **Explicit Opt-In Agreement:** You represent that you've acquired explicit opt-in agreements from all message recipients. The agreement must clearly communicate

the type, purpose, and frequency of the messages they are opting in to receive.

- **Opt-Out Instructions:** You are obligated to include clear, easily understandable opt-out or unsubscribe instructions in each message sent using our Services. The instructions must provide recipients with a straightforward, cost-free method of opting out of receiving future messages.
- **Data Protection:** You confirm that all data used in conjunction with our Text Marketing tools will be collected, processed, and stored in accordance with all applicable data protection laws, including but not limited to the California Consumer Privacy Act (CCPA).
- **Penalties for Non-Compliance:** In the event of non-compliance with these terms, MIC Systems reserves the right to suspend or terminate your access to our Services without prior notice and may seek any other remedies available to it under the law.
- **Indemnification:** You agree to indemnify, defend, and hold harmless MIC Systems, its parent, subsidiaries, affiliates, officers, directors, employees, agents, and suppliers from any claim, action, demand, or damage, including reasonable attorney's fees, made by any third party or penalty imposed due to or arising out of your breach of these Terms of Service, or your violation of any law, regulations, or rights of a third party.

12. General

(a) Entire Agreement; Amendment.

This Agreement, including any Exhibits, Schedules or Appendices referred to in and attached hereto or thereto, sets forth the entire understanding and supersedes all prior and contemporaneous agreements between the parties relating to the subject matter contained herein and merges all prior and contemporaneous discussions, agreements and understandings, both verbal and written, between them regarding such subject matter. No modifications, additions, or amendments to this Agreement shall be effective unless set forth in a writing referencing this Agreement and signed by a duly authorized representative of the party to be bound thereby. All provisions of this Agreement shall take precedence over any conflicting terms and conditions of any purchase orders, invoices or other instruments which may be issued by either party, unless otherwise agreed by both parties in writing.

(b) Governing Law.

This Agreement shall be governed in all respects by the laws of California applicable to agreements negotiated, executed and performed in California between California corporations without regard to its conflicts of laws rules, whether one or more of the parties shall now be or hereafter become a resident of another state or country.

(c) Dispute Resolution.

Any and all disputes relating to or arising in connection with this Agreement shall be resolved by exclusive, binding arbitration. In such case, both parties agree to the appointment of three (3) arbitrators, with one arbitrator selected by each party, and the third selected by the American Arbitration Association ("AAA"). The arbitration shall be conducted in Los Angeles County, California in accordance with the commercial arbitration rules, regulations and procedures of the AAA then in effect, and the decision of the arbitration panel shall be final and binding on both parties. Judgment on the arbitrators' award may be entered by any court having jurisdiction. Each party to this Agreement hereby consents to the jurisdiction and venue of the U.S. federal and California state courts located in Los Angeles, California for such purposes.

(d) Attorneys' Fees.

If any action or proceeding shall be commenced to enforce or interpret this Agreement or any right arising in connection with this Agreement, the prevailing party in such action or proceeding shall be entitled to recover from the other party, all reasonable attorneys' fees, costs and expenses incurred by such prevailing party in connection with such action or proceeding and any negotiations to avoid such action or proceeding.

(e) Notices.

Every notice or other communication required or contemplated by this Agreement shall be in writing and shall be deemed received and effective (i) on the date of personal delivery, (ii) on the date it is officially recorded as delivered to the intended recipient when sent by postage prepaid, return receipt requested, registered or certified mail (airmail if available), or the equivalent of registered or certified mail under the laws of the country where mailed, or in the absence of such record of delivery, the effective date shall be presumed to have been the fifth (5th) business day after it was deposited in the mail, (iii) on the date it is officially recorded as delivered to the intended recipient when sent by internationally recognized overnight courier, such as Federal Express, DHL or UPS, or in the absence of such record of delivery, the effective date shall be presumed to have been the third (3) business day after delivery to such courier, or (iv) the date transmitted by facsimile with a confirmation copy sent simultaneously by one of the other methods permitted under this

Section 12(e), in each case addressed to the addresses identified in the introduction to this Agreement. Notice not given in writing shall be effective only if acknowledged in writing by a duly authorized representative of the party to whom it was given. In the event Licensee otherwise needs to contact MIC, it may contact MIC Systems as follows:

MIC Systems & Software, Inc.

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tel (714) 545-4444

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