



# End-User License Agreement

VERSION 15.1

2017

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## 1. DEFINITIONS.

The following definitions apply to this Licensing Agreement:

**1.1. “Application Context”** means the particular fields of use and the purpose and manner of using the Software permitted under this Agreement, as specified below.

**1.2. “Device”** shall mean any hardware or software process which opens a channel of communication between a user and the Port Software. The Device includes, but is not limited to, a channel on a telephony card, a voice over Internet protocol (VOIP) connection, or an offline collection system.

**1.3. “License Agreement”** and “Agreement” shall mean the terms and conditions described herein as well as any attachments and appendices and all future addenda, if any.

**1.4. “Licensed System”** shall mean the specific computer or computer system on which the Software under this Agreement is intended to run.

**1.5. “Multi-Tenant Usage”** shall mean an architecture in which a single instance of a software application serves multiple customers. Each customer is called a tenant.

**1.6. “Port License”** shall mean a license required by each individual Device to access or otherwise utilize the services or functionality of the Server Software.

**1.7. “Port Software”** shall mean the software that enables a real time listening or speaking interaction with a single user supported on a single channel.

**1.8. “Server”** shall mean a computer system comprising one or more computer processors and an administrative program that controls access to all or part of a group of interconnected computers and associated devices.

**1.9. “Server Software”** shall mean an administrative computer program that provides services and functionality to all or part of a Server.

**1.10. “Software”** shall mean, but not be limited to, Server Software and Port Software and associated media.

**1.11. “Software Product”** shall mean collectively Software and User Documentation.

**1.12. “Support Services”** LumenVox provides remote assistance with questions related to the normal functioning, installation, and configuration of LumenVox software and license deployment, Issues related to bugs or defects in the normal functioning of LumenVox software in currently supported versions, and help with general LumenVox product questions and reasonable guidance and general recommendations on high level development, voice user interface (VUI) design, and grammar troubleshooting. LumenVox technical support does not provide end-user application development or troubleshooting; help with non-LumenVox systems, the network or deployment environment or application tuning, grammar development, application development or training. Technical Support services are available for purchase separately and are provided as a pre-paid service by the hour.

**1.13. “To Use The Software Product”** shall mean to: (i) install, load, copy, or transmit the Software, in whole or in part, in object-code-only form; (ii) use the Software with the Licensed System, the specific computer or computer system on which the Software under this Agreement is licensed to run; or (iii) copy the User Documentation, only as authorized in this License Agreement.

**1.14. “User Documentation”** shall mean printed materials and on-line or other electronic documentation.

**1.15. “Virtual Machine”** is a software computer that, like a physical computer, runs an operating system and applications. The virtual machine is comprised of a set of specification and configuration files and is backed by the physical resources of a host. Every virtual machine has virtual devices that provide the same functionality as physical hardware and have additional benefits in terms of portability, manageability, and security.

**1.16. “You” and “Your”** refer to the individual or legal entity that enters into this License Agreement (the licensee) with LumenVox.

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**2.1. License Server.** The server that manages the license system must not be configured on a machine configuration, Virtual Machine instance or otherwise, where it can be used to duplicate or bypass LumenVox’ licensing restrictions. You are prohibited from bypassing the licensing restrictions and requirements.

**2.2. Installation of the Port Software.** At any given time, You may install multiple copies of the Port Software on one Server.

**2.3. Use of the Port Software.** This Agreement grants such license of one port to each concurrent interaction only. No aggregation of more than one concurrent interaction to any one port of Port Software is allowed.

**2.4. Port Licenses.** You must acquire a separate Port Access License for each unique Device which accesses or otherwise utilizes the services or functionality of the Server Software, whether You use the Port Software or any other software to do so.

**2.5. No Multiplexing or Pooling.** Use of software or hardware that reduces the number of Devices directly accessing or utilizing the Port Software (sometimes called “multiplexing” or “pooling” software or hardware) does not reduce the number of Port Access Licenses required; the required number of Port Access Licenses would equal the number of distinct inputs to the multiplexing or pooling software or hardware.

**2.6. No Multi-Tenant Environments.** Use of the LumenVox Software is excluded in Multi-Tenant Usage environments. A separate “Hosted Reseller Agreement” is necessary and will carry additional charges for Multi-Tenant Usage.

**2.7. Not for Resale Software.** If the Software Product is labeled “Not for Resale,” “NFR,” or “Eval,” then Your use of the Software Product is limited to use for demonstration, test, or evaluation purposes and You may not resell, derive revenue from, or otherwise transfer or use for value, the Software Product.

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(a) – (c) are allowed as specified and within boundaries of the Application Context. As used in the context of text-to-speech (“TTS”) software, “Port” means an audio connection from the TTS software and a live person or other agent to receive and not store audio. TTS software is licensed for the maximum number of simultaneous outbound ports enabled to deliver the output of the TTS software configured in the system. You cannot distribute the saved output of the TTS, in any manner, including, but not limited to, audio files, as a part of applications, materials or multimedia works created by or for you or otherwise rent, resell, lease or lend the generated output to any third party. You may not play back the saved output in public or otherwise make it publicly available.

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According to its discretion, LumenVox may include features in the Software to prevent unlicensed use of the Software. You agree that LumenVox may do so. In particular, use of the Software may require that You activate the Software through the Internet (this process may be more fully described during the installation set up of the Software). During such activation, LumenVox may collect certain non-personal technical information from your computer concerning your computer or network. You agree that LumenVox may do so. You may be required to reactivate the Software if you modify your computer hardware or the Software.

### 4. FLEXIBLE LICENSING MODE.

When the License Server runs in Flexible licensing mode, it will automatically communicate with cloud-based LumenVox Flexible Licensing Nodes via an Internet connection at predetermined intervals. Usage reports are sent to these Nodes, and updated information regarding the licenses allowed to be used by each License Server will be returned. This communication channel needs to be maintained with these Nodes or the License Server will eventually stop providing licenses. The License Server may be configured to allow usage to exceed the purchased license count, at LumenVox' discretion. LumenVox will identify and report any excess usage and will notify You of any over consumption. You are responsible to pay for the additional license usage within 30 days, as needed to resolve the deficiency. Deficiency is the difference in license count between what is purchased or rented and installed in a given license server instance and what is used.

### 5. NOTIFICATIONS.

According to LumenVox' discretion, the Software may contain a component that will automatically initiate a connection through the Internet to a website maintained by LumenVox that contains licensing information related to the Software. This connection may be made using the Internet connections under your control.

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**6.1. Port Software Transfer.** You may transfer the Port Software from the Licensed System to another computer, provided that it is removed from the Licensed System from which it is transferred. You must contact LumenVox to obtain a transfer license for a nominal fee.

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**6.4. Performance or Benchmark Testing.** You may not disclose the results of any benchmark test of the Port Software to any third party without LumenVox' prior written approval.

**6.5. Version Limitation.** The Port Software contains a certain version number (such as version "14.1"). This License Agreement permits You to install one copy of the Port Software with the same (or a lower) version number as the Port Software version number listed above on the Licensed System.

**6.6. Consent to Use of Data.** With respect to technical information You provide to LumenVox as part of any Support Services related to the Software Product, You agree that LumenVox (and its affiliates and agents) may collect, process, and use such information for its business purposes, including for product support and development. LumenVox will not utilize such technical information in a form that personally identifies You.

**6.7. Upgrades.** If the Software Product is labeled as an upgrade, You must be properly licensed to use a product identified by LumenVox as being eligible for the upgrade in order to use the Software Product. Except if You have acquired a direct

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**15.2. Arbitration.** Any disputes arising under this Agreement shall be settled by binding arbitration between the parties hereto in accordance with the commercial arbitration rules of the American Arbitration Association. Such arbitration shall be administered by the San Diego, California office of the American Arbitration Association.

**15.3. Costs of Litigation or Arbitration.** If any action is brought by either party to this License Agreement against the other party regarding the subject matter hereof, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorney fees and expenses.

**15.4. Severability.** Should any term of this License Agreement be declared void or unenforceable by any court of competent jurisdiction, such term shall be modified to the extent necessary to render it enforceable, or, if no such modification is possible, severed from this Agreement, and all other terms of this Agreement shall remain binding and legally enforceable.

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**15.6. Section Headings.** The section headings are for convenience only and do not form a part of this License Agreement for purposes of interpretation.

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