

Subscription Services Agreement

This Subscription Services Agreement (**the "Agreement"**) is between **Observe.AI, Inc.**, a Delaware corporation with offices at 275 Shoreline Drive, Suite 450, Redwood City, CA 94065 ("Observe.AI"), and the customer listed on the Order Form ("**Customer**"). This Agreement is effective as of the last date beneath the parties' signatures on the Order Form ("**Effective Date**"). The parties agree as follows:

Definitions

1.1. "**Affiliate**" means an entity that controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership of control of more than 50% of the voting interests of the subject entity.

1.2. "**Customer**" means the customer named above together with its Affiliates (while they remain Affiliates) that have entered into Order Forms.

1.3. "**Customer Data**" means electronic data and information submitted by or for Customer to the Services.

1.4. "**Documentation**" means all specifications, user manuals, and other materials relating to the Services and provided or made available by Observe.ai to Customer, as may be modified by Observe.ai from time to time.

1.5. "**Fees**" means the fees payable by Customer for the applicable Services or Professional Services, as set forth in an Order Form or Statement of Work.

1.6. "**Order Form**" means each written order or online order specifying the Services to be provided under this Agreement and applicable Fees, that is entered into between Customer and Observe.ai. By entering into an Order Form, a Customer Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

1.7. "**Professional Services**" means certain information technology and related services that may include assistance with implementation and training services provided by Observe.ai to Customer, as set forth on a Statement of Work.

1.8. "**Services**" means the products and services that are ordered by Customer under an Order Form and made available online by Observe.ai on a subscription basis, including any associated offline components.

1.9. **"Statement of Work" or "SOW"** means each written order or online order specifying the Professional Services to be provided under this Agreement and applicable Fees, that is entered into between Customer and Observe.ai. By entering into a Statement of Work, a Customer Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

1.10. **"Subscription Term"** means that period specified in an Order Form during which Customer will have on-line access to the Services.

1.11. **"Third-Party Services"** means separate services or applications procured by Customer from a party other than Observe.ai that can be used in connection with the Services.

1.12. **"User"** means an individual who Customer authorizes to use the Services pursuant to Customer's rights under this Agreement, for whom Customer has purchased a subscription, and to whom Customer (or, when applicable, Observe.ai at Customer's request) has supplied a username and password. Users may include, for example, employees, consultants, contractors and agents of Customer.

Observe.AI Responsibilities

2.1. **Services.** Observe.ai will: (a) make the Services available to Customer under the terms of this Agreement, applicable Order Form(s) and the Documentation; (b) abide by the Service Level Agreement available at <https://www.observe.ai/service-level-agreement>; (c) provide applicable standard support for the Services to Customer at no additional charge, and/or upgraded support if purchased; and (c) comply with laws and government regulations applicable to Observe.ai's provision of the Services to its customers generally (i.e., without regard for Customer's particular use of the Services), subject to Customer's and Users' use of the Services in accordance with this Agreement, applicable Order Form(s) and the Documentation.

2.2. **Security and Protection of Customer Data.** During the term of this Agreement, Observe.ai will implement and maintain appropriate administrative, physical, and technical security measures designed to protect the security, confidentiality, and integrity of, and prevent the unauthorized disclosure of, Customer Data. The terms of the data processing addendum at <https://www.observe.ai/data-processing-addendum> posted as of the Effective Date are hereby incorporated by reference.

2.3. **Professional Services.** Packaged and recurring Professional Services may be sold on an Order Form. Where the parties have agreed to Observe.ai's provision of project-based Professional Services, the details of such Professional Services may be set out in an SOW. An SOW will include: (a) a description of the Professional Services; (b) the schedule for the performance of the Professional Services; and (c) the Fees applicable for the performance of the Professional Services. Each SOW will incorporate the terms and conditions of this Agreement. Customer may use anything delivered by Observe.ai as part of the Professional Services solely in connection with use of the Services during the applicable Subscription Term; provided, however, that Observe.ai retains all right, title and interest in and to any work product, code, deliverables and any derivative, enhancement or modification thereof created by or on behalf of Observe.ai. For the avoidance of doubt, Customer acknowledges and agrees that Observe.ai will

not provide Customer with any development work, work-for-hire, or customization of the Services.

2.4. Free Trials and Betas. Observe.ai may offer optional free trial or beta access to the Services. Use of free trials and betas is permitted only for Customer's internal evaluation during the period designated by Observe.ai on the OrderForm (or if not designated or no Order Form is in place, 30 days). Either party may terminate Customer's use of free trials and betas at any time for any reason. Trials and betas may be inoperable, incomplete or include features never released.

Notwithstanding anything else in this Agreement, Observe.ai offers no warranty, indemnity, or support for free trials and betas and its liability for such use will not exceed US\$1,000.

Use of Services

3.1. User Access; Usage Limits. Each User will use a unique username and password to access the Services. The unique usernames and passwords cannot be shared or used by more than one individual User to access the Services. Customer agrees to provide to Observe.ai information and other assistance as necessary to enable Observe.ai to establish Users' access to the Services and will verify all User requests for access to the Services. Customer is solely responsible for all activities that occur under User accounts. In connection with the use of the Services, Customer will not exceed any use restrictions agreed to in the OrderForm. If Customer desires to increase the relevant use restrictions, then Customer will notify Observe.ai, execute an applicable Order Form, and pay the incremental Fees due, and the relevant use restrictions will be deemed amended to reflect such purchase. Observe.ai will verify Customer's use of the Services on a monthly basis. If Customer's actual usage ("**Actual Usage**") exceeds the relevant subscription quantities paid for by Customer ("**Purchased Usage**"), Observe.ai will invoice Customer accordingly. Unless otherwise mutually agreed in an express writing signed by duly authorized representatives of both parties, the Fees charged to Customer for such Actual Usage will be based on the pricing set forth in the applicable Order Form.

3.2. Customer Responsibilities. Customer will: (a) use the Services only in accordance with this Agreement, Order Forms, Documentation and applicable laws and government regulations; (b) be responsible for Users' compliance with this Agreement, Order Forms and Documentation; (c) be responsible for the accuracy, quality and legality of Customer Data, including the means by which Customer acquired Customer Data, and Customer's use of Customer Data with the Services; and (d) use commercially reasonable efforts to prevent unauthorized access to or use of the Services and notify Observe.ai promptly of any known or suspected unauthorized access or use or other breach of security of the Services. Any use of the Services in breach of the foregoing by Customer or Users that in Observe.ai's judgment threatens the security, integrity or availability of Observe.ai's services, may result in Observe.ai's immediate suspension of the Services, however Observe.ai will use commercially reasonable efforts to provide notice and an opportunity to remedy such violation or threat prior to any such suspension and restore Customer's access to the Service in accordance with this Agreement when the issue is resolved.

3.3. Use Restrictions. Customer will not, and will ensure its Users will not: (a) make the Services available to anyone other than Customer or its Users, or use the Services for the benefit of anyone other than Customer or its Affiliates, except as expressly allowed in an Order Form; (b) modify, adapt, alter or translate the

Services; (c) sublicense, lease, sell, resell, rent, loan, or distribute the Services, or any part thereof, or include the Services in a service bureau or outsourcing offering; (d) reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code (or the underlying ideas, algorithms, structure or organization) of the Services or any part thereof, except as permitted by law; (e) interfere in any manner with the operation of the Services or the hardware and network used to operate the same, or attempt to probe, scan or test vulnerability of the Services without prior authorization of Observe.ai; (f) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; (g) copy, disclose (except as expressly authorized in this Agreement) or make derivative works based on any part of the Services; (h) access or use the Services, or any feature, information or functionality thereof, to build a similar or competitive product or service or otherwise engage in competitive analysis or benchmarking; (i) attempt to access the Services through any unapproved interface; (j) use the Services in connection with any of Customer's time-critical or mission-critical functions; (k) remove, alter, or obscure any proprietary notices (including copyright and trademark notices) of Observe.ai or its licensors on the Services or any copies thereof; or (l) otherwise use the Services in any manner that exceeds the scope of use permitted under applicable Order Forms.

3.4. Third-Party Services. The Services may integrate with certain Third-Party Services. Third-Party Services shall be governed solely by the terms and conditions applicable to such Third-Party Services, as agreed to between Customer and the Third-Party Services providers. Observe.ai does not endorse or support and is not responsible for Third-Party Services, including without limitation, the privacy and data security policies and practices related to or the unavailability of Third-Party Services. Customer is solely responsible and liable for its use of Third-Party Services. Customer may enable integrations between the Services and Third-Party Services, and by doing so: (a) instructs Observe.ai to share Customer Data (including, to the extent necessary, any personal data) with the providers of such Third-Party Services in order to facilitate the integration; and (b) grants Observe.ai permission to allow Third-Party Services and its providers to access Customer Data and information about Customer's usage of the Third-Party Services as appropriate for the interoperation of Third-Party Services with the Services. Customer is responsible for providing all instructions to the Third-Party Services providers about the use and protection of Customer Data. Observe.ai and Third-Party Services providers are not processors or sub-processors of Personal Data with respect to each other. Observe.ai has no obligation to support any integration(s) of Third-Party Services with the Services and may cease any integrations of Third-Party Services at any time, in Observe.ai's sole discretion.

Fees and Payments

4.1. Fees. Customer will pay to Observe.ai all Fees set forth in Order Forms and SOWs. Except as otherwise set forth in this Agreement or an Order Form or SOW, payment obligations are non-cancelable, and Fees paid are non-refundable. Except as otherwise set forth in an Order Form, Observe.ai may increase the Fees upon renewal of each Order Form Subscription Term by providing written notice to Customer at least forty-five (45) days prior to the commencement of the applicable renewal Subscription Term.

4.2. Invoices and Payments. Except as otherwise set forth in the relevant Order

Form, Observe.ai will invoice Customer for all Fees annually in advance. Observe.ai will invoice Customer for all Professional Services in accordance with the relevant SOW. Unless otherwise stated in the Order Form or SOW, full payment for invoiced Fees is due within 30 days after the invoice date.

4.3. Late Payments. Unpaid Fees are subject to a finance charge of one percent (1.0%) per month, or the maximum permitted by law, whichever is lower, plus all expenses of collection, including reasonable attorneys' fees. If any Fees are 15 days or more overdue, Observe.ai may, without limiting its other rights and remedies, immediately suspend Services until such amounts are paid in full, provided that Observe.ai will use commercially reasonable efforts to give Customer at least 5 days' prior written notice that its account is overdue before suspending Services.

4.4. Payment Disputes. Observe.ai will not exercise its rights under the "Late Payments" section above if Customer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.

4.5. Taxes. The Fees do not include taxes, duties, levies or similar government assessments of any kind, including value-added, sales, use or withholding taxes assessable by any jurisdiction (collectively, "**Taxes**"). Customer is responsible for paying all Taxes associated with its purchases hereunder. Customer will not withhold any taxes from any amounts due to Observe.ai. If Observe.ai has a legal obligation to pay or collect any Taxes for which Customer is responsible, Observe.ai will invoice Customer and Customer will pay that amount unless Customer provides Observe.ai with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Observe.ai is solely responsible for taxes assessable against it based on its income, property and employees.

Term and Termination

5.1. Term. This Agreement will begin on the effective date of the first Order Form between the parties and will continue for as long as any Order Form remains in effect, unless earlier terminated in accordance with this Agreement (the "**Term**").

5.2. Term of Order Forms. Except as otherwise set forth on the relevant Order Form, the initial Subscription Term of each Order Form will begin on the effective date of such Order Form and continue for the Subscription Term set forth therein. Except as set forth in such Order Form, each Order Form will automatically renew for successive annual renewal terms, unless either party provides the other party with written notice of non-renewal at least thirty (30) days prior to the end of the then-current subscription term.

5.3. Termination for Cause. Either party may terminate this Agreement immediately upon notice to the other party if: (a) the other party materially breaches this Agreement, and such breach remains uncured more than thirty (30) days after receipt of written notice of such breach; or (b) the other party: (i) becomes insolvent; (ii) files a petition in bankruptcy that is not dismissed within one-hundred twenty (120) days of commencement; or (c) makes an assignment for the benefit of its creditors.

5.4. Effect of Termination. Upon the earlier of expiration or termination of this Agreement, the rights and licenses granted to Customer hereunder will immediately terminate, Customer will cease use of the Services and Documentation, and Customer will return or destroy all copies of the

Documentation in its possession or control. Except as set forth below in Section 5.5, upon request by the Disclosing Party after the expiration or termination of this Agreement, the Receiving Party will return all Confidential Information of the Disclosing Party. Termination or expiration will not relieve Customer of its obligation to pay all Fees that accrued prior to such expiration or termination.

5.5. Return of Customer Data. Upon request by Customer made within 30 days after the effective date of termination or expiration of this Agreement, Observe.ai will make Customer Data available to Customer. After such 30-day period, Observe.ai will have no obligation to maintain any Customer Data and will thereafter delete or destroy all copies of Customer Data in its systems or otherwise in its possession or control, unless legally prohibited.

5.6. Survival. The sections titled "Services Fees and Payments," "Effect of Termination," "Survival," "Proprietary Rights and Licenses," "Confidentiality," "Disclaimers," "Mutual Indemnification," "Limitation of Liability," and "Miscellaneous" will survive any termination or expiration of this Agreement, and the section titled "Security and Protection of Customer Data" will survive any termination or expiration of this Agreement for so long as Observe.ai retains possession of Customer Data.

Proprietary Rights and Licenses

6.1. Services. Observe.ai, its Affiliates and licensors reserve all right, title and interest in and to the Services and Documentation, including all of their related intellectual property rights, and any and all related and underlying technology and documentation, and any derivative works, modifications, or improvements of any of the foregoing. No rights are granted to Customer hereunder other than as expressly set forth herein.

6.2. Customer Data. The Customer Data is owned exclusively by Customer. Customer grants to Observe.ai, its Affiliates and applicable contractors a non-exclusive, worldwide, royalty-free license to host, copy, use, display and transmit Customer Data as appropriate for Observe.ai to provide and ensure proper operation of the Services to Customer.

6.3. Feedback. Customer hereby grants Observe.ai a perpetual, irrevocable, royalty-free and fully paid right to use and otherwise exploit in any manner any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer related to the Services or other Observe.ai products or services, including for the purpose of improving and enhancing the Services, provided that Customer is not referenced in such use.

6.4. Anonymized Information. Observe.ai will collect and analyze information relating to the use of the Services, including Customer Data submitted to, collected by, accessed and/or generated by Observe.ai in connection with Customer's use of the Services, and may use (during and after the Term) such information to develop and improve the Services and other Observe.ai offerings, but only in aggregate, anonymized form which cannot be readily linked to Customer or any of Customer's customers, or any specific entity or natural person. For sake of clarity, aggregated anonymous data is not Customer

Confidentiality

7.1. Definition of Confidential Information. "Confidential Information" shall mean any information disclosed by either party (the "**Disclosing Party**") to the other party (the "**Receiving Party**"), either directly or indirectly in writing, orally, or by inspection of tangible objects (a) that the disclosing party identifies as confidential or proprietary; or (b) that reasonably appears to be confidential or proprietary because of legends or other markings, the circumstances of disclosure, or the nature of the information itself. Confidential Information of Customer includes Customer Data. Confidential Information of Observe.ai includes any trade secrets, know-how, inventions (whether or not patentable), techniques, ideas, processes, design and architecture, computer code, internal documentation, functional specifications, any problem reports, analysis, and performance information related to the Services; reports, analyses and/or other information relating to Observe.ai's security practices; and the terms and conditions of this Agreement and all Order Forms (including pricing). Confidential Information does not include information that the Receiving Party can document: (i) is or becomes generally available to the public other than through a wrongful act of the Receiving Party; or (ii) was lawfully in its possession or known by it prior to receipt from the Disclosing Party; or (iii) was rightfully disclosed to it without restriction by a third party who is not in breach of any confidentiality obligations with respect thereto; or (iv) is independently developed by the Receiving Party, its employees or third-party contractors without use of or reference to the Confidential Information. For clarity, the non-disclosure obligations set forth in this "Confidentiality" section apply to Confidential Information exchanged between the parties in connection with the evaluation of additional Observe.ai services and offerings.

7.2. Protection of Confidential Information. All Confidential Information disclosed by Disclosing Party shall remain the property of the Disclosing Party. The Disclosing Party reserves all rights in its Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to: (a) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement; and (b) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this "Confidentiality" section. Notwithstanding the foregoing, Observe.ai may disclose the terms of this Agreement and any applicable Order Form to a contractor to the extent necessary to perform Observe.ai's obligations under this Agreement, under terms of confidentiality materially as protective as set forth herein.

7.3. Compelled Disclosure. Either party may disclose Confidential Information to the extent required by law, provided that the Receiving Party gives the Disclosing Party reasonable advance notice of such required disclosure and cooperates with the Disclosing Party so that the Disclosing Party may obtain appropriate

confidential treatment for such Confidential Information.

Representations, Warranties and Disclaimers

8.1. Representations. Each party represents that it has validly entered into this Agreement and has the legal power to do so.

8.2. Observe.ai Warranties. Observe.ai warrants that: (a) during the applicable Subscription Term (i) the Services will perform materially as described in the Documentation, if any; (ii) it will not materially decrease the overall functionality of the Services; and (iii) it will not materially decrease the overall security of the Services; and (b) Professional Services will be performed in a professional, workmanlike manner and substantially in accordance with any mutually agreed SOW.

8.3. Warranty Remedies. Customer will notify Observe.ai of any non-conformance of the Services under a warranty above within 30 days. Provided that Customer notifies Observe.ai within such time, Observe.ai will use commercially reasonable efforts to correct the non-conformance at no additional charge. If Observe.ai is unable to correct such non-conforming Services or Professional Services as warranted within a reasonable time, Customer will be entitled to terminate the applicable Order Form and receive a prorated refund of any prepaid, unused Fees covering the remainder of the Subscription Term or Fees paid to Observe.ai for the relevant non-conforming Professional Services. The foregoing remedy is Customer's sole remedy in case of a breach of the limited warranties above.

8.4. Disclaimers. (a) EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE SERVICES ARE PROVIDED "AS IS," NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OBSERVE.AI DOES NOT WARRANT THAT THE SERVICES ARE ERROR-FREE OR THAT THE SERVICES WILL OPERATE WITHOUT INTERRUPTION OR BE ACCURATE AND OBSERVE.AI GRANTS NO WARRANTY REGARDING THE USE BY CUSTOMER OF THE SERVICES. THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. OBSERVE.AI IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS. (b) CUSTOMER ACKNOWLEDGES AND AGREES THAT OBSERVE.AI IS NOT LIABLE, AND CUSTOMER AGREES NOT TO SEEK TO HOLD OBSERVE.AI LIABLE, FOR THE CONDUCT OF THIRD PARTIES, INCLUDING PROVIDERS OF THE THIRD-PARTY SERVICES, AND THAT THE RISK OF INJURY FROM SUCH THIRD-PARTY SERVICES RESTS ENTIRELY WITH CUSTOMER.

Mutual Indemnification

9.1. Indemnification by Observe.ai. Observe.ai will defend Customer against any claim, demand, suit or proceeding made or brought against Customer by

a third party alleging that the Services infringe or misappropriate such third party's intellectual property rights (each, a "**Claim Against Customer**"), and will indemnify Customer from any damages, attorney fees and costs finally awarded against Customer as a result of, or for amounts paid by Customer under a settlement approved by Observe.ai in writing of, a Claim Against Customer, provided Customer: (a) promptly gives Observe.ai written notice of the Claim Against Customer; (b) gives Observe.ai sole control of the defense and settlement of the Claim Against Customer; and (c) gives Observe.ai all reasonable assistance, at Observe.ai's expense. If Observe.ai receives information about an infringement or misappropriation claim related to the Services, Observe.ai may in its discretion and at no cost to Customer: (i) modify the Services so that they are no longer claimed to infringe or misappropriate; (ii) obtain a license for Customer's continued use of the Services in accordance with this Agreement; or (iii) terminate Customer's subscriptions for the Services upon 30 days' written notice and refund Customer any prepaid fees covering the remainder of the subscription term of the terminated Services. The above defense and indemnification obligations do not apply if a Claim Against Customer arises from: (I) the use or combination of the Services or any part thereof with software, hardware, data, or processes not provided by Observe.ai, if the Services or use thereof would not infringe without such combination; (II) modifications to the Services not made by Observe.ai; or (III) Customer's breach of this Agreement, applicable Order Forms or the Documentation.

9.2. Indemnification by Customer. Customer will defend Observe.ai and its Affiliates against any claim, demand, suit or proceeding made or brought against Observe.ai by a third party arising from: (a) Customer's use of the Services in an unlawful manner or in violation of this Agreement, an Order Form or the Documentation; or (b) any Customer Data or Customer's use of Customer Data with the Services (each, a "Claim Against Observe.ai"), and will indemnify Observe.ai from any damages, attorney fees and costs finally awarded against Observe.ai as a result of, or for any amounts paid by Observe.ai under a settlement approved by Customer in writing of, a Claim Against Observe.ai, provided Observe.ai: (i) promptly gives Customer written notice of the Claim Against Observe.ai; (ii) gives Customer sole control of the defense and settlement of the Claim Against Observe.ai; and (iii) gives Customer all reasonable assistance, at Customer's expense. The above defense and indemnification obligations do not apply if a Claim Against Observe.ai arises from Observe.ai's breach of this Agreement, applicable Order Forms or the Documentation.

9.3. Sole and Exclusive Remedy. This Section 9 sets forth the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for the third-party claims described herein.

Limitation of Liability

10.1. Exclusion of Certain Types of Damages. EXCEPT TO THE EXTENT PROHIBITED BY LAW, NEITHER PARTY OR ITS AFFILIATES WILL HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL, PUNITIVE, COVER, BUSINESS INTERRUPTION, LOST PROFIT, OR CONSEQUENTIAL DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE

POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE.

10.2. Liability Cap. EXCEPT FOR AMOUNTS PAYABLE UNDER A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 9 OR CUSTOMER'S BREACH OF SECTION 3.3, IN NO EVENT SHALL THE AGGREGATE TOTAL LIABILITY OF EITHER PARTY TOGETHER WITH ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY OR DUE FROM BUT NOT YET PAID BY CUSTOMER UNDER THE ORDER FORM(S) OR SOW(S) GIVING RISE TO SUCH LIABILITY IN THE 12 MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE LIABILITY. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY BUT WILL NOT LIMIT CUSTOMER'S AND ITS AFFILIATES' PAYMENT OBLIGATIONS UNDER THE "FEES AND PAYMENTS" SECTION ABOVE.

Miscellaneous

11.1. Relationship Between the Parties. Observe.ai is an independent contractor; nothing in this Agreement will be construed to create a partnership, joint venture, or agency relationship between the parties.

11.2. Publicity. Observe.ai may identify Customer as a customer on its website using Customer's name and logo. Observe.ai may from time to time refer potential new customers to Customer as a reference for the Services and Observe.ai, and Customer agrees to respond reasonably to all such reference contacts

11.3. Export Compliance. The Services may be subject to the export laws of the United States and other jurisdictions. Each party represents that it is not on any U.S. government denied-party list. Customer will not permit any User to access or use the Services in Russia or a U.S.-embargoed country or region (currently Cuba, Iran, North Korea, Syria or Crimea) or in violation of any U.S. export law or regulation.

11.4. Anti-Bribery. Neither party has received or been offered any illegal or improper bribe, rebate, payoff, influence payment, kickback, or other thing of value from an employee or agent of the other party in connection with this Agreement.

11.5. Assignment. Neither party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other party, and any assignment or transfer in derogation of the foregoing shall be null and void, provided, however that either party shall have the right to assign the Agreement, without the prior written consent of the other party, to the successor entity in the event of merger, corporate reorganization or a sale of all or substantially all of such party's assets. This Agreement shall be binding upon the parties and their respective successors and permitted assigns.

11.6. Notices. All notices required or permitted under this Agreement must be delivered in writing, if to Observe.ai, by emailing legal@observe.ai and if to Customer by emailing the Customer email address listed on the Order Form, provided, however, that with respect to any notices relating to breaches of this Agreement or termination, a copy of such notice will also be sent in writing to the other party at the party's address as listed on the Order Form by courier, by certified or registered mail (postage prepaid and return receipt requested), or by a nationally-recognized express mail service. Each party may change its email

address and/or address for receipt of notice by giving notice of such change to the other party.

11.7. Governing Law and Jurisdiction. The Agreement is governed by the laws of the State of California, without regard to its conflicts of laws or provisions. All disputes arising out of this Agreement will be subject to the exclusive jurisdiction and venue of the state and federal courts in San Francisco, California and the parties hereby consent to the personal jurisdiction of these courts. In the event of actual or threatened breach of confidentiality obligations or the "Use Restrictions" in this Agreement, the non-breaching party may seek specific performance, immediate injunctive and other equitable relief in any competent court without prejudice to any other rights or remedies.

11.8. Waivers; Severability. Any waivers shall be effective only if made by a writing signed by representatives authorized to bind the parties. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

11.9. Construction. The headings of Sections of this Agreement are for convenience and are not to be used in interpreting this Agreement. As used in this Agreement, the word "including" means "including but not limited to."

11.10. Force Majeure. Any delay in the performance of any duties or obligations of either party (except for the obligation to pay Fees owed) will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, war, fire, earthquake, typhoon, flood, natural disasters, governmental action, pandemic/epidemic, cloud-service provider outages any other event beyond the control of such party, provided that such party uses reasonable efforts, under the circumstances, to notify the other party of the circumstances causing the delay and to resume performance as soon as possible.

11.11. U.S. Government Restricted Rights. If Customer is a government end user, then this provision also applies to Customer. The software contained within the Platform and the Services and provided in connection with this Agreement has been developed entirely at private expense, as defined in FAR section 2.101, DFARS section 252.227-7014(a)(1) and DFARS section 252.227-7015 (or any equivalent or subsequent agency regulation thereof), and is provided as "commercial items," "commercial computer software" and/or "commercial computer software documentation." Consistent with DFARS section 227.7202 and FAR section 12.212, the extent required under U.S. federal law, the minimum restricted rights as set forth in FAR section 52.227-19 (or any equivalent or subsequent agency regulation thereof), any use, modification, reproduction, release, performance, display, disclosure or distribution thereof by or for the U.S. Government shall be governed solely by this Agreement and shall be prohibited except the extent expressly permitted by this Agreement.

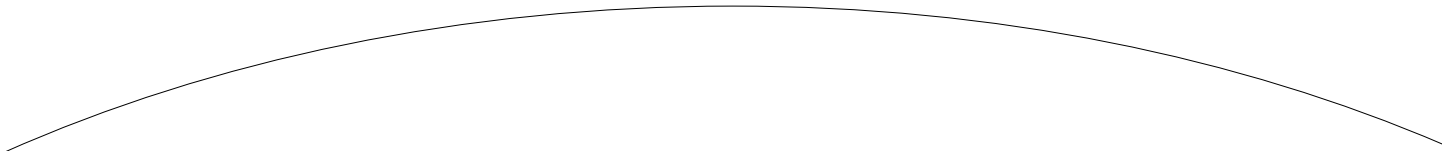
11.12. Entire Agreement; Amendment. This Agreement and any applicable Order Form constitutes the complete agreement between the parties and supersedes all previous and contemporaneous agreements, proposals, or representations, written or oral, concerning the subject matter of this Agreement. To the extent that a conflict arises between the terms and conditions of an Order Form or SOW and the terms of this Agreement, the terms and conditions of the Order Form or SOW will govern. Customer agrees that any purchase order, website, purchasing

portal, or other instrument issued by Customer shall be for Customer's administrative purposes only and any terms and conditions contained therein shall be of no force or effect even if signed or otherwise accepted or acknowledged by Observe.ai.

11.13. **Counterparts.** This Agreement may be executed electronically and in counterparts.

Deliver breakthrough results with the Intelligent Workforce Platform

SCHEDULE A DEMO



Product	Solutions	Resources	Company	Support
Overview	Sales performance	Resource Center	About us	Help Center
Conversation Intelligence	Compliance	Blog	Careers	Sales
Contact Center LLM	Customer experience	Remote Contact Centers	Customers	Contact Us
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