



**MASTER SERVICES AGREEMENT**

This Master Services Agreement (“**Agreement**”) is entered into as of the later date in the signature block below (“**Effective Date**”), by and between AppZen, Inc. (“**AppZen**”), with offices at 6201 America Center Dr., Suite 300, San Jose, CA 95002, and the entity signing below or otherwise executing a Sales Order Form referencing this Agreement (“**Customer**”).

**1. DOCUMENTS COMPRISING THE AGREEMENT**

The “Agreement” shall consist of the terms and conditions set forth in this Agreement together with any exhibits attached hereto and any Sales Order Forms (as defined in the attached Exhibit A), items attached to/linked in or otherwise referenced in Sales Order Forms, and other documents that either incorporate this Agreement by reference or are incorporated herein by reference (including, without limitation, the Service Description Guide, the list of subprocessors, and the DPA).

**2. INITIAL TERM**

The term of the Agreement will commence on the Effective Date defined below and will extend throughout the period of any active Sales Order Forms. The initial term, based on the agreed Sales Order Form, will be as set forth in such Sales Order Form, subject to variation by addition of subsequent Sales Order Forms and/or other renewals, extensions, or amendments as may be agreed upon and executed by the parties.

**3. EXECUTION**

This Agreement will come into force between the parties either upon the signature of both parties as set forth below, or upon the parties’ execution of a Sales Order Form referencing this Agreement. The Effective Date will be the earlier of the date last signed below, or the date of execution of a Sales Order Form referencing this Agreement (the “Effective Date”) by the parties hereto each acting under due and proper authority.

**ACKNOWLEDGED AND AGREED:**

<b>AppZen, Inc.</b>	<b>Customer Company Name:</b>
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:
Notice: <a href="mailto:legalnotices@appzen.com">legalnotices@appzen.com</a>	Notice:
Address: <i>See Above</i>	Address:

**Attachment:**

Exhibit A – General Terms and Conditions

Exhibit B – Definitions

Exhibit C – Product and Service Guide in effect, as may be amended by AppZen from time to time.

## EXHIBIT A GENERAL TERMS AND CONDITIONS

This Exhibit is made as of the Effective Date and pertains to and is made a part of the Master Services Agreement between AppZen and Customer (the "Agreement"). All undefined capitalized terms herein shall have the meanings set forth in the Agreement. If any terms of this Exhibit are inconsistent with any of terms of other elements of the Agreement (including other exhibits, Sales Order Forms, or materials incorporated by reference herein), the terms of this Exhibit shall control.

### 1. PROVISION OF SERVICES

**1.1 Provision of the Subscription Service.** Subject to Customer's payment of the fees set forth in the Sales Order Form, AppZen will provide the Subscription Service via an online user interface specified in the Documentation, and/or will provide any additional Service as set forth in the applicable Sales Order Form. AppZen will provide to Customer the necessary Access Protocols to allow Customer and its Authorized Users to access the Subscription Service. Customer may permit Authorized Users to access and use the Subscription Service as contemplated by this Agreement. AppZen may in its discretion, but is not required to, provide new releases and updates to the Subscription Service (not including any features or functionalities implemented only for specific customers or for separate fees) in the same manner that it generally provides to its other customers, provided that AppZen will not be obligated to provide to Customer any new release or update for which AppZen generally charges a separate fee. AppZen assumes no obligation to provide additional features or functionality to any portion of the Services absent an express written agreement for provision of such additional features or functionality.

**1.2 Restrictions.** With respect to the Subscription Service, Customer will not (and will not permit others to): (a) use it in excess of contractual usage limits (including as set forth in a Sales Order Form), or in a manner that circumvents usage limits or technological access control measures; (b) license, sub-license, sell, resell, rent, lease, transfer, distribute, time share, or otherwise make any of it available for access by third-parties, except as may otherwise be expressly stated in a Sales Order Form; (c) access it for the purpose of developing or operating products or services for third-parties in competition with the Subscription Service or AppZen; (d) disassemble, reverse engineer, or decompile it; (e) copy, create derivative works based on, or otherwise modify it, except as provided by law, in which case Customer will provide prior written notice to AppZen before taking such action; (f) remove or modify a copyright or other proprietary rights notice in it; (g) use it to reproduce, distribute, display, transmit, or use material protected by copyright or other Intellectual Property Right (including the rights of publicity) without first obtaining permission of the owner; (h) use it to create, use, send, store, or run viruses or other harmful computer code, files, scripts, agents, or other programs, or otherwise engage in a malicious act or disrupt its security, integrity, or operation; or (i) access or disable any AppZen or third-party data, software, or network (other than Customer's instance of the Subscription Service under this Agreement).

**1.3 Data Security.** AppZen will maintain an information security program including administrative, physical and technical security policies and procedures with respect to its processing of Raw Data under this Agreement.

**(a) Breach Notification.** AppZen will promptly without undue delay notify Customer in the event of an unauthorized access or disclosure of Raw Data. AppZen will not notify, for or on behalf of Customer (or any Authorized User), any regulatory authority, consumer or other person of unauthorized access or disclosure to Raw Data unless Customer explicitly requests in writing that AppZen do so.

**(b) Security Standards.** AppZen is certified as ISO27001:2013 and SSAE 18, Type 2 SOC 2 compliant as of the Effective Date and will remain certified to these or equivalent or greater standards (the "**ISMS Standards**") throughout the term of this Agreement. Upon Customer's written request, AppZen will provide its certificate of registration which states its conformance with the requirements of ISO 27001:2013 and independent auditor's summary report of AppZen's controls under a Type 2 SOC 2 examination. AppZen will maintain appropriate administrative, physical and technical safeguards according to the ISMS Standards. These safeguards will include, but not be limited to, measures designed to prevent unauthorized access to or disclosure of Raw Data.

(c) Standard Contractual Clauses. To the extent Personal Data from the European Economic Area (EEA), the United Kingdom or Switzerland are processed by AppZen, the Standard Contractual Clauses will apply, as further set forth in the DPA. Where the Standard Contractual Clauses are applicable, Customer is the data exporter, AppZen is the data importer, and the parties' execution of this Agreement will be treated as their execution of the DPA.

**1.4 Provision of Implementation Service and Support Service.** Customer may engage AppZen to provide implementation installation, configuration, or training Services at a fee stated on a Sales Order Form. Subject to Customer's payment of the applicable fees, AppZen shall perform such services, which may include helping Customer input its Raw Data into the Subscription Service, configuring the learning algorithm in the Subscription Service to learn Customer's risk parameters, and/or providing other services set forth in the Sales Order Form. Customer will provide all necessary assistance, including but not limited to any required integration elements such as APIs and any technical support, as reasonably required to implement the Subscription Service for Customer. In addition, subject to Customer's payment of applicable support fees stated on the Sales Order Form, AppZen will provide Customer with the support service in accordance with the Support Data Sheet referenced in the Sales Order Form. To the extent applicable, Customer agrees to pay AppZen for reasonable pre-approved out-of-pocket expenses (including travel and living) incurred by AppZen in performing its obligations for such Services. All costs and expenses incurred by Customer in connection with this Agreement are the sole responsibility of Customer. Terms regarding the delivery of the implementation service, if applicable, will be set forth in a Sales Order Form. To the extent that Customer does not purchase such implementation Services, Customer will be responsible for implementation at its own expense, and Customer will be fully responsible for such implementation, with AppZen having no liability therefor.

**1.5 Service Level Terms.** The service shall be available for an uptime percentage of at least 99.9%, measured monthly, excluding holidays and weekends and scheduled maintenance according to AppZen's then-current policies and schedules. If Customer requests maintenance during these hours, any uptime or downtime calculation will exclude periods affected by such maintenance. Further, any downtime resulting from outages of third party connections or utilities or other reasons beyond AppZen's control will also be excluded from any such calculation. Customer's sole and exclusive remedy, and AppZen's entire liability, in connection with service availability shall be that for each period of downtime lasting longer than one hour, AppZen will credit Customer 5% of the applicable monthly fees for each period of 60 or more consecutive minutes of downtime; provided that no more than one such credit will accrue per day. Customer may subscribe to AppZen's email notification feed for alerts on downtime or may notify AppZen of any outages that it recognizes. For calculation purposes, downtime will be defined as periods in which all AppZen services are unavailable, and will begin to accrue as soon as Customer (with notice to AppZen) recognizes that downtime is taking place, and continues until the availability of the Service is restored. In order to receive downtime credit, Customer must notify AppZen in writing within 24 hours from the time of downtime; failure to provide such notice will forfeit the right to downtime credit. Any credits will be applied to Customer's next payment for services, which will be the sole form in which such credits will be granted (no refunds will be issued for any such credits) The total amount of credit for downtime will not exceed one (1) week's worth of applicable fees in any given one (1) calendar month in any event.

**1.6 Subprocessors and Subcontractors.** AppZen will use subprocessors to provide the Subscription Services, with particular subprocessors and roles as set forth at <https://www.appzen.com/privacy/subprocess>, as may be updated from time to time, and Customer hereby authorizes AppZen's use of such subprocessors and the use of any additional subprocessors as AppZen may designate during the term of any Sales Order Form. AppZen may also use subcontractors to assist in implementation, integration, or other work in connection with delivery of the Services, and Customer hereby authorizes AppZen's use of such subcontractors as AppZen deems appropriate.

## **2. CUSTOMER OBLIGATIONS**

**2.1 Responsibilities of Customer.** Customer will be responsible for obtaining and maintaining, at Customer's expense, all telecommunications, computer hardware, software, and Internet connectivity required by Customer or any Authorized User to access the Subscription Service from the Internet, as well as for enabling integration with any systems used by Customer as required for the operation of the Subscription Service. Customer and its Authorized Users will have access to the Raw Data and will be responsible for all changes to and/or deletions of Raw Data. Customer will use commercially reasonable efforts to prevent unauthorized access to, or use of, the Subscription Service, safeguard the Access Protocols, and will notify AppZen promptly of any such unauthorized use known to Customer. Customer will have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Raw Data. Customer agrees that the Subscription Service will not be used, and is not licensed for use, in connection with any of Customer's time-critical or mission-critical functions. Customer represents and warrants that any Raw Data submitted to the Subscription Service will not (a) infringe or misappropriate any Intellectual Property Rights of any person; (b) be deceptive, defamatory, obscene, or unlawful; or (c) contain any viruses, worms or other malicious computer programming codes intended to damage AppZen's systems or data. AppZen will have the right to review and monitor all use of the Subscription Service to ensure compliance with the terms of this Agreement.

Customer represents and warrants: (A) that its use of the Subscription Service will comply with Applicable Laws; (B) Raw Data will not contain (i) any data for which Customer does not have all rights, power, and authority necessary for its collection, use, and Processing as contemplated by this Agreement; or (ii) any data with respect to which Customer's usage as contemplated herein would violate Applicable Laws; (C) AppZen's processing of Raw Data as directed pursuant to this Agreement will not cause AppZen to violate Applicable Laws; and (D) Customer has all rights necessary to enable AppZen to integrate with any systems designated by Customer in the course of implementation of the Subscription Service for Customer, and Customer grants AppZen all necessary rights for enabling and/or implementing such integration, implementation, and subsequent operation, of the Subscription Service with Customer's designated systems during the term of any outstanding Sales Order Form.

### 3. INTELLECTUAL PROPERTY

**3.1 Ownership of the Raw Data.** As between Customer and AppZen, Customer owns and retains all right, title, and interest to the Raw Data and any Intellectual Property Rights therein. All rights in and to the Raw Data not expressly granted to AppZen are reserved.

**3.2 License Grant to AppZen.** Subject to the terms and conditions of this Agreement, Customer grants to AppZen a non-exclusive, worldwide, royalty-free and fully paid license to use, process, copy, store, transmit, perform, modify, distribute, display, and create derivative works of the Raw Data solely to provide and improve the Services, to take any other action per Customer's instructions, and to comply with Applicable Law, and Customer directs AppZen to use the Raw Data as set forth in this Agreement.

**3.3 Aggregated Data.** AppZen may use aggregated, de-identified, or anonymized data (including benchmarks, metrics, usage information, or extracts of Raw Data) ("Aggregated Data") for AppZen's general business purposes (including to improve AppZen's machine learning algorithms, to develop other products or services, or for testing, analytical, or other purposes), provided that no such Aggregated Data will be identified as derived from or in any way associated with Customer or its Authorized Users. Customer irrevocably and unconditionally assigns any and all rights, title, and interest (including all Intellectual Property Rights relating thereto) that it may have to such Aggregated Data to AppZen, without any royalty or accounting obligations to Customer or any other party.

**3.4 Ownership of the Services.** The Services (including but not limited to algorithms or technologies incorporated therein) and any other technology, data, or other items developed by AppZen at any time (and all worldwide Intellectual Property Rights in each of the foregoing (including any improvements to and/or derivative works thereof, as well as data generated by provision of the Services) are the exclusive property of AppZen and/or its suppliers as applicable. All rights in and to the Services not expressly granted to Customer in this Agreement are reserved.

**3.5 License Grant to Customer.** Subject to the terms and conditions of this Agreement, AppZen grants to Customer a limited, non-exclusive, non-transferable (except as set forth in [Section 10.6](#)), worldwide license during the term of this Agreement, without the right to sublicense, solely for Customer's internal business purposes, (a) to access, use, perform, and display the Subscription Service (including any output therefrom that is provided to Customer) in accordance with the Documentation; and (b) to use and make a reasonable number of copies of the Documentation. Except as expressly set forth herein, no express or implied license or right of any kind is granted to Customer regarding the Services.

**3.6 Feedback.** Customer and/or its Authorized Users may provide AppZen with feedback, ideas, and/or suggestions. Customer irrevocably and unconditionally assigns to AppZen any and all rights, title, and interest (including all Intellectual Property Rights relating thereto) in any and all such feedback ideas, and/or suggestions, without any royalty or accounting obligations to Customer or any other party.

### 4. FEES, TAXES AND PAYMENTS

**4.1 Fees and Taxes.** In consideration for the Services, Customer will pay to AppZen the fees set forth in the Sales Order Form in US Dollars, in accordance with the payment terms set forth therein. Subscription Service and support fees are invoiced annually in advance. Prices stated in each Sales Order Form are final. The Subscription Term, as set forth in each Sales Order Form, is a non-divisible, non-cancelable, and continuous commitment, regardless of the invoice or payment schedule, and pricing is based on the purchase of the entire Subscription Term. All amounts payable to AppZen hereunder are non-refundable (except as otherwise set forth herein) and will be due thirty (30) days after the invoice date. AppZen will be entitled to withhold performance and discontinue the Services until any past due

amount is paid in full. Any undisputed amounts not paid when due will bear interest at the rate of one percent (1%) per month, or the maximum rate allowed under applicable law, whichever is less. Any disputes concerning charges must be raised within thirty (30) days after invoice date; absent such an objection, the amounts will be considered undisputed for all purposes. The fees are exclusive of all applicable sales, use, withholding, value-added and other taxes, and all applicable duties, tariffs, assessments, export and import fees, or other similar charges. Customer will be responsible for payment of all taxes (other than taxes based on AppZen's income), fees, duties, and charges and any related penalties and interest, arising from the payment of the fees, or the delivery or use of the Services hereunder. Customer will make all payments of fees to AppZen free and clear of, and without reduction for, any withholding taxes, where applicable. Any such taxes imposed on payments of fees to AppZen will be Customer's sole responsibility, and Customer will provide AppZen with official receipts issued by the appropriate taxing authority, or such other evidence as AppZen may reasonably request to establish that such taxes have been paid.

**4.2 Additional Purchases, Use Verification, and Overages.** AppZen may remotely review Customer's use of the Subscription Service, and on AppZen's request, Customer will provide reasonable assistance to verify Customer's compliance with the Agreement and access or use of the Subscription Service. If during the Subscription Term the Customer requires additional volume, the Customer may execute a new Sales Order Form for additional volume in blocks of at least 10% of annual committed volumes at then current per unit price and such volume increase will apply for each remaining year in the Subscription Term. This new Sales Order Form should be executed no later than thirty (30) days of Customer reaching its committed volume. If Customer does not purchase such additional blocks, Customer will instead pay for the additional volumes at the overage rate of 150% of the per unit price and will be invoiced no later than thirty (30) days from the notification of overages.

## **5. WARRANTIES AND DISCLAIMERS**

**5.1 Limited Warranty.** AppZen warrants to Customer that the Services will be performed in a good and workmanlike manner. The foregoing warranty will not apply to performance issues of the Service (a) that result from any actions or inactions of Customer or any third parties as a violation of this Agreement or the Documentation; (b) that result from Customer's data structures, operating environment, or equipment; or (c) caused by other factors outside of AppZen's reasonable control. Provided that Customer notifies AppZen in writing of any breach of the foregoing warranty during the term of this Agreement, AppZen will, as Customer's sole and exclusive remedy for any breaches of the foregoing warranty or any Errors with the operation of the Subscription Service, (i) provide the AppZen technical support services to correct such breach(es) or Error(s), or (ii) if AppZen is unable to make such corrections within a commercially reasonable time, and such breach(es) or Error(s) are both material and cause the Subscription Service to fail to perform substantially according to the Documentation, AppZen may terminate this Agreement and refund to Customer the prepaid fees covering that part of the affected Subscription Service for the term remaining after the date of termination.

**5.2 Disclaimer.** THE LIMITED WARRANTY SET FORTH IN SECTION 5.1 IS MADE FOR THE BENEFIT OF CUSTOMER ONLY. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 5.1 AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED ON AN "AS IS, WHERE IS" BASIS, AND APPZEN MAKES NO OTHER WARRANTIES, REPRESENTATIONS, OR CONDITIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF SATISFACTORY QUALITY, COURSE OF DEALING, TRADE USAGE OR PRACTICE, MERCHANTABILITY, TITLE, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE USE, MISUSE, OR INABILITY TO USE THE SERVICES PROVIDED TO CUSTOMER BY APPZEN. APPZEN DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT OPERATION OF THE SUBSCRIPTION SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE. SOME STATES AND JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR CONDITIONS OR LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO CUSTOMER.

## **6. LIMITATION OF LIABILITY**

**6.1 Types of Damages.** TO THE EXTENT LEGALLY PERMITTED UNDER APPLICABLE LAW, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE INCLUDING, BUT NOT LIMITED TO, DAMAGES OR COSTS DUE TO LOSS OF PROFITS, DATA, REVENUE, GOODWILL, BUSINESS INTERRUPTION, OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, EVEN IF A PARTY HAS BEEN NOTIFIED OF THE LIKELIHOOD OF SUCH DAMAGES.

**6.2 Amount of Damages.** TO THE EXTENT LEGALLY PERMITTED UNDER APPLICABLE LAW, THE MAXIMUM AGGREGATE LIABILITY OF EITHER PARTY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT WILL NOT EXCEED THE FEES PAID OR OWED BY CUSTOMER TO APPZEN DURING THE TWELVE (12) MONTHS PRECEDING THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY, EXCEPT THAT WITH RESPECT TO INDEMNIFICATION OBLIGATIONS, THE MAXIMUM AGGREGATE LIABILITY OF EITHER PARTY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT WILL NOT EXCEED TWO TIMES (2X) THE FEES PAID OR OWED BY CUSTOMER TO APPZEN DURING THE TWELVE (12) MONTHS PRECEDING THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT INCREASE THIS LIMIT.

**6.3 Exclusions.** NOTHING IN THIS AGREEMENT WILL LIMIT OR EXCLUDE EITHER PARTY'S LIABILITY FOR ITS INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, RECKLESS OR INTENTIONAL MISCONDUCT, DEATH OR PERSONAL INJURY, OBLIGATION TO PAY FOR THE FEES OWED HEREUNDER, OR MATTERS WHICH CANNOT BE EXCLUDED OR LIMITED AS A MATTER OF APPLICABLE LAW.

**6.4 Basis of the Bargain.** The parties agree that the limitations of liability set forth in this Section 6 will survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy. The parties acknowledge that the fees have been set and the Agreement is entered into in reliance upon these limitations of liability and that all such limitations form an essential basis of the bargain between the parties.

## **7. CONFIDENTIALITY**

**7.1 Confidential Information.** During the term of this Agreement, each party (the "**Disclosing Party**") may provide the other party (the "**Receiving Party**") with certain information regarding the Disclosing Party's business, technology, products, or services or other confidential or proprietary information (collectively, "**Confidential Information**"). For the avoidance of doubt, the Subscription Service, Documentation, output of the Service, and all enhancements and improvements thereto, will be considered Confidential Information of AppZen, and the Raw Data will be considered Confidential Information of Customer. The Receiving Party agrees that it will not use or disclose to any third party any Confidential Information of the Disclosing Party, except as expressly permitted under this Agreement. The Receiving Party will limit access to the Confidential Information to its and its affiliates' employees and contractors who have a need to know, who have confidentiality obligations no less restrictive than those set forth herein, and who have been informed of the confidential nature of such information. In addition, the Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner that it protects its own proprietary information of a similar nature, but in no event with less than reasonable care. At the Disclosing Party's request or upon termination of this Agreement, the Receiving Party will return to the Disclosing Party or destroy/erase all copies of the Confidential Information that the Receiving Party does not have a continuing right to use under this Agreement. The obligation to return or destroy Confidential Information or copies thereof will not extend to back-up or archival copies generated in the ordinary course of the Receiving Party's information systems procedures or to material that must be retained under applicable law, provided that such archived and/or legally required to be retained copies will (i) be erased or destroyed in the ordinary course of such party's data processing procedures and (ii) remain subject to the obligations of confidentiality stated herein for so long as they are retained. The confidentiality obligations set forth in this section will not apply to any information that (a) becomes generally available to the public through no fault of the Receiving Party; (b) is lawfully provided to the Receiving Party by a third party free of any confidentiality duties or obligations; (c) the Receiving Party can prove, by clear and convincing evidence, was already known to the Receiving Party without restriction at the time of disclosure; or (d) the Receiving Party can prove, by clear and convincing evidence, was independently developed by employees and contractors of the Receiving Party who had no access to the Confidential Information. In addition, the Receiving Party may disclose Confidential Information to the extent that such disclosure is necessary for the Receiving Party to enforce its rights under this Agreement or is required by law, provided that the Receiving Party promptly notifies the Disclosing Party in writing of such required disclosure and cooperates with efforts of the Disclosing Party to seek an appropriate protective order.

## **8. INDEMNIFICATION**

**8.1 By AppZen.** AppZen will defend at its expense any third party suit brought against Customer, and will pay any settlement AppZen makes or approves, or any damages finally awarded in such suit, insofar as such suit is based on a claim by any third party alleging that the Subscription Service infringes or misappropriates any Intellectual Property Rights of such third party. If any portion of the Subscription Service becomes, or in AppZen's opinion is likely

to become, the subject of a claim of infringement, AppZen may, at AppZen's option: (a) procure for Customer the right to continue using the Subscription Service; (b) replace the Subscription Service with a non-infringing, substantially similar subscription service; or (c) modify the Subscription Service so that it becomes non-infringing. In the event that any portion of the Subscription Services becomes, or in AppZen's opinion is likely to become, the subject of a finding of infringement or an injunction, and none of the prior options are reasonably feasible, AppZen may terminate this Agreement and refund the prepaid fees covering that part of the applicable term for the affected Subscription Service remaining after the effective date of termination, and upon such termination, Customer will immediately cease all use of the Subscription Service. Notwithstanding the foregoing, AppZen will have no obligation under this section or otherwise to the extent any infringement claim is based upon (w) any use of the Subscription Service not in accordance with this Agreement or as specified in the Documentation; (x) any use of the Subscription Service in combination with products, equipment, software or data not supplied or recommended by AppZen; (y) any modification of the Subscription Service other than by AppZen or its authorized agents; or (z) modification of the Subscription Service based upon specifications furnished by Customer. **This Section states the sole and exclusive remedy of Customer and the entire liability of AppZen, or any of the officers, directors, employees, shareholders, contractors or representatives of the foregoing, for third party claims and actions described in this Section.**

**8.2 By Customer.** Customer will defend at its expense any third party suit brought against AppZen, and will pay any settlement Customer makes or approves, or any damages finally awarded in such suit, insofar as such suit is based on a claim by any third party arising out of or relating to Customer's breach or alleged breach of Section 1.2 or 2.1. **This Section states the sole and exclusive remedy of AppZen and the entire liability of Customer, or any of the officers, directors, employees, shareholders, contractors or representatives of the foregoing, for third party claims and actions described in this Section.**

**8.3 Procedure.** The indemnifying party's obligations as set forth above are expressly conditioned upon each of the foregoing: (a) the indemnified party will promptly notify the indemnifying party in writing of any threatened or actual claim or suit; (b) the indemnifying party will have sole control of the defense or settlement thereof; and (c) the indemnified party will reasonably cooperate with the indemnifying party to facilitate such settlement or defense.

## **9. TERM AND TERMINATION**

**9.1 Term.** This Agreement commences on the Effective Date and remains in effect until the end of service date in the last issued Sales Order Form unless earlier terminated as set forth below. This Agreement shall be automatically renewed for consecutive one (1) year terms unless either party provides written notice to the other of its intention not to renew at least thirty (30) days prior to the expiration of the then-current term. Unless otherwise stated in the Sales Order Form, the per-unit pricing for any automatic renewal term will increase by no more than 8% of the per-unit pricing for the applicable Subscription Service in the immediately prior Subscription Term.

**9.2 Termination.** Either party may terminate this Agreement immediately following notice to the other party if the other party materially breaches this Agreement, and such breach remains uncured for thirty (30) days after delivery of written notice of such breach. Implementation service is separately ordered from the Subscription Service. A breach by a party of its obligations with respect to the implementation service will not by itself constitute a breach with respect to the Subscription Service even if the services are enumerated in the same Sales Order Form.

**9.3 Effect of Termination.** Upon termination or expiration of this Agreement for any reason: (a) all rights and obligations of both parties (except for surviving items as provided for below) will terminate; and (b) within ten (10) days after the effective date of termination, each party will comply with the obligations to return, destroy or erase all Confidential Information of the other party, as set forth in Section 7.1. The following sections will survive expiration or termination of this Agreement for any reason: (i) Exhibit A General Terms and Conditions: Sections 2, 3.1, 3.3, 3.4, 3.6, 4, 5.2, 6, 7, 8, 9, 10, and (ii) Exhibit B Definitions. AppZen will, within 30 days after the effective date of termination by Customer for AppZen's breach, refund to Customer any prepaid fees received by AppZen covering that part of the Subscription Term for the affected Subscription Service, if any, remaining after the effective date of termination. Within 30 days after the effective date of termination by AppZen for Customer's breach, Customer will pay all remaining amounts, if any, payable under this Agreement for the Subscription Term applicable to the terminated Subscription Service regardless of the due dates specified in the current Sales Order Forms. Customer may within thirty (30) days of termination of this Agreement, request AppZen to return Customer's Raw Data and any output results in its instance. Thereafter, AppZen will delete Customer's instance and any data contained therein.

## 10. MISCELLANEOUS

**10.1 Insurance.** AppZen will for the term of the Agreement obtain and maintain with sound and reputable insurers, at its own expense, insurance coverage, in the amounts that are prudent or usual for a company conducting a business similar to AppZen, and taking into account the nature of the Services provided hereunder and the risks applicable to AppZen. Upon Customer's written request, AppZen will promptly furnish a certificate of insurance.

**10.2 Governing Law and Dispute Resolution.** This Agreement will be governed by the law of the State of California, without regard to principles of conflicts of law. In the event of a dispute between the parties, each party will provide the other party with written notice of the dispute as soon as practicable, and the parties agree to exercise reasonable efforts to resolve the dispute amicably. A dispute that cannot be resolved within thirty (30) days following the notice of the dispute will, upon written demand of either party, be resolved exclusively by final and binding arbitration. If both parties have headquarters in California, arbitration will be conducted exclusively in Santa Clara, California. If Customer is not headquartered in California, arbitration will be conducted exclusively in New York, New York. Arbitration will be held by the Judicial Arbitration and Mediation Service ("JAMS") pursuant to the United States Arbitration Act, 9 U.S.C., Section 1 et seq, and the Comprehensive Arbitration Rules and Procedures of JAMS then in effect. The arbitration will be conducted, and all evidence will be submitted in the English language. Each party will bear its own costs and expenses, and the two parties will share equally the fees and costs of the arbitrators. The award rendered in the arbitration will be final and binding and may be enforced in any court of competent jurisdiction. The foregoing will not apply if the dispute involves a breach of confidentiality obligation or an infringement of the other party's intellectual property rights. THE PARTIES HEREBY WAIVE ANY RIGHTS THEY MAY HAVE TO TRIAL BY JURY. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

**10.3 Export Compliance.** Each party will comply with local and foreign export control Applicable Laws, including U.S. export control laws. Customer acknowledges that the Subscription Service is subject to U.S. Export Administration Regulations ("EAR") and that Customer will comply with EAR. Without limiting the foregoing, Customer represents and warrants that: (a) it is not located in, and will not use any Subscription Service from, any country subject to U.S. export restrictions (currently including Cuba, Iran, North Korea, Sudan, Syria, Russia, Belarus, and the Covered Regions of Ukraine); (b) Customer will not use the Subscription Service in the design, development, or production of nuclear, chemical, or biological weapons, or rocket systems, space launch vehicles, sounding rockets, or unmanned air vehicle systems; and (c) Customer is not prohibited from participating in U.S. export transactions by any federal agency of the U.S. government. In addition, Customer is responsible for complying with any local Applicable Laws that may impact Customer's right to import, export, or use Subscription Service.

**10.4 US Government Rights.** AppZen software is commercial computer software (as defined in Federal Acquisition Regulation ("FAR") 2.101 for civilian agency purchases and Department of Defense ("DOD") FAR Supplement ("DFARS") 252.227-7014(a)(1) for defense agency purchases) and AppZen services are commercial items. If the software is licensed or services are acquired by or on behalf of a civilian agency, AppZen provides the software, its documentation, and any other technical data subject to this Agreement consistent with FAR 12.212 (Computer Software) and FAR 12.211 (Technical Data). If the software is licensed or services are acquired by or on behalf of any DOD agency, AppZen provides the software, its documentation, and any other technical data subject to this Agreement consistent with DFARS 227.7202-3. If this is a DOD prime contract or DOD subcontract, the DOD agency Customer may acquire additional rights in technical data under DFARS 252.227-7015(b). This U.S. Government Rights clause is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses government rights in computer software or technical data.

**10.5 Severability, Waiver, Nonexclusivity, and Relationship Nature.** If any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement will remain enforceable and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. 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. Nothing in this Agreement will be deemed to restrict or limit AppZen's right to perform similar services for any other party or to assign any employees or subcontractors to perform similar services for any other party or to use any information incidentally retained in the unaided memories of its employees providing Services. Customer's relationship to AppZen is that of an independent contractor, and neither party is an agent or partner of the other. Neither party will have, and will not represent to any third party that it has, any authority to act on behalf of the other.

**10.6 No Assignment.** Customer will not assign, subcontract, delegate, or otherwise transfer this Agreement, or its rights and obligations herein, without obtaining the prior written consent of AppZen, and any attempted

assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void; provided, however, that Customer may assign this Agreement in connection with a merger, acquisition, reorganization or sale of all or substantially all of its assets, or other operation of law, without the consent of AppZen, by providing notice of the assignment as soon as practicable. The terms of this Agreement will be binding upon the parties and their respective successors and permitted assigns.

**10.7 Force Majeure.** Any delay in the performance of any duties or obligations of either party (except the payment of money owed) will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the reasonable control of such party, provided that such party uses reasonable efforts, under the circumstances, to notify the other party of the cause of such delay and to resume performance as soon as possible.

**10.8 Name/Logo Use.** AppZen may make reasonable promotional use of Customer's logo and name.

**10.9 Notices.** Each party must deliver all notices or other communications under this Agreement in writing to the other party at the address listed on the Sales Order Form by courier, by electronic mail, or by a nationally-recognized express mail service. Notice will be effective upon receipt or refusal of delivery. If delivered by courier or express mail service, such notice will be deemed given on the delivery date reflected by the courier or express mail service receipt. Each party may change its address for notice by giving notice of such change to the other party.

**10.10 Entire Agreement.** This Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matters hereof and supersedes and merges all prior discussions between the parties with respect to such subject matters. No modification of or amendment to this Agreement, or any waiver of any rights under this Agreement, will be effective unless in writing and signed by an authorized signatory of Customer and AppZen. For avoidance of doubt, no purchase order or similar Customer-issued ordering document may be deemed to alter or supersede any terms set forth herein even to the extent that AppZen signifies acceptance of any such Purchase Order or similar document; any such acceptance will serve solely as an acknowledgement of Customer's order. Customer's orders are not contingent, and Customer has not relied, on the delivery of any future functionality regardless of any verbal or written communication about AppZen's possible future plans. This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which will be deemed to be one instrument.

## EXHIBIT B DEFINITIONS

Capitalized terms will have the meanings set forth in this section, or in the section where they are first used.

**“Access Protocols”** means the passwords, access codes, technical specifications, connectivity standards or protocols, or other procedures, provided by AppZen to allow Customer or Authorized Users to access the Subscription Service.

**“Affiliate”** means any individual, corporation, partnership, limited liability company, or other entity that directly or indirectly, controls, or is controlled by, or is under common control with, a party. As used in this definition, “control” (including, with its correlative meanings, “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of any such entity or organization, whether through the ownership of securities, by contract, or otherwise.

**“Applicable Laws”** means all laws, regulations, standards, and self-regulatory guidelines applying to the Parties and/or the provision or use of the Services, including but not limited to laws, regulations, standards, and self-regulatory guidelines relating to privacy, data protection, security, breach notification, consumer protection, or the Processing of Personal Data that may apply to Customer or AppZen, as applicable. Applicable Laws include but are not limited to the California Consumer Privacy Act (Cal. Civ. Code §§ 1798.100 - 1798.199) and the General Data Protection Regulation (Regulation (EU) 2016/679).

**“Authorized User”** means any individual who is an employee or contractor of Customer or Affiliate of Customer authorized by Customer to access the Subscription Service pursuant to Customer’s rights under this Agreement.

**“Documentation”** means the technical materials and documentation made available by AppZen in electronic form describing the use and operation of the Services.

**“DPA”** means the AppZen Data Processing Addendum, including the Standard Contractual Clauses and appendices in effect at <https://www.appzen.com/data-processing-addendum/> as may be amended by AppZen from time to time.

**“Error”** means a reproducible failure of the Subscription Service to substantially conform to the Documentation.

**“Intellectual Property Rights”** means any and all intellectual property, industrial property, and other proprietary rights available under applicable law, including all rights with respect to patents, copyrights, moral rights, trademarks, trade secrets, know-how, algorithms, and databases.

**“Personal Data”** means any information relating to an identified or identifiable individual, unless Applicable Laws provide for a different definition for “Personal Data” or a similar term, like personal information, in which case “Personal Data” has the meaning set forth by the Applicable Laws.

**“Process”** and **“Processing”** mean any operation or set of operations performed on Raw Data, whether or not by automated means, such as collection, recording, organization, creating, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**“Raw Data”** means any information provided or transmitted by Customer or on behalf of Customer to the Subscription Service. For the avoidance of doubt, “Raw Data” includes Personal Data.

**“Sales Order Form”** means all written order forms or other ordering documentation signed by Customer and accepted by AppZen referencing this Agreement and identifying the applicable Services to be made available by AppZen, fees, Subscription Term, and other terms and conditions applicable to the Services.

**“Services”** means the Subscription Service, Documentation, support service, implementation service, and any related services agreed by the parties in a Sales Order Form.

**“Subscription Service”** means the software as a cloud service identified in a Sales Order Form, including the AppZen platform and its proprietary machine learning algorithms, hosted on AppZen’s servers or those of its hosting services providers, accessed and used by Customer via the worldwide web.

**“Subscription Term”** means the duration when the Subscription Service will be made available to Customer, as set forth in the applicable Sales Order Form(s).

## EXHIBIT C

## PRODUCT AND SERVICES GUIDE

<https://support.appzen.com/hc/en-us/articles/4409825445267>