



# Terms of Service

## EFFECTIVE DAY 9 APRIL 2025

(prior version of the Terms of Service available to view [here](#))

These Intercom Terms of Service (the “**Agreement**”) are entered into by and between the Intercom entity set forth below (“**Intercom**”) and the entity or person placing an order for, or accessing, any Services (“**Customer**” or “**you**”). If you are accessing or using the Services on behalf of your company, you represent that you are authorized to accept this Agreement on behalf of your company, and all references to “you” or “Customer” reference your company.

This Agreement permits Customer to purchase subscriptions to online software-as-a-service products and other services from Intercom pursuant to Order Form(s) (defined below) and sets forth the terms and conditions under which those products and services will be provided. This Agreement includes the [Additional Product Terms](#), incorporated by reference herein.

The “**Effective Date**” of this Agreement is the date that is the earlier of: (a) Customer's initial access to any Services (as defined below) through any online provisioning, registration or order process or (b) the effective date of the first Order Form referencing this Agreement.

As used in this Agreement, “Intercom” means (a) Intercom, Inc., a Delaware corporation with offices at 55 2nd Street, 4th Fl., San Francisco, CA 94105, USA, if Customer's shipping address on the applicable Order Form is located in the United States of America; or (b) Intercom R&D Unlimited Company, an Irish company with offices at 124 St Stephen's Green, Dublin 2, DC02 C628, Republic of Ireland, if Customer's shipping address on the applicable Order Form is located anywhere else in the world.

**Modifications to this Agreement:** From time to time, Intercom may modify this Agreement. Unless otherwise specified by Intercom, changes become effective for Customer upon renewal of Customer's current Subscription Term (as defined below), or entry into a new Order Form. Intercom will use reasonable efforts to

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agree to the updated Agreement before renewing a Subscription Term or entering into a new Order Form, but in any event continued use of the Services after the updated version of this Agreement goes into effect will constitute Customer's acceptance of such updated version. If Intercom specifies that changes to the Agreement will take effect prior to Customer's next renewal or new Order Form (such as for legal compliance, product or pricing change reasons) and Customer objects to such changes, Customer may terminate the applicable Subscription Term on notice in writing to Intercom and receive as its sole remedy a refund of any fees Customer has pre-paid for use of the applicable Services for the terminated portion of the Subscription Term, commencing on the date notice of termination was received.

**BY INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT OR ACCESSING OR USING ANY SERVICES, YOU ARE AGREEING TO BE BOUND BY ALL TERMS, CONDITIONS, AND NOTICES CONTAINED OR REFERENCED IN THIS AGREEMENT. IF YOU DO NOT AGREE TO THIS AGREEMENT, PLEASE DO NOT USE ANY SERVICES. FOR CLARITY, EACH PARTY EXPRESSLY AGREES THAT THIS AGREEMENT IS LEGALLY BINDING UPON IT. THIS AGREEMENT CONTAINS MANDATORY ARBITRATION PROVISIONS THAT REQUIRE THE USE OF ARBITRATION TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS. PLEASE READ IT CAREFULLY.**

## 1. Definitions

**"Affiliate"** means any entity under the control of Customer where "control" means ownership of or the right to control greater than 50% of the voting securities of such entity.

**"AUP"** means Intercom's Acceptable Use Policy, available at <https://intercom.com/acceptable-use-policy> or a successor URL, incorporated into these terms by this reference.

**"Beta Offerings"** means pre-release services, features, or functions identified as alpha, beta, preview, early access, or words or phrases with similar meanings.

**"Contractor"** means an independent contractor or consultant.

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limitation: (a) data, content or other information submitted, uploaded, instructed to be used for or imported to the Services by Customer (including from Third Party Platforms) and (b) data, content or other information provided by or about People (including chat and message logs) that are collected from the Customer Properties using the Services.

**“Customer Properties”** means Customer's websites, apps, or other offerings owned and operated by (or for the benefit of) Customer through which Customer uses the Services to communicate with People.

**“Dashboard”** means Intercom's user interface for accessing and administering the Services that Customer may access via the web or the Intercom Apps.

**“Documentation”** means the technical user documentation provided with the Services, as made available at <https://www.intercom.com/help/en/> or otherwise provided by Intercom.

**“Feedback”** means comments, questions, suggestions or other feedback relating to any Intercom product or service, including, without limitation, integrations with Third Party Apps. Feedback does not include any Customer Data.

**“Intellectual Property Rights”** include all valid patents, trademarks, copyrights, trade secrets, moral rights, and other intellectual property rights, as may exist now or hereafter come into existence, and all renewals and extensions thereof, and all improvements to any of the foregoing, regardless of whether any of such rights arise under the laws of any state, country or other jurisdiction.

**“Intercom Apps”** means any integrations and applications created or developed by Intercom or its Affiliates that are made available in Intercom's App Store (located at <https://www.intercom.com/app-store> or any successor thereof) or a third-party app store as designated by Intercom.

**“Intercom Code”** means certain JavaScript code, software development kits (SDKs), application programming interfaces (APIs), other code or libraries provided by Intercom for deployment on Customer Properties.

**“Laws”** means all applicable local, state, federal and international laws, regulations and conventions, including, without limitation, those related to data privacy and

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**“Order Form”** means a written or electronic form referencing this Agreement that is used to order the Services, including, without limitation, an online registration or payment process completed through Intercom's website. The Order Form may contain details about your order, the applicable service plan, contracted usage quantity (e.g., seats or other usage quantity metric identified in the Order Form) and Subscription Term. Upon execution by the parties (or, in the case of electronic orders, confirmation and placement of the order), each Order Form will be subject to the terms and conditions of this Agreement.

**“People”** (in the singular, **“Person”**) means Customer's end user customers, potential end user customers, and other users of and visitors to the Customer Properties.

**“Permitted User”** means an employee or Contractor of Customer or its Affiliate who is authorized to access the Service.

**“Sensitive Personal Information”** means any of the following: (i) credit, debit or other payment card data subject to the Payment Card Industry Data Security Standards (**“PCI DSS”**); (ii) patient, medical or other protected health information regulated by the Health Insurance Portability and Accountability Act (**“HIPAA”**) not authorized or covered by a duly executed Business Associate Agreement with Intercom; or (iii) any other personal data of an EU citizen deemed to be in a “special category” (as identified in EU General Data Protection Regulation or any successor directive or regulation).

**“Services”** means Intercom's proprietary software-as-a-service solution(s), including, without limitation, the Dashboard, Intercom Code, Intercom Apps and products and features covered under the Additional Product Terms (including products and features, recommendations for personalized use of and optimizations we make to the Services).

**“Taxes”** means any sales, use, GST, value-added, withholding, or similar taxes or levies, whether domestic or foreign, other than taxes based on the income of Intercom.

**“Third Party App(s)”** means a separate, stand-alone application provided by a third party to which Customer subscribes. Customer may choose to integrate

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**"Third-Party Platform(s)"** means any software, software-as-a-service, data sources or other products or services not provided by Intercom that are integrated with or otherwise accessible through the Services.

## 2. Intercom Services

**2.1. Services Overview.** Intercom's Services are a suite of customer service-oriented software-as-a-service solutions offered through an online platform. The Services are designed to enable Customer to manage interactions with People through the entire lifecycle of their relationship.

**2.2. Provision of Services.** Each Service is provided on a subscription basis for a set term designated on the Order Form (each, a "Subscription Term"). Customer will purchase and Intercom will provide the specific Services as specified in the applicable Order Form. Some Services may be subject to Additional Product Terms, which are incorporated into and form part of this Agreement.

**2.3. Access to Services.** Customer may access and use the Services solely for its own benefit (and for the benefit of People) and in accordance with the terms and conditions of this Agreement, the Documentation and any scope of use restrictions designated in the applicable Order Form (including, without limitation, the usage quantity tracked). Use of and access to the Services is permitted only by Permitted Users. If Customer is given API keys or passwords to access the Services on Intercom's systems, Customer will require that all Permitted Users keep API keys, user ID and password information strictly confidential and not share such information with any unauthorized person. User IDs and related credentials are granted to individual, named persons and may not be shared. If Customer is accessing the Services using credentials provided by a third party (e.g., Google), then Customer will comply with all applicable terms and conditions of such third party regarding provisioning and use of such credentials. Customer will be responsible for any and all actions taken using Customer's accounts and passwords. If any Permitted User who has access to a user ID is no longer an employee (or Contractor, as set forth below) of Customer, then Customer will promptly delete such user ID and otherwise terminate such Permitted User's access to the Service. Intercom reserves the right to suspend access to any Services or features (including, without limitation, in-app messaging

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its sole discretion, that Customer is using the applicable Service in a manner that has become excessive (e.g., substantially exceeds typical use projections or exceeds usage by similar-sized customers (where customer size is defined by number of seats), including, but not limited to, storage and bandwidth consumption) and/or negatively impacts the operability, integrity, or security of the Service until usage is reduced to reasonable levels, as determined by Intercom and/or such impact is resolved to Intercom's satisfaction. We may change usage limits at any time, in our sole discretion, without notice.

**2.4. Intercom Apps.** To the extent Intercom provides Intercom Apps for use with the Services, subject to all of the terms and conditions of this Agreement (unless otherwise indicated in the specific Intercom App), Intercom grants to Customer a limited, non-transferable, non-sublicensable, non-exclusive license during any applicable Subscription Term to use the object code form of the Intercom Apps internally, but only in connection with Customer's use of the Service and otherwise in accordance with the Documentation and this Agreement.

**2.5. Intercom Code.** The right to use the Services includes the right to deploy Intercom Code on Customer Properties in order to enable messaging, calling, chat and other functionality and to collect Customer Data for use with the Services as further described herein. Subject to all of the terms and conditions of this Agreement, Intercom grants to Customer a limited, non-transferable, non-sublicensable, non-exclusive license during any applicable Subscription Term to copy and implement the Intercom Code in the form provided by Intercom on Customer Properties solely to support Customer's use of the Service and otherwise in accordance with the Documentation and this Agreement. Customer must implement Intercom Code on the Customer Properties in order to enable the relevant features of the Services. Customer will implement all necessary Intercom Code in strict accordance with the Documentation and other instructions provided by Intercom. Customer acknowledges that any changes made to the Customer Properties after initial implementation of Intercom Code may cause the Services to cease working or to function improperly and that Intercom will have no responsibility for the impact of any such Customer changes. If Intercom makes access to any APIs available as part of the Services, Intercom reserves the right to place limits on access to such APIs (e.g., limits on numbers of calls or requests). Further, Intercom may monitor Customer's usage of such APIs and limit the number of calls or requests Customer may make if Intercom believes

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Intercom).

**2.6. Contractors and Affiliates.** Customer may permit its employees and Contractors and its Affiliates' employees and Contractors to serve as Permitted Users, provided Customer remains responsible for compliance by such individuals with all of the terms and conditions of this Agreement and any use of the Services by such Permitted Users is for the sole benefit of Customer.

**2.7. General Restrictions.** Customer will not (and will not permit any third party to): (a) rent, lease, provide access to or sublicense the Services to a third party; (b) use the Services to provide, or incorporate the Services into, any product or service provided to a third party other than the Customer Properties; (c) reverse engineer, decompile, disassemble, or otherwise seek to obtain the source code or non-public APIs to the Services, except to the extent expressly permitted by applicable law (and then only upon advance notice to Intercom); (d) copy or modify the Services or any Documentation, or create any derivative work from any of the foregoing; (e) remove or obscure any proprietary or other notices contained in the Services and/or on any reports or data printed from the Services (unless otherwise expressly permitted by Intercom in advance); (f) publicly disseminate information regarding the performance of the Services; (g) use the Services for competitive analysis purposes; or (h) otherwise violate our AUP.

**2.8. Trial Subscriptions.** If Customer receives free access or a trial or evaluation subscription to the Service (a "**Trial Subscription**"), then Customer may use the Services in accordance with the terms and conditions of this Section (and any other supplemental trial terms agreed by Customer) for a period of fourteen (14) days or such other period granted by Intercom (the "**Trial Period**"). Trial Subscriptions are permitted solely for Customer's evaluation to determine whether to purchase a paid subscription to the Services or an upgrade to a service plan. Trial Subscriptions may not include all functionality and features accessible as part of a paid Subscription Term and may be subject to usage limits. If Customer does not enter into a paid Subscription Term prior to the expiration of the Trial Period, this Agreement and Customer's right to access and use the Services will terminate at the end of the Trial Period, except as otherwise set forth herein. If stated in the Order Form or Additional Product Terms for a specific Service or otherwise communicated in advance by Intercom to Customer, a paid Subscription Term will commence automatically once the Trial Period expires, and



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NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, INTERCOM WILL HAVE NO WARRANTY, INDEMNITY, SUPPORT, SERVICE LEVEL AGREEMENT ("SLA"), OR OTHER OBLIGATIONS WITH RESPECT TO TRIAL SUBSCRIPTIONS.

**2.9. Beta Offerings.** Customer may choose to use Beta Offerings in its sole discretion. Use of Beta Offerings may be subject to additional terms. Intercom, in its discretion, may offer a Beta Offering with or without charge. Intercom reserves the right to start charging and/or modify the pricing for a Beta Offering upon prior written notice to Customer. Beta Offerings may be changed at any time without notice and may not be maintained and/or become generally available. Beta Offerings are to be used for Customer's internal testing and evaluation purposes only and are not subject to the same security measures specified in the Data Processing Addendum. Intercom will have no liability arising out of or in connection with Beta Offerings and disclaims any warranty, indemnity, support, SLA, or other obligations with respect to its Beta Offerings. **CUSTOMER USES BETA OFFERINGS "AS IS" AND AT ITS OWN RISK.**

### 3. Customer Data and Customer Obligations

**3.1. Data Processing by Intercom.** All data processing activities carried out as part of the Services will be governed by the [Data Processing Addendum \("DPA"\)](#) incorporated by reference herein.

**3.2. Rights in Customer Data.** As between the parties, Customer will retain all of Customer's Intellectual Property Rights in and to the Customer Data. Subject to the terms of this Agreement, Customer hereby grants to Intercom a non-exclusive, worldwide, royalty-free right to access, use and display the Customer Data during the Term in order to provide and improve our Services.

**3.3. Storage of Customer Data.** Intercom does not provide an archiving service. Intercom agrees only that it will not intentionally delete any Customer Data from the Services prior to termination of Customer's applicable Subscription Term and expressly disclaims all other obligations with respect to storage.

**3.4. Usage Data and Anonymized Data.** In addition to the rights contained in Section 3.2, Customer agrees that Intercom may use certain technical and other



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("Anonymized Data") to analyze, improve, support and operate our Services during and after the term of this Agreement, and Customer agrees that Intercom is permitted to anonymize Customer Data to use for the aforementioned purposes. Intercom retains all ownership in and to Usage Data and Anonymized Data.

### 3.5. Customer Obligations.

a) **In General.** Customer is solely responsible for the accuracy, content and legality of all Customer Data. Customer represents and warrants to Intercom that Customer has all necessary rights, consents and permissions to collect, share and use all Customer Data as contemplated in this Agreement (including granting Intercom the rights under Section 3) and that no Customer Data will violate or infringe: (i) any third party Intellectual Property Rights or, publicity, privacy, or other rights, (ii) any Laws, or (iii) any terms of service, privacy or other policies and/or any other agreements governing the Customer Properties or Customer's accounts with any Third-Party Platforms. Customer will be fully responsible for any Customer Data submitted to the Services by any Person as if it was submitted by Customer.

b) **No Sensitive Personal Information.** Except as otherwise expressly agreed between the Parties in writing by entering into a business associate agreement for HIPAA data, Customer specifically agrees not to use the Services to collect, store, process or transmit any Sensitive Personal Information. Customer acknowledges that Intercom is not a payment card processor and that the Services are not PCI DSS compliant. Except for Intercom's obligations under any business associate agreement entered into with Customer, Customer shall be responsible for any Sensitive Personal Information it submits to the Service, and Customer acknowledges that Intercom is not subject to any additional obligations that may apply to any Sensitive Personal Information submitted to the Services.

c) **Compliance with Laws.** Customer agrees to comply with all applicable Laws in its use of the Services, including, without limitation, where required, providing necessary notices to People, as specified in the [Additional Product Terms](#). Without limiting the generality of the foregoing, Customer will not engage in any unsolicited advertising, marketing, or other activities using the Services, including, without limitation, any activities that, to the extent applicable, violate

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d) **Disclosures on Customer Properties.** Customer acknowledges that the Intercom Code causes a unique cookie ID to be associated with each Person who accesses the Customer Properties. This cookie ID is necessary for Intercom to provide the Services. Customer will include on each Customer Property a link to a privacy policy that discloses Customer's use of third party tracking technology to collect data about People and how, and for what purposes, the data collected will be used or shared with third parties. Customer must also provide People with clear and comprehensive information about the storing and accessing of cookies or other information on the Peoples' devices where such activity occurs in connection with the Services and as required by applicable Laws. For clarity, as between Customer and Intercom, Customer will be solely responsible for obtaining the necessary clearances, consents and approvals from People under all applicable Laws. Customer can find information about how cookies and similar web technologies are used within the Services in the [Product Privacy Notice](#). Customer acknowledges that they have read and understand the information in our Product Privacy Notice, which is hereby incorporated by reference.

**3.6. Indemnification by Customer.** Customer will indemnify, defend and hold harmless Intercom from and against any and all third party (including, without limitation, People) claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) arising from or relating to any Customer Data, Customer's use of a Third Party App, Third-Party Platform or breach or alleged breach by Customer of Section 3.5 (Customer Obligations). This indemnification obligation is subject to Customer receiving (i) prompt written notice of such claim (but in any event notice in sufficient time for Customer to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, or settlement of such claim; and (iii) all necessary cooperation of Intercom at Customer's expense. Notwithstanding the foregoing sentence, (a) Intercom may participate in the defense of any claim by counsel of its own choosing, at its cost and expense and (b) Customer will not settle any claim without Intercom's prior written consent, unless the settlement fully and unconditionally releases Intercom and does not require Intercom to pay any amount, take any action, or admit any liability.

## 4. Security

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described in Schedule 2 to the DPA.

## 5. Third-Party Platforms and Third Party Apps

**5.1. Integration with Third Party Platforms.** The Services may be able to be integrated with certain Third-Party Platforms and/or Third Party Apps. Customer may import and export Customer Data between the Services and certain Third-Party Platforms through supported integrations. In order for the Services to communicate with such Third-Party Platforms, Customer may be required to input credentials in order for the Services to access and receive relevant information from such Third-Party Platforms. By enabling use of the Services with any Third-Party Platform, Customer authorizes Intercom to access Customer's accounts with such Third-Party Platform and to share Customer Data with them for the purposes described in this Agreement. Customer is solely responsible for complying with any relevant terms and conditions of the Third-Party Platforms and maintaining appropriate accounts in good standing with the providers of the Third-Party Platforms. Customer acknowledges and agrees that Intercom has no responsibility or liability for any Third-Party Platform, including, without limitation, any beta releases or pre-release features of a Third-Party Platform, or how a Third-Party Platform uses or processes Customer Data after it is exported to such Third-Party Platform. Intercom does not guarantee that the Services will maintain integrations with any Third-Party Platform, and Intercom may disable integrations of the Services with any Third-Party Platform at any time with or without notice to Customer. For clarity, this Agreement governs Customer's use of and access to the Services, even if accessed through an integration with a Third-Party Platform.

**5.2. Third Party Apps.** Customer represents and warrants that Customer has agreed to the terms of service associated with any Third Party App(s) and has created, or has authorized Intercom to create on Customer's behalf, a Third Party App account in accordance with such terms and conditions, which govern Customer's use of such Third Party App account. **Intercom will have no liability for and the Third Party App provider is solely responsible for the Third Party App's network, functionality, clients, and APIs.**

## 6. Ownership

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the Services and that irrespective of any use of the words “purchase”, “sale” or like terms in this Agreement, no ownership rights are being conveyed to Customer under this Agreement. Customer agrees that Intercom or its suppliers retain all right, title and interest (including all Intellectual Property Rights) in and to the Services and all Documentation, Intercom Code, Intercom Apps, and any and all related and underlying technology and materials and any derivative works, modifications or improvements of any of the foregoing, including any Feedback (collectively, “**Intercom Technology**”). Except as expressly set forth in this Agreement, no rights in any Intercom Technology are granted to Customer.

**6.2. Feedback.** Customer, from time to time, may submit Feedback to Intercom. Intercom may freely use or exploit Feedback in connection with the Intercom Technology. Customer hereby grants to Intercom a perpetual, non-exclusive, transferable, irrevocable, worldwide, royalty-free license (with rights to sublicense) to make, use, sell, offer to sell, reproduce, modify, distribute, make available, publicly display and perform, disclose and otherwise commercially exploit the Feedback.

## 7. Subscription Term, Fees & Payment

### 7.1. **Subscription Term and Renewals.**

a) **Monthly Subscription Term.** For a month-to-month subscription, the Subscription Term will automatically renew on a monthly basis. Each successive contract month will be considered a “renewal term.” Customer may cancel a month-to-month subscription at any time by going to the “Settings” page in the Dashboard, and the effective termination date will be the last day of the then-current renewal term.

b) **Yearly or Multi-Year Subscription Term.** For a yearly or multi-year subscription, the initial Subscription Term is set forth in the Order Form. The Subscription Term will automatically renew for additional, successive twelve month periods (each, a “renewal term”), unless either party gives the other written notice of intent not to renew at least thirty (30) days prior to expiration of the initial Subscription Term or then-current renewal term. Customer should send written notice of intent not to renew to [accountsreceivable@intercom.io](mailto:accountsreceivable@intercom.io).

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paying via a Recurring Payment Method (as defined below) or (b) otherwise specified in the applicable Order Form. Any late payments will be subject to a service charge equal to 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less. Intercom reserves the right to adjust pricing for any service plan and/or any Service(s) to the then-current list price upon the start of any renewal term.

a) **Baseline Monthly Fee.** Intercom will charge Customer the monthly subscription fee in advance of each billing period. The monthly subscription fee will be based on the contracted quantity of charge-based seats purchased for the applicable service plan plus any upgrades (e.g., Proactive Support Plus), if applicable.

Customer's invoice will also include any fees for one-time services (e.g., onboarding services) ordered by Customer.

b) **Changes to Contracted Usage.** If the contracted usage quantity (e.g., number of charge-based seats, resolutions or channel usage) or service plan is changed during a billing period, Customer's monthly subscription fee will be prorated accordingly as of the effective date of the change.

c) **Additional Usage Charges.** In addition to the monthly subscription fee, if Customer uses any Services that are subject to additional usage charges and/or if Customer's actual usage exceeds Customer's contracted usage quantity (i.e., overages), Customer will be charged for such additional amounts calculated based on published list pricing and/or applicable unit price set forth in the Order Form, subject to any applicable discounts (if any).

- **(i) Services.** For any Services that are subject to additional usage charges, the applicable charges will be calculated based on the actual amount of usage of each Service in the given contract month. These additional usage charges will be billed in arrears in the next invoice that Customer receives following the date when the charges were incurred.
- **(ii) Seats.** With respect to seat-based charges specifically, if Customer exceeds the originally contracted quantity of seats, the additional seats activated by Customer will be billed as additional usage charges. In the month the additional seats are activated, these charges will be prorated as of the effective date of the change and included in the next invoice that Customer receives.

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excluded from any fees set forth in the applicable Order Form. Intercom reserves the right to charge Customer for Taxes as well as any legally required fees arising from Customer's use of Services if Intercom believes it has a legal obligation to do so, and Customer will pay such Taxes and fees. If Customer is required by Law to withhold any Taxes from Customer's payment, the fees payable by Customer will be increased as necessary so that after making any required withholdings, Intercom receives and retains (free from any liability for payment of Taxes) an amount equal to the amount it would have received had no such withholdings been made. If Taxes or other legally required fees arising from Customer's use of Services are due towards the taxing authorities by Customer instead of Intercom, Customer will provide Intercom with appropriate evidence for Intercom to demonstrate Customer's business nature, such as a valid VAT registration number or similar information required under relevant Laws. Intercom reserves the right to review and validate Customer's VAT registration number against other information available to Intercom to determine your location for tax calculation purposes. If the VAT registration number is not valid or if you do not provide a VAT registration number at all, Intercom reserves the right to charge Taxes at the prevailing rate of the jurisdiction where you are considered to be established or usually reside according to other data available to Intercom.

**7.3. Payment Via Recurring Payment Method.** If you are purchasing the Services via credit card, debit card or any other recurring payment method accepted by Intercom ("**Recurring Payment Method**"), the following terms apply:

a. **Recurring Billing Authorization.** By providing Recurring Payment Method information and agreeing to purchase any Services, Customer hereby authorizes Intercom (or its designee) to automatically charge Customer's Recurring Payment Method on the same date of each calendar month (or the closest prior date, if there are fewer days in a particular month) during the Subscription Term for all fees accrued as of that date (if any) in accordance with the applicable Order Form. Customer acknowledges and agrees that the amount billed and charged each month may vary depending on Customer's usage of the Services and may include adjustments to monthly subscription fee, upgrade fees, one-time service fees, additional usage charges, taxes and other fees as described above.

b. **Foreign Transaction Fees.** Customer acknowledges that for certain Recurring Payment Methods, the provider/issuer may charge a foreign transaction fee or

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c. **Invalid Payment.** If a payment is not successfully settled due to expiration of a Recurring Payment Method, insufficient funds, or otherwise, Customer remains responsible for any amounts not remitted to Intercom and Intercom may, in its sole discretion, either (i) invoice Customer directly for the deficient amount, (ii) continue billing the Recurring Payment Method once it has been updated by Customer (if applicable) or (iii) terminate this Agreement.

d. **Payment of Outstanding Fees.** Upon any termination or expiration of the subscription, Intercom will charge Customer's Recurring Payment Method (or invoice Customer directly) for any outstanding fees for Customer's use of the Services during the Subscription Term, after which payment, Intercom will not charge Customer's Recurring Payment Method for any additional fees.

**7.4. Suspension of Service.** If Customer's account is thirty (30) days or more overdue, in addition to any of its other rights or remedies (including but not limited to any termination rights set forth herein), Intercom reserves the right to suspend Customer's access to the applicable Service (and any related services) without liability to Customer until such amounts are paid in full. Intercom also reserves the right to suspend Customer's access to the Services, without liability, if Customer's use of the Services is in violation of the AUP or this Agreement.

## 8. Term and Termination

**8.1. Term.** This Agreement is effective as of the Effective Date and expires on the date of the last to expire Subscription Term under any Order Form, unless earlier terminated as set forth herein.

**8.2. Termination for Cause.** Either party may terminate this Agreement (including all related Order Forms) if the other party (a) fails to cure any material breach of this Agreement (including a failure to pay fees) within thirty (30) days after written notice; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors' arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party (and not dismissed within sixty (60) days thereafter). In addition, Intercom may terminate this Agreement (including all related Order Forms) immediately, with or without notice, if the other party materially breaches this Agreement or any



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**8.3. Effect of Termination.** Upon any expiration or termination of this Agreement, Customer will immediately cease any and all use of and access to all Services (including any and all related Intercom Technology) and delete (or, at Intercom's request, return) any and all copies of the Documentation, any Intercom passwords or access codes and any other Intercom Confidential Information in its possession. Customer acknowledges that following termination, it will have no further access to any Customer Data input into any Service, and that Intercom may delete any such data as may have been stored by Intercom at any time. Except where an exclusive remedy is specified, the exercise by either party of any remedy under this Agreement, including termination, will be without prejudice to any other remedies it may have under this Agreement, by law or otherwise.

**8.4. Survival.** The following Sections will survive any expiration or termination of this Agreement: 2.7 (General Restrictions), 2.9 (Trial Subscriptions), 2.10 (Beta Offerings), 3.3 (Storage of Customer Data), 3.4 (Usage Data and Anonymized Data), 3.6 (Indemnification by Customer), 6 (Ownership), 7.2 (Fees and Payment), 7.3 (Payment Via Recurring Payment Method), 8.3 (Effect of Termination), 8.4 (Survival), 9.2 (Warranty Disclaimer), 12 (Limitation of Liability), 13 (Indemnification), 14 (Confidential Information) and 16 (General Terms).

## 9. Limited Warranty

**9.1. Limited Warranty.** Intercom warrants, for Customer's benefit only, that each Service will operate in substantial conformity with the applicable Documentation. Intercom's sole liability (and Customer's sole and exclusive remedy) for any breach of this warranty will be, at no charge to Customer, for Intercom to use commercially reasonable efforts to correct the reported non-conformity, or if Intercom determines such remedy to be impracticable, either party may terminate the applicable Subscription Term and Customer will receive as its sole remedy a refund of any fees Customer has pre-paid for use of such Service for the terminated portion of the applicable Subscription Term. The limited warranty set forth in this Section 9.1 will not apply: (i) unless Customer makes a claim within thirty (30) days of the date on which Customer first noticed the non-conformity, (ii) if the error was caused by misuse, unauthorized modifications or third-party hardware, software or services, or (iii) if Services are provided to Customer to use on a no-charge, trial, beta or evaluation basis.

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SUPPLIERS MAKES ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. INTERCOM DOES NOT WARRANT THAT CUSTOMER'S USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, NOR DOES INTERCOM WARRANT THAT IT WILL REVIEW THE CUSTOMER DATA FOR ACCURACY. INTERCOM SHALL NOT BE LIABLE FOR THE RESULTS OF ANY COMMUNICATIONS SENT OR ANY COMMUNICATIONS THAT WERE FAILED TO BE SENT USING THE SERVICES. INTERCOM SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, ERRORS IN TRANSMISSION, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS, UNAUTHORIZED THIRD PARTY ACCESS, THIRD-PARTY PLATFORMS, THIRD PARTY APPS, OR OTHER SYSTEMS OR CAUSES OUTSIDE THE REASONABLE CONTROL OF INTERCOM. CUSTOMER MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

## 10. Availability

The Services are available subject to [Intercom's Service Level Agreement](#) ("**SLA**").

## 11. Support

During the Subscription Term of each Service, Intercom will provide end user support in accordance with Intercom's [Support Policy](#) ("**Support Policy**").

## 12. Limitation of Liability

**12.1. Consequential Damages Waiver.** EXCEPT FOR EXCLUDED CLAIMS (DEFINED BELOW), NEITHER PARTY (NOR ITS SUPPLIERS) SHALL HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOSS OF USE, LOST DATA, LOST PROFITS, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL,

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**12.2. Liability Cap.** EXCEPT FOR EXCLUDED CLAIMS (DEFINED BELOW), EACH PARTY'S ENTIRE LIABILITY TO THE OTHER ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID OR PAYABLE BY CUSTOMER TO INTERCOM UNDER THE AGREEMENT GIVING RISE TO THE LIABILITY IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE CLAIM.

**12.3. Excluded Claims.** "Excluded Claims" means any claim arising (a) from Customer's breach of Section 2.7 (General Restrictions); (b) under Section 3.5 (Customer Obligations) or 3.6 (Indemnification by Customer); or (c) from a party's breach of its obligations in Section 14 (Confidential Information) (but excluding claims arising from operation or non-operation of any Service or relating to Customer Data).

**12.4. Nature of Claims and Failure of Essential Purpose.** The parties agree that the waivers and limitations specified in this Section 12 apply regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise and will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

**12.5. Applicable Law.** The limitations on liability under this Section 12 will not apply to the extent such liability cannot be limited under applicable law.

## 13. Indemnification

Intercom will defend Customer from and against any claim by a third party alleging that a Service when used as authorized under this Agreement infringes any Intellectual Property Rights and will indemnify and hold harmless Customer from and against any damages and costs finally awarded against Customer or agreed in settlement by Intercom (including reasonable attorneys' fees) resulting from such claim, provided that Intercom receives: (i) prompt written notice of such claim from Customer (but in any event, notice in sufficient time for Intercom to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense and settlement (if applicable) of such claim; and (iii) all reasonably necessary cooperation of Customer. If Customer's use of a Service is (or, in Intercom's opinion, is likely to be) enjoined, if required by settlement or if

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substantially similar functionality; (b) procure for Customer the right to continue using such Services; or if (a) and (b) are not commercially reasonable, (c) terminate this Agreement and refund to Customer the fees paid by Customer for the portion of the Subscription Term that was paid by Customer but not rendered by Intercom. The foregoing indemnification obligation of Intercom will not apply: (1) if such Service is modified by any party other than Intercom, but solely to the extent the alleged infringement is caused by such modification; (2) if such Service is combined with products or processes not provided by Intercom, but solely to the extent the alleged infringement is caused by such combination; (3) to any unauthorized use of such Service; (4) to any action arising as a result of Customer Data or any third-party deliverables or components contained within such Service; (5) to any action arising from Customer's use of Third Party Apps or Third-Party Platforms; or (6) if Customer settles or makes any admissions with respect to a claim without Intercom's prior written consent. THIS SECTION 13 SETS FORTH INTERCOM'S AND ITS SUPPLIERS' SOLE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

## 14. Confidential Information

Each party (as "Receiving Party") agrees that all non-public code, inventions, know-how, business, technical and financial information it obtains from the disclosing party ("Disclosing Party") constitute the confidential property of the Disclosing Party ("Confidential Information"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any Intercom Technology, performance information relating to any Service, and the negotiated terms and conditions of this Agreement will be deemed Confidential Information of Intercom without any marking or further designation. Except as expressly authorized herein, the Receiving Party will (1) hold in confidence and not disclose any Confidential Information to third parties and (2) not use Confidential Information for any purpose other than fulfilling its obligations and exercising its rights under this Agreement. The Receiving Party may disclose Confidential Information to its employees, agents, contractors and other representatives having a legitimate need to know (including, for Intercom, the

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Disclosing Party than this Section 14 and that the Receiving Party remains responsible for compliance by any such representative with the terms of this Section 14. The Receiving Party's confidentiality obligations will not apply to information that the Receiving Party can document: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by employees of the Receiving Party who had no access to such information. The Receiving Party may make disclosures of Confidential Information to the extent required by law, subpoena or court order, provided the Receiving Party will notify the Disclosing Party in advance (where permitted to do so) and reasonably cooperate with the Disclosing Party, at Disclosing Party's expense, to limit the scope of disclosure and/or obtain confidential treatment. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party will be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

## 15. Publicity

For self-serve customers (i.e., those customers who purchase Services through the online payment process on Intercom's website), Customer agrees that Intercom may use Customer's name and/or logo to identify you as an Intercom customer in and on its websites, sales and marketing materials and customer lists. Intercom's use of Customer's name and logo shall not be deemed Customer's endorsement of the Services. For customers who have a designated Intercom sales point of contact, Customer agrees that Intercom may use Customer's name and/or logo for any marketing and publicity purposes with Customer's prior written consent. Intercom agrees that any such use shall not be deemed Customer's endorsement of the Services.

## 16. General Terms

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without the advance written consent of the other party, except that either party may assign this Agreement in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of such party's assets or voting securities. Any attempt to transfer or assign this Agreement except as expressly authorized under this Section 16.1 will be null and void.

**16.2. Severability.** If any provision of this Agreement will be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited to the minimum extent necessary so that this Agreement will otherwise remain in effect.

**16.3. Governing Law; Dispute Resolution.**

a) **Direct Dispute Resolution.** In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, whether arising in contract, tort or otherwise, ("**Dispute**"), the parties shall first use their best efforts to resolve the Dispute on their own. If a Dispute arises, the complaining party shall provide written notice to the other party in a document specifically entitled "Initial Notice of Dispute," specifically setting forth the precise nature of the dispute ("**Initial Notice of Dispute**"). If an Initial Notice of Dispute is being sent to Intercom it must be emailed to [legal@intercom.io](mailto:legal@intercom.io) and sent via mail to:

Attn: Intercom Legal Department, 55 Second Street, 4th Floor, San Francisco, CA 94105

Following receipt of the Initial Notice of Dispute, the parties shall consult and negotiate with each other in good faith and, recognizing their mutual interest, attempt to reach a just and equitable solution of the Dispute that is satisfactory to both parties ("**Direct Dispute Resolution**"). If the parties are unable to reach a resolution of the Dispute through Direct Dispute Resolution within thirty (30) days of the receipt of the Initial Notice of Dispute, then the Dispute may subsequently be resolved in a court of law as set forth below.

b) **Choice of Law and Jurisdiction.** The terms of this Agreement are governed by the laws of the United States (including federal arbitration law) and the State of California, U.S.A., without regard to its principles of conflicts of law, and regardless of your location. Except for disputes that qualify for small claims court, all unresolved disputes arising out of or related to this Agreement or any respect

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through final and binding arbitration before a neutral arbitrator instead of in a court by a judge or jury, and you agree that Intercom and you are each waiving the right to trial by a jury. Such disputes include, without limitation, disputes arising out of or relating to interpretation or application of this arbitration provision, including the enforceability, revocability or validity of the arbitration provision or any portion of the arbitration provision. All such matters will be decided by an arbitrator and not by a court or judge.

c) **ARBITRATION.** YOU AGREE THAT ANY ARBITRATION UNDER THIS AGREEMENT WILL TAKE PLACE ON AN INDIVIDUAL BASIS; CLASS ARBITRATIONS AND CLASS ACTIONS ARE NOT PERMITTED AND YOU ARE AGREEING TO GIVE UP THE ABILITY TO PARTICIPATE IN A CLASS ACTION. The arbitration will be administered by National Arbitration and Mediation (NAM) under its Comprehensive Dispute Resolution Rules and Procedures, as amended by this Agreement. The Rules are available online at [this page](#). The arbitrator will conduct hearings, if any, by teleconference or videoconference, rather than by personal appearances, unless the arbitrator determines upon request by you or by us that an in-person hearing is appropriate. Any in-person appearances will be held at a location which is reasonably convenient to both parties with due consideration of their ability to travel and other pertinent circumstances. If the parties are unable to agree on a location, such determination should be made by NAM or by the arbitrator. The arbitrator's decision will follow the terms of this Agreement and will be final and binding. The arbitrator will have authority to award temporary, interim or permanent injunctive relief or relief providing for specific performance of this Agreement, but only to the extent necessary to provide relief warranted by the individual claim before the arbitrator. The award rendered by the arbitrator may be confirmed and enforced in any court having jurisdiction thereof. Notwithstanding any of the foregoing, nothing in this Agreement will preclude you from bringing issues to the attention of federal, state or local agencies and, if the law allows, they can seek relief against us for you.

d) **Injunctive Relief.** Notwithstanding the above provisions, Intercom may apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

**16.4. Notice.** Any notice or communication required or permitted under this Agreement will be in writing to the parties at the addresses set forth on the Order



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by the addressee (i) if given by hand, immediately upon receipt; (ii) if given by overnight courier service, the first business day following dispatch (iii) if given by registered or certified mail, postage prepaid and return receipt requested, the second business day after such notice is deposited in the mail; or (iv) if given by email on the first business day after we send it. You agree that any electronic communication satisfies any applicable legal communication requirements, including that such communications be in writing.

**16.5. Amendments; Waivers.** Except as provided under “Modifications to this Agreement” and otherwise provided herein, no supplement, modification, or amendment of this Agreement will be binding, unless executed in writing by a duly authorized representative of each party to this Agreement. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived. No provision of any purchase order or other business form employed by Customer that may be referenced in the Order Form or otherwise issued by Customer will supersede or modify the terms and conditions of this Agreement (regardless of any statement to the contrary in such document), and any such document relating to this Agreement will be for Customer's convenience and administrative purposes only and will have no legal effect.

**16.6. Entire Agreement.** This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. Customer acknowledges that the Services are on-line, subscription-based products, and that in order to provide improved customer experience Intercom may make changes to the Services, and Intercom will update the applicable Documentation accordingly. The support and service level availability terms described in the Support Policy, and the SLA may be updated from time to time upon reasonable notice to Customer to reflect process improvements or changing practices (but the modifications will not materially decrease Intercom's obligations as compared to those reflected in such terms as of the Effective Date).

**16.7. Force Majeure.** Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if

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strike, blockade, war, act of terrorism, riot, natural disaster, failure or diminishment of power or telecommunications or data networks or services, or refusal of a license by a government agency.

**16.8. Subcontractors.** Intercom may use the services of subcontractors and permit them to exercise the rights granted to Intercom in order to provide the Services under this Agreement, provided that Intercom remains responsible for (i) compliance of any such subcontractor with the terms of this Agreement, (ii) for the overall performance of the Services as required under this Agreement, and (iii) compliance with the terms of the DPA.

**16.9. Independent Contractors.** The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent

**16.10. Export Control and Economic Sanctions.** Each party: (i) agrees to comply with all export control and economic sanctions and any relevant import laws and regulations of the United States and other applicable jurisdictions, and (ii) represents and warrants that it is not listed on any U.S. or other government list of prohibited or restricted parties or located in (or a national of) a country that is subject to a U.S. government export control embargo or economic sanctions. Without limiting the foregoing, (a) Customer will not (and will not permit any of its users to) access or use the Services in violation of any U.S. export control or economic sanction, prohibition or restriction, and (b) Customer will not submit to the Services any information that is controlled under the U.S. International Traffic in Arms Regulations or that is controlled under any Export Control Classification Number (other than EAR99) on the Commerce Control List of the Export Administration Regulations.

**16.11. Government End-Users.** Elements of the Services are commercial computer software. If Customer or end user of the Services is an agency, department, or other entity of the United States Government, then the use, duplication, reproduction, release, modification, disclosure, or transfer of the Services, or any related documentation of any kind, including technical data and manuals, is restricted by the terms of this Agreement in accordance with Federal Acquisition Regulation 12.212 (Computer Software) for civilian purposes and Defense Federal

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purposes. All Services were developed fully at private expense.

16.12. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will be considered one and the same agreement.