



Master Subscription Agreement

We have updated Our Master Subscription Agreement. If You are a new Subscriber, then this Master Subscription Agreement will be effective as of December 1, 2020. If You are an existing Subscriber, We are providing You with prior notice of these changes which will be effective as of January 1, 2021. For the previous version of Our Master Subscription Agreement, please click [here](#). For a PDF version of this Master Subscription Agreement, please click [here](#). If You are acquiring a subscription to a Service operated by Zendesk from an unrelated third party authorized to sell such subscriptions under a separate agreement with Zendesk, the terms of this Master Subscription Agreement shall be null and void, and the terms and conditions that govern Your access to and use of the Service are found [here](#).

THIS AGREEMENT CONSTITUTES A BINDING CONTRACT ON YOU AND GOVERNS THE USE OF AND ACCESS TO THE SERVICES BY YOU, AGENTS AND END-USERS WHETHER IN CONNECTION WITH A PAID OR FREE TRIAL SUBSCRIPTION TO THE SERVICES.

By accepting this Agreement, either by accessing or using a Service, or authorizing or permitting any Agent or End-User to access or use a Service, You agree to be bound by this Agreement as of the date of such access or use of the Service (the “Effective Date”). If You are entering into this Agreement on behalf of a company, organization or another legal entity (an “Entity”), You are agreeing to this Agreement for that Entity and representing to Zendesk that You have the authority to bind such Entity and its Affiliates to this Agreement, in which case the terms “Subscriber,” “You,” “Your” or a related capitalized term herein shall refer to such Entity and its Affiliates. If You do not have such authority, or if You do not agree with this Agreement, You must not use or authorize any use of the Services.

The purpose of this Agreement is to establish the terms and conditions under which Subscriber may purchase Zendesk’s Services and Consulting Services as described in an Order Form or in a Statement of Work signed by You.

In the event of any inconsistency or conflict between the terms of the Agreement and the terms of any Order Form or Statement of Work, the terms of the Order Form or Statement of Work shall control. Non-English translations of this Agreement are provided for convenience only. In the event of any ambiguity or conflict between translations, the English version is authoritative and shall control.

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GENERAL TERMS AND CONDITIONS

SECTION 1. ACCESS TO THE SERVICES

1.1 Service. We will make the Services and Your Service Data available to You pursuant to this Agreement and the applicable Order Form(s) and Documentation in accordance with Your Service Plan. We will use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except (a) during Planned Downtime (of which We will give advance notice via Our Site or to the Account owner); and (b) Force Majeure Events.

1.2 Support. We will, at no additional charge, provide applicable standard customer support for the Services to You as detailed on the applicable Site and Documentation, and upgraded support, if purchased.

1.3 Modifications. You acknowledge that Zendesk may modify the features and functionality of the Services during the Subscription Term. Zendesk shall provide You with commercially reasonable advance notice of any deprecation of any material feature or functionality.

1.4 Additional Features. We will notify You of applicable Supplemental Terms or alternate terms and conditions prior to Your activation of any Additional Features. The activation of any Additional Features by You in Your



Account will be considered acceptance of the applicable Supplemental Terms or alternate terms and conditions, where applicable.

1.5 Extension of Rights to Affiliates. You may extend Your rights, benefits and protections provided herein to Your Affiliates and to contractors or service providers acting on Your or Your Affiliates' behalf, provided that You remain responsible for Your and their compliance hereunder.

SECTION 2. USE OF THE SERVICES

2.1 Login Management. Access to and use of the Services is restricted to the specified number of individual Agents permitted under Your subscription to the applicable Service. You agree and acknowledge that an Agent Login cannot be shared or used by more than one (1) individual per Account. However, Agent Logins may be reassigned to new individuals replacing former individuals who no longer require ongoing use of the Services. You and Your Agents are responsible for maintaining the confidentiality of all Agent Login information for Your Account. Absent a written license from Zendesk expressly stating otherwise, You agree and acknowledge that You may not use the Services, including but not limited to the API, to circumvent the requirement for an individual Agent Login for each individual who (a) leverages the Services to interact with End-Users; (b) Processes data related to interactions with End-Users; or (c) Processes data related to interactions originating from a Non-Zendesk Service that provides functionality similar to functionality provided by the Services and which would, pursuant to this Agreement, require an individual Agent Login, if utilizing the Services for such interaction. Further, Subscriber shall not use the API or any Software in such a way to circumvent applicable Service Plan restrictions or Agent licensing restrictions that are enforced in the Service user interface. Should Zendesk discover that Your use of a Service violates this Agreement or the Service Plan features and limitations on Our Site or Documentation, Zendesk reserves the right to charge You, and You hereby agree to pay, for said overuse, in addition to other remedies available to Us.

2.2 Compliance. As between You and Zendesk, You are responsible for compliance with the provisions of this Agreement by Agents and End-Users and for any and all activities that occur under Your Account, which Zendesk may verify from time to time. Without limiting the foregoing, You are solely responsible for ensuring that Your use of the Services is compliant with all applicable laws and regulations as well as any and all privacy policies, agreements or other obligations You may maintain or enter into with Agents or End-Users.

2.3 Content and Conduct. In addition to complying with the other terms, conditions and restrictions set forth in this Agreement, You agree to the Zendesk User Content and Conduct Policy available on Zendesk's Policies and Procedures Website, which is hereby incorporated into this Agreement. Further, in Your use of the Services You agree not to (a) modify, adapt, or hack the Services or otherwise attempt to gain unauthorized access to the Services or related systems or networks; (b) falsely imply any sponsorship or association with Zendesk or the Zendesk Group; (c) use the Services in any unlawful manner, including, but not limited to, violation of any person's privacy rights; (d) attempt to bypass or break any security or rate limiting mechanism on any of the Services or use the Services in any manner that interferes with or disrupts the integrity, security or performance of the Services and its components; (e) attempt to decipher, decompile, reverse engineer or otherwise discover the source code of any Software making up the Services; (f) to the extent You are subject to the US Health Insurance Portability and Accountability Act of 1996, and its implementing regulations (HIPAA), use the Services to store or transmit any "protected health information" as defined by HIPAA, unless expressly agreed to otherwise in writing by Zendesk; (g) use or launch any automated system that accesses a Service (i.e., bot) in a manner that sends more request messages to a Service server in a given period of time than a human can reasonably produce in the same period by using a conventional online web browser; or (h) launch or facilitate, whether intentionally or unintentionally, a level of traffic on any of the Services or any other conduct that materially and adversely impacts the security, availability, or stability of the Services.



2.4 System Requirements. A high-speed Internet connection is required for proper transmission of the Services. You are responsible for procuring and maintaining the network connections that connect Your network to the Services, including, but not limited to, browser software that supports protocols used by Zendesk, including the Transport Layer Security (TLS) protocol or other protocols accepted by Zendesk, and to follow procedures for accessing services that support such protocols. We are not responsible for notifying You, Agents or End-Users of any upgrades, fixes or enhancements to any such software or for any compromise of data, including Service Data, transmitted across computer networks or telecommunications facilities (including but not limited to the Internet) which are not owned, operated or controlled by Zendesk. We assume no responsibility for the reliability or performance of any connections as described in this Section.

2.5 Internal Business Purposes Only. Unless otherwise authorized by Zendesk in this Agreement or expressly agreed to otherwise in writing by Zendesk, You may not use the Services in any manner where You act as a service bureau or to provide any outsourced business process services on behalf of more than one (1) third party (other than Affiliates) through a single Account. Accordingly, You agree not to license, sublicense, sell, outsource, rent, lease, transfer, assign, distribute, time-share or otherwise commercially exploit or resell the Services to any third party, other than authorized Agents and End-Users in furtherance of Your internal business purposes as expressly permitted by this Agreement, unless expressly agreed to otherwise in writing by Zendesk. Without limiting the foregoing, Your right to access and use the API is also subject to the restrictions and policies implemented by Zendesk from time to time with respect to the API as set forth in the Documentation or otherwise communicated to You in accordance with this Agreement.

2.6 No Competitive Access. You may not access the Services if You are a direct competitor of the Zendesk Group, except with Zendesk's express prior written consent. You may not access the Services for competitive purposes.

SECTION 3. TERM, CANCELLATION AND TERMINATION

3.1 Term. Unless Your Account and subscription to a Service is terminated in accordance with the terms of this Agreement or unless otherwise provided for in an Order Form (a) Your subscription to a Service (including any and all Deployed Associated Services) will renew for a Subscription Term equivalent in length to the then expiring Subscription Term and (b) the Subscription Charges applicable to any subsequent Subscription Term shall be Our standard Subscription Charges for the applicable Service Plan and Deployed Associated Services at the time such subsequent Subscription Term commences.

3.2 Cancellation. Either Party may elect to terminate Your Account and subscription to a Service as of the end of Your then-current Subscription Term by providing notice, in accordance with this Agreement, no less than thirty (30) days prior to the end of such Subscription Term.

3.3 Mutual Termination for Cause. A Party may terminate this Agreement for cause (a) upon written notice to the other Party of a material breach if such breach remains uncured at the expiration of thirty (30) days from the date of the breaching Party's receipt of such written notice; or (b) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

If this Agreement is terminated by You in accordance with this Section, We will refund You any prepaid fees covering the remainder of the Subscription Term as of the effective date of termination.

If this Agreement is terminated by Us in accordance with this Section, You will pay any unpaid fees covering the remainder of the Subscription Term pursuant to all applicable Order Forms. In no event will Our termination for cause relieve You of Your obligation to pay any fees payable to Us for the period prior to the effective date of termination.



3.4 Payment Upon Termination. Except for Your termination under Section 3.3, if You terminate Your subscription to a Service or cancel Your Account prior to the end of Your then effective Subscription Term, or if We terminate or cancel Your Account pursuant to Section 3.3, in addition to any other amounts You may owe Zendesk, You must immediately pay any unpaid Subscription Charges associated with the remainder of such Subscription Term.

3.5 No Refunds. Except for Your termination rights under Section 3.3, if You elect to terminate Your subscription to a Service or cancel Your Account prior to the end of Your then current Subscription Term, no refunds or credits for Subscription Charges or other fees or payments will be provided to You.

3.6 Export of Service Data. For thirty (30) days after the effective date of termination or expiration of this Agreement, upon Your request, We will make Service Data available to You for export or download as provided in the Documentation. Thereafter, We will have no obligation to maintain or provide any Service Data, and, as provided in the Documentation, We will, unless prohibited by law or legal order, delete Your Service Data in Our Services in accordance with Our Data Deletion Policy available on Zendesk's Policies and Procedures Website.

SECTION 4. BILLING, PLAN MODIFICATIONS AND PAYMENTS

4.1 Payment and Billing. All Subscription Charges are due in full upon commencement of Your Subscription Term, or with respect to a Deployed Associated Service, at the time such Deployed Associated Service is purchased, subscribed to or otherwise deployed, unless otherwise expressly set forth in this Agreement, an Order Form, a Statement of Work, or in Supplemental Terms, or as otherwise agreed for Usage Charges. You are responsible for providing valid and current payment information and You agree to promptly update Your Account information, including payment information, with any changes that may occur (for example, a change in Your billing address or credit card expiration date). If You fail to pay Your Subscription Charges or any other charges indicated on any Order Form or Statement of Work, or in any Supplemental Terms, within five (5) business days of Our notice to You that payment is delinquent, or if You do not update payment information upon Our request, in addition to Our other remedies, We may suspend or terminate access to and use of such Service by You, Agents and End-Users.

4.2 Upgrades. If You choose to upgrade Your Service Plan or increase the number of Agents authorized to access and use a Service during Your Subscription Term, any incremental Subscription Charges associated with such upgrade will be charged in accordance with the remaining Subscription Term. In any future Subscription Term, Your Subscription Charges will reflect any such upgrades.

4.3 Downgrades. You may not downgrade Your Service Plan or reduce the number of Agents during any Subscription Term. If You desire to downgrade Your Service Plan or reduce the number of Agents under any Service Plan for a subsequent Subscription Term, You must provide Zendesk with thirty (30) days advance written notice prior to the end of Your then-current Subscription Term. You must demote any downgraded Agents prior to the beginning of the subsequent Subscription Term. Downgrading Your Service Plan may cause loss of content, features, or capacity of the Service as available to You under Your Account, and Zendesk does not accept any liability for such loss.

4.4 Taxes. Unless otherwise stated, Our charges do not include any Taxes. You are responsible for paying Taxes except those assessable against the Zendesk Group measured by its net income. We will invoice You for such Taxes if We believe We have a legal obligation to do so and You agree to pay such Taxes if so invoiced.

4.5 Payment Agent. If You pay by credit card or certain other payment instruments, the Services provide an interface for the Account owner to change credit card information (e.g. upon card renewal). Payments made by credit card, debit card or certain other payment instruments for the Zendesk Service are billed and processed by Zendesk's Payment Agent. You hereby authorize the Payment Agent to bill Your credit card or other payment instrument in advance on a periodic basis in accordance with the terms of the Service Plan for the Services, and for periodic Subscription Charges applicable to Deployed Associated Services to which You subscribe until Your



subscription to the Services terminates, and You further agree to pay any Subscription Charges so incurred. If applicable, You hereby authorize Zendesk and the Payment Agent to charge Your credit card or other payment instrument to establish prepaid credit. The Account owner will receive a receipt upon each acceptance of payment by the Payment Agent, or they may obtain a receipt from within the Services to track subscription status. To the extent the Payment Agent is not Zendesk, the Payment Agent is acting solely as a billing and processing agent for and on behalf of Zendesk and shall not be construed to be providing the applicable Service. The Payment Agent uses a third-party intermediary to manage credit card processing and this intermediary is not permitted to store, retain or use Your billing information except to process Your credit card information for the Payment Agent.

4.6 Payment Portals. If You mandate Zendesk use a vendor payment portal or compliance portal which charges Zendesk a subscription fee or a percentage of any uploaded invoice as a required cost of doing business, You shall be invoiced by Zendesk for, and You are obligated to pay, the cost of this fee.

4.7 Promotional Credits. Any promotional credits issued hereunder will be subject to the Zendesk Promotional Credits Policy available on the Zendesk Policies and Procedures Website.

SECTION 5. CONFIDENTIAL INFORMATION

Each Party will protect the other's Confidential Information from unauthorized use, access or disclosure in the same manner as each Party protects its own Confidential Information, but with no less than reasonable care. Except as otherwise expressly permitted pursuant to this Agreement, each Party may use the other Party's Confidential Information solely to exercise its respective rights and perform its respective obligations under this Agreement and shall disclose such Confidential Information (a) solely to the employees and/or non-employee service providers and contractors who have a need to know such Confidential Information and who are bound by terms of confidentiality intended to prevent the misuse of such Confidential Information; (b) as necessary to comply with an order or subpoena of any administrative agency or court of competent jurisdiction; or (c) as reasonably necessary to comply with any applicable law or regulation. Except for Zendesk's Security Non-Disclosure Agreement, the provisions of this Section 5 shall control over any non-disclosure agreement by and between the Parties and any such non-disclosure agreement shall have no further force or effect with respect to the exchange of Confidential Information after the execution of this Agreement. To be clear, any exchange of Confidential Information prior to the execution of this Agreement shall continue to be governed by any such non-disclosure agreement.

SECTION 6. OWNERSHIP AND SECURITY OF SERVICE DATA

6.1 Ownership of Service Data. Subscriber shall retain ownership rights to all Service Data Processed under the terms of this Agreement.

6.2 No Sale of Service Data. Zendesk will never sell, rent, or lease Your Service Data to any third party. We will not share Your Service Data with third parties, except as permitted by this Agreement and in order to provide, secure and support the Services.

6.3 Safeguards. The Zendesk Group will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Service Data for Enterprise Services in accordance with the Enterprise Security Measures described at "[How We Protect Your Service Data \(Enterprise Services\)](#)"; for Innovation Services in accordance with the Innovation Security Measures described at "[How We Protect Your Service Data \(Innovation Services\)](#)"; as well as in accordance with Supplemental Terms for any Deployed Associated Services, as applicable. The Zendesk Group's compliance with the Enterprise Security Measures or the Innovation Security Measures, each as applicable, shall be deemed compliance with the Zendesk's Group's obligations to protect Service Data as set forth in the Agreement.

SECTION 7. PRIVACY PRACTICES

7.1 Subscriber as Data Controller. To the extent Service Data constitutes Personal Data, the Parties agree that You shall be deemed to be the Data Controller, and the relevant entity in the Zendesk Group shall be deemed to be the Data Processor, as those terms are understood under the Applicable Data Protection Law. We explain how We process Service Data in our role as Data Processor in our Privacy and Data Protection website available at: <https://www.zendesk.com/company/privacy-and-data-protection/> and in our Data Processing Agreement (see Section 7.4 below).

7.2 Hosting and Processing. Unless otherwise specifically agreed to in writing by Zendesk, Service Data may be hosted by the Zendesk Group, or their respective authorized third-party service providers, in the United States, the EEA or other locations around the world. In providing the Services, Zendesk will engage entities within the Zendesk Group and other authorized service providers to Process Service Data, including and without limitation, any Personal Data within Service Data pursuant to this Agreement within the EEA, the United States and in other countries and territories.

7.3 Transfer of Personal Data. To the extent that Personal Data within Service Data originates from an Agent or End-User in the EEA, as further described in our DPA, We will ensure that, pursuant to Applicable Data Protection Law, if Personal Data within Service Data is transferred to a country or territory outside of the EEA (a “non-EEA country”), then such transfer will only take place if: (a) the non-EEA country in question ensures an adequate level of data protection; (b) one of the conditions listed in Article 46 GDPR (or its equivalent under any successor legislation) is satisfied; or (c) the Personal Data is transferred on the basis of Zendesk’s approved binding corporate rules known as the Zendesk Binding Corporate Rules available on Zendesk’s Privacy and Data Protection Website, which establish adequate protection of such personal information and are legally binding on the Zendesk Group; or (d) the transfer takes place pursuant to the EU-U.S. or Swiss-U.S. Privacy Shield frameworks. We will further ensure that the transfer is subject to the standard contractual clauses designed to facilitate transfers of Personal Data from the EEA to all third countries that have been adopted by the European Commission, which have been incorporated into the DPA.

7.4 Data Processing Agreements.

7.4.1 Zendesk’s Data Processing Agreement (“DPA”) can be executed here: <https://www.zendesk.com/company/data-processing-form/>. Upon execution by Subscriber, the DPA is hereby incorporated by reference herein into the terms of this Agreement.

7.4.2 California Consumer Privacy Act (CCPA) Addendum. Zendesk’s CCPA Addendum can be executed here: <https://www.zendesk.com/company/ccpa-addendum/>. Upon execution by Subscriber, the CCPA Addendum is hereby incorporated by reference herein into the terms of this Agreement.

7.5 Sub-processors. You acknowledge and agree that Zendesk may use Sub-processors, who may access Service Data, to provide, secure and improve the Services. We shall be responsible for the acts and omissions of members of Zendesk Personnel and Sub-processors to the same extent that We would be responsible if Zendesk was performing the services of each Zendesk Personnel or Sub-processor directly under the terms of this Agreement. The names and locations of all current Sub-processors used for the Processing of Personal Data within Service Data under this Agreement are set forth in the Sub-processor Policy available on Zendesk’s Policies and Procedures Website.

7.6 Agent Personal Data. When Zendesk collects Personal Data of Your Agents, including in Our capacity as Data Controller, Zendesk processes such Personal Data in accordance with Our Privacy Policy and Zendesk’s Controller Global Binding Corporate Rules. Our Privacy Policy explains how We collect and Process this Personal Data where necessary to provide the Services and in accordance with Our legitimate interests, including communicating with Agents in connection with their use of the Services. Where We rely on Our legitimate interest as described above,



Your Agents or End Users may have certain rights relating to their Personal Data. These rights and how they can be exercised are explained in Our Privacy Policy. You are responsible for informing Your Agents and End-Users of their rights set forth in Our Privacy Policy.

7.7 In-Product Cookies. Whenever You, Your Agents or End-Users interact with Our Services, We automatically receive and record information on Our server logs from the browser or device, which may include IP address, “cookie” information, and the type of browser and/or device being used to access the Services, as further described in Zendesk’s In-Product Cookie Policy. When We collect this information, We only use this data to provide the Services or in aggregate form, and not in a manner that would identify Your Agents or End-Users personally.

SECTION 8. TEMPORARY SUSPENSION

We reserve the right to restrict functionalities or suspend the Services (or any part thereof), Your Account or Your and/or Agents’ or End-Users’ rights to access and use the Services and remove, disable or quarantine any Service Data or other content if (a) We reasonably believe that You, Agents or End-Users have violated this Agreement; or (b) We suspect or detect any Malicious Software connected to Your Account or use of a Service by You, Agents or End-Users. This right includes the removal or disablement of Service Data or other content in accordance with Our Copyright Infringement Notice and Takedown Policy available on Zendesk’s Intellectual Property Website. Unless legally prohibited from doing so, We will use commercially reasonable efforts to contact You directly via email to notify You when taking any of the foregoing actions. We shall not be liable to You, Agents, End-Users or any other third party for any such modification, suspension or discontinuation of Your rights to access and use the Services. Any suspected fraudulent, abusive, or illegal activity by You, Agents or End-Users may be referred to law enforcement authorities at Our sole discretion.

SECTION 9. NON-ZENDESK SERVICES

If You decide to enable, access or use Non-Zendesk Services, Your access and use of such Non-Zendesk Services shall be governed solely by the terms and conditions of such Non-Zendesk Services. Zendesk does not endorse, is not responsible or liable for, and makes no representations as to any aspect of such Non-Zendesk Services, including, without limitation, their content or the manner in which they handle, protect, manage or Process data (including Service Data), or any interaction between You and the provider of such Non-Zendesk Services. We cannot guarantee the continued availability of such Non-Zendesk Service features, and may cease enabling access to them without entitling You to any refund, credit or other compensation, if, for example and without limitation, the provider of a Non-Zendesk Service ceases to make the Non-Zendesk Service available for interoperation with the corresponding Service in a manner acceptable to Us. You irrevocably waive any claim against Zendesk with respect to such Non-Zendesk Services. We are not liable for any damage or loss caused or alleged to be caused by or in connection with Your enablement, access or use of any such Non-Zendesk Services, or Your reliance on the privacy practices, data security processes or other policies of such Non-Zendesk Services. You may be required to register for or log into such Non-Zendesk Services on their respective websites. By enabling any Non-Zendesk Services, You are expressly permitting Zendesk to disclose Your login and Service Data as necessary to facilitate the use or enablement of such Non-Zendesk Services.

SECTION 10. FREE TRIALS

If You register for a free trial for any of the Services, We will make such Services available to You on a trial basis free of charge until the earlier of (a) the end of the free trial period for which You registered to use the applicable Service(s); (b) the start date of any subscription to such Service purchased by You for such Service(s); or (c) termination of the trial by Us at Our sole discretion. Trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding. Please review the applicable Documentation during the trial period so that You become familiar



with the features and functions of the Services under applicable Service Plans before You make Your purchase. **ANY SERVICE DATA YOU ENTER INTO A SERVICE, AND ANY CONFIGURATIONS OR CUSTOMIZATIONS MADE TO A SERVICE BY OR FOR YOU, DURING YOUR FREE TRIAL WILL BE PERMANENTLY LOST UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SAME SERVICE AS COVERED BY THE TRIAL, PURCHASE THE APPLICABLE SERVICE, OR EXPORT SUCH SERVICE DATA, BEFORE THE END OF THE TRIAL PERIOD.**

SECTION 11. BETA SERVICES

From time to time, We may make Beta Services available to You at no charge. You may choose to try such Beta Services at Your sole discretion. Beta Services are intended for evaluation purposes and not for production use, are not supported, and may be subject to Supplemental Terms that will be presented to You. Beta Services are not considered “Services” under this Agreement; however, all restrictions, Our reservation of rights and Your obligations concerning the Service, and use of any Non-Zendesk Services shall apply equally to Your use of Beta Services. Unless otherwise stated or communicated to You, any Beta Services trial period will expire upon the date that a version of the Beta Services becomes generally available without the applicable Beta Services designation. We may discontinue Beta Services at any time in Our sole discretion and may never make them generally available. We will have no liability for any harm or damage arising out of or in connection with a Beta Service.

SECTION 12. INTELLECTUAL PROPERTY RIGHTS

12.1 Each Party shall retain all rights, title and interest in any Intellectual Property Rights. The rights granted to You, Agents and End-Users to use the Service(s) under this Agreement do not convey any additional rights in the Service(s) or in any Intellectual Property Rights of Zendesk associated therewith. Subject only to limited rights to access and use the Service(s) as expressly stated herein, all rights, title and interest in and to the Services and all hardware, Software and other components of or used to provide the Services, including all related Intellectual Property Rights, will remain with Zendesk and belong exclusively to Zendesk.

12.2 The Zendesk Group shall have a fully paid-up, royalty-free, worldwide, transferable, sub-licensable (through multiple layers), assignable, irrevocable and perpetual license to implement, use, modify, commercially exploit, incorporate into the Services or otherwise use any suggestions, enhancement requests, recommendations or other feedback We receive from You, Agents, End-Users, or other third parties acting on Your behalf. The Zendesk Group also reserves the right to seek intellectual property protection for any features, functionality or components that may be based on or that were initiated by suggestions, enhancement requests, recommendations or other feedback We receive from You, Agents, End-Users, or other third parties acting on Your behalf.

12.3 You may only use the Zendesk Marks in a manner permitted by Our Trademark Usage Guidelines available on Zendesk’s Intellectual Property Website, provided You do not attempt, now or in the future, to claim any rights in the Zendesk Marks, degrade the distinctiveness of the Zendesk Marks, or use the Zendesk Marks to disparage or misrepresent Zendesk or Our Services. Zendesk’s ability to use Subscriber’s trademarks, service marks, service or trade names or logos will be set forth in an Order Form or by mutual agreement of the Parties.

SECTION 13. REPRESENTATIONS, WARRANTIES AND DISCLAIMERS

13.1 Each Party represents and warrants to the other that (a) this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such Party in accordance with its terms; (b) no authorization or approval from any third party is required in connection with such Party’s execution, delivery or performance of this Agreement; and (c) the execution, delivery and performance of the Agreement does not and will not violate the terms or conditions of any other agreement to which it is a party or by which it is otherwise bound.

13.2 Warranties. We warrant that during an applicable Subscription Term (a) this Agreement and the Documentation will accurately describe the applicable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Service Data; and (b) the Services will perform materially in accordance with the applicable Documentation. For any breach of a warranty in this section, Your exclusive remedies are those described in Section 3.3 herein.

13.3 Disclaimers. EXCEPT AS SPECIFICALLY SET FORTH IN SECTION 13.2, THE SITES AND THE SERVICES, INCLUDING ALL SERVER AND NETWORK COMPONENTS, ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITHOUT ANY WARRANTIES OF ANY KIND TO THE FULLEST EXTENT PERMITTED BY LAW, AND WE EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. YOU ACKNOWLEDGE THAT WE DO NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, ERROR-FREE OR FREE FROM VIRUSES OR OTHER MALICIOUS SOFTWARE, AND NO INFORMATION OR ADVICE OBTAINED BY YOU FROM US OR THROUGH THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

SECTION 14. INDEMNIFICATION

14.1 Indemnification by Us. We will indemnify, defend and hold You harmless from and against any claim brought by a third party against You by reason of Your use of a Service as permitted hereunder, alleging that such Service infringes or misappropriates a third party’s valid patent, copyright, trademark or trade secret (an “IP Claim”). We shall, at Our expense, defend such IP Claim and pay damages finally awarded against You in connection therewith, including the reasonable fees and expenses of the attorneys engaged by Zendesk for such defense, provided that (a) You promptly notify Zendesk of the threat or notice of such IP Claim; (b) We will have the sole and exclusive control and authority to select defense attorneys, and defend and/or settle any such IP Claim (however, We shall not settle or compromise any claim that results in liability or admission of any liability by You without Your prior written consent); and (c) You fully cooperate with Zendesk in connection therewith. If use of a Service by You, Agents or End-Users has become, or, in Our opinion, is likely to become, the subject of any such IP Claim, We may, at Our option and expense, (i) procure for You the right to continue using the Service(s) as set forth hereunder; (ii) replace or modify a Service to make it non-infringing; or (iii) if options (i) or (ii) are not commercially reasonable or practicable as determined by Zendesk, terminate Your subscription to the Service(s) and repay You, on a pro-rata basis, any Subscription Charges previously paid to Zendesk for the corresponding unused portion of Your Subscription Term for such Service(s). We will have no liability or obligation under this Section 14.1 with respect to any IP Claim if such claim is caused in whole or in part by (x) compliance with designs, data, instructions or specifications provided by You; (y) modification of the Service(s) by anyone other than Zendesk or Zendesk Personnel; or (z) the combination, operation or use of the Service(s) with other hardware or software where a Service would not by itself be infringing. The provisions of this Section 14.1 state the sole, exclusive and entire liability of Zendesk to You and constitute Your sole remedy with respect to an IP Claim brought by reason of access to or use of a Service by You, Agents or End-Users.

14.2 Indemnification by You. You will indemnify, defend and hold Zendesk harmless against any claim brought by a third party against Zendesk (a) arising from or related to use of a Service by You, Agents or End-Users in breach of this Agreement; or (b) alleging that Your use of the Service or Your Service Data infringes or misappropriates a third party’s valid patent, copyright, trademark or trade secret; provided that (i) We promptly notify You of the threat or notice of such claim; (ii) You will have the sole and exclusive control and authority to select defense attorneys, and defend and/or settle any such claim (however, You shall not settle or compromise any claim that results in liability or admission of any liability by Us without Our prior written consent); and (iii) We fully cooperate with You in connection therewith.

SECTION 15. LIMITATION OF LIABILITY

15.1 UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (WHETHER IN CONTRACT, TORT, NEGLIGENCE OR OTHERWISE) WILL EITHER PARTY TO THIS AGREEMENT, OR THEIR AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SERVICE PROVIDERS, SUPPLIERS OR LICENSORS BE LIABLE TO THE OTHER PARTY OR ANY AFFILIATE FOR ANY LOST PROFITS, LOST SALES OR BUSINESS, LOST DATA (BEING DATA LOST IN THE COURSE OF TRANSMISSION VIA YOUR SYSTEMS OR OVER THE INTERNET THROUGH NO FAULT OF ZENDESK), BUSINESS INTERRUPTION, LOSS OF GOODWILL, COSTS OF COVER OR REPLACEMENT, OR FOR ANY OTHER TYPE OF INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE LOSS OR DAMAGES, OR FOR ANY OTHER INDIRECT LOSS OR DAMAGES INCURRED BY THE OTHER PARTY OR ANY AFFILIATE IN CONNECTION WITH THIS AGREEMENT, THE SERVICES OR CONSULTING SERVICES, REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES.

15.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, THE ZENDESK GROUP'S AGGREGATE LIABILITY TO YOU, ANY AFFILIATE, OR ANY THIRD PARTY ARISING OUT OF THIS AGREEMENT, THE SERVICES OR CONSULTING SERVICES, SHALL IN NO EVENT EXCEED THE SUBSCRIPTION CHARGES AND/OR CONSULTING FEES PAID BY YOU DURING THE TWELVE (12) MONTHS PRIOR TO THE FIRST EVENT OR OCCURRENCE GIVING RISE TO SUCH LIABILITY. YOU ACKNOWLEDGE AND AGREE THAT THE ESSENTIAL PURPOSE OF THIS SECTION 15.2 IS TO ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN THE PARTIES AND LIMIT POTENTIAL LIABILITY GIVEN THE SUBSCRIPTION CHARGES AND CONSULTING FEES, WHICH WOULD HAVE BEEN SUBSTANTIALLY HIGHER IF WE WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN. WE HAVE RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO PROVIDE YOU WITH THE RIGHTS TO ACCESS AND USE THE SERVICES AND/OR THE CONSULTING SERVICES PROVIDED FOR IN THIS AGREEMENT. THE LIMITATIONS SET FORTH IN SECTION 15.2 SHALL NOT APPLY TO CLAIMS OR DAMAGES RESULTING FROM ZENDESK'S IP CLAIMS INDEMNITY OBLIGATIONS IN SECTION 14.1 OF THIS AGREEMENT.

15.3 THE LIMITATION OF LIABILITY PROVIDED FOR HEREIN WILL APPLY IN AGGREGATE TO ANY AND ALL CLAIMS BY SUBSCRIBER AND ITS AFFILIATES, AND SHALL NOT BE CUMULATIVE.

15.4 Some jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages or for personal injury or death, which means that some of the above limitations may not apply to You. IN THESE JURISDICTIONS, THE ZENDESK GROUP'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

15.5 Any claims or damages that You may have against Zendesk shall only be enforceable against Zendesk and not any other entity, or Zendesk or any other entity's officers, directors, representatives or agents.

SECTION 16. THIRD-PARTY SERVICE PROVIDERS

16.1 Third-Party Service Providers. You agree that the Zendesk Group, and the third-party service providers that are utilized by the Zendesk Group to assist in providing the Services to You, shall have the right to access Your Account and to use, modify, reproduce, distribute, display and disclose the Personal Data of Your Agents to the extent necessary to provide, secure or improve the Services. Any third-party service providers utilized by the Zendesk Group will only be given access to Your Account as is reasonably necessary to provide the Services and will be subject to (a) confidentiality obligations which are commercially reasonable and substantially consistent with the standards described in Section 5; and (b) such third-party service provider's agreement to comply with the data transfer restrictions applicable to Personal Data within Service Data as set forth in Section 7.



SECTION 17. ASSIGNMENT, ENTIRE AGREEMENT AND AMENDMENT

17.1 Assignment. You may not, directly or indirectly, by operation of law or otherwise, assign all or any part of this Agreement or Your rights under this Agreement, or delegate performance of Your duties under this Agreement, without Our written prior consent, which consent will not be unreasonably withheld. We may, without Your consent, assign this Agreement to any member of the Zendesk Group or in connection with any merger or change of control of Zendesk or the Zendesk Group or the sale of all or substantially all of Our assets provided that any such successor agrees to fulfill its obligations pursuant to this Agreement. Subject to the foregoing restrictions, this Agreement will be fully binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and assigns.

17.2 Entire Agreement. This Agreement constitutes the entire agreement, and supersedes any and all prior agreements between You and Zendesk with regard to the subject matter hereof. This Agreement shall apply in lieu of the terms or conditions in any purchase order or other order documentation You or any entity which You represent provides (all such terms or conditions being null and void), and, except as expressly stated herein, there are no other agreements, representations, warranties or commitments which may be relied upon by either Party with respect to the subject matter hereof. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind between the Parties, except as may otherwise be expressly provided herein. The headings used herein are for convenience only and shall not affect the interpretation of the terms of this Agreement.

17.3 Amendment. We may amend this Agreement from time to time, in which case the new Agreement will supersede prior versions. We will notify You not less than ten (10) days prior to the effective date of any such amendment and Your continued use of the Services following the effective date of any such amendment may be relied upon by Zendesk as Your consent to any such amendment. Our failure to enforce at any time any provision of this Agreement does not constitute a waiver of that provision or of any other provision of this Agreement.

SECTION 18. SEVERABILITY

If any provision in this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision shall be modified by the court and interpreted so as to best accomplish the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

SECTION 19. EXPORT COMPLIANCE AND USE RESTRICTIONS

The Services and other Zendesk technology, and derivatives thereof, may be subject to export controls and economic sanctions laws and regulations of the United States and other jurisdictions. Subscriber agrees to comply with all such laws and regulations as they relate access to the Services and other Zendesk technology. Subscriber represents that they are not named on any U.S. government restricted-party list, will not permit any Agent or End-User to access or use any Service in a U.S.-embargoed country or region (currently Cuba, Iran, North Korea, Syria or Crimea), and will not permit the Service to be used for any prohibited end use (e.g., nuclear, chemical, or biological weapons proliferation, or missile-development purposes).

SECTION 20. RELATIONSHIP OF THE PARTIES

The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties.

SECTION 21. NOTICE

All notices provided by Zendesk to You under this Agreement may be delivered in writing by (a) nationally recognized overnight delivery service (“Courier”) or U.S. mail to the contact mailing address provided by You on any Order Form; or (b) electronic mail to the electronic mail address provided for Your Account owner. You must



give notice to Zendesk in writing by Courier or U.S. mail to 1019 Market Street, San Francisco, California 94103 U.S.A. Attn: Legal Department. All notices shall be deemed to have been given immediately upon delivery by electronic mail; or, if otherwise delivered upon the earlier of receipt or two (2) business days after being deposited in the mail or with a Courier as permitted above.

SECTION 22. GOVERNING LAW

This Agreement shall be governed by the laws of the State of California, without reference to conflict of laws principles. Any disputes under this Agreement shall be resolved in a court of general jurisdiction in San Francisco County, California. You hereby expressly agree to submit to the exclusive personal jurisdiction of this jurisdiction for the purpose of resolving any dispute relating to this Agreement or access to or use of the Services by You, Agents or End-Users.

SECTION 23. FEDERAL GOVERNMENT END USE PROVISIONS

If You are a U.S. federal government department or agency or contracting on behalf of such department or agency, each of the Services is a “Commercial Item” as that term is defined at 48 C.F.R. §2.101, consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation”, as those terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Services are licensed to You with only those rights as provided under the terms and conditions of this Agreement.

SECTION 24. ANTI-CORRUPTION

You agree that You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Our employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If You learn of any violation of the above restriction, You will use reasonable efforts to promptly notify Our Legal Department at legal@zendesk.com.

SECTION 25. SURVIVAL

Sections 2.1, 3.5, 3.6, 4.4, 5 - 7, 12 - 22 and 26 shall survive any termination of this Agreement with respect to use of the Services by You, Agents or End-Users. Termination of this Agreement shall not limit a Party’s liability for obligations accrued as of or prior to such termination or for any breach of this Agreement.

SECTION 26. DEFINITIONS

When used in this Agreement with the initial letters capitalized, in addition to the terms defined elsewhere in this Agreement, the following terms have the following meanings:

“**Account**” means any accounts or instances created by or on behalf of Subscriber or its Affiliates within the Services.

“**Additional Feature(s)**” means additional features or functionality (including, Built by Zendesk Marketplace Applications, Zendesk Labs apps, Early Access Programs, or Beta Services) that are available or enabled through the Service, but do not form part of the Service. Additional Features also include third party services that are purchased and/or subscribed to via an Order Form and that are identified as being resold by Zendesk and governed by such third party’s alternate agreement. Additional Features are purchased or enabled separately and distinctly from Your Service Plan and Deployed Associated Services.

“Affiliate” means, with respect to a Party, any entity that directly or indirectly controls, is controlled by, or is under common control with such Party, whereby “control” (including, with correlative meaning, the terms “controlled by” and “under common control”) means the possession, directly or indirectly, of the power to direct, or cause the direction of the management and policies of such person, whether through the ownership of voting securities, by contract, or otherwise.

“Agent” means an individual (including those of Your Affiliates) authorized to use the Service(s) through Your Account as an agent and/or administrator, each as identified through an individual Agent Login.

“Agent Login” means a unique username and associated password provisioned to an identifiable individual to permit them to access the Services.

“Agreement” means the Master Subscription Agreement together with any and all Supplemental Terms, Order Forms and other documents such as a SOW, BAA, CCPA Addendum and DPA (each, where applicable) along with the Zendesk Privacy Policy located on Zendesk’s Customers and Partners Website.

“API” means the application programming interfaces developed, made available and enabled by Zendesk that permit Subscribers to access certain functionality provided by the Services, including, without limitation, the REST API that enables the interaction with the Services automatically through HTTP requests and the application development API that enables the integration of the Services with other web applications.

“Applicable Data Protection Law” means the following data protection law(s): (a) the EU Regulation 2016/679 entitled “On the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation or GDPR)” and any applicable national laws made under it; (b) the Swiss Federal Act of 19 June 1992 on Data Protection (as may be amended or superseded); (c) the Personal Information Protection and Electronic Documents Act of Canada (PIPEDA); and (d) Brazilian Law No. 13,709/2018, as amended (LGPD).

“Associated Services” means products, services, features and functionality designed to be used in conjunction with the Services that are not included in the Service Plan to which You subscribe. For avoidance of doubt, Additional Features that are expressly stated to be governed by separate Supplemental Terms shall not be deemed an Associated Service. Where You have purchased, deployed, or subscribed to an Associated Service, such Associated Service is referred to as a “Deployed Associated Service.”

“Beta Services” means a product, service or functionality provided by Zendesk that may be made available to You to try at Your option at no additional charge which is clearly designated as beta, pilot, limited release, non-production, early access, evaluation or by a similar description.

“Built by Zendesk Marketplace Applications” means integrations and applications created or developed by Zendesk or its Affiliates and made available in the Zendesk Marketplace (available at <https://www.zendesk.com/apps>) which will be governed by this Agreement unless Zendesk otherwise communicates a different agreement to You at the time of Your deployment of or access to the integration or application.

“Confidential Business Information” means all Confidential Information that is not Service Data, including, without limitation, Your Agents’ Personal Data and Account information, which Zendesk may store in its systems separate from the Service and Our security policies and procedures.

“Confidential Information” means all information disclosed by one Party to the other Party which is in tangible form and designated as confidential or is information, regardless of form, which a reasonable person would understand to be confidential given the nature of the information and circumstances of disclosure, including, but not limited to, the terms of this Agreement, Subscriber Service Data and Confidential Business Information.



Notwithstanding the foregoing, Confidential Information shall not include information that (a) was already known to the receiving Party at the time of disclosure by the disclosing Party; (b) was or is obtained by the receiving Party from a third party not known by the receiving Party to be under an obligation of confidentiality with respect to such information; (c) is or becomes generally available to the public other than by violation of this Agreement or another valid agreement between the Parties; or (d) was or is independently developed by the receiving Party without the use of the disclosing Party's Confidential Information.

“Consulting Services” means consulting and professional services (including any training, success and implementation services) provided by Zendesk Personnel as indicated on an Order Form or other written document such as a SOW.

“Documentation” means any written or electronic documentation, images, video, text or sounds specifying the functionalities or limitations of the Services or describing Service Plans, as applicable, provided or made available by Zendesk to You in the applicable Zendesk help center(s), Site or Zendesk developer website (<https://developer.zendesk.com/>); provided, however, that Documentation shall specifically exclude any “community moderated” forums as provided or accessible through such knowledge base(s).

“End-User” means any person or entity other than Subscriber or Agents with whom Subscriber, its Agents or its End-Users interact while using a Service.

“Enterprise Services” means any Service not designated on Zendesk's Innovation Services List available on Zendesk's Customers and Partners Website.

“Force Majeure Event” means any circumstances beyond Our reasonable control, including, but not limited to, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Our employees), Internet service provider failure or delay, Non-Zendesk Services, or acts undertaken by third parties, including without limitation, denial of service attack.

“Innovation Services” means any Service or feature described on Zendesk's Innovation Services List available on Zendesk's Customers and Partners Website.

“Intellectual Property Rights” means any and all respective patents, inventions, copyrights, trademarks, domain names, trade secrets, know-how and any other intellectual property and/or proprietary rights.

“Malicious Software” means any viruses, malware, Trojan horses, time bombs, or any other similar harmful software.

Non-Zendesk Services” means third party products, applications, services, software, networks, systems, directories, websites, databases and information which a Service links to, or which You may connect to or enable in conjunction with a Service, including, without limitation, Non-Zendesk Services which may be integrated directly into Your Account by You or at Your direction.

“Order Form” means Our generated service order form(s) or online ordering document or process completed, executed or approved by You with respect to Your subscription to a Service, which may detail, among other things, the number of Agents authorized to use a Service under Your subscription and the Service Plan applicable to Your subscription.

“Payment Agent” means Zendesk, Inc. or a payment agent designated by Zendesk. For example, if You choose to pay for a Service with a credit card or certain other payment instruments in a currency other than the U.S. Dollar, Zendesk may designate the Payment Agent to be Zendesk International Limited, a corporation organized under the laws of Ireland, Registration No. 519184.



“Personal Data” means any information relating to an identified or identifiable natural person (‘data subject’) where an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as name, an identification number, location data, an online identifier or to one or more factors specific to their physical, physiological, mental, economic, cultural or social identity of that natural person.

“Personnel” means employees and/or non-employee service providers and contractors of the Zendesk Group engaged by the Zendesk Group in connection with performance hereunder.

“Planned Downtime” means planned downtime for upgrades and maintenance to the Services scheduled in advance of such upgrades and maintenance.

“Privacy Policy” means Zendesk’s privacy policy located at:
<https://www.zendesk.com/company/customers-partners/privacy-policy/>.

“Processing/to Process/Processed” means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

“Service(s)” means the products and services that are ordered by You online through a link or via an Order Form referencing this Agreement, whether on a trial or paid basis, and whether Enterprise Services or Innovation Services, and made available online by Us, via the applicable subscriber login link and other web pages designated by Us, including, individually and collectively, the applicable Software, updates, API, Documentation, and all Deployed Associated Services that are provided under this Agreement. “Services” exclude (a) Non-Zendesk Services as that term is defined in this Agreement; and (b) any Additional Features or Associated Services that are not provided under this Agreement or Your Service Plan. From time to time, the names and descriptions of the Services or any individual Service may be changed. To the extent Subscriber is given access to such Service as so described by virtue of a prior Order Form or other prior acceptance of this Agreement, this Agreement shall be deemed to apply to such Service as newly named or described.

“Service Data” means a subset of Confidential Information comprised of electronic data, text, messages, communications or other materials submitted to and stored within a Service by You, Agents and End-Users in connection with Your use of such Service, which may include, without limitation, Personal Data (but shall not include the Personal Data of Your Agents in the context of Account Information as described in the Privacy Policy).

“Service Data Breach” means an unauthorized access or improper disclosure that has been verified to have affected Your Service Data.

“Service Plan(s)” means the packaged service plan(s) and the functionality and services associated therewith (as detailed on the Site and in Documentation applicable to the Service) for the Services.

“Site” means a website operated by the Zendesk Group, including www.zendesk.com, as well as all other websites that the Zendesk Group operates (but shall not include the Services).

“Software” means software provided by Zendesk (either by download or access through the internet) that allows Agents or End-Users to use any functionality in connection with the applicable Service.

“Sub-processor” means any third-party data processor engaged by Zendesk, including entities from the Zendesk Group, that receives Service Data from Zendesk for Processing on behalf of Subscriber and in accordance with Subscriber's instructions (as communicated by Zendesk) and the terms of its written subcontract.

“Subscription Charges” means all charges associated with Your access to and use of an Account.



“**Subscription Term**” means the period during which You have agreed to subscribe to a Service.

“**Supplemental Terms**” means the additional terms and conditions that are (a) set forth below in this Agreement in the sections entitled, “Supplemental Terms”; (b) included or incorporated on an Order Form via hyperlink or other reference (e.g. when a Deployed Associated Service is purchased); (c) applicable to Consulting Services when purchased by You; (d) applicable to Additional Features when activated by You; and (e) Zendesk’s Service-Specific Terms.

“**Taxes**” means taxes, levies, duties or similar governmental assessments, including value-added, sales, use or withholding taxes assessable by any local, state, provincial or foreign jurisdiction.

“**Usage Charges**” means additional Subscription Charges that are incurred by Subscriber relating to the use of certain features and functionality that Subscriber enables within the Service.

“**We,**” “**Us**” or “**Our**”: means Zendesk as defined below.

“**Zendesk**” means Zendesk, Inc., a Delaware corporation, or any of its successors or assignees.

“**Zendesk’s Customers and Partners Website**” means the website located at:

<https://www.zendesk.com/company/customers-partners/>.

“**Zendesk Group**” means Zendesk, Inc., a Delaware Corporation together with all its Affiliates.

“**Zendesk’s In-Product Cookie Policy**” means the policy available at

<https://support.zendesk.com/hc/en-us/articles/360022367393-Zendesk-in-product-cookie-policy>.

“**Zendesk’s Intellectual Property Website**” means the website located at:

<https://www.zendesk.com/company/trademark-property/>.

“**Zendesk Marks**” means any trademarks, service marks, service or trade names, logos or other designations of Zendesk, the Zendesk Group, or its or their Affiliates, whether registered or unregistered.

“**Zendesk’s Policies and Procedures Website**” means the website located at:

<https://www.zendesk.com/company/policies-procedures/>.

“**Zendesk’s Privacy and Data Protection Website**” means the website located at:

<https://www.zendesk.com/company/privacy-and-data-protection/>.

“**Zendesk’s Service-Specific Terms**” means the Supplemental Terms applicable to use of different Services described here: <https://support.zendesk.com/hc/en-us/articles/360047508453>.



EXHIBIT A SUPPLEMENTAL TERMS: REGION-SPECIFIC TERMS

The following country-specific terms may be applicable to Your use of the Service.

Australia:

Notwithstanding anything to the contrary in this Agreement, any applicable rights You may have under Australian Consumer Law continue to apply in full force. [This includes, but is not limited to, Sections 3.3, 4.3, 9.2, 13.2, 14.1 and 15 of this Agreement.] “Australian Consumer Law” in this section means the Australian Consumer Law under Schedule 2 of the Competition and Consumer Act 2010 (Cth).

You agree that You are responsible for notifying End-Users that Personal Data collected, stored, used and/or processed by the Zendesk Group, as described in this Agreement, is collected, stored, used and/or processed in compliance with the Australian Privacy Act 1988 (Commonwealth) and the Australian Privacy Principles as we further detail here: <https://www.zendesk.com/company/anz-privacy>. You are responsible for notifying End-Users that if they are dissatisfied with our handling of a complaint or do not agree with the resolution proposed by Us, they may make a complaint to the Office of the Australian Information Commissioner (OAIC) by contacting the OAIC using the methods listed on their website at <http://www.oaic.gov.au>. Alternatively, they may request that We pass on the details of their complaint to the OAIC directly.

In respect of disclosures or transfers of Service Data to a country outside Australia, the Zendesk Group has ensured that the recipient of the Service Data (and any onward third-party recipients) will comply with obligations that are substantively similar and at least as strict as, if not stricter than, those required by the Australian Privacy Principles and the Privacy Act in respect of any Processing of Personal Data.

The Parties agree to cooperate in relation to the investigation and assessment of any relevant Service Data Breach, and in relation to any notification of such Service Data Breach required to be made under any Applicable Data Protection Law to a regulator in any local or foreign jurisdiction, including without limitation the Office of the Australian Information Commissioner (each a "Regulatory Authority"), and to affected individuals. Any correspondence or notification to Regulatory Authorities and affected individuals must be in a form that is mutually agreed upon by both Parties. However, nothing in this Agreement will prevent either Party from complying with its respective legal obligations under Applicable Data Protection Laws, including in respect of notifying a Regulatory Authority or individuals about a Service Data Breach.

Brazil:

You agree that You are responsible for notifying End-Users that Personal Data is collected, stored, used and/or processed by the Zendesk Group, as described in this Agreement and is collected, stored, used and/or processed in accordance with Brazilian Law No. 12,965/2014; Brazilian Decree No. 8,771/2016; and Brazilian Law No. 13,709/2018, as amended, as we further detail here: <https://www.zendesk.com/company/customers-partners/privacy-policy/>. You agree that You are responsible for notifying End-Users that by using our Services they expressly consent to the collection, use, storage and processing of their Personal Data by Us as described.

Canada:

You agree that You are responsible for notifying End-Users that Personal Information (as the term is defined in the Personal Information Protection and Electronic Documents Act of Canada (PIPEDA)) will be collected, stored, used and/or processed by the Zendesk Group in compliance with the Zendesk Group's obligations under PIPEDA.

Japan:

You agree that You are responsible for (i) notifying the End-Users using Our Services via Your Account about how the Zendesk Group may use End-Users' Personal Data as described in this Agreement; and (ii) obtaining prior consent from End-Users to disclose their Personal Data to Us.



New Zealand:

You agree that You are responsible for notifying End-Users that Personal Data collected, stored, used and/or processed by the Zendesk Group, as described in this Agreement, is collected, stored, used and/or processed in compliance with the New Zealand's Privacy Act (1993) and its 12 Information Privacy Principles (NZ IPPs) as we further detail here: <https://www.zendesk.com/company/anz-privacy>.

Singapore:

You agree that You are responsible for notifying End-Users that Personal Data collected, stored, used and/or processed by the Zendesk Group, as described in this Agreement, is collected, stored, used and/or processed in compliance with the Zendesk Group's obligations under the Personal Data Protection Act 2012 of Singapore ("PDPA") as we further detail here: <https://www.zendesk.com/company/singapore-pdpa/>.

California, United States:

You agree that You are responsible for (i) notifying End-Users that Personal Data collected, stored, used and/or processed by the Zendesk Group, as described in this Agreement, is collected, stored, used, and/or processed in compliance with the California Consumer Privacy Act (CCPA), as amended, and any regulations made under it and (ii) obtaining consent from End-Users where it is required under the foregoing.

EXHIBIT B
SUPPLEMENTAL TERMS: CONSULTING SERVICES

If Subscriber has engaged Zendesk for the provision of professional services (including any training, success, and implementation services) (collectively, “Consulting Services”) as indicated on a Statement of Work (“SOW”) or other written document such as a “Description of Consulting Services” on an Order Form, the provision of such Consulting Services will be governed by the Agreement. Unless otherwise agreed to in a SOW or Order Form, Subscriber agrees that any Consulting Services purchased by Subscriber must commence within six (6) months of the execution of the SOW or Order Form. In consideration of the foregoing, Subscriber and Zendesk, intending to be legally bound, agree to the terms set forth below.

1. Scope. All Consulting Services provided by Zendesk to Subscriber and all deliverables required to be provided by Zendesk to Subscriber pursuant to the Agreement (“Deliverables”) will be outlined in one or more mutually agreed-upon and jointly executed SOWs or Order Forms, each incorporated into the Agreement and describing in detail the scope, nature and other relevant characteristics of the Consulting Services and Deliverables to be provided.

2. Retention. Subscriber hereby retains Zendesk to provide the Consulting Services described in one or more SOWs or Order Forms, subject to the terms and conditions set forth in the Agreement. Zendesk shall not be obligated to perform any Consulting Services until both Parties have mutually agreed upon and executed a SOW or Order Form with respect to such Consulting Services. After execution of a SOW or Order Form, the Consulting Services to be provided under that SOW or Order Form may only be changed through a change order mutually executed by the Parties (“Change Order”).

3. Performance of Consulting Services.

3.1 Each SOW or Order Form will include reasonable details about Consulting Services, including, at a minimum, the Consulting Fees (defined below) . Zendesk and Subscriber agree to cooperate in good faith to achieve satisfactory completion of the Consulting Services in a timely and professional manner.

3.2 The Parties will each designate a representative to interface and facilitate the successful completion of the Consulting Services.

3.3 Zendesk will perform the Consulting Services through qualified employees and/or non-employee contractors of Zendesk (“Subcontractors” and together with Zendesk’s employees for the purposes of these Supplemental Terms, “Consulting Services Personnel”). Subscriber agrees to provide, at no cost to Zendesk, timely and adequate assistance and other resources reasonably requested by Zendesk to enable the performance of the Consulting Services (collectively, “Assistance”). Zendesk, including its Subcontractors, will not be liable for any deficiency in the performance of Consulting Services to the extent such deficiency results from any acts or omissions of Subscriber, including, but not limited to, Subscriber’s failure to provide Assistance as required hereunder.

3.4 In performing the Consulting Services, Zendesk will utilize Consulting Services Personnel as it deems necessary to perform the Consulting Services or any portion thereof. Subscriber may object to Zendesk’s use of a Subcontractor by specifying its reasonable objection to Zendesk, in which case the Parties will cooperate in good faith to appoint another Consulting Services Personnel to perform such Consulting Services. Zendesk may replace Consulting Services Personnel in its normal course of business, provided that Zendesk will be responsible for the performance of Consulting Services by all Consulting Services Personnel.

3.5 Zendesk will control the method and manner of performing all work necessary for completion of Consulting Services, including but not limited to the supervision and control of any Consulting Services Personnel performing Consulting Services. Zendesk will maintain such number of qualified Consulting Services Personnel and appropriate facilities and other resources sufficient to perform Zendesk's obligations under the Agreement in accordance with its terms.

3.6 Consulting Services Personnel may enter ("assume into") Subscriber's production Account to provide the Consulting Services as provided for in Zendesk's Customer Controlled User Assumption Policy found at: <https://support.zendesk.com/hc/en-us/articles/%20115001753608-Granting-Zendesk-temporary-access-to-your-account>.

3.7 In the event that Subscriber seeks to change the scope of Consulting Services to be provided under any SOW or Order Form (including, but not limited to, any changes to the project schedule described in the SOW or Order Form), Subscriber shall discuss such proposed changes with Zendesk. If Zendesk elects to perform such changes to the Consulting Services, the Parties shall work together in good faith to execute a written Change Order. Zendesk shall be entitled to an adjustment in Consulting Fees pursuant to the changes reflected in the Change Order. Zendesk shall not be obligated to perform any differing or additional Consulting Services unless the Parties have mutually agreed upon a written Change Order.

3.8 Unless otherwise agreed to in a SOW or Order Form, for Consulting Services that are Deliverable or milestone based, upon delivery of all Deliverables or completion of all milestones detailed in the SOW or Order Form, Zendesk shall provide Subscriber with written notice ("Completion Notice"). Thereafter, Subscriber shall have five (5) business days from the date of the Completion Notice to provide Zendesk with written notice describing any Deliverables that have not been provided or milestones not met. The SOW or Order Form shall be deemed complete and the Deliverables accepted or milestones met absent Subscriber's timely written notice of any Deliverables not having been provided or milestones not having been met. In the event that Subscriber provides timely written notice of any Deliverable not having been provided or milestones not having been met, Zendesk shall make commercially reasonable efforts to remedy the defects identified. If the defects cannot be remedied, Subscriber may terminate the applicable SOW and Zendesk shall return the portion of the Consulting Fees paid to Zendesk by Subscriber for the nonconforming portion of the Consulting Services (or, if Consulting Fees have not yet been paid, Subscriber will be relieved from its obligation to pay Consulting Fees for the nonconforming portion of the Consulting Services). For the avoidance of doubt, a Completion Notice shall not be necessary for Consulting Services that are time and materials based.

4. Consulting Fees.

4.1 Subscriber will pay Zendesk the fees to provide the Consulting Services as detailed or described in an Order Form or SOW (the "Consulting Fees").

4.2 All Consulting Services will be provided on either a time and materials or fixed-fee basis, as indicated in the applicable SOW or Order Form. Each SOW or Order Form providing for time and materials based Consulting Fees will contain a detailed estimate of such time and materials necessary for performance of Consulting Services ("T&M Estimate"). Zendesk will make a commercially reasonable effort to provide such Consulting Services within such T&M Estimate, up to the number of hours agreed to by the Parties. If it appears that the T&M Estimate may be exceeded, Zendesk will make a reasonable effort to notify Subscriber as soon as practicable and provide an amended T&M Estimate. Upon receiving such amended T&M Estimate, Subscriber will accept or reject the amended T&M Estimate. Unless Subscriber rejects such amended T&M Estimate within five (5) business days of delivery, such amended T&M Estimate shall be deemed accepted by Subscriber and Subscriber shall be liable for all Consulting Fees associated with Consulting Services delivered in reliance on such amended T&M Estimate. Any amended T&M Estimate which is accepted by Subscriber shall be deemed a Change Order.



4.3 As detailed in the applicable SOW or Order Form, the performance of Consulting Services may be subject to an advance payment of Consulting Fees by Subscriber upon execution of the SOW or Order Form. Such retainer will be applied against Consulting Fees which become payable by Subscriber. Zendesk may refuse to perform Consulting Services unless and until such advance payment is paid to Zendesk.

4.4 In addition to any and all Consulting Fees, Subscriber will reimburse Zendesk for any reasonable expenses for travel, lodging, communications, shipping charges and out-of-pocket expenses, including changes to travel and accommodations resulting from Subscriber's request incurred by Zendesk in connection with providing the Consulting Services ("Expenses"). Zendesk will provide reasonable documentation for all Expenses as requested by Subscriber.

4.5 Any unpaid Consulting Fees or Expenses will become overdue thirty (30) days after payment is due and shall be subject to a late fee of one and a half percent (1.5%) per month for each month where payment is not received.

4.6 Cancellation/Changes: Any cancellations of or changes to the Consulting Services less than five (5) business days prior to the agreed upon Consulting Services commencement date are subject to forfeiture of Consulting Fees paid and reserved date(s).

5. Relationship of the Parties. Zendesk is an independent contractor and will maintain complete control of and responsibility for its Consulting Services Personnel, methods and operations in providing Consulting Services. Zendesk will never hold itself out as an agent, subsidiary or affiliate of Subscriber for any purpose, including reporting to any government authority. The Agreement will not be construed so as to create a partnership, other joint venture or undertaking, or any agency relationship between the Parties, and neither Party shall become liable for any representation, act or omission of the other Party or have the authority to contractually bind the other Party. Any Consulting Fees, Expenses or other amounts paid by Subscriber to Zendesk hereunder shall not be considered salary for pension or wage tax purposes and neither Zendesk nor its Consulting Services Personnel will be entitled to any fringe benefits, including sick or vacation pay, or other supplemental benefits of Subscriber, unless otherwise required by law. Subscriber shall not be responsible for deducting or withholding from Consulting Fees or Expenses paid for Consulting Services any taxes, unemployment, social security or other such expense unless otherwise required by law.

6. Warranties.

6.1 Zendesk hereby represents and warrants that:

(a) the Consulting Services provided pursuant to the Agreement will be performed in a timely and professional manner by Zendesk and its Consulting Services Personnel, consistent with generally-accepted industry standards; provided that Subscriber's sole and exclusive remedy for any breach of this warranty will be, at Zendesk's option, re-performance of the Consulting Services or termination of the applicable SOW and return of the portion of the Consulting Fees paid to Zendesk by Subscriber for the nonconforming portion of the Consulting Services; and

(b) it is under no contractual or other restrictions or obligations which are inconsistent with the execution of the Agreement, or, to its best knowledge, which will interfere with its performance of the Consulting Services.

6.2 The Parties hereby agree that:

EXCEPT AS SPECIFICALLY SET FORTH IN SECTION 6.1 ABOVE, ALL CONSULTING SERVICES AND DELIVERABLES ARE PROVIDED TO SUBSCRIBER "AS IS" AND ZENDESK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OR ANY REPRESENTATIONS TO SUBSCRIBER OR ANY THIRD PARTY REGARDING THE USABILITY, CONDITION, OPERATION OR FITNESS THEREOF AND ZENDESK

EXPRESSLY DISCLAIMS ALL WARRANTIES REGARDING CONSULTING SERVICES AND DELIVERABLES, INCLUDING, WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, COMPATIBILITY, SECURITY OR ACCURACY. ZENDESK SHALL NOT BE RESPONSIBLE, IN LAW OR OTHERWISE, FOR ANY DELIVERABLES DESPITE ANY OTHER WARRANTIES OR GUARANTEES, IN THE EVENT THAT SUBSCRIBER MODIFIES ANY DELIVERABLES IN A MANNER NOT INSTRUCTED BY ZENDESK. ZENDESK DOES NOT WARRANT THAT SUBSCRIBER'S OR ANY THIRD PARTY'S ACCESS TO OR USE OF THE DELIVERABLES SHALL BE UNINTERRUPTED OR ERROR-FREE, OR THAT IT WILL MEET ANY PARTICULAR CRITERIA OF PERFORMANCE OR QUALITY. FURTHER, ZENDESK EXPRESSLY DISCLAIMS ANY RESPONSIBILITY TO SUPPORT OR MAINTAIN ANY DELIVERABLE AND WILL NOT DO SO UNLESS OTHERWISE AGREED BY THE PARTIES. THIS DISCLAIMER OF WARRANTY AND LIABILITY IS EXPRESSLY MADE IN ADDITION TO ANY DISCLAIMERS MADE BY ZENDESK OR ITS AFFILIATES UNDER THE AGREEMENT WITH RESPECT TO THE SERVICES AS APPLICABLE TO SUBSCRIBER AND ANY THIRD PARTY'S USE OF THE SERVICES.

7. Rights to Deliverables; Ownership.

7.1 The Parties hereby agree that the specified Consulting Services to be completed pursuant to any SOW or Order Form primarily involve the configuration of Subscriber's subscription to a Service and integration of Subscriber data with and into one or more Services, and therefore the Deliverables are inoperative without an active subscription to a Service. As between the Parties, Zendesk shall solely and exclusively own all right, title, and interest in the Deliverables (other than Assigned Deliverables, as defined below), including all derivatives, enhancements and modifications thereof; and Subscriber hereby makes all assignments necessary to accomplish the foregoing ownership. Subject to the terms and conditions hereof, Zendesk grants Subscriber a non-exclusive, non-transferable, non-sublicenseable license to use the Deliverables (other than Assigned Deliverables) solely in connection with Subscriber's permitted use of the Services.

7.2 An "Assigned Deliverable" is a Deliverable created by Zendesk in connection with the Consulting Services that is specifically identified as being assigned to Subscriber in an SOW, excluding any Zendesk Background IP that may be incorporated into such Deliverable. "Zendesk Background IP" means inventions (whether or not patentable), works of authorship, designs, know-how, ideas, concepts, information, tools and other intellectual property owned by Zendesk that are incorporated into an Assigned Deliverable and, (a) in existence prior to the commencement of the Consulting Services or (b) developed, created, conceived or reduced to practice by Zendesk not in connection with the applicable SOW. Subject to full and final payment of the applicable Consulting Fees for the applicable Assigned Deliverable, (i) Zendesk hereby assigns title to such Assigned Deliverable to Subscriber, and (ii) to the extent any Zendesk Background IP is incorporated into such Assigned Deliverable, Zendesk grants to Subscriber a perpetual, irrevocable, non-exclusive, royalty-free, fully paid, worldwide license to use and exercise such Zendesk Background IP in connection with such Assigned Deliverable. Zendesk maintains a perpetual, irrevocable, non-exclusive, royalty-free, fully paid, worldwide license to use, execute, display, perform and prepare derivative works of Assigned Deliverables.

7.3 A "Subscriber Contribution" is source code that is created by Subscriber in connection with the Consulting Services and is specifically identified in a SOW. Subscriber and Zendesk agree that Subscriber retains title to Subscriber Contributions, and Subscriber hereby grants Zendesk a non-exclusive license to use and exercise the Subscriber Contributions for the performance of the Consulting Services and Services.

8. Open Source.

8.1 Zendesk may incorporate open source materials into any Deliverable or Assigned Deliverable. Zendesk will notify Subscriber that it is providing such open source software upon or prior to delivery, and Zendesk will avoid



providing any open source materials that are governed by a so-called “copyleft license” that would require Subscriber to permit any disclosure of, distribute or make available any of Subscriber’s proprietary software if Subscriber uses the Deliverables or Assigned Deliverables as permitted hereunder. Any open source materials provided by Zendesk are licensed to Subscriber pursuant to the terms of the applicable open source license and not this Agreement.