

SUBSCRIPTION SERVICE AGREEMENT

EFFECTIVE DATE: September 7, 2022

THE FOLLOWING SUBSCRIPTION SERVICE TERMS (“**TERMS**”) ALONG WITH ANY OTHER AGREEMENT, POLICY, NOTICE, OR OTHER DOCUMENT IDENTIFIED OR OTHERWISE INCORPORATED HEREIN (“**POLICIES**” TOGETHER WITH THE TERMS, THE “**AGREEMENT**”) IS A LEGALLY BINDING AGREEMENT BETWEEN CHURNZERO, INC (“**CHURNZERO**”, “**OUR**”, “**US**”, OR “**WE**”) AND THE PERSON OR ENTITY (“**CUSTOMER**,” “**YOU**,” OR “**YOUR**”) IDENTIFIED IN ONE OR MORE WRITTEN AND SIGNED ORDERING DOCUMENTS (EACH AN “**ORDER FORM**”).

THIS AGREEMENT APPLIES TO AND GOVERNS YOUR AND YOUR USERS (AS DEFINED BELOW) ACCESS TO AND USE OF THE CHURNZERO MATERIAL (AS DEFINED BELOW), YOU, AND THE ENTITY OR COMPANY THAT YOU REPRESENT AND HAVE THE AUTHORITY TO BIND, ARE UNCONDITIONALLY CONSENTING TO BE BOUND BY, AND BECOME A PARTY TO, THIS AGREEMENT.

IF YOU DO NOT HAVE SUCH AUTHORITY, OR DO NOT AGREE TO BE BOUND BY THIS AGREEMENT AS PRESENTED, YOU MUST NOT ACCEPT THIS AGREEMENT OR ACCESS OR USE THE CHURNZERO MATERIAL.

OUR ACCEPTANCE OF THIS AGREEMENT IS EXPRESSLY CONDITIONED UPON YOUR ASSENT TO THIS AGREEMENT AS PRESENTED, TO THE EXCLUSION OF ALL OTHER CONDITIONS OR OTHER TERMS. IF THIS AGREEMENT IS CONSIDERED AN OFFER, YOUR ACCEPTANCE IS EXPRESSLY LIMITED TO THE AGREEMENT AS PRESENTED.

1. **DEFINITIONS.** When we refer in this Agreement to:

1.1. “**Access Credentials**,” we mean any user name, identification number, password, license or security key, security token, PIN, or other security code, method, technology, or device, used alone or in combination, to verify an individual’s identity and authorization to access and use the Subscription Service or an API.

1.2. “**Affiliate**” or “**Affiliates**,” we mean any other person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, by a party. The term “control” (including the terms “controlled by” and “under common control with”) means the direct or indirect power to direct or cause the direction of the management and policies of a person, whether through ownership of more than fifty percent (50%) of the voting interests of a person or by written agreement.

1.3. “**API**,” we mean the various application programming interfaces or software development kits and any security key we make available for you to access an API, or other technical resources made available to you by us, including, without limitation, under “Implementation Resources” at <https://support.churnzero.com> including information pertaining to the installation, configuration, integration, operation, availability, or maintenance of the above.

1.4. “**ChurnZero**,” “**we**,” “**us**,” or “**our**,” we mean ChurnZero, Inc, a Delaware corporation.

1.5. “**ChurnZero Material**,” we mean the API, Consulting Services, Preview, Feedback, Marks, Resultant Data (except to the extent it includes non-anonymized, unaggregated, or other readily identifiable Customer Content), Subscription Service (along with any proprietary code library, processes, know-how, tools, and business and technical methods programmed, designed, created, integrated, incorporated, or otherwise used by or on behalf of us in our Subscription Service), and all other information, materials, content, technical specifications, audio/visual/digital

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images and representations, methods, software, or other technologies (including our and our service providers information technology infrastructure, collectively, “**ChurnZero Systems**”), that are provided or used by us, our Affiliates, or service providers in connection with an API, Consulting Service, or Subscription Service.

1.6. “**Confidential Information**,” we mean information that a party (as the “**Disclosing Party**”) provides or makes available about its business affairs, products, pricing, confidential intellectual property, encryption keys, API keys, trade secrets, third-party confidential information, and other sensitive or proprietary information in written or electronic form or media, whether or not marked, designated or otherwise identified as “confidential” to the other party (as the “**Receiving Party**”) in connection with the Agreement. Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain, (b) known to the Receiving Party at the time of disclosure, (c) rightfully obtained by the Receiving Party on a non-confidential basis from a third-party, or (d) independently developed by the Receiving Party.

1.7. “**Consulting Services**,” we mean the professional services provided to you by us, which may include training services, customer success and retention best practices, integration, or other consulting services specified under an Order Form. Such Consulting Services are subject to the Consulting Services Terms, a current version is available at <https://churnzero.com/consulting-service-terms/>.

1.8. “**Customer**,” “**you**,” or “**your**,” we mean the person or entity identified in an Order Form.

1.9. “**Customer Content**,” we mean any information, data, and other content that is submitted, posted, or otherwise transmitted by or on behalf of you to or through or using the ChurnZero Material. Customer Content does not include Resultant Data or information, data, text, messages, software, sound, music, video, photographs, graphics, images, and tags we incorporate into the ChurnZero Material or otherwise collected through the Subscription Service or API.

1.10. “**Customer Systems**,” we mean your, your Affiliates, or your Users information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer, an Affiliate, or User, or through the use of third-party services (excluding the ChurnZero Systems).

1.11. “**DPA**,” we mean the ChurnZero Data Processing Agreement at <https://churnzero.com/data-processing-addendum/>.

1.12. “**Feedback**,” we mean feedback, suggestions, or contributions regarding the ChurnZero Material provided to us by you or your Users.

1.13. “**Fees**,” we mean the charges, costs, and other amounts you pay to access, use, or receive the ChurnZero Material.

1.14. “**Intellectual Property Rights**,” we mean, collectively, all (a) United States or foreign patents, patent disclosures, patent applications, and divisions, continuations, extensions or continuations-in-part thereof, and all discoveries which may be patentable; (b) trademarks, service marks, trade dress, trade names and corporate names and registrations and applications for registration thereof (collectively, “**Trademark Properties**”); (c) copyrights (registered or unregistered), registrations and applications for registration thereof, including all renewals, derivative works, enhancements, modifications, updates, new releases or other revisions thereof,

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and all works of authorship; (d) computer software (including source code and object code), data, databases, code segments, algorithms, objects, routines, templates and documentation; (e) trade secrets and other Confidential Information, including, but not limited to, ideas, processes, formulas, inventions (whether patentable or unpatentable and whether or not reduced to practice), know-how, production techniques, research and development information, specifications, designs, proposals, technical data, financial and marketing plans, schematics, and customer and supplier lists and information, (f) the internet domain names used by ChurnZero or its Affiliates, and (g) the goodwill symbolized by all of the foregoing and connected therewith throughout the world.

1.15. “**Order Form**,” we mean a written and signed ordering document specifying the ChurnZero Material to be provided hereunder that is entered into between you and us or any of our Affiliates, including any addenda and supplements thereto.

1.16. “**Personal Data**,” we mean any information contained in the Customer Content relating to an identified or identifiable individual and is protected similarly as personal data or personally identifiable information under Applicable Data Protection Law (as defined in our DPA).

1.17. “**Preview**,” we mean the Subscription Service, or other products or features made available by us to you on an unpaid trial or free basis.

1.18. “**Resultant Data**,” we mean data and information related to your or your Users’ use of the Subscription Service or API that is used by us in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Subscription Service, API, or other ChurnZero Material as the case may be.

1.19. “**Security Measures**,” we mean, as to the API, ChurnZero Systems, and Subscription Service, the information security policies and programs we have implemented, and will maintain throughout the Subscription Term, based on and consistent with industry guidelines and all applicable statutes, rules or regulations, which include commercially reasonable administrative, physical and technical safeguards designed to (a) protect the privacy, confidentiality, integrity, and availability of the Customer Content against any reasonably foreseeable threats or hazards; and (b) reasonably protect against accidental, unlawful, or unauthorized access, disclosure, or use of such Customer Content.

1.20. “**Subscription Service**,” we mean (a) our web-based and mobile subscription-based, customer success management applications, tools, and offerings that you have subscribed to under an Order Form or that we otherwise make available to you, and are developed, operated, and maintained by or on behalf of us, accessible via <https://app.churnzero.net/Login> or another designated webpage, web portal, or other user interface (including any updates thereto made commercially available by us to similar customers at no charge), and any ancillary products, services, or any related technical or non-technical manuals, instructions, or other documents or materials made available by us to you describing the functionality, components, features, or requirements of the Subscription Service (current version available at <https://churnzero.com/customer-success-resources/>).

1.21. “**Subscription Term**,” we mean the Initial Subscription Term of your subscription to the applicable Subscription Service, as specified on your Order Form(s), and each subsequent Renewal Subscription Term (if any).

1.22. “**Taxes**,” we mean taxes, levies, duties, or similar governmental assessments of any nature, including, for example, any sales, use, GST, value-added, withholding, or similar taxes,

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whether domestic or foreign, or assessed by any jurisdiction, but excluding any taxes based on net income, property, or employees of ChurnZero.

1.23. **“Third-Party Offering,”** we mean products, services, websites, links, content, material, integrations, bots, and applications from independent third parties (companies or people who are not ChurnZero), which host, interoperate, integrate, or otherwise work with or are used in connection with the Subscription Service, API, or other ChurnZero Material.

1.24. **“User” or “Users,”** we mean Customer and your Affiliates, and any individual (such as employees or consultants) that you or an Affiliate authorizes or allows to access or use the ChurnZero Material. For avoidance of doubt, the number of Users permitted pursuant to an Order Form is unlimited.

2. USE OF CHURNZERO MATERIAL.

2.1. Access. We agree, during the Subscription Term, that we (or our Affiliates and in conjunction with our service providers) will provide you and your Users (and to the extent you permit your Affiliates and their Users) with access to use the Subscription Service, including the right to use one or more of our APIs or receive the Consulting Services, *provided that*, you and your Users:

2.1.1. Use of the ChurnZero Material is (a) in accordance with applicable law and (b) for your internal business purposes only.

2.1.2. Access and use of the Subscription Service and API is in accordance with this Agreement.

2.1.3. Receipt and use of the Consulting Services is in accordance with the Consulting Terms.

You further acknowledge and agree that you are responsible and liable for your and your Users’ access to and use of the ChurnZero Material and your Users’ compliance with, as applicable, this Agreement and the Consulting Terms.

2.2. Use Restrictions. Except as otherwise permitted in this Agreement, you agree that you will, and cause your Users, to comply with our Acceptable Use Policy (the current version is available at <https://churnzero.com/acceptable-use-policy/>). If you become aware of any violation of this Section or other provisions of this Agreement, please immediately contact ChurnZero [here](#) or by emailing compliance@churnzero.com.

2.3. Third-Party Offering. The Subscription Service or API may allow you to access, integrate, acquire, or interact with Third-Party Offerings, including such Third-Party Offerings that may allow you to store Customer Content with the Third-Party Offering provider. ChurnZero does not license any intellectual property to you as part of any Third-Party Offering and is not responsible or liable to you or others for information or services provided by any third party unless otherwise expressly stated in an Order Form. You should review the third-party terms and privacy policies before acquiring, using, requesting, or linking either the Subscription Service or API to any Third-Party Offering; further, any such terms do not modify this Agreement.

2.4. Changes. There may be times when we need to modify the Subscription Services or API, including, but not limited to, adding, removing, or changing certain features or functions (**“Change”**), to improve the quality, performance, marketability, or effectiveness of the Subscription Service or API. Any Change will apply to our customers equally. Prior to making a

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Change, we will make reasonable efforts in providing advance notice to you by posting a notice on our website or in the user interface of the Subscription Service or API.

2.5. Availability. The Subscription Service, API, or other services offered through the Subscription Service or API (e.g., Third-Party Offering) may be unavailable from time to time, or the available of the above may be for a limited time or vary depending on your region or device. You can review the current and historical monthly availability of the Subscription Service [here](#). While we strive to keep the Subscription Service and API up and running, all online services (regardless of provider) suffer occasional disruptions which may result in the inability to retrieve Customer Content. Except as otherwise provided in this Agreement, ChurnZero is not liable to you or your Users for any loss that may occur due to any disruptions described in this Section.

2.6. Suspension. We may suspend or otherwise deny your or your User's, or any other person's access to or use of all or any part of the Subscription Service, without incurring any resulting obligation or liability, if: (a) we receive a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires us to do so; or (b) we believe, in good faith and in our reasonable discretion, that Customer or any User has (i) failed to comply with any material term of this Agreement, (ii) accessed or used the Subscription Service beyond the scope of the rights granted or for a purpose not authorized under this Agreement or (iii) in any manner that does not comply with any material instruction or requirement contained in the written documentation available to Customer; or (b) this Agreement expires or is terminated. This Section 2.6 does not limit any of ChurnZero's other rights or remedies, whether at law, in equity, or under this Agreement.

2.7. Application Programming Interface. We will endeavor to provide an API for the Subscription Service, subject to licensing capabilities, for your use solely for the purpose of creating software or integrating Third-Party Offerings that communicates with the Subscription Service. You and your Users creation, distribution, and use of any software or integration that you or your Users create that utilizes our API is subject to this Agreement, our Implementation Resources and other API documentation, and any applicable or required third-party licensing terms and conditions. You may not utilize the API to create works derivative or competitive of the Subscription Service or integrations or other software already in existence or to otherwise violate our AUP.

3. ORDERS, FEES, AND PAYMENT.

3.1. Order Forms. Each Order Form shall: (a) be treated as a separate and independent order form; and (b) become effective on the date ChurnZero receives payment from you for the ChurnZero Material referenced in an applicable Order Form (the “**Effective Date**”).

3.2. Fees and Payment. You will pay all applicable, undisputed Fees for the ChurnZero Material in the amount and manner set forth in the Order Form. Fees for any Renewal Subscription Term are subject to change and will be at the then-current list prices as of the first day of the applicable Renewal Subscription Term or as reasonably determined by us and mutually agreed upon.

3.3. Taxes and Withholding. You are responsible for all applicable sales, ChurnZero Material, value-added, goods and services, withholding, tariffs, Universal Services Fund (USF) fees or any other similar fees as may be applicable in the location in which the ChurnZero Material are being provided and similar taxes or fees (collectively, “**Taxes**”) imposed by any government entity or collecting agency based on the ChurnZero Material, except those Taxes based on our net income,

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or Taxes for which you have provided an exemption certificate. In all cases, you will pay the amounts due under this Agreement to us in full without any right of set-off or deduction.

4. TERM AND TERMINATION.

4.1. Subscription Term.

4.1.1. The Subscription Term will begin as of the Effective Date and expire on the date specified in the applicable Order Form (the “**Initial Subscription Term**”). Except as otherwise specified in the Order Form, the Subscription Term will automatically renew for additional successive terms equal to the Initial Subscription Term (each a “**Renewal Subscription Term**”), unless and until either party provides Notice of non-renewal at least forty-five (45) days before the current Subscription Term expires (the “**Nonrenewal Deadline**”). The Subscription Term for a Preview or API will be the period during which we make the Preview or API, as applicable, available to you, and Consulting Services, if recurring, will be subject to this Section 4.1; otherwise, such Consulting Services will terminate in accordance with the Consulting Terms.

4.1.2. The Nonrenewal Deadline allows us sufficient time to: (a) plan for and evaluate the resources necessary to meet our existing and upcoming obligations to our customers, including you; and (b) if necessary, obtain supplemental resources to enable us to provide the Subscription Services at the level our customers expect. When you (or any customer) fail to timely meet the Nonrenewal Deadline, we must expend additional effort and incur increased risk in the timely completion of subparts (a) and (b); therefore, if you fail to deliver Notice of nonrenewal by the Nonrenewal Deadline, you will pay to us an amount equal to ten percent (10%) of the Fees for the Subscription Service (adjusted to reflect the Fees applicable to such Renewal Subscription Term) for each day past the Nonrenewal Deadline that you fail to deliver to us the required Notice (the “**Late Fee**”), up to a maximum amount equal to fifty percent (50%) of the above described Fees. For clarity, you and we: (x) intend that the Late Fee constitutes compensation, and not a penalty; and (y) acknowledge and agree that (1) the harm to us caused by your failure to meet the Nonrenewal Deadline would be impossible or very difficult to accurately estimate as of the Effective Date, (2) the Late Fee is a reasonable estimate of the anticipated or actual harm that might arise from your failure to meet the Nonrenewal Deadline; and (3) your payment of the Late Fee is your sole liability and entire obligation and our exclusive remedy for your failure to timely meet the Nonrenewal Deadline.

4.2. Termination for Cause. Either party may terminate the Agreement (a) if the other party breaches its material obligations and fails to cure within thirty (30) days of receipt of written Notice, or (b) where permitted by applicable law, if the other party becomes insolvent or bankrupt, liquidated or is dissolved, or ceases substantially all of its business.

4.3. Effect of Expiration or Termination. If an Order Form expires or terminates, then this Agreement will remain in effect for any outstanding Order Forms, and you will immediately discontinue all use of the ChurnZero Material subject to the expired or terminated Order Form. At expiration of the last outstanding Order Form or earlier termination as otherwise provided in this Agreement, you will immediately discontinue all use of the ChurnZero Material. Further, (a) each party will return or, if requested, destroy any Confidential Information belonging to the other party in its possession; (b) all earned and unpaid Fees become immediately due; and (c) at your written request and instruction (which must be received within ten (10) days of expiration or termination), we will: (i) provide you with (1) temporary access to the Subscription Service to retrieve Customer Content or (2) copies of all Customer Content then in the ChurnZero Systems or otherwise in our

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possession or control in a commonly accessible data format, or (ii) delete all Customer Content in the ChurnZero Systems or otherwise in our possession or control (1) unless we are legally prohibited; or (2) except as (A) provided in our DPA, then such Customer Content shall be processed in accordance with our DPA or (B) to the extent we created archived copies of the Customer Content during the course of performing our obligations under this Agreement, then we will destroy such archived copies pursuant to our internal practices for record destruction. We have no obligation to maintain Customer Content after the thirty (30) day period referenced above.

4.4. Termination & Nonrenewal Notices. Customer may send ChurnZero any Notices required under Section 4.1 (*i.e.*, nonrenewal) to accounting@churnzero.com, and Section 4.2 (material breach) to legal@churnzero.com.

4.5. Survival. The provisions of this Section 4.5 (Survival) along with Section 1 (Definitions); Section 2.2 (Use Restrictions); Section 3.2 (Fees and Payment); Section 3.3 (Taxes and Withholding); Section 4.3 (Effect of Expiration or Termination); Section 5 (Intellectual Property and Other Proprietary Rights); Section 6 (Confidentiality); Section 7 (Disclaimer of Warranties); Section 8 (Indemnification); Section 9 (Limitation of Liability); Section 10 (Preview); and Section 11 (Miscellaneous) will survive the expiration or termination of this Agreement.

5. INTELLECTUAL PROPERTY AND OTHER PROPRIETARY RIGHTS.

5.1. Customer Content.

5.1.1. Ownership. You retain all rights (including any Intellectual Property Rights) to the Customer Content, and we do not claim ownership of Customer Content. We may use, modify, reproduce, and distribute Customer Content to the extent necessary to: (a) provide the ChurnZero Material to you and your Users; (b) protect you and safeguard the ChurnZero Material; and (c) improve ChurnZero's products and Services.

5.1.2. License Grant. You grant to ChurnZero a worldwide and royalty-free intellectual property license to use Customer Content, for example, to make copies of, retain, transmit, reformat, display, and distribute via communication tools Customer Content on the ChurnZero Material. We may further analyze Customer Content, to combine Customer Content with ChurnZero Content or other data owned or possessed by ChurnZero, and to use Customer Content for our business or commercial purposes, by generating Resultant Data. To the extent such Customer Content is collected and used in creating Resultant Data, we will whenever possible use such Customer Content in an aggregated or anonymized manner so as not to identify you or any User. This may not be possible when responding to User support requests or other instances where we need to know the identity of the User to effectively provide the ChurnZero Material.

5.1.3. Privacy and Security.

5.1.3.1. We maintain a global privacy and security program designed to protect Customer Content and any associated Personal Data we may process on your behalf. You can review our DPA and other information security and privacy disclosures at <https://churnzero.com/data-processing-addendum/>, to include specific information about our Security Measures.

5.1.3.2. You will employ all physical, administrative, and technical controls, screening, and security procedures and other safeguards necessary to: (a) securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to

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or use of the ChurnZero Material; (b) ensure that each Access Credential consists of a unique username (typically a User's email address) and password that meets industry best practices as to length and complexity to mitigate malicious access to the ChurnZero Material; and (c) ensure the availability of Customer Content as neither our Subscription Service nor API replace the need for you to maintain regular data backups or redundant data archives. We have no obligation or liability for any loss, alteration, destruction, damage, corruption, or recovery of Customer Content outside of implementing and maintaining the Security Measure during the Subscription Term.

5.2. ChurnZero Content. The ChurnZero Material includes content that belongs to ChurnZero. You may use ChurnZero Content as allowed by this Agreement, but we retain any Intellectual Property Rights that we have in the ChurnZero Content, to include ChurnZero® and ChurnZero's other product and service names, trademarks, service marks, branding and logos made available for use in connection with the ChurnZero Material pursuant to this Agreement ("**Marks**"). Do not remove, obscure, or alter any of our branding, logos, legal notices, or Marks. If you want to use our branding, logos, or Marks, please contact us at marketing@churnzero.com. For clarity, ChurnZero Content includes Feedback and Resultant Data. Subject to the limited rights expressly provided herein, nothing in this Agreement transfers or assigns to you any of ChurnZero's Intellectual Property Rights in the ChurnZero Content or the respective Intellectual Property Rights in any content of other customers or users of the ChurnZero Material. ChurnZero expressly reserves all such rights.

5.3. Feedback. If you give to ChurnZero any idea, proposal, suggestion or feedback, including without limitation ideas for new products, technologies, promotions, product names, product feedback and product improvements ("**Feedback**"), you give to ChurnZero, without charge, royalties or other obligation to you, the right to make, have made, create derivative works, use, share and commercialize your Feedback in any way and for any purpose. You will not give Feedback that is subject to a license that requires ChurnZero to license its software, technologies, or documentation to any third party because ChurnZero includes your Feedback in them.

6. CONFIDENTIALITY.

6.1. Confidential Information. In connection with this Agreement each party (as the "**Disclosing Party**") may disclose or make available Confidential Information to the other party (as the "**Receiving Party**"). Subject to this Section, "**Confidential Information**" means information in any form or medium (whether oral, written, electronic, or other) that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, in each case whether or not marked, designated, or otherwise identified as "confidential." Without limiting the foregoing: the financial terms of this Agreement and ChurnZero Content are the Confidential Information of ChurnZero. Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information's being disclosed or made available to the Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' noncompliance with this Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d)

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was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

6.2. Safeguarding of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party will for three (3) years following the expiration or termination of this Agreement: (a) except as may be permitted by and subject to its compliance with this Section, not disclose or permit access to Confidential Information other than to its representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 6; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section; and (b) safeguard the Confidential Information from unauthorized use, access, or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care. Notwithstanding any other provisions of this Agreement, the Receiving Party's obligations under this Section 6 with respect to any Confidential Information that constitutes a trade secret under any applicable law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable Laws other than as a result of any act or omission of the Receiving Party or any of its Representatives.

6.3. Compelled Disclosures. If the Receiving Party or any of its representatives is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by applicable law, the Receiving Party will: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under this Section; and (b) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the Notice and assistance required under this Section, the Receiving Party remains required by law to disclose any Confidential Information, the Receiving Party will disclose only that portion of the Confidential Information that, on the advice of the Receiving Party's outside legal counsel, the Receiving Party is legally required to disclose.

7. DISCLAIMER OF WARRANTIES. CHURNZERO, AND OUR AFFILIATES, RESELLERS, DISTRIBUTORS, AND VENDORS, MAKE NO WARRANTIES, EXPRESS OR IMPLIED, GUARANTEES OR CONDITIONS WITH RESPECT TO YOUR USE OF THE CHURNZERO MATERIAL. YOU UNDERSTAND THAT USE OF THE CHURNZERO MATERIAL IS AT YOUR OWN RISK AND THAT WE PROVIDE THE SAME ON AN "AS IS" BASIS "WITH ALL FAULTS" AND "AS AVAILABLE." YOU BEAR THE ENTIRE RISK OF USING THE CHURNZERO MATERIAL. CHURNZERO DOES NOT GUARANTEE THE ACCURACY OR TIMELINESS OF THE CHURNZERO MATERIAL. TO THE EXTENT PERMITTED UNDER YOUR LOCAL LAW, WE EXCLUDE ANY IMPLIED WARRANTIES, INCLUDING FOR MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANLIKE EFFORT, AND NON-INFRINGEMENT. YOU MAY HAVE CERTAIN RIGHTS UNDER YOUR LOCAL LAW. NOTHING IN THESE TERMS IS INTENDED TO AFFECT THOSE RIGHTS, IF THEY ARE APPLICABLE. YOU ACKNOWLEDGE THAT COMPUTER AND TELECOMMUNICATIONS SYSTEMS ARE NOT FAULT-FREE AND OCCASIONAL PERIODS OF DOWNTIME OCCUR. WE DO NOT GUARANTEE THE SUBSCRIPTION SERVICE, API, OR OTHER CHURNZERO MATERIAL WILL BE UNINTERRUPTED, TIMELY, SECURE, OR

ERROR-FREE OR THAT CONTENT LOSS WON'T OCCUR, NOR DO WE GUARANTEE ANY CONNECTION TO OR TRANSMISSION FROM THE COMPUTER NETWORKS.

8. INDEMNIFICATION.

8.1. Procedure. The party seeking indemnification hereunder (as the “**Indemnified Party**”): (a) will promptly provide written Notice to the party from whom indemnification is sought (as the “**Indemnifying Party**”) of any third-party claim, demand, lawsuit, notice of violation, or proceeding (collectively, a “**Claim(s)**”); provided, however, that the failure to give prompt Notice will not relieve the Indemnifying Party of its obligations hereunder except to the extent that the Indemnifying Party was actually and materially prejudiced by such failure, (b) will reasonably cooperate with the Indemnifying Party in connection with the defense of a Claim, at the Indemnifying Party’s expense, and (c) may, at its own expense, participate in the defense of a Claim. An Indemnifying Party will have the sole and exclusive authority to defend or settle any such Claim; however, neither the Indemnifying Party nor an Indemnified Party may settle any Claim under this Agreement where such settlement includes: (x) an admission of liability or fault on behalf of the other party or (y) the creation of an obligation or imposition or forbearance of an act (including injunctive or other equitable relief) on the other party, without the other party’s prior written consent.

8.2. Indemnity by Customer. You agree to indemnify and defend ChurnZero, our Affiliates, and our and our Affiliates officers, directors, employees, successors, permitted assigns, agents, suppliers and resellers from any and all Claims and any liability, damages, judgments, settlements, interest, fines, penalties, fines, or awards (including reasonable attorneys’ fees) (collectively, “**Losses**”) arising from: (a) violations of your or your Users’ obligations under Section 2; and (b) allegations that the Customer Content (i) infringes a third-party’s Intellectual Property Right or (ii) when used with the ChurnZero Material or as contemplated under this Agreement such use violates applicable law.

8.3. Indemnity by ChurnZero. We will defend you and your officers, directors, employees, successors, and permitted assigns (each, a “**Customer Indemnitee**”) against a Claim (other than a Claim brought by an Affiliate of a Customer Indemnitee) (a “**Customer Indemnity Claim**”) arising out of or relating to an allegation that your use of the Subscription Service in accordance with this Agreement infringes or misappropriates a third-party’s United States, Canadian, or European Union Intellectual Property Right and we will indemnify you from and against any Losses resulting from such Claim. If the Subscription Service is enjoined in any manner due to such infringement or if we believe an injunction materially affecting your use of the Subscription Service is likely, we may in our discretion and at no cost to you: (a) procure for you the right to continue to use the Subscription Service as contemplated under this Agreement, (b) modify or replace the allegedly infringing features or components to the Subscription Service with a non-infringing equivalent, or (c) if we determine that neither (a) nor (b) are practicable, we may terminate this Agreement or the Order Form pertaining to allegedly infringing Subscription Service and refund any Fees paid in respect of such terminated Subscription Service for the remainder of the relevant Subscription Term starting with the termination date designated by us. The above indemnification obligation does not apply if you: (x) use the Subscription Service in combination with data, software, applications, hardware, equipment, products, services, or other technology where the Subscription Service would not by itself, and without modification, be infringing or (y) fail to use the Subscription Service in accordance with the then-applicable specifications or documentation.

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8.4. SECTION 8.3 SETS FORTH THE ENTIRE LIABILITY AND OBLIGATION OF THE INDEMNIFYING PARTY AND THE SOLE AND EXCLUSIVE REMEDY FOR THE INDEMNIFIED PARTY FOR ANY LOSSES COVERED UNDER SECTION 8.3.

9. LIMITATION OF LIABILITY. IF YOU HAVE ANY BASIS FOR RECOVERING DAMAGES (INCLUDING BREACH OF THIS AGREEMENT), TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE THAT YOUR EXCLUSIVE REMEDY IS TO RECOVER, FROM CHURNZERO OR ANY AFFILIATES, RESELLERS, DISTRIBUTORS, THIRD-PARTY APPS AND SERVICE PROVIDERS, AND VENDORS, DIRECT DAMAGES UP TO AN AMOUNT EQUAL TO ANY FEES FOR YOUR SERVICES FOR THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM (OR UP TO \$10.00 (USD) FOR ANY CLAIM RELATING TO A PREVIEW). YOU CANNOT RECOVER ANY OTHER DAMAGES OR LOSSES, INCLUDING DIRECT, CONSEQUENTIAL, LOST PROFITS, SPECIAL, INDIRECT, INCIDENTAL, OR PUNITIVE. These limitations and exclusions apply even if this remedy does not fully compensate you for any losses or fails of its essential purpose or if we knew or should have known about the possibility of the damages. To the maximum extent permitted by law, these limitations and exclusions apply to any claims related to this Agreement, the ChurnZero Content, or our provision of the ChurnZero Material or performance under this Agreement.

10. **PREVIEW.** We may, from time to time, offer access to a Preview for you or your Users use. Access to and use of Preview may be subject to additional agreements. As a Preview typically is a ChurnZero Material or feature under development it may contain bugs, errors, or other defects. ChurnZero makes no representations that any Preview will ever be made commercially available and reserves the right to discontinue or modify any Preview at any time without notice. Preview are provided AS IS and AS AVAILABLE, may contain bugs, errors, or other defects, and your or your Users' use of Preview is at your or your Users' sole risk. The Subscription Term for Preview will be the period during which we provide you with access to the Preview.

11. MISCELLANEOUS.

11.1. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

11.2. Interpretation. The parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

11.3. Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

11.4. Entire Agreement. This Agreement, together with any applicable Order Forms and any other documents expressly incorporated herein by reference, constitutes the sole and entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the body of these Terms, an applicable Order Form and any other

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documents incorporated herein by reference, along with any related exhibits, schedules, attachments, and appendices (other than an exception expressly set forth as such therein), the following order of precedence governs: (a) first, the Order Form, excluding its exhibits, schedules, attachments, and appendices; (b) second, these Terms (as to the Subscription Service and as supplemented by the Consulting Terms (for the Consulting Services); (c) third, the DPA (as to Personal Data); and (d) any other documents incorporated herein by reference.

11.5. Assignment. Neither party may assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance under this Agreement, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without the other party's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed; *provided, that*, a party, with Notice to the other party, may assign their rights or delegate their obligations to any successor of such party. For purposes of this Section, "successor" means any person, firm, or corporation or other legal or business entity which, at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all of substantially all of the assets or business of the assigning or delegating party. No assignment, delegation, or transfer will relieve a party of any of its obligations or performance under this Agreement. Any purported assignment, delegation, or transfer in violation of this Section 13.5 is void. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors and permitted assigns.

11.6. Notices. Except as otherwise expressly set forth in this Agreement, any notice, request, consent, claim, demand, waiver, or other communication (each a "**Notice**") under this Agreement have legal effect only if in writing and addressed to a party at the address contained in the most recent Order Form (or to such other address or such other person that such party may designate from time to time in accordance with this Section). Notices sent in accordance with this Section will be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; (b) when received, if sent by a nationally recognized overnight courier, signature required; (c) when sent, if by email, with confirmation of transmission, if sent during the addressee's normal business hours, and on the next business day, if sent after the addressee's normal business hours; and (d) on the 5th day after the date mailed by certified or registered mail, return receipt requested, postage prepaid. Please copy legal@churnzero.com on all Notices.

11.7. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express, or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

11.8. Amendment. Unless you have a separately negotiated and signed agreement stating otherwise, we may modify this Agreement by posting a revised version at <https://churnzero.com/subscription-service-terms/> and such revised version will become effective as to your use of the ChurnZero Material as of the next business day following its posting. Prior to such posting, we will provide you with notice of any material revision by contacting your designated administrator(s) at the contact information provided in the ChurnZero Material. If you do not agree with a material modification to this Agreement, you must notify us in writing within thirty (30) days after we send notice of the revision. If you give us this notice, then your subscription will continue to be governed by the terms and conditions of the Agreement prior to modification until your next renewal date, after which the current terms posted at the above webpage will apply. However, if we can no longer reasonably provide the ChurnZero Material to you under the terms prior to modification (for example, if the modifications are required by law or

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result from general product changes), then the Agreement and/or affected ChurnZero Material will terminate upon our notice to you and we will promptly refund any prepaid but unused fees covering use of the ChurnZero Material after termination.

11.9. Waiver. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

11.10. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect or invalidate any other term or provision of this Agreement or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement to affect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

11.11. Export Laws. You must comply with all domestic and international export laws and regulations that apply to the software and/or ChurnZero Material, which include restrictions on destinations, end users, and end use.

11.12. Public Announcements. Neither party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement or, unless expressly permitted under this Agreement, otherwise use the other party's trademarks, Service marks, trade names, logos, domain names, or other indicia of source, association, or sponsorship, in each case, without the prior written consent of the other party, which consent shall not be unreasonably withheld, provided; however, we may include your name and logo in our promotional and marketing materials where we list our current or former customers.

11.13. Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Delaware. Any legal suit, action, or proceeding arising out of this Agreement or the licenses granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of Delaware in each case located in the city of Wilmington and County of New Castle, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Service of process, summons, notice, or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action, or other proceeding brought in any such court.

11.14. Force Majeure. In no event will we be liable to you, or be deemed to have breached this Agreement, for any failure or delay in performing our obligations under this Agreement, if and to the extent such failure or delay is caused by any of the following events (each a "**Force Majeure Event**"): flood, fire, earthquake, explosion, pandemic, war, terrorism, cyber terrorism or other comparable criminal or willful acts (including third-party hackers or other third-party malicious acts), invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns, our suppliers

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failure to supply necessary goods or services to us, passage of applicable law, any action taken by a government authority or other public authority (such as imposing an embargo), or international, national, or regional shortage of adequate power, telecommunications capacity, or transportation. In allocating the risk of delay or failure of performance of a party's respective obligations under this Agreement, the parties have not considered the possible occurrence of any of the events listed herein or any similar or dissimilar events beyond their control, irrespective of whether such listed, similar, or dissimilar events were foreseeable as of the date of this Agreement

11.15. Contract for Services. This Agreement is a contract for the provision of services and not a contract for the sale of goods. The provisions of the Uniform Commercial Code (UCC), the Uniform Computer Information Transaction Act (UCITA), or any similar legislation as may be enacted, will not apply to this Agreement. If you are located outside of the territory of the United States, the parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not govern this Agreement or the rights and obligations of the parties under this Agreement.

11.16. Actions Permitted. Except for actions for nonpayment of Fees or breach of a party's proprietary rights, no action, regardless of form, arising directly or indirectly out of this Agreement may be brought by either party more than one (1) year after the cause of action accrued.

11.17. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.