

Glype Software License Agreement

1. Introduction and Acceptance This Software License Agreement (the "Agreement") between you (either an individual or an entity, referred to hereinafter as "you" or "your") and UpsideOut, Inc. ("UpsideOut", "we", "us" or "our") regarding UpsideOut's software known as Glype and any updates, features, enhancements, bug fixes or modifications of Glype version 1 (collectively, the "Software") and any related services and content ("Services") that may be provided by us under this Agreement.

By downloading, accessing, installing or using the Software or the Services (or authorizing any other person to do so) you are representing and warranting that you have reached the age of majority in your state or country (or that a parent or guardian has consented to this Agreement on your behalf), have the authority to enter into a binding legal contract, have read and understood this Agreement and agree to be bound by its terms. This Agreement comprises the entire agreement between you and us and supersedes any prior or contemporaneous agreements, promises, representations, or descriptions pertaining to the subject matter contained herein. If you do not agree with the terms and conditions of this Agreement, you may not download, access, install or use the Software or the Services.

2. Grant of License We have the sole and exclusive right and license to the Software and the Software is being licensed, not sold, to you by UpsideOut for use only under the terms of this Agreement. UpsideOut grants to you a limited, non-exclusive license to download, access, install and use a single instance of the Software on a single domain name for non-commercial purposes only. UpsideOut and/or its licensors retain all right, title and interest in and to the Software itself and reserve all rights not expressly granted herein. All rights in and to the Software shall inure to the use and benefit of UpsideOut and/or its licensors, successors and assigners. The source code to the Software ("Source Code") is viewable and may be modified by licensed users pursuant to Sections 3 and 6 of this Agreement and in accordance with the terms of this Agreement.

3. Restrictions Without limiting the generality of "Grant of License" above, your license to use the Software and related Services is subject to the following terms and conditions and restrictions and prohibitions on use:

(a) You may not utilize the Software or Services to engage in or allow others to engage in any activity that violates any law, rule, regulation or this Agreement as it may be amended from time to time.

(b) You may not modify or subvert the Software in any way that may cause harm to the Software, end-users, websites, or in any way that lessens the effectiveness of the anonymity afforded by the Software to end-users.

(c) You may not utilize the Software or Services in any manner that may infringe any copyright, trademark or any other intellectual property right, proprietary right, property right or any other right of ours or any third party, or remove, alter or conceal any copyright, trademark, patent or other property rights notices contained on the Software.

(d) You may not transfer, assign, rent, lease, lend, sell, redistribute or sublicense the Software, any portion of the Source Code or any rights under this Agreement, except as expressly set forth in Section 5 of this Agreement.

(e) You may not and you agree not to, or to enable others to, create derivative works of the Software or related Services.

(f) The Software may store or generate additional files (such as databases) for

use solely by the Software and us and may not be used for any other purpose or disclosed to any third party for any reason.

(g) You may not exploit errors in design, features which are not documented or bugs to gain access that would otherwise not be available or to obtain any competitive advantage.

(h) The Software contains certain access control mechanisms designed to prevent its use or misuse by various entities. Such access control mechanisms are clearly identified in the Source Code and may not be modified or removed in any event.

4. Licensing Options and Fees The webpages output by the Software may contain visual references to us or to the Software and links to the Glype.com website (collectively, "Copyright Attribution Notices"). The Software is free to download, install and use for non-commercial purposes provided that all Copyright Attribution Notices remain visible and unmodified. You may obtain a license from us which allows commercial use and allows you to remove Copyright Attribution Notices.

5. Assignment You may not assign this Agreement or your license rights in the Software. This Agreement and all incorporated agreements and your information may be assigned by us in our sole discretion.

6. Grant Back All modifications, alterations and improvements made to the Software and related material (collectively, the "Contribution") shall inure solely to our benefit and shall be owned solely by us. You agree to disclose and transfer the Contribution (including documentation, supporting files, unencoded source code, and acquired know-how) to us. You hereby assign, transfer, grant, convey and quitclaim unto us, and we accept, all your rights, title and interest in the Contribution, for us and our heirs, successors and assigns forever to have and to hold. We subsequently grant you a non-exclusive, royalty-free and perpetual license to use such Contribution but only as set forth in this Agreement.

7. Intellectual Property The Software and data available on the Glype.com website (including information, content, organization, graphics, and design) are our property or the property of third parties and are protected by copyright, trademark and other intellectual property laws. We reserve any rights not expressly granted herein.

8. Templates and Plugins The appearance and functionality of the Software can be augmented by templates and plugins (the "Plugins"), the creation of which is subject to Section 3 of this Agreement and in accordance with the terms of this Agreement. You agree to disclose and transfer any Plugins made by you (including documentation, supporting files, unencoded source code, and acquired know-how) to us subject to Section 15 of this Agreement.

9. Termination This Agreement shall remain in effect until terminated. Your rights under this Agreement will terminate automatically or otherwise cease to be effective without notice from us if you fail to comply with any term of this Agreement. We reserve the right to terminate your license to use the Software or any related Service for any or no reason, with or without notice, at any time. Upon the termination of this Agreement, you shall immediately cease all use of the Software and destroy all copies, full or partial, of the Software that may be in your possession or under your control. We shall not be liable to you or any third party for any claim or cause of action arising out of our exercise of the foregoing rights. The provisions in Sections 16-18, and 21-23 of this Agreement shall survive any such termination.

10. Modifications to Agreement We reserve the right to modify the terms of this Agreement at any time, and to change, discontinue or impose conditions on any feature or aspect of the Software, or related Services and to provide notification solely by posting an updated version of the Agreement on the Glype.com website. You are responsible for regularly reviewing our policies. Continued use of the Software after any policy change shall constitute your binding consent to such changes.

11. Registration Data Certain aspects of the Software or Services may require you to register. If registration is requested, you agree to provide us with true, accurate, current and complete information as prompted by the sign-up process. If you provide any information that is inaccurate, not current or incomplete, or we have reasonable grounds to suspect is inaccurate, not current or incomplete, we may suspend or terminate your account unless and until such data is corrected or completed, or we may refuse any and all current or future access to and use of the Software or Services (or any portion thereof).

12. Account Security You are solely responsible for (a) maintaining the confidentiality and security of your administrator password and any other account information used by you to access the Software and Services; and (b) preventing unauthorized access to or use of the information, files or data that you store or use in or with the Software and Services.

13. Payments You represent and warrant that if you are purchasing something from us that (a) all billing information you supply is true and complete; (b) charges incurred by you will be honored by your bank and/or credit card company; and (c) you will pay the charges incurred by you at the posted prices, including any applicable taxes. Payment is due at the time of order. In the event of any default in making payments due to us, you agree to pay to us interest on any unpaid balance at the highest applicable legal rate from the date of default, plus our costs of collection, including attorneys' fees.

14. No Refund Policy All sales are final and no refunds will be issued, unless a clear technical problem results in an inadvertent duplicate payment. Please ensure your transaction is correct before submitting your payment. By submitting any payment to us, you are agreeing to our no refund policy.

15. Submissions We provide various mechanisms to provide suggestions, ideas, and other remarks about the Software and any related services to us (collectively, a "Submission"). You agree that we are entitled to use the Submission in our full and complete discretion, including, without limitation, for any commercial or other purpose whatsoever, without compensation to you or any other person sending the Submission. You hereby waive any "moral rights" in any Submission and grant us a perpetual, irrevocable, royalty-free, worldwide, sub-licenseable (through multiple tiers) license to make, have made, sell, offer for sale, import, use, reproduce, distribute (through multiple tiers), prepare derivative works of, publicly perform and publicly display the Submission (and any derivative works of the Submission) in any media now known or hereafter known.

16. DISCLAIMER OF WARRANTIES TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE AND SERVICES ARE PROVIDED "AS IS," WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND WE EXPRESSLY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE SOFTWARE, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. WE DO NOT WARRANT THAT THE SOFTWARE OR ANY RELATED SERVICES OR CONTENT WILL MEET YOUR REQUIREMENTS, OR IS SECURE, OR IS FREE FROM BUGS, VIRUSES, ERRORS, OR THAT DEFECTS WILL BE CORRECTED. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. IN

THAT EVENT, SUCH WARRANTIES THAT MAY ARISE BY OPERATION OF LAW, ARE LIMITED IN DURATION TO 30 DAYS FROM THE DATE OF LICENSE OF THE SOFTWARE. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE SOFTWARE AND SERVICES ARE AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, USE, OUTPUT, ANALYSIS, RESULTS, ACCURACY AND EFFORT IS WITH YOU. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR OUR EMPLOYEES, REPRESENTATIVE OR AGENTS OR THROUGH OR FROM THE SOFTWARE OR OUR WEBSITE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN.

17. LIMITATION OF LIABILITY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE (or any of our our successors and predecessors and each of our and their respective parents, subsidiaries, affiliates, licensors, licensees, officers, directors, shareholders, partners, joint-venturers, employees, agents, contractors and suppliers and each of their respective officers, directors, principals, shareholders, members, employees, agents, representatives, heirs, executors, administrators, successors and assigns) BE LIABLE FOR ANY DAMAGES WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, PERSONAL INJURY OR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, COVER, CONSEQUENTIAL OR OTHER DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, LOSS OF USE, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, BUSINESS INTERRUPTION, LOSS OF GOODWILL OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO THE USE OF, OR INABILITY TO USE, THE SOFTWARE OR ANY RELATED SERVICES OR CONTENT, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL OUR TOTAL LIABILITY TO YOU FOR ACTUAL DAMAGES FOR ANY CAUSE WHATSOEVER EXCEED THE AMOUNT PAID BY YOU TO LICENSE THE SOFTWARE (IF ANY). SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE FOREGOING LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. THE LIMITATIONS OF THE DAMAGES SET FORTH HEREIN ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN US AND YOU, AND WE WOULD NOT HAVE BEEN ABLE TO PROVIDE THE SOFTWARE TO YOU WITHOUT SUCH LIMITATIONS. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

18. Indemnification You agree to fully indemnify and hold us, our successors and predecessors and each of our and their respective parents, subsidiaries, affiliates, licensors, licensees, officers, directors, shareholders, partners, joint-venturers, employees, agents, contractors and suppliers and each of their respective officers, directors, principals, shareholders, members, employees, agents, representatives, heirs, executors, administrators, successors and assigns, harmless from and against any claim, suit, hearing, action, expense or demand, including without limitation to: all claims for damages, fees or costs (including attorneys' fees), arising out of or related to the use of the Software or any related Services or content by you, your agents or representatives, anyone under your control, or by any third party using your equipment or accounts to use the Software or Services (for purposes of this section, collectively, "you"); the violation by you of any provision of this Agreement; the violation by you of any laws or regulations; or the infringement or misappropriation by you any copyright, trademark or any other intellectual property right, proprietary right, property right or any other right of ours or any third party. We reserve the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will cooperate with us in asserting any available defenses and, as set forth above, be fully responsible for our attorneys' fees.

19. Export Control You may not use or otherwise export or re-export the Software except as authorized by United States law and the laws of the jurisdiction in

which the Software was obtained. In particular, but without limitation, the Software may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Persons List or Entity List. By using the Software, you represent and warrant that you are not located in any such country or on any such list. You also agree that you will not use the Software for any purposes prohibited by any laws, regulations or rules applicable in the United States (whether federal, state or local), including, without limitation, the development, design, manufacture or production of nuclear, chemical or biological weapons.

20. U.S. Government End Users The Software and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items; and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights are reserved under the copyright laws of the United States.

21. Suspected Violation of this Agreement or Law; Injunctive, Equitable Relief, and Liquidated Damages Without limiting any other Section of this Agreement, you acknowledge that we would be irreparably harmed by any violation of the provisions in Sections 3-7 of this Agreement, and there is no adequate remedy at law for such breach. Accordingly, in the event of any breach by you of these provisions of this Agreement, in addition to any other remedies we may have at law or in equity, you will have the unconditional obligation to pay us the sum of not less than One Hundred Thousand Dollars (\$100,000) for each such breach as liquidated damages, and we shall be entitled immediately to seek enforcement of this Agreement in a court of competent jurisdiction by means of a decree of specific performance, an injunction without the posting of a bond or the requirement of any other guarantee, and any other form of equitable relief. In addition, you recognize, acknowledge and agree that we are entitled to recover from you the costs and attorneys' fees incurred by us to enforce the terms of this Agreement.

22. Governing Law This Agreement shall be governed by and construed in accordance with the laws of the State of New York, United States of America (without giving effect to conflict of law provisions of this or any other jurisdiction), and all actions arising in connection with this Agreement shall be brought within the State of New York. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

23. Dispute Resolution Any controversy, dispute or claim arising out of or relating to this Agreement or the Software shall be settled solely by binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association. The arbitration shall be before a single arbitrator. Any such controversy, dispute or claim shall be arbitrated on an individual basis, and shall not be consolidated in any arbitration with any controversy, dispute or claim of any other party. The arbitration shall be conducted at a site in the State of New York, City of New York, and under the laws of the State of New York (without giving effect to conflict of law principles), and judgment on the arbitration award may be exclusively entered in any court having jurisdiction thereof within the State of New York. Each party shall bear one-half of the costs of the arbitration, including the fees incurred through AAA. Nothing herein shall limit the right of you or us to seek any interim or preliminary equitable or injunctive relief from a court of competent

jurisdiction within the State of New York or any other jurisdiction necessary to enforce any right under this agreement pending the completion of arbitration. You expressly consent to and waive any objection or defense which you may have or hereafter have to the venue or jurisdiction of any such action, suit or proceeding as set forth herein. This provision is not a waiver of any rights which we may have under this Agreement, including the right to recover money damages.

24. Severability In the event that any portion of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, that portion shall be construed consistent with applicable law and the remaining portions shall remain in full force and effect.

25. Titles The section titles in this Agreement are solely used for the convenience of the parties and have no legal or contractual significance.

26. Statute of Limitations You agree that any cause of action against us arising out of or related to the Software or any related services, regardless of its form, must be commenced by you within one (1) year from the date on which the cause of action arose; otherwise, such cause of action is permanently waived and barred.

27. Waiver Our failure to enforce your strict performance of any provision of this Agreement will not constitute a waiver of our right to subsequently enforce such provision or any other provision of this Agreement. No provision of this Agreement will be waived by any act, omission or knowledge of us or our agents or employees except by an instrument in writing expressly waiving such provision and signed by a duly authorized officer of ours.