

TALKDESK EXPRESS TERMS OF SERVICE (RESELLER VERSION)

These Terms of Service (“**Agreement**”) are between Customer (as defined below) and Talkdesk, Inc. and its affiliates (“Talkdesk”) and governs Customer’s access to and use of the Talkdesk Services. Capitalized terms in this Agreement will have definitions as set forth in the applicable section where they are defined or in Section 1 below.

BY SIGNING THESE TERMS, CLICKING “ACCEPT” OR OTHERWISE AFFIRMATIVELY ACCEPTING THIS AGREEMENT, CUSTOMER ACKNOWLEDGES AND AGREES THAT IT HAS READ ALL OF THE TERMS AND CONDITIONS SET FORTH BELOW, UNDERSTANDS ALL OF THE TERMS, AND AGREES TO BE BOUND BY ALL OF THE TERMS. IF CUSTOMER DOES NOT AGREE TO ANY OF THE TERMS, CUSTOMER MAY NOT ACCEPT THIS AGREEMENT.

Authorization to Accept Terms of Service

Alternatively, Reseller represents and warrants that Customer has authorized Reseller, in writing, to act as Customer’s agent solely for the purpose of ordering and provisioning subscriptions to the Talkdesk Services, and to accept, on Customer’s behalf, these Terms of Service. In such instance, Customer agrees that this Agreement shall be binding on Customer as if accepted directly by Customer.

THIS AGREEMENT IS EFFECTIVE AS OF THE DATE WHEN BOTH CUSTOMER AND RESELLER (AS DEFINED BELOW) HAVE EXECUTED THE ORDER FORM (THE “EFFECTIVE DATE”).

1. DEFINITIONS.

“**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control”, for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity. Affiliates of Customer are included in the definition of “Customer”.

“**Agreement**” includes, as applicable, any Order Form, these Terms of Service, and any other exhibit expressly incorporated by reference or attached hereto. In the event of a conflict between the terms of any Order Form with the other provisions of the Agreement, the terms of the Order Form will control, but (a) only with respect to the specific Product(s) or Services purchased under such Order Form, and (b) only if the Order Form specifically references the conflicting provision(s) of this Agreement with the intention to supersede such provision(s).

“**AI Usage Fees**” means fees based upon Customer’s interactions with respect to Talkdesk’s AI portfolio of products, as may be updated from time to time by Talkdesk and includes, but is not limited to, Virtual Agent Voice, Virtual Agent Digital, Autopilot Voice, Autopilot Digital, Navigator Voice, Navigator Digital, Identity, Conversation Orchestrator, AI Trainer, and Premium Transcription. For avoidance of doubt, AI Usage Fees do not include minutes for calls, phone number line access, or SMS fees.

“**Authorized Users**” means Customer’s employees and independent contractors working for or on behalf of Customer in the ordinary course of Customer’s business for whom access to the Talkdesk Services has been activated, regardless of actual usage, pursuant to this Agreement.

“**Communication Service**” means a service which provides the ability to send or receive communications, as specified in the Order Form and/or an invoice, including, but not limited to,

minutes for calls, phone number line access, SMS, and any other service defined as such by the law or regulation.

“Confidential Information” means all information disclosed by a party (a “Disclosing Party”) to the other party (the “Receiving Party”), whether in oral, written, or other tangible or intangible form, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of Talkdesk includes the Services and the terms and conditions of this Agreement and all Order Forms (including pricing). Confidential Information of each party includes business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. Confidential Information of Customer does not include Customer Data.

“Customer” means the company or other legal entity on behalf of which the individual is accepting this Agreement or the entity that has contracted with Reseller to purchase subscriptions to use the Talkdesk Services, subject to the conditions of this Agreement.

“Customer Data” means any electronic data, information or material provided or submitted by or for Customer or its Authorized Users into the Talkdesk Services, excluding Third-Party Content and Third-Party Products; provided, however, that Customer Data does not include Usage Data or Customer Data that is aggregated and anonymized.

“Documentation” means any usage guides and policies that are provided or made available by Talkdesk, as updated from time to time, accessible online or via the applicable Services.

“Early Access Services” means Talkdesk Services or functionality that is pre-release and may be made available to Customer at Talkdesk’s discretion.

“Express Online Community” means the online, community-led site where Authorized Users have access to Documentation, knowledge base articles, and are able to ask and reply to questions regarding Talkdesk Services located at <https://express.talkdesk.com/>.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996.

“Intellectual Property Rights” or **“IP rights”** means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

“Order Form” means an ordering document or online registration identifying the Services to be made available by Talkdesk through Reseller pursuant to this Agreement, which may detail, among other things, the amount of Prepaid Credits.

“Prepaid Credits” means prepaid credits for Usage Fees identified in the Order Form.

“Representatives” means a party’s director, officer, agent, employee, subsidiary, parent company, or financial or legal adviser. Any recipient of a permitted disclosure of Confidential Information under **Section 7.2** shall be deemed a Representative.

“Reseller” means the entity that has contracted directly with and is authorized by Talkdesk to resell the Talkdesk Services to its Customers.

“Services Fees” means the fees charged to the Customer by Reseller for the provision of the Services pursuant to this Agreement, including, but not limited to, License Fees (if applicable) and Usage Fees.

“Service Term” means the period of time identified in the Order Form for which Customer will be entitled access to the applicable Talkdesk Services (the “Initial Term” and any renewal thereof, each, a “Renewal Term”), as applicable.

“Talkdesk Services” or **“Services”** means the software as a service and the Communication Services to be provided by Talkdesk as identified in the Order Form, as may be modified by Talkdesk to maintain or improve the quality or marketability of the Talkdesk Services or to bring Talkdesk’s provision of the Talkdesk Services into compliance with applicable law.

“Taxes and Charges” means any value added, consumption, sales, use, gross receipts, withholding, excise, access, bypass, ad valorem, franchise or other taxes, fees, duties, assessments, or surcharges associated with government programs (e.g., 911 or other emergency services, number pooling and portability, and universal service programs) along with similar charges.

“Third-Party Product” means a Web-based, mobile, offline, or other software application functionality and/or Communication Service that interoperates with the Services, that is provided by Customer.

“Third-Party Content” means information obtained by Talkdesk from publicly available sources or its third-party content providers and made available to Customer through the Services, Early Access Services, or pursuant to an Order Form, as more fully described in the Documentation.

“Usage Data” means any information or data associated with or collected from Customer and each Authorized User relating to the usage or results of the Talkdesk Services. Usage Data does not include data that is aggregated and anonymized.

“Usage Fees” means fees based on Customer’s use of the Services, as applicable, including but not limited to minutes for calls, phone number line access fees, SMS fees, transcription fees, and AI Usage Fees.

2. SERVICES.

2.1 Talkdesk Services. Subject to the terms and conditions of this Agreement and the applicable Order Form, Talkdesk hereby grants Customer a revocable, limited, non-exclusive, non-sublicensable, and non-transferable right to access and use (and to permit the Authorized Users to access and use) the Talkdesk Services during the Service Term, solely to support the internal business operations of Customer and its Affiliates. All rights in the Talkdesk Services not expressly granted in this Agreement are reserved to Talkdesk. Customer will not provide access to the Talkdesk Services to any third party without Talkdesk’s prior written consent. Talkdesk is not responsible for any acts, omissions, or other products or services provided by Reseller. Reseller is not authorized to modify this Agreement or make any commitment for Talkdesk, and Talkdesk is not bound by any obligations to Customer with respect to any Talkdesk Services acquired from Reseller other than as set forth in this Agreement.

2.2 Authorized User Credentials. Customer shall be responsible for and liable for its Authorized Users’ compliance with this Agreement. Each Authorized User must create and use unique access credentials, and Customer shall ensure user IDs and passwords are not shared or used by more than one Authorized User. Customer shall take all reasonable precautions to prevent unauthorized access to or use of the Talkdesk Services and shall notify Reseller promptly of any unauthorized access or use. Customer shall be responsible for any unauthorized usage that occurs. Customer will be solely

responsible, at Customer's expense, for acquiring, installing, and maintaining all hardware, software, and other equipment as may be necessary for Customer and each Authorized User to connect to, access, and use the Talkdesk Services.

2.3 Support. Customer, at no additional charge, will be granted access to the Express Online Community. No additional support for the Talkdesk Services will be provided by Talkdesk.

2.4 Communications Services. The terms at <https://www.talkdesk.com/legal/tax/terms-for-communication-services/>, as updated by Talkdesk from time to time, shall apply to the Communication Services in addition to these Terms of Service.

3. USE OF SERVICES AND CUSTOMER DATA

3.1 Subscriptions. Unless otherwise provided in the applicable Order Form or Documentation: (a) Services are provided as subscriptions for each Authorized User for the Service Term; (b) any automatic renewal will include all Authorized Users added prior to the end of the Initial Term or Renewal Term (as applicable).

3.2 Customer Responsibilities. Customer will: (a) comply (and be responsible for its Authorized Users' compliance) with this Agreement, the Documentation, and the Order Form(s); (b) be responsible for the accuracy, quality, and legality of Customer Data, the means by which Customer acquired Customer Data, Customer's use of Customer Data with the Services, and the interoperation of any Third-Party Product with which Customer uses the Services or Third-Party Content; (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Services and Third-Party Content, and notify Reseller promptly of any such unauthorized access or use; and (d) use the Services and Third-Party Content only in accordance with this Agreement, Documentation, Order Forms, and applicable laws and government regulations.

3.3 Removal of Third-Party Content and Third-Party Product. If Customer receives notice that Third-Party Content or a Third-Party Product must be removed, modified, and/or disabled to avoid violating applicable law or third-party rights, Customer will promptly do so. If Customer does not take required action in accordance with the above, or if in Talkdesk or Reseller's judgment continued violation is likely to reoccur, Talkdesk may disable the applicable Third-Party Content, Services, and/or Third-Party Product. If requested by Talkdesk or Reseller, Customer shall confirm such deletion and discontinuance of use in writing, and Talkdesk and/or Reseller shall be authorized to provide a copy of such confirmation to any such third-party claimant or governmental authority, as applicable. In addition, if Talkdesk and/or Reseller is required by any third-party rights holder to remove Third-Party Content, or receives information that Third-Party Content provided to Customer may violate applicable law or third-party rights, Talkdesk or Reseller may discontinue Customer's access to Third-Party Content through the Services.

3.4 Use Restrictions. Customer and all Authorized Users must comply with Talkdesk's Acceptable Use Policy located at <https://www.talkdesk.com/es-es/legal/acceptable-use-policy/> (the "Acceptable Use Policy") and any applicable acceptable use or similar policies imposed by the applicable telco carrier.

3.5 Customer Data. Customer acknowledges that Talkdesk is not responsible for the creation, content, or use of the Customer Data by Customer or any third party. Customer represents that it owns or has acquired the necessary licenses to grant Talkdesk the below license to use Customer Data. Upon termination of this Agreement, Talkdesk will delete Customer Data in accordance with its standard schedule and procedures unless otherwise prohibited by law.

3.6 Protection of Customer Data. Talkdesk will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of Customer Data. Those safeguards will include, but will not be limited to, measures designed to prevent unauthorized access to or disclosure of Customer Data (other than by Customer or Authorized Users).

3.7 License by Customer to Talkdesk. Customer grants Talkdesk, its Affiliates and applicable contractors a worldwide, limited-term license to host, copy, use, transmit, and display any Third-Party Product and program code created by or for Customer using any Services or for use by Customer with the Services. Talkdesk may use Customer Data and Usage Data to provide and ensure proper operation of the Services and associated systems in accordance with this Agreement. Talkdesk may use Customer Data and Usage Data that is aggregated and anonymized for benchmarking and for the purpose of improving the Services and associated systems in accordance with this Agreement. If Customer chooses to use a Third-Party Product with the Services, Customer grants Talkdesk permission to allow the Third-Party Product and its provider to access Customer Data and information about Customer's usage of the Third-Party Product as appropriate for the interoperation of that Third-Party Product with the Services. Subject to the limited licenses granted herein, Talkdesk acquires no right, title, or interest from Customer or its licensors under this Agreement in or to any Customer Data, Third-Party Product, or such program code.

3.8 License by Customer to Use Feedback. Customer grants to Talkdesk and its Affiliates a worldwide, perpetual, irrevocable, royalty free license to use and incorporate into its services any suggestion, enhancement request, recommendation, correction, or other feedback provided by Customer or Authorized Users, whether through Reseller or directly to Talkdesk, relating to the operation of Talkdesk's or its Affiliates' business.

4. EARLY ACCESS SERVICES. From time to time, Customer may purchase and/or access Early Access Services. Any use of Early Access Services is subject to Talkdesk's Early Access Agreement located at <https://www.talkdesk.com/legal/early-access-agreement/>.

5. THIRD-PARTY PRODUCTS AND SERVICES.

5.1 Usage of Third-Party Products. If Customer, at Customer's discretion, chooses to use a Third-Party Product, then Customer may be required to accept the Third-Party Product provider's terms of service ("Third-Party Provider's Terms"). The Third-Party Product provider of each Third-Party Product is solely responsible for that Third-Party Product, the content therein, and any claims that Customer or any other party may have relating to that Third-Party Product. Customer acknowledges that: (a) Talkdesk is not a party to the Third-Party Provider's Terms and (b) Talkdesk is not responsible for that Third-Party Product, the content therein, or any claims that Customer or any other party may have relating to that Third-Party Product or Customer's use of that Third-Party Product. The Third-Party Product Provider's Terms shall not modify or otherwise supersede the terms and conditions of this Agreement.

5.2 Disclaimer. Talkdesk makes no representations, endorsements, guarantees, or warranties, express or implied, with respect to Third-Party Products, including but not limited to continuing availability of such Third-Party Products or the continuing ability to use and integrate the Talkdesk Services with such Third-Party Products. Talkdesk is not responsible for any disclosure, modification, or deletion of Customer Data caused by, or resulting from access by, a Third-Party Product or its provider. Talkdesk does not warrant or support Third-Party Products, whether or not they are designated by Talkdesk as "certified" or otherwise, unless expressly provided otherwise in an Order Form.

5.3 Integration with Third-Party Products. The Services may contain features designed to interoperate with Third-Party Products. Talkdesk cannot guarantee the continued availability of such Services features and may cease providing them without entitling Customer to any refund, credit, or other compensation if, for example and without limitation, the provider of a Third-Party Product ceases to make the Third-Party Product available for interoperation with the corresponding Services features in a manner acceptable to Talkdesk.

6. FEES AND PAYMENT.

6.1 Fees. Customer shall pay Reseller all fees and Prepaid Credits identified in an Order Form in the manner provided in the Order Form. The amount paid or payable by Reseller for Customer's access to and use of the Talkdesk Services will be deemed the amount paid or payable by Customer under the Agreement for the purpose of Section 12 (Limitation of Liability). In addition to the other fees identified herein, Customer will be charged and is responsible for Usage Fees based on Customer's use of the Services, as applicable.

7. CONFIDENTIALITY AND PUBLICITY.

7.1 Protection of Confidential Information. As between the parties, each party retains all ownership rights in and to its Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall: (i) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement; (ii) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the same degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care; and (iii) ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' non-compliance with, the terms of this **Section 7**. The obligations in this **Section 7** shall not apply to any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received by the Receiving Party from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information. For the avoidance of doubt, the non-disclosure obligations set forth in this **Section 7** apply to Confidential Information exchanged between the parties in connection with the evaluation of additional Talkdesk services and expressly supersedes and replaces in its entirety any confidentiality and/or nondisclosure agreement previously entered into between Talkdesk and Customer.

7.2 Permitted Disclosure. 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 **Section 7**. Notwithstanding the foregoing, Talkdesk may disclose the terms of this Agreement and any applicable Order Form to a subcontractor or Third-Party Product provider to the extent necessary to perform Talkdesk's obligations under this Agreement, under terms of confidentiality materially as protective as set forth herein.

7.3 Compelled Disclosures. If the Receiving Party or any of its Representatives is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by applicable law, the Receiving Party shall: (i) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under this **Section 7**; and (ii) provide reasonable assistance to the Disclosing

Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives its rights under this **Section 7.3** or, after providing the Notice and assistance required under this **Section 7.3**, the Receiving Party remains required by law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose and, on the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

7.4 Publicity. Subject to such other party's prior written approval in each instance, either party may issue publicity or general marketing communications concerning its involvement with the other party. Customer hereby grants a limited, worldwide, royalty-free license to Talkdesk to display Customer's name and logo on its website and in marketing materials during the Service Term; provided, however, that Customer may revoke this license by providing written notice to Talkdesk at legal@talkdesk.com.

8. INTELLECTUAL PROPERTY RIGHTS.

8.1 Talkdesk Intellectual Property. Customer acknowledges that it does not have any ownership or other rights in or to the Services or the Documentation except as specifically described in this Agreement, and Talkdesk shall exclusively own and retain all right, title and interest in and to all of its intellectual property of every kind, including in and to all inventions (whether patented or not), copyrights and works of authorship (whether subject to a U.S. copyright registration or not), know-how, software applications, routines, source and object code, algorithms, APIs, processes and workflows, and improvements, enhancements, derivations or modifications of any of the foregoing that were or are developed by Talkdesk in connection with the Services or the Documentation. Nothing herein shall be interpreted as a license, transfer or grant by Talkdesk to Customer of any interest in or to Talkdesk intellectual property of any kind, including without limitation any subject matter that is patented or patentable, copyrighted (registered or unregistered), constitutes a trade secret or Talkdesk know-how, or any other legally protectible technology, item of information, product, interest or process capable of protection as intellectual property anywhere in the world. To the extent Talkdesk does not retain exclusive ownership of its intellectual property, Talkdesk shall have a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use the intellectual property, including incorporation into Talkdesk Services. Unless otherwise set forth in the SOW or Order Form, Customer is hereby granted a limited license to use such intellectual property solely in connection with the Talkdesk Services.

8.2 Customer Intellectual Property. Talkdesk acknowledges that it does not have any ownership or other rights in or to the Customer Data except as specifically described in this Agreement. All of Customer's rights in the Customer Data that are not specifically granted to Talkdesk in this Agreement shall be reserved to Customer.

9. INDEMNIFICATION.

9.1 Indemnification by Customer. Customer will defend, indemnify, and hold Talkdesk harmless from and against all claims, demands, actions, suits, discovery demands, including, without limitation, third-party subpoenas, government investigations or enforcement actions brought against Talkdesk by a third party and any damages, liabilities, losses, settlements, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees and costs) related thereto alleging: (i) Customer's use of any feature of the Talkdesk Services violates Customer's contractual, regulatory, or other legal obligations, including but not limited to the Acceptable Use Policy; (ii) Talkdesk's use of any Customer Data as permitted by this Agreement or any Customer Data infringes or

misappropriates a third party's Intellectual Property Rights; (iii) a Third-Party Product provided by Customer or the combination of a Third-Party Product provided by Customer and used with the Services infringes or misappropriates a third party's Intellectual Property Rights; or (iv) Customer's use of the Services or Third-Party Content in an unlawful manner or in violation of the Agreement, the Documentation, or Order Form. Talkdesk shall: (a) promptly give Customer written Notice of the claim against Talkdesk, (b) give Customer sole control of the defense and settlement of the claim against Talkdesk (except that Customer may not settle any claim against Talkdesk unless it releases Talkdesk of all liability), and (c) give Customer all reasonable assistance, at Customer's expense.

10. REPRESENTATIONS.

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

11. DISCLAIMERS.

11.1 GENERAL DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICES (INCLUDING EARLY ACCESS SERVICES), THIRD-PARTY CONTENT, AND THE DOCUMENTATION ARE PROVIDED ON AN "AS IS" AND AS AVAILABLE BASIS, AND TALKDESK DOES NOT MAKE ANY, AND HEREBY SPECIFICALLY DISCLAIMS, ANY REPRESENTATIONS, ENDORSEMENTS, GUARANTEES, OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY OF MERCHANTABILITY, INTEROPERABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. TALKDESK DOES NOT WARRANT THAT THE SERVICES: (A) WILL BE ERROR-FREE, (B) WILL MEET ANY SPECIFIED SERVICE LEVEL, OR (C) WILL OPERATE WITHOUT INTERRUPTIONS OR DOWNTIME.

11.2 EMERGENCY SERVICES DISCLAIMER. UNLESS OTHERWISE PROVIDED IN THE DOCUMENTATION, THE SERVICES ARE NOT INTENDED TO SUPPORT OR CARRY EMERGENCY CALLS OR SMS MESSAGES TO ANY EMERGENCY SERVICES. NEITHER TALKDESK NOR ITS REPRESENTATIVES WILL BE LIABLE UNDER ANY LEGAL OR EQUITABLE THEORY FOR ANY CLAIM, DAMAGE, OR LOSS (AND CUSTOMER WILL HOLD TALKDESK HARMLESS AGAINST ANY AND ALL SUCH CLAIMS) ARISING FROM OR RELATING TO THE INABILITY TO USE THE SERVICES TO CONTACT EMERGENCY SERVICES.

12. LIMITATION OF LIABILITY.

12.1 IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR: (i) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, BUSINESS INTERRUPTION, PUNITIVE OR EXEMPLARY DAMAGES; (ii) ANY LOSS OF REVENUE OR PROFITS (EXCLUDING FEES UNDER THIS AGREEMENT), SAVINGS, GOODWILL, BUSINESS OPPORTUNITY, BUSINESS, OR REVENUES; OR (iii) ANY WASTED EXPENDITURE OR RELIANCE LOSS OR DAMAGES, WHETHER OR NOT CHARACTERIZED IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHER THEORY OF LIABILITY, ARISING OUT OF THIS AGREEMENT, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE BY ONE OR BOTH PARTIES AND WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12.2 IN NO EVENT SHALL TALKDESK'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AGGREGATE AMOUNT PAID BY CUSTOMER TO RESELLER PURSUANT TO THIS AGREEMENT FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST

EVENT THAT GAVE RISE TO SUCH CLAIM. NOR WILL TALKDESK BE LIABLE FOR CUSTOMER'S INABILITY TO USE THE TALKDESK SERVICES BECAUSE OF A FAILURE OR DEGRADATION OF A THIRD-PARTY PROVIDER'S NETWORK, A FAILURE OR DEGRADATION OF INTERNET SERVICES PROVIDERS OR ANY OTHER THIRD-PARTY CAUSE.

13. TERM AND TERMINATION.

13.1 Term. Each Order Form will specify the Initial Term and any applicable Renewal Term for the Services.

13.2 Talkdesk Termination and Suspension Rights. Customer's use of the Services may be terminated and/or suspended, at Talkdesk's option, immediately upon notice due to: (a) a breach of the terms of this Agreement by Customer or any Authorized User; (b) Customer's use of the Talkdesk Services in violation of law or applicable regulations; (c) breach by Reseller of Reseller's payment obligations to Talkdesk with respect to the Services it is reselling to Customer in connection with this Agreement; or (d) if required by a regulator or as necessary to comply with applicable law.

13.3 Termination of Reseller's Agreement with Talkdesk. Following any termination or expiration of Reseller's agreement with Talkdesk authorizing Reseller to resell the Services, each Customer subscription to the Services outstanding at the time of such termination or expiration ("Legacy Order") shall remain in effect until the end of its subscription term, and shall continue to be governed by this Agreement, provided that Customer is not in breach of this Agreement and Talkdesk has received all payments due in connection with such Legacy Order(s). Except as provided herein, following a termination or expiration of Reseller's agreement with Talkdesk, Talkdesk is under no obligation to provide the Services directly to Customer, or to assume a direct contractual relationship with Customer.

13.4 Surviving Provisions. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, the sections titled "Fees and Payment," "Intellectual Property Rights," "Confidentiality and Publicity," "License by Customer to Talkdesk," "Disclaimers," "Indemnification," "Limitation of Liability," "Term and Termination," "Removal of Third-Party Content and Third-Party Product," "Dispute Resolution" and "General Provisions" will survive any termination or expiration of this Agreement, and the section titled "Protection of Customer Data" will survive any termination or expiration of this Agreement for so long as Talkdesk retains possession of Customer Data.

13.5 Effect of Termination or Suspension. Upon any termination of this Agreement, Customer must cease any further use of the Services. In no case will any termination, expiration, or suspension of the Services, this Agreement, or Reseller's agreement with Talkdesk give rise to any liability of Talkdesk to Customer for refunds or damages. Once terminated, Customer's account cannot be reactivated, and all users will be automatically logged out.

14. DISPUTE RESOLUTION.

14.1 Class Action Waiver. To the extent permitted by applicable law, the parties hereby waive their rights to assert any claim as a plaintiff or class member in any purported class action, collective action, private attorney general action, or other representative proceeding.

14.2 Choice of Law. This Agreement and any dispute related to this Agreement shall be governed by and interpreted in accordance with the laws of the State of California without regard to its conflict of laws provisions. If any litigation is validly instituted in connection with this Agreement, the parties hereby consent to the exclusive personal jurisdiction of the state and federal courts in San Francisco, California and waive any objection as to venue or inconvenient forum.

14.3 Jury Trial. The parties hereby waive any right to a jury trial in connection with a dispute related to this Agreement.

14.4 Attorneys' Fees. If any legal proceeding is instituted to enforce the terms of this Agreement, the prevailing party shall be awarded its attorneys' fees and other associated costs incurred in such action.

15. Audit. Customer will maintain complete, clear, and accurate records of its transactions under this Agreement. Upon at least thirty (30) days' advance written notice, during the term of the Agreement, Customer will permit Talkdesk or its representative(s) to audit its records to ensure compliance with this Agreement. Any such audit will be conducted during normal business hours and in a manner designed to cause minimal impact on Customer's ordinary business activities.

16. GENERAL PROVISIONS.

16.1 Compliance with Applicable Law. Each party shall ensure that in its performance of this Agreement it will comply with applicable laws and regulations. Customer remains solely responsible for the use of the Services in compliance with applicable laws and regulations including, but not limited to, laws and regulations relating to the recording of phone calls or other electronic communications. Customer shall obtain proper consent prior to starting any call recordings, if so required by applicable laws. In no event shall Talkdesk, its partners or suppliers be liable for any claim or action arising from, or related to, the failure to comply with any law or regulation that specifically applies to Customer's business, industry or activity.

- **16.1.1** To the extent that Talkdesk processes any personal data (as defined by applicable law), such personal data will be processed in accordance with the terms of the Data Processing Agreement located at <https://www.talkdesk.com/legal/dpa/>, which shall be incorporated by reference into this Agreement in accordance with the terms thereof, or such other Data Processing Agreement as may be entered into between the parties. To the extent Talkdesk processes any personal data from the European Economic Area, the United Kingdom or Switzerland, the Standard Contractual Clauses, as set forth in the Data Processing Agreement ("SCCs"), apply. By executing this Agreement or any applicable Order Form, Customer and its Affiliate are deemed to have executed the applicable SCCs as set forth in the Data Processing Agreement. For the purposes of the SCCs, Customer and its applicable Affiliates are each the data exporter, and Talkdesk and its applicable Affiliates are each the data importer.
- **16.1.2** If Customer is subject to HIPAA, Customer and Talkdesk shall enter into a business associate agreement (the "BAA") before Customer transfers any electronic personal health information (as defined by HIPAA) to Talkdesk, and such BAA shall be deemed to be incorporated into this Agreement by reference.
- **16.1.3** Talkdesk maintains a formal security program and the Talkdesk Services are compatible with the requirements of the Payment Card Industry Data Security Standard ("PCI DSS"). If Customer receives or processes credit card information, it shall comply with Talkdesk's PCI DSS requirements and shall ensure that its employees and other representatives do not store cardholder data within the Talkdesk Services.
- **16.1.4** If the California Consumer Privacy Act ("CCPA"), as amended by the California Privacy Rights Act, applies to the Customer Data, the parties agree that Talkdesk:
 - a) is receiving the personal information from the Customer pursuant to a business

purpose;

b) will not sell the personal information (as the term “sell” is defined by the CCPA);

c) will retain, use or disclose such personal information only for the specific purpose of performing the Services; and

d) shall comply with the restrictions of the CCPA.

- **16.1.5** If the Customer is established in the European Union or otherwise subject to the EU Data Act (Regulation (EU) 2023/2854), the EU Data Act Terms available at <https://www.talkdesk.com/legal/eu-data-act-terms> are incorporated into this Agreement by reference.

16.2 Anti-Corruption. Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the restriction contained in this **Section 16.2**.

16.3 Export Compliance. The Services and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Talkdesk and Customer each represent that it is not named on any U.S. government denied-party list. Customer will not permit any Authorized User to access or use the Services or Documentation in a U.S.-embargoed country or region or in violation of any U.S. export law or regulation.

16.4 Force Majeure. Talkdesk will not be liable for any failure or delay in its performance under the Agreement due to any cause beyond its reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Talkdesk employees), Internet service provider failure or delay, Third-Party Product, or denial of service attack.

16.5 Assignment. Customer may not assign its rights or obligations under this Agreement (including all Order Forms) to a third party without the prior written consent of Talkdesk; provided, however, that Customer shall have the right to assign, without any consent of Talkdesk, its rights and obligations under this Agreement to any other entity pursuant to a merger, consolidation or reorganization or sale of substantially all of its assets or equity. Talkdesk may freely transfer, assign or delegate this Agreement and/or any Order Form(s) or its rights and duties under this Agreement and any Order Form(s). Any purported assignment contrary to this **Section 16.5** shall be void.

16.6 Notice. Talkdesk shall deliver Notices to the Customer’s email address stated on the Order Form. Customer is responsible for ensuring that the email and property address on record is current and agrees that any notice sent to the then-current email or property address in Talkdesk’s systems are adequate and binding notice upon Customer. Except as otherwise provided herein, Customer shall deliver Notices to:

Talkdesk, Inc.
Attn: General Counsel, Legal Department
440 N Barranca Avenue #4375
Covina, CA 91723
legal@talkdesk.com

All notices required under this Agreement (“Notices”) must be in writing and must be delivered by hand, by email, by registered or certified mail (postage prepaid), or by commercial overnight delivery service. Notice will be deemed to have been duly given: (1) upon delivery, if delivered by hand to an officer of the receiving party; (2) when sent to the appropriate confirmed email address, if delivered by

email; (3) three business days after being mailed by registered or certified mail, postage prepaid, or on the day tracking information indicates delivery, if applicable; or (4) the next business day, if sent by commercial overnight delivery service, or on the day tracking information indicates delivery, if applicable.

16.7 Independent Contractor. The parties are independent contractors and have no right to assume or create any obligation or responsibility on behalf of the other party. Neither party shall hold itself out as an agent of the other party. This Agreement does not create or imply any partnership, agency, joint venture or formal business entity of any kind.

16.8 Government Usage. This is a commercial item agreement. If the Services are to be acquired by or on behalf of the U.S. Government, a state or local government, or a prime contractor or subcontractor (of any tier) of the foregoing, Customer must provide Talkdesk with advance written Notice, and such government customers and users shall obtain only those commercial license rights set forth in the Agreement.

16.9 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such holding shall not affect any other provision hereof, and the Agreement shall be construed as if the invalidated or unenforceable provision had not been contained herein, and in a manner to fulfill the original intent of the parties, insofar as possible.

16.10 Waiver. Except as expressly provided for, no waiver shall be deemed to have been made by either party unless expressed in writing and signed by the waiving party. The failure of either party to insist in any one or more instances upon strict performance of any of the terms or provisions of this Agreement, or to exercise any option or election herein contained, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue and remain in full force and effect, and no waiver by any party of any one or more of its rights or remedies under this Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedy hereunder or at law. Except as otherwise expressly set forth herein, all remedies agreed upon and/or available under applicable law are cumulative, and the exercise of one will not preclude the right to pursue other available remedies.

16.11 Changes to Terms. Talkdesk reserves the right to modify these Terms of Services by posting a new version of the Agreement at this website url. Customer's continued use of the Services after such update constitutes agreement with any such changes.

16.12 Entire Agreement. This Agreement constitutes the entire and sole agreement among the parties with respect to the subject matter hereof and supersedes any previous or contemporaneous agreements, negotiations, understandings, or other matters, whether oral or written, with respect to the subject matter hereof. This Agreement will prevail over any additional, conflicting or inconsistent terms and conditions which may appear on any purchase order furnished by Customer, and such purchase order terms and conditions will have no force or effect, notwithstanding Talkdesk's acceptance or execution of such purchase order. Customer agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Talkdesk regarding future functionality or features. Customer agrees that the functions of the Talkdesk Services are defined exclusively in the Documentation. Each party acknowledges that, in entering into this Agreement, it has not relied on any representation, warranty, or statement, whether oral or written, except as expressly set forth in this Agreement.

16.13 No Third-Party Beneficiaries. Except as otherwise explicitly stated in this Agreement, this Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other person

any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

16.14 Execution, Digitized Copies and Counterparts. This Agreement may be executed in two or more identical counterparts (whether by electronic signature, in facsimile, email, in PDF or original, or acknowledgement through a webpage), each of which shall constitute an original as against the party whose signature appears thereon, and all of which together shall constitute one and the same instrument.