

SUBSCRIPTION SERVICE TERMS

EFFECTIVE DATE: October 24, 2023

THIS SUBSCRIPTION SERVICE TERMS (THIS “**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 ORDER FORMS REFERENCING THIS AGREEMENT.

1. **DEFINITIONS.** Capitalized terms will have the meaning set forth in this Section 1, or in the section where first used in this Agreement.

1.1. “**Acceptable Use Policy**” or “**AUP**” means the Acceptable Use Policy at <https://churnzero.com/acceptable-use-policy>, which is hereby incorporated into and made a part of the Agreement.

1.2. “**Access Credentials**” 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.

1.3. “**Affiliate(s)**” means 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.

1.4. “**API**” means 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, at <https://churnzero.com/integrations/> including information pertaining to the installation, configuration, integration, operation, availability, or maintenance of the above.

1.5. “**ChurnZero Systems**” means the information technology infrastructure which is provided or used by us in the provision of the Subscription Service.

1.6. “**Confidential Information**” means 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**” means any service provided by us and described in a Statement of Work. Consulting Services are subject to the Consulting Service Terms, a current version can be found at <https://churnzero.com/consulting-service-terms/>.

1.8. “**Customer Data**” means information or data residing in the Subscription Service that is uploaded or transmitted by Customer or a User. For the avoidance of doubt, Customer Data does not include Usage Data.

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1.9. **“Customer Systems”** refers to the information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks (excluding the ChurnZero Systems) utilized by Customer or its Affiliates and their respective Users to access and use the Subscription Service.

1.10. **“DPA”** means the ChurnZero Data Processing Agreement at <https://churnzero.com/data-processing-addendum/>, which is hereby incorporated into and made a part of the Agreement.

1.11. **“Feedback”** means ideas, suggestions, or proposals regarding the Subscription Service provided by you or your Users to us, including any such information derived from Usage Data.

1.12. **“Fees”** means the charges, costs, and other amounts you pay to access, use, or receive the Subscription Service.

1.13. **“Intellectual Property Rights”** means, 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; (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, and all works of authorship; (d) 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, (e) the internet domain names used by ChurnZero or its Affiliates, and (f) the goodwill symbolized by all of the foregoing and connected therewith throughout the world.

1.14. **“Order Form”** means a written and signed ordering document specifying the Subscription Service to be provided hereunder that is entered into between you and us or any of our Affiliates, including any addenda and supplements thereto.

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

1.16. **“Security Measures”** means, as to the 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 Data against any reasonably foreseeable threats or hazards; and (b) reasonably protect against accidental, unlawful, or unauthorized access, disclosure, or use of such Customer Data.

1.17. **“Statement of Work”** or **“SOW”** means a document executed by ChurnZero and you that describes Consulting Services purchased by you and provided by us.

1.18. **“Subscription Service”** refers to the (a) subscription-based, customer success management platform (including any updates thereto made commercially available by us to similar customers at no charge); (b) any software or API that is made available to you by us and

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is accessed by you in connection with the Subscription Service; and (c) the products, services, and features made available or provided to you by us as part of an Order Form for the Subscription Service; however, the Subscription Service does not include Consulting Services.

1.19. “**Subscription Term**” means 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).

1.20. “**Taxes**” mean taxes, levies, duties, or similar governmental assessments of any nature, including, for example, any sales, use, GST, value-added, withholding, or similar taxes, whether domestic or foreign, or assessed by any jurisdiction, but excluding any taxes based on net income, property, or employees of ChurnZero.

1.21. “**Third-Party Offering**” means 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, Consulting Services, or any other ChurnZero offering.

1.22. “**Usage Data**” means data or information related to Customer’s use of the Subscription Service that is used by us in an aggregate or anonymized manner, including to compile statistical and performance information related to the provision and operation of the Subscription Service.

1.23. “**User(s)**” means 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 Subscription Service.

2. SUBSCRIPTION SERVICE.

2.1. Access and Use. We (or our Affiliates and in conjunction with our service providers) will, during the Subscription Term and for your internal business purposes only, provide you and your Users (and your Affiliates and their Users to the extent permitted by you) with a nonexclusive, nontransferable right to access and use the Subscription Service, *provided that* (a) you and your Users use of the Subscription Service is in accordance with this Agreement (to include our AUP) and applicable law; and (b) you remain responsible for your Users’ access to and use of the Subscription Service and compliance with this Agreement. 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.

2.2. Availability. The Subscription Service or other services offered through the Subscription Service (e.g., Third-Party Offering) may be unavailable from time to time, or the availability 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 up and running, all online services (regardless of provider) suffer occasional disruptions which may result in the inability to retrieve Customer Data. 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.

2.3. Changes. There may be times when we need to modify the Subscription Service, including, but not limited to, adding, removing, or changing certain features or functions (each a “**Change**”), to improve the quality, performance, marketability, or effectiveness of the Subscription Service. Any Change will apply to our customers equally and not result in a material degradation of the security or essential functionality of the Subscription Service. Prior to making a Change, we

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will make reasonable efforts in providing advance notice to you by posting a notice in the user interface of the Subscription Service.

2.4. Third-Party Offering. We enable select Third-Party Offerings to provide services or software that integrate with the Subscription Service, both natively and through an API, and which shall be used solely in conjunction with the Subscription Service. WE MAKE NO WARRANTIES REGARDING ANY THIRD-PARTY OFFERING, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY THAT ANY THIRD-PARTY OFFERING WILL (A) REMAIN AVAILABLE THROUGHOUT THE SUBSCRIPTION TERM; (B) BE ERROR-FREE OR RUN UNINTERRUPTED; (C) OFFER ANY PARTICULAR FEATURES OR PERFORMANCE; OR (D) MEET YOUR NEEDS. 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, or accessing the Third-Party Offering.

2.5. API. 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 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.

2.6. Feedback. You have no obligation to provide us with Feedback; however, if you submit Feedback to us, then you grant us a non-exclusive, worldwide, royalty-free license that is sub-licensable and transferable, to make, use, sell, have made, offer to sell, import, reproduce, publicly display, distribute, modify, or publicly perform the Feedback in any manner without any obligation, royalty or restriction based on intellectual property rights or otherwise.

2.7. Ownership; Reservation of Rights. Nothing in this Agreement transfers or assigns to you any of (a) ChurnZero's Intellectual Property Rights in the Subscription Service, Usage Data, Feedback, or any other offering provided by us to you; or (b) the respective Intellectual Property Rights in any Third-Party Offering or content of other customers, users, or third parties. The Subscription Service (and all components thereof), all reproductions, corrections, modifications, enhancements, and improvements thereto, and all Usage Data and Feedback, and all Intellectual Property Rights therein or relating thereto, are and will remain the exclusive property of ChurnZero or our licensors. Any rights therein not explicitly granted to you herein, are reserved to and shall remain solely and exclusively proprietary to ChurnZero (or its third-party licensors).

2.8. Beta Releases; Introductory Subscription Service.

2.8.1. Beta Releases. From time to time, we may grant you access to "alpha", "beta", "technical preview" or other early-stage products ("**Beta Releases**"). You shall comply with all terms related to any Beta Releases as posted or otherwise made available to you. We may add or modify terms related to access or use of the Beta Release at any time. While we may provide assistance with Beta Releases in our discretion, notwithstanding anything to the contrary in this Agreement, CUSTOMER AGREES THAT ANY BETA RELEASE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTY, SUPPORT SERVICES,

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MAINTENANCE, STORAGE, OR SERVICE LEVEL OBLIGATIONS OF ANY KIND. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT BETA RELEASES MAY NOT BE COMPLETE OR FULLY FUNCTIONAL AND MAY CONTAIN BUGS, ERRORS, OMISSIONS, AND OTHER PROBLEMS FOR WHICH CHURNZERO WILL NOT BE RESPONSIBLE. We make no promises that future versions of a Beta Release will be released. Your use of the Beta Release will automatically terminate upon the release of a generally available version of the applicable Beta Release or upon notice of termination by us.

2.8.2. Introductory Subscription Service. From time to time, we may make available a demonstration instance or one or more offers for use of an introductory tier of the Subscription Service at no cost (“**Introductory Subscription Service**”). You shall comply with all terms, including applicable service, account and data retention limits related to any Introductory Subscription Service, all as posted or otherwise made available to you. We may add or modify terms related to access or use of the Introductory Subscription Service at any time. While we may provide limited support as further detailed in the documentation for the Introductory Subscription Service, CUSTOMER AGREES THAT ANY INTRODUCTORY SUBSCRIPTION SERVICE IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT ANY WARRANTY OF ANY KIND. Customer further acknowledges that Customer, subject to the terms and conditions of this Agreement, may upgrade to the Subscription Service at any time.

2.8.3. Suspension/Termination. Either Party may suspend or terminate access or use of any Introductory Subscription Service or Beta Release at any time for any reason or no reason. Notwithstanding anything to the contrary in the Agreement, after suspension or termination of Customer’s access to or use of any Introductory Subscription Service or Beta Release for any reason (a) Customer will not have any further right to access or use the applicable Introductory Subscription Service or Beta Release and (b) Customer Data used in the applicable Introductory Subscription Service or Beta Release may be deleted or inaccessible. Notwithstanding anything contained to the contrary in this Agreement, we and our licensors’ cumulative and aggregate liability arising out of or relating to the Introductory Subscription Service or Beta Releases is limited to \$1,000 USD.

3. CUSTOMER DATA.

3.1. License Grant. You and your Users may choose to process (as such term is defined in our DPA) Customer Data in connection with your use of the Subscription Service, and, if so, you hereby provide us a limited non-exclusive, non-transferable (except as provided in Section 10.6) license to (a) process Customer Data solely in connection with providing the Subscription Service; (b) allow us to analyze your use of the Subscription Service and otherwise permit our designated personnel to engage with you and your Users, and to improve our Subscription Service. Subject to the limited rights above, as between Customer and ChurnZero, you retain all rights (including any Intellectual Property Rights) to and ownership of the Customer Data.

3.2. Security Measures. We have implemented and we shall maintain throughout the Subscription Term the Security Measures as further described in our Information Security Addendum (available at <https://churnzero.com/information-security-policy/>).

3.3. Customer Responsibilities. You acknowledge and agree that you are solely responsible and liable for Customer Data (Including without limitation, for obtaining all necessary approvals, consents, and authorizations to provide the Customer Data to ChurnZero as provided herein) for use in connection with the Subscription Service. You represent and warrant that (a) you own all Customer Data or have all rights that are necessary to grant ChurnZero the licensed rights in

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Customer Data under this Agreement; (b) your collection and use of Customer Data has and will be in compliance with all applicable laws and regulations, including without limitation those concerning data and information protection or privacy; and (c) neither the Customer Data, nor the inclusion or use of Customer Data in connection with the Subscription Service, will infringe, misappropriate or violate any Intellectual Property Rights, or violate the privacy rights, of any third party, or result in the violation of any applicable law or regulation, including without limitation those concerning data protection or privacy. You further acknowledge and agree that you will employ all physical, administrative, and technical controls, screening, and security procedures and other safeguards necessary to: (x) securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to or use of the Subscription Service; (y) 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 Subscription Service; and (z) ensure the availability of Customer Data 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 Data outside of implementing and maintaining the Security Measure during the Subscription Term.

4. TERM AND TERMINATION.

4.1. Subscription Term. 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**"). For the avoidance of doubt, a failure to provide a nonrenewal notice by the Nonrenewal Deadline will result in the renewal of the Subscription Service with all applicable Fees due in accordance with Section 5.2.

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 Subscription Service 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 Subscription Service. 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 Data or (2) copies of all Customer Data then in the ChurnZero Systems or otherwise in our possession or control in a commonly accessible data format, or (ii) delete all Customer Data 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 Data shall be processed in accordance with our DPA or (B) to the extent we created archived copies of the

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Customer Data 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 Data 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 2.1(a), (b), and (c) (Access and Use); Section 3.3 (Customer Responsibilities); Section 4.3 (Effect of Termination); Section 5.2 (Fees and Payment); Section 5.3 (Taxes and Withholding); Section 6 (Confidentiality); Section 7 (Disclaimer of Warranties); Section 8 (Limitation of Liability); Section 9 (Indemnification); and Section 10 (Miscellaneous) will survive the expiration or termination of this Agreement.

4.6. 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 (c) this Agreement expires or is terminated. This Section 4.6 does not limit any of ChurnZero's other rights or remedies, whether at law, in equity, or under this Agreement.

5. FEES AND PAYMENT.

5.1. Order Forms. Each Order Form shall: (a) be treated as a separate and independent Order Form; and (b) become effective on the date referenced in an applicable Order Form (the "**Effective Date**").

5.2. Fees and Payment. You will pay all applicable, undisputed Fees in the amount and manner set forth in the Order Form without any right of set-off or deduction. Fees and any discounts, rebates, or other incentives are subject to change at each Renewal Subscription Term.

5.3. Taxes and Withholding. You are responsible for all Taxes on your receipt of the Subscription Service.

6. CONFIDENTIALITY.

6.1. Safeguarding of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party will (a) 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; and (b) not disclose or permit access to the Disclosing Party's Confidential Information other than to its employees, agents, or advisors ("**Representatives**") with a 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 and are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Agreement. Notwithstanding any other provisions of this Agreement, the Receiving Party's obligations under this Section 6 with respect to any Confidential Information

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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.

6.2. 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. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SUBSCRIPTION SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. YOU ASSUME ALL RESPONSIBILITY FOR THE SELECTION OF THE SUBSCRIPTION SERVICE TO ACHIEVE YOUR DESIRED AND INTENDED RESULTS. TO THE FULLEST EXTENT ALLOWED BY LAW, WE HEREBY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. WE DO NOT WARRANT THAT THE SUBSCRIPTION SERVICE WILL BE UNINTERRUPTED, ERROR FREE, OR THAT DEFECTS WILL BE CORRECTED. WE DO NOT OFFER A WARRANTY OR MAKE ANY REPRESENTATION REGARDING ANY INFORMATION, RESULTS, OR ADVICE YOU OBTAIN THROUGH THE SUBSCRIPTION SERVICE. EACH PARTY EXPRESSLY ACKNOWLEDGES AND AGREES THAT IT HAS NOT ENTERED INTO THIS AGREEMENT ON THE BASIS OF ANY REPRESENTATION OR PROMISE NOT EXPRESSLY SET OUT HEREIN.

8. LIMITATION OF LIABILITY.

8.1. LIABILITY ARISING UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES. WE SHALL NOT BE LIABLE FOR ANY INDIRECT, EXEMPLARY, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR INCIDENTAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION LOST PROFITS OR REVENUE) ARISING OUT OF THIS AGREEMENT OR IN CONNECTION WITH THE SUBSCRIPTION SERVICE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY REMEDY OF ITS ESSENTIAL PURPOSE.

8.2. OUR ENTIRE LIABILITY FOR ALL CLAIMS RELATED TO OR ARISING OUT OF THIS AGREEMENT OR IN CONNECTION WITH THE SUBSCRIPTION SERVICE, REGARDLESS OF WHETHER THE CLAIM IS BASED IN CONTRACT, TORT, OR ANOTHER LEGAL OR EQUITABLE THEORY, SHALL NOT EXCEED IN THE AGGREGATE THE TOTAL AMOUNT OF FEES ACTUALLY PAID BY CUSTOMER IN THE 12 MONTH PERIOD PRECEDING THE DATE OF EVENT GIVING RISE TO THE CLAIM OR CLAIMS. THE FOREGOING LIMITATION SHALL

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APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. MULTIPLE CLAIMS SHALL NOT EXPAND ANY OF THE LIMITATIONS SET FORTH IN THIS SECTION 8.

8.3. Nothing in this Agreement excludes or limits any liability for which the governing law prohibits the exclusions of limitations of liability.

9. INDEMNIFICATION.

9.1. 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.

9.2. 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 an allegation that: (a) your access to or use of the Subscription Service violates this Agreement or applicable law; or (b) Customer Data violates applicable law or the rights of any third party, including Intellectual Property Rights, or you otherwise do not have the right to possess or transmit Customer Data to us.

9.3. 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 date your use of the Subscription Service was enjoined. 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,

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be infringing or (y) fail to use the Subscription Service in accordance with this Agreement or the then-applicable Subscription Service specifications or documentation.

9.4. SECTION 9.3 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 9.3.

10. MISCELLANEOUS.

10.1. Compliance with Law. Each Party is responsible for and shall comply with all laws and regulations that are applicable to their respective obligations under this Agreement. Without limiting the foregoing, you agree to comply with all domestic and international export laws and regulations that apply to the Subscription Service, which include restrictions on destinations, end users, and end use.

10.2. 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.

10.3. 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.

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

10.5. 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 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 and conditions contained herein (as to the Subscription Service and as supplemented by the Consulting Service Terms (for the Consulting Services)); (c) third, the DPA (as to Personal Data); and (d) any other documents incorporated herein by reference.

10.6. 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

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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 is void. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors and permitted assigns.

10.7. 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.

10.8. 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.

10.9. 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/legal/subscription-service-terms> and such revised version will become effective as to your use of the Subscription Service 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 Subscription Service. 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 Subscription Service to you under the terms prior to modification (for example, if the modifications are required by law or result from general product changes), then the Agreement and/or affected Subscription Service will terminate upon our notice to you and we will promptly refund any prepaid but unused fees covering use of the Subscription Service after termination.

10.10. 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.

10.11. 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

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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.

10.12. 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.

10.13. 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.

10.14. 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 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

10.15. 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.

10.16. 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.

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10.17. 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.