



Descript Enterprise Order Form

Descript Overdub and Enterprise plan included:

- 7 Descript Enterprise features and user accounts for all Users (includes all [Descript Pro features](#))
- 45 hours of transcription time per User per month (all hours are pooled for team use)
- 1 onboarding and integration session
- Highest-priority chat and email customer support
- Dedicated account manager
- Security Review as needed by your technical team (Please see our security document for reference on our data privacy practices and third-party partners: <https://www.descript.com/security>.)

The following Overdub features are exclusive to our Enterprise users:

- Overdub API: Generate up to 300,000 word (assuming an average of 5 characters per word) of Overdub audio per user per month via Overdub API.
- 1 custom Overdub voice per User account
- Organization-wide access to every custom Overdub voice in your Drive, as well as all Descript Stock Voices.
- Create Overdub voices using pre-recorded, existing material as training data. All we need is a recorded consent statement.
- Set up Overdub voices on behalf of voice talent. (All we need is a recorded consent statement)
- You may use the custom and stock Overdub voices in Company-related marketing and sales assets and Company's products and services, including but not limited to podcasts, sales videos, educational videos, live presentations and demos, as well as within Company's software products.

Users: 7

Subscription Period: 12-months

Subscription Fees:

USD \$. 3780 per year

Additional user fee: \$45 / user / month

EFFECTIVE DATE: June 1, 2021

SERVICE COMMENCEMENT DATE: June 1, 2021

Once this order form is signed by Company and Descript ("**Order**"), the Order together with the attached Terms and Conditions ("**Terms**"), and any exhibits attached to the Terms (collectively, this "**Agreement**") will constitute a binding agreement between the parties as of the Effective Date. Capitalized terms utilized, but not defined in this Order are defined in the Terms.

AppDynamics LLC ("Company")

Signed by:

Craig Wickersham

CE58CECBACD1486...

By: Craig Wickersham General Counsel

Date: June 21, 2021

Address: 303 Second Street, North Tower, Eighth Floor, San Francisco, CA 94107

Email: legal@appdynamics.com

Descript, Inc. ("Descript")

Signed by:

Jay LeBoeuf

12E04D9C820A42C...

By: Jay LeBoeuf, Head of Business Development

Date: June 21, 2021

Address: 385 Grove Street, San Francisco, CA 94102

Email: JLeBoeuf@descript.com

Phone No.: 415-298-5266

Company Billing Information

Billing Contact Name: _____

Billing Address: _____

Billing Contact Email: accountspayable@appdynamics.com

Company Billing Instructions: PO required.

DESCRIPT TERMS AND CONDITIONS

These Terms and Conditions (“Terms”) is the entire agreement of the parties regarding the Services and it includes the Order (“**Order**”), and any other Orders which reference these Terms, all exhibits attached to these Terms (“collectively, the Agreement”), and all of the other terms and conditions incorporated into this Agreement by reference. This Agreement supersedes all prior or contemporaneous agreements, proposals, negotiations, conversations, discussions, and understandings, written or oral, with respect to the Services and all past dealings or industry customs. In the event of a conflict between the terms and conditions of these Terms and the terms and conditions of any Order, the terms and conditions of the Terms will govern.

1. **Services.**

General. Descript provides multiple transcription, media editing, artificial intelligence, security, integration, and related service features. Company may obtain the service features provided by Descript pursuant to Orders. Each Order will outlined (a) the service features selected by Company and any limitations on use of the services, including the use of our Overdub audio feature (collectively, the “**Services**”), (b) the period the Services will be accessible and provided (each, a “**Subscription Period**”), (c) the fees for the Services per Subscription Period (“**Subscription Fees**”), and, if applicable, (d) the number of users authorized to use the Services and the number of transcription hours.

Grant. Subject to the terms and conditions of this Agreement, Descript hereby grants to Company a worldwide, limited, nonexclusive, nontransferable license to access and use the Services. Company may permit its Affiliates (as defined below and the employees thereof) to use the Services provided that Company shall take measures to ensure that its Affiliates comply with the terms of this Agreement, and Company shall remain responsible and liable for all acts and omissions of its Affiliates.

“**Affiliate(s)**” means, in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under direct or indirect common control with such party, or which is a wholly owned subsidiary of such party, where “control” means owning, directly or indirectly, at least 51% of the equity securities or equity interests of such entity.

Required Components. The Services are made available via devices running macOS or Microsoft Window.

2. **Additional Services.**

Support, Security, and Service Level Standards. Descript will provide technical maintenance and support services for the Services from 9AM to 5PM Pacific Time. Further, Descript will meet (a) the service level standards set forth in Exhibit A (“**Service Level Standards**”), and the security standards set forth at www.descript.com/security (and such security terms are incorporated into this Agreement by reference) (the “**Security Standards**”). With respect to any processing of personal data by Descript under this Agreement, Descript agrees to comply with the requirements set forth in Exhibit C (Data Protection).

Descript represents and warrants that it (i) will maintain SOC 2 certification and a written information security program appropriate for the Services, (ii) follows industry-standard policies and provides features and internal practices to protect the security and integrity of Company’s Confidential Information and Protected Data, (iii) detect and prevent intrusions to the Services, and (iv) require obligations consistent with the foregoing of Descript’s providers related to the Services.. Descript will notify Company without undue delay to security@appdynamics.com of any actual or suspected or Security Incident (as defined below) involving Protected Data. The notification provided to Company shall include, if known, and to Descript’s knowledge as of the time of notice: (i) the general circumstances and extent of any unauthorized access to Protected Data or intrusion into the computer systems or facilities on or in which Protected Data is maintained; (ii) which categories of Protected Data were involved; (iii) the identities of all individuals whose Company Personal Information was affected; and (iv) steps taken to secure the data and preserve information for any necessary investigation. The notification required to be delivered to Company under this Section shall be delivered promptly without undue delay after Descript learns of any such actual or suspected Security Incident. Descript shall cooperate fully with Company in investigating and responding to each successful or attempted security breach including allowing access to Descript’s facility by Company or Company’s investigator, to investigate, and obtain copies of data as provided herein. “Security Incident” is when Descript knows or has reason to know that: (i) Descript has experienced an incident resulting in the unauthorized acquisition or unauthorized use of unencrypted Protected Data, or encrypted Protected Data and the confidential process or key that is capable of compromising the security, confidentiality or integrity of Protected Data that creates a substantial risk of identity theft or fraud; or (ii) Protected Data was acquired or used by an unauthorized person or used for an unauthorized purpose. In the event of any Security Incident, Descript will assist Company to provide notification and

take other reasonable actions that Company, in Company's reasonable discretion, determines necessary in mitigating the damages of such Security Incident, at Descript's sole cost and expense.

Professional Services. Descript will perform the professional services (the "**Professional Services**") as set forth in statements of work entered into between the parties ("**SOW**") and each such SOW will be incorporate the terms and conditions of this Agreement. To the extent that a conflict arises between the terms and conditions of the SOW and the terms and conditions of this Agreement, the terms and conditions of this SOW will govern. A form of SOW is attached as Exhibit B.

3. **Fees and Payment Terms.**

Fees. Company will pay to Descript (a) the Subscription Fees in accordance with the payment terms set forth in the applicable Order and, if applicable, (b) the fees for Professional Services (the "**Professional Services Fees**") in accordance with the payment terms set forth in the applicable SOW. Neither the Subscription Fees nor the Professional Services Fees include taxes. Additional users and transcription hours will be billed at the rates set forth in the applicable Order. Any additional users or transcription hours will be documented in a mutually executed Order. Company will pay all invoiced amounts to Descript within the 60-day period commencing upon the date of each such invoice. All payments made under this Agreement, the Order, and the applicable SOW will be made (i) in U.S. Dollars and (ii) by check or by bank wire transfer in immediately available funds to an account designated by Descript.

Interest and Taxes. Interest on any late payments will accrue at the rate of 1.5% per month, or the highest rate permitted by law, whichever is lower, in the event that Company does not pay within 60 days of written notice by Descript that Company is late in payment. Company will be responsible for, and will pay all sales and similar taxes, all license fees and similar fees levied upon the provision of the Services excluding only taxes based solely on Descript's net income. Notwithstanding any terms to the contrary in this Agreement, (a) Descript will not be obligated to issue any refunds for Subscription Fees paid, except as set forth in Section 7.3, and (b) Descript, at its sole discretion, may modify the Subscription Fees during any Subscription Period, provided that modifications will only be effective as of the subsequent Subscription Period and documented in a new Order.

4. **Confidentiality.**

Definition. "**Confidential Information**" means all information disclosed (whether in oral, written, or other tangible or intangible form) by one party (the "**Disclosing Party**") to the other party (the "**Receiving Party**") (or all information (whether in oral, written, or other tangible or intangible form) acquired by the Receiving Party), concerning or related to this Agreement or the Disclosing Party (whether before, on or after the Effective Date) that the Receiving Party knows or reasonably should know, given the facts and circumstances surrounding the disclosure of the information by the Disclosing Party (or acquisition of the information by the Receiving Party), is proprietary information of the Disclosing Party. Confidential Information of Descript includes, but is not limited to, the Services. Confidential Information of Company includes, but is not limited to, the non-public Company Materials.

Obligations. The Receiving Party will maintain in confidence the Confidential Information during the term of this Agreement and for the two-year period commencing upon the effective date of termination of this Agreement, and will not use such Confidential Information except as expressly permitted in this Agreement. The Receiving Party will use the same degree of care in protecting the Confidential Information as the Receiving Party uses to protect its own confidential and proprietary information from unauthorized use or disclosure, but in no event less than reasonable care. Confidential Information will be used by the Receiving Party solely for the purpose of carrying out the Receiving Party's obligations under this Agreement. In addition, the Receiving Party will only disclose Confidential Information to its directors, officers, employees and/or contractors who have a need to know such Confidential Information in order to perform their duties under this Agreement, and if such directors, officers, employees and/or contractors have executed a non-disclosure agreement with the Receiving Party with terms no less restrictive than the non-disclosure obligations contained in this Section 4.2. Each party agrees that the terms and conditions of this Agreement will be treated as Confidential Information of both parties and will not be disclosed to any third party, provided that each party may disclose the terms and conditions of this Agreement (a) to such party's legal counsel, accountants, banks, financing sources and other professional advisors who have executed a non-disclosure agreement with terms no less restrictive than the non-disclosure obligations contained in this Section 4.2., (b) in connection with the enforcement of this Agreement or rights under this Agreement, or (c) in connection with an actual or proposed merger, acquisition, or other transaction. Notwithstanding any terms to the contrary in this Agreement, any suggestions, comments or other feedback provided by Company to Descript with respect to Descript or the Services (collectively, "**Feedback**") will constitute Confidential Information of Descript. Further, Descript will

be free to use, disclose, reproduce, license and otherwise distribute and exploit the Feedback provided to it as it sees fit, entirely without obligation or restriction of any kind on account of Intellectual Property Rights (as defined below) or otherwise.

Exceptions. Confidential Information will not include information that (a) is in or enters the public domain without breach of this Agreement through no fault of the Receiving Party, (b) the Receiving Party can reasonably demonstrate was in its possession prior to first receiving it from the Disclosing Party, (c) the Receiving Party can demonstrate was developed by the Receiving Party independently of, and without use of or reference to, the Confidential Information, or (d) the Receiving Party receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation. In addition, the Receiving Party may disclose Confidential Information that is required to be disclosed by law or by a subpoena or order issued by a court of competent jurisdiction (each, a “**Court Order**”), but solely on the conditions that the Receiving Party (i) gives the Disclosing Party written notice of the Court Order within 24 hours after receiving it, and (ii) cooperates fully with the Disclosing Party before disclosure to provide the Disclosing Party with the opportunity to interpose any objections it may have to the disclosure of the information required by the Court Order and seek a protective order or other appropriate relief. In the event of any dispute between the parties as to whether specific information is within one or more of the exceptions set forth in this Section 4.3, the Receiving Party will bear the burden of proof, by clear and convincing evidence, that such information is within the claimed exception(s).

Remedies. The Receiving Party acknowledges that any unauthorized disclosure of Confidential Information will result in irreparable injury to the Disclosing Party, which injury could not be adequately compensated by the payment of money damages. In addition to any other legal and equitable remedies that may be available, the Disclosing Party will be entitled to seek and obtain injunctive relief against any breach or threatened breach by the Receiving Party of the confidentiality obligations hereunder, from any court of competent jurisdiction, without being required to show any actual damage or irreparable harm, prove the inadequacy of its legal remedies, or post any bond or other security.

5. **General Representations and Warranties.** Each party represents and warrants that (a) it is validly existing and in good standing under the laws of the place of its establishment or incorporation, (b) it has full corporate power and authority to execute, deliver and perform its obligations under this Agreement, (c) the person signing this Agreement on its behalf has been duly authorized and empowered to enter into this Agreement, and (d) this Agreement is valid, binding and enforceable against it in accordance with its terms. Descript represents, warrants and agrees: (i) to perform the Professional Services in a professional and workmanlike manner using employees of Descript having suitable qualifications and a level of skill commensurate with the requirements of this Agreement; (ii) that Descript’s Services will not infringe or misappropriate the intellectual property or proprietary rights of any third party or violate applicable law; and (iii) Descript will use reasonable physical, organizational and technical measures to prevent viruses. Further, Company represents and warrants that (i) it possesses all necessary rights and consents to grant Descript the rights set forth in this Agreement with respect to all audio, video, electronic, and other data, content, and other materials provided by Company in connection with the Services (“**Company Materials**”), (b) its use of the Services and the grants provided by Company pursuant to this Agreement are in accordance with all applicable laws, and (c) each element of the Company Materials meets the content and other requirements set forth in Descript’s terms of services located at www.descript.com/terms (which (i) may be modified by Descript from time-to-time, and (ii) are incorporated into this Agreement by reference). Company represents and warrants that it shall not upload any (1) social security numbers or other government-issued identification numbers, (2) unencrypted passwords or other authentication credentials, (3) health information, biometric data, genetic data or any other such information subject to HIPAA requirements (4) payment, financial information, or any other such information subject to PCI security standards, (5) any data relating to a person under the age of 13 years old, or (6) any other data that is subject to regulatory or contractual handling requirements pursuant to the Gramm-Leach-Bliley Act) (collectively, “Prohibited Data”).

6. **Disclaimer.** EXCEPT FOR THE SERVICE LEVEL STANDARDS AND THE SECURITY STANDARDS, THE SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT ANY REPRESENTATIONS, WARRANTIES, COVENANTS, OR CONDITIONS OF ANY KIND (EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE), INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, TITLE, OR FITNESS FOR A PARTICULAR PURPOSE. FURTHER, EXCEPT FOR THE SERVICE LEVEL STANDARDS AND THE SECURITY STANDARDS, DESCRIPT DOES NOT REPRESENT OR WARRANT THAT (a) THE ACCESS TO OR USE OF THE SERVICES WILL BE SECURE, TIMELY, UNINTERRUPTED, ERROR-FREE, OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM, OR DATA, (b) THE SERVICES WILL MEET COMPANY’S REQUIREMENTS OR EXPECTATIONS, OR OTHERWISE PRODUCE ANY PARTICULAR

RESULTS, (c) ANY STORED COMPANY MATERIAL OR OTHER DATA WILL BE ACCURATE OR RELIABLE, OR WILL NOT BE LOST, DAMAGED, OR CORRUPTED, (d) ERRORS OR DEFECTS WILL BE CORRECTED, PATCHES OR WORKAROUNDS WILL BE PROVIDED, OR DESCRIPT WILL DETECT ANY BUG IN THE SERVICES, (e) THE SERVICES OR THE SERVER(S) THAT MAKE THE SERVICES AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR (f) THIRD-PARTY DISRUPTIONS OR SECURITY BREACHES OF THE SERVICES WILL BE PREVENTED.

7. **Indemnification.**

7.1 Indemnification by Descript. Descript, at its sole expense, will defend Company from and against any and all third-party claims, suits, actions or proceedings (each a “**Claim**”), and indemnify Company from any related damages, payments, deficiencies, fines, judgments, settlements, liabilities, losses, costs and expenses (including, but not limited to, reasonable attorneys’ fees, costs, penalties, interest and disbursements) (“**Losses**”) that are awarded by a court of competent jurisdiction or included in a settlement approved, in advance and in writing, by Descript resulting from the Services infringing any Intellectual Property Rights of any third party. Descript’s defense obligations do not extend to Claims, nor do its indemnification obligations extend to Losses, resulting from, arising in connection with, or relating to (a) any grossly negligent or willful misconduct of Company or any of Company’s employees, contractors and/or service providers (collectively, the “**Company Parties**”), (b) any combination of the Services (or any portion thereof) by any of the Company Parties in combination with any equipment, software, data or any other materials not provided by Descript, (b) any modification to the Services by any of the Company Parties, (c) the use of the Services by any of the Company Parties in a manner contrary to the terms of this Agreement where the infringement would not have occurred but for such use, or (d) the continued use of the Services after Descript has provided substantially equivalent non-infringing software or services. Descript further agrees to defend, at its own expense, Customer from any and all claims, demands, suits, or proceedings brought against Customer by a third party to the extent such a claim arises from Descript’s breach of applicable law, Section 4 (Confidentiality) or Exhibit C (Data Protection).

7.2 Indemnification by Company. Company, at its sole expense, will defend Descript and its directors, officers, employees and agents (“**Descript Indemnitees**”) from and against any Claims and indemnify Descript Indemnitees from any related Losses arising in connection with or relating to (a) any breach of Company’s obligations under this Agreement (including, but not limited to, any alleged or actual breach of any of Company’s representations or warranties or Exhibit C); or (b) the Company Materials infringing on a third party rights, including intellectual property, privacy/publicity or contract right.

7.3 Infringement Claims. In the event of a Claim pursuant to Section 7.1, or if Descript believes such a Claim may be brought, Descript may, at Descript’s option and at Descript’s expense, (a) replace the applicable Services, (b) modify the applicable Services, (c) procure for Company the right to continue using the Services, or (d) terminate this Agreement upon 30 days written notice to Company. Upon termination of this Agreement pursuant to this Section 7.3, Company will cease using the Services and Descript will refund the amount Company paid to Descript for the Services for the then-current Subscription Period adjusted pro-rata for any period during such then-current Subscription Period when any of the Services were provided to Company.

7.4 Procedures. The indemnifying party’s indemnification obligations under this Section 7 are conditioned upon the indemnified party (a) giving prompt written notice of the Claim to the indemnifying party once the indemnified party becomes aware of the Claim (provided that failure to provide prompt written notice to the indemnifying party will not alleviate an indemnifying party’s obligations under this Section 7 to the extent any associated delay does not materially prejudice or impair the defense of the related Claims), (b) granting the indemnifying party the option to take sole control of the defense (including granting the indemnifying party the right to select and use counsel of its own choosing) and settlement of the Claim (except that the indemnified party’s prior written approval will be required for any settlement that reasonably can be expected to require an affirmative obligation of the indemnified party), and (c) providing reasonable cooperation to the indemnifying party, and at the indemnifying party’s request and expense, assistance in the defense or settlement of the Claim.

8. **Limitation of Liability.**

8.1 Consequential Damages Waiver. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY WILL BE LIABLE FOR ANY LOSS OF PROFITS OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

8.2 Liability Cap. EXCEPT FOR BREACHES OF SECTION 4, SECTION 11 OR EXHIBIT C, A PARTY'S INDEMNIFICATION OBLIGATIONS AS SET FORTH IN SECTION 7, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY'S ENTIRE LIABILITY TO THE OTHER PARTY WILL NOT EXCEED THE SUBSCRIPTION FEES PAID AND PAYABLE BY COMPANY TO DESCRIPT DURING THE SUBSCRIPTION PERIOD WITHIN WHICH THE DAMAGES OCCURRED.

8.3 SUPERCAP. FOR EITHER PARTY'S BREACHES OF SECTION 4, SECTION 11 OR EXHIBIT C, A PARTY'S INDEMNIFICATION OBLIGATIONS AS SET FORTH IN SECTION 7, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY'S TOTAL LIABILITY HEREUNDER SHALL EXCEED FOUR MILLION DOLLARS.

8.4 FURTHER, NOTWITHSTANDING ANY TERMS TO THE CONTRARY IN THIS AGREEMENT, (i) THE SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE OF ANY SERVICE LEVEL STANDARDS ARE THE CREDITS PROVIDED UNDER THIS AGREEMENT, AND (ii) DESCRIPT WILL NOT BE LIABLE FOR ANY DISCLOSURE OF, UNAUTHORIZED USE OF AND/OR UNAUTHORIZED ACCESS TO ANY COMPANY MATERIALS OR OTHER DATA UNLESS SUCH DISCLOSURE, UNAUTHORIZED USE OF AND/OR UNAUTHORIZED ACCESS SOLELY AND DIRECTLY RESULTS FROM DESCRIPT'S NEGLIGENCE OR FAILURE TO MEET THE SECURITY STANDARDS.

9. **Term, Termination and Effect of Termination.**

9.1 Term. This Agreement commences on the Effective Date and, unless earlier terminated as set forth in Section 9.2, continues for the Subscription Period.

9.2 Termination. Either party may terminate this Agreement, for cause, if the other party materially breaches this Agreement and does not remedy such breach within 30 days after its receipt of written notice of such breach. Further, notwithstanding any terms to the contrary in this Agreement, Descript may suspend use of the Services (or any portion thereof) without liability if Descript reasonably determines that Descript is required by any applicable law to suspend the Services.

9.3 Effect of Termination. Upon any termination of this Agreement (a) all rights granted to Company under this Agreement will immediately cease, (b) Company will immediately pay to Descript all amounts due and payable up to the effective date of termination of this Agreement, and (c) each party will promptly return to the other party all Confidential Information of such other party then in its possession or destroy all copies of Confidential Information of such other party, at such other party's sole discretion and direction. Notwithstanding any terms to the contrary in this Agreement, (i) Sections 2, 3, 4, 6, 7, 8, 9.3, 10, 11, and 12 will survive any termination of this Agreement, and (ii) except as specifically set forth in this Agreement, no refunds will be issued upon any termination of this Agreement.

10. **Additional Rights, Ownership, and Reservation of Rights.** As between the parties and subject to the express grants within this Agreement, Company owns all right, title and interest in and to the Company Materials, and any and all Intellectual Property Rights embodied in such Company Materials. Further, as between the parties and subject to the express grants within this Agreement, Descript owns all right, title and interest in and to the Services (and any and all modifications to or derivative works of the Services), the Usage Data (as defined below), the Feedback and any and all Intellectual Property Rights embodied in or related to the foregoing. Each party reserves all rights not expressly granted in this Agreement, and no licenses are granted by a party to the other party under this Agreement, whether by implication, estoppel or otherwise, except as expressly set forth in this Agreement. For the purpose of this Agreement, "**Intellectual Property Rights**" means all patent rights, copyrights, moral rights, trademark rights, trade secret rights and any other form of intellectual property rights recognized in any jurisdiction, including applications and registrations for any of the foregoing. Company acknowledges and agrees that Descript (a) may monitor, collect, use and store anonymous and aggregate statistics regarding use of the Services and/or any individuals/entities that interact with the Services and any Company Materials (collectively, "**Usage Data**"), and (b) may use, modify, and host the materials the Company Materials solely in connection with the provision of the Services during the term of this Agreement.

11. **Restrictions.** Except as expressly authorized by this Agreement, Company may not (a) modify, disclose, alter, translate or create derivative works of the Services (or any components thereof), (b) license, sublicense, resell, distribute, lease, rent, lend, transfer, assign or otherwise dispose of the Services (or any components thereof), (c) reverse engineer, decompile, disassemble, decrypt, re-engineer, reverse assemble, reverse compile or otherwise translate, create, or attempt to create the source code of the Services or their structural framework (in whole or in part), or perform any process intended to determine the source code for the Services, (d) use the Services to store or transmit any viruses, software routines or other code designed to permit unauthorized access, to disable, erase

or otherwise harm software, hardware or data, or to perform any other harmful actions, (e) copy, frame or mirror any part or content of the Services, (f) build a competitive product or service, (g) interfere with or disrupt the integrity or performance of the Services, (h) attempt to gain unauthorized access to the Services or their related systems or networks, (i) disclose to any third party any performance information or analysis relating to the Services, (j) circumvent or attempt to circumvent any technological protection measures intended to restrict access to or use of any portion of the Services or the functionality of the Services, (k) use the Services for any purpose that is illegal in any way or that advocates illegal activity or in connection with any Company Materials that infringe on third party rights, (l) use the Services beyond the scope outlined in the Order, or (m) knowingly cause or permit any individual or entity to do any of the foregoing.

12. General Provisions.

12.1 Independent Contractors. Neither party will, for any purpose, be deemed to be an agent, franchisor, franchise, employee, representative, owner or partner of the other party, and the relationship between the parties will only be that of independent contractors. Neither party will have any right or authority to assume or create any obligations or to make any representations or warranties on behalf of any other party, whether express or implied, or to bind the other party in any respect whatsoever.

12.2 Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of California applicable to agreements made and to be entirely performed within the State of California, without resort to its conflict of law provisions. Each party submits to the exclusive jurisdiction of any state or federal court sitting in California in any litigation arising out of or relating to this Agreement.

12.3 [intentionally left blank]

12.4 Third-Party Services. Company acknowledges and agrees that Descript uses third-party hosting infrastructures in connection with the Services ("**Third-Party Services**") and, notwithstanding any terms to the contrary in this Agreement, Descript disclaims any liability with respect to the Third-Party Services. Company agrees to abide by the terms and conditions provided by Descript with respect to the Third-Party Services, as may be applicable.

12.5 Modifications. Notwithstanding any terms to the contrary in this Agreement, Company acknowledges and agrees that Descript may modify features of the Services from time to time at Descript's sole discretion, provided that if such modifications materially degrade the Services, Company may terminate this Agreement and Descript will refund the amount Company paid to Descript for the Services for the then-current Subscription Period adjusted pro-rata for any period during such then-current Subscription Period when any of the Services were provided to Company.

12.6 Assignment. Neither this Agreement nor any right or duty under this Agreement may be transferred, assigned or delegated by a party, by operation of law or otherwise, without the prior written consent of the other party, and any attempted transfer, assignment or delegation without such consent will be void and without effect. Notwithstanding the foregoing, either party may freely assign this Agreement or any right or duty under this Agreement to any successor to substantially all of its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization, or other transaction. This Agreement will be binding upon and enforceable against any successor or permitted assignee.

12.7 Amendments and Waivers. No modification, addition or deletion, or waiver of any rights under this Agreement will be binding on a party unless clearly understood by the parties to be a modification or waiver and signed by a duly authorized representative of each party. No failure or delay (in whole or in part) on the part of a party to exercise any right or remedy hereunder will operate as a waiver thereof or effect any other right or remedy. All rights and remedies hereunder are cumulative and are not exclusive of any other rights or remedies provided hereunder or by law. The waiver of one breach or default or any delay in exercising any rights will not constitute a waiver of any subsequent breach or default.

12.8 Notices. Any notice or communication required or permitted to be given hereunder will be in writing, signed or authorized by the party giving notice, and may be delivered by hand, deposited with an overnight courier, sent by confirmed email, , or mailed by registered or certified mail, return receipt requested, postage prepaid, in each case to the address of the receiving party as identified on this Agreement or at such other address as may hereafter be furnished in writing by either party to the other party. Such notice will be deemed to have been

given as of the date it is delivered. Notice is effective on the earlier of 10 days from being deposited for delivery or the date on the confirmed facsimile, confirmed email or courier receipt.

12.9 Severability. If any provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, (a) such invalidity, illegality or unenforceability will not affect any other provision of this Agreement or invalidate or render unenforceable such provision in any other jurisdiction, and (b) such provision, in such jurisdiction, will be replaced by a valid, legal and enforceable provision that best reflects the parties' intent for such first provision.

12.10 [intentionally left blank]

12.11 Counterparts. This Agreement may be executed (a) in two or more counterparts, each of which will be deemed an original and all of which will together constitute the same instrument; and (b) by the parties by exchange of signature pages by mail, facsimile or email (if email, signatures in Adobe PDF or similar format).

12.12 Force Majeure. Except for payments due under this Agreement, neither party will be responsible for any failure to perform or delay attributable in whole or in part to any cause beyond its reasonable control including, but not limited to, acts of God (fire, storm, floods, earthquakes, etc.), acts of terrorism, civil disturbances, disruption of telecommunications, disruption of power or other essential services, interruption or termination of any services provided by any service providers used by Descript, labor disturbances, vandalism, cable cut, computer viruses or other similar occurrences, or any malicious or unlawful acts of any third party (a "**Force Majeure Event**").

EXHIBIT A
SERVICE LEVEL STANDARDS

Service Levels and Credits

The availability goal for the Services is 99.9% or more of the time during any calendar month (subject to the exclusions set forth under the heading “Exclusions” below (the “**Exclusions**”). The availability goal above does not apply to any feature of the Services that Descript identifies as a “beta” feature or service.

If Descript fails to make the Services available 99.9% or less of the time during any calendar month and such failure is not due to any of the Exclusions, Company will be eligible to receive a credit (“**Service Credit**”) calculated as a percentage of the Subscription Fees as set forth below. The Service Credit increase is based on the degree to which Descript has failed to make the Services available 99% or more of the time during any calendar month and such failure is not due to any of the Exclusions.

Service Availability	Service Credit
100% - 98%	0%
Less than 98%	5%

The Service Credit is non-transferable and will be issued in U.S. dollars. To receive a Service Credit, Company will contact Amenity in writing within the 30-day period commencing upon Descript’s failure to make the Services available 99% or less of the time during any calendar month. Any validated Service Credit will be applied against the next open invoice due to Descript by Company.

Exclusions

- Planned maintenance windows where notice of planned unavailability has been given, via the Services, at least two business days prior to the outage, unless in the case of emergency changes;
- Force Majeure Events;
- Actions or inactions on Company’s part;
- Events arising from Company’s systems or any Company websites;
- ISP or Internet outages outside of Descript’s control; or
- Outages reasonably deemed necessary by Descript.

Sole Remedy

Notwithstanding any terms to the contrary in the Agreement between Company and Descript, the Service Credit is Company’s sole and exclusive remedy for any failure by Descript to make the Services available 99% or more of the time during any calendar month where such failure is not due to any of the Exclusions.

EXHIBIT B
FORM OF STATEMENT OF WORK

This Statement of Work (“**SOW**”) is entered into as of June 1, 2021 (the “**SOW Effective Date**”), by and between Descript (“**Descript**”) and AppDynamics LLC (“**Company**”). Capitalized terms used but not defined herein will have the meanings accorded to them in the Agreement.

Professional Services

Descript will provide a dedicated account manager and priority support via email.

Term of Professional Services

The Professional Services will be provided from June 1, 2021 to June 1, 2022.

Fees/Rates and Payment Terms

NO ADDITIONAL CHARGE.

The parties have entered into this SOW as of the SOW Effective Date.

AppDynamics LLC (“**Company**”) DocuSigned by:

Craig Wickersham

CE58CECBACD1486...

By: Craig Wickersham General Counsel

Date: June 21, 2021

Address: 303 Second Street, North Tower, Eighth Floor, San Francisco, CA 94107

Email: legal@appdynamics.com

Phone No.: _____

Descript, Inc. (“**Descript**”) DocuSigned by:

Jay LeBoeuf

12E04D9C820A42C...

By: Jay LeBoeuf, Head of Business Development

Date: June 21, 2021

Address: 385 Grove Street
San Francisco, CA 94102

Email: JLeBoeuf@descript.com

Phone No.: 415-596-5392

EXHIBIT C

DATA PROTECTION EXHIBIT

This Data Protection Exhibit (“**DPE**”) outlines the terms and conditions with which the Parties must comply with respect to processing Personal Data and applies to the extent that Descript processes or has access to Protected Data in the Performance of its obligations to AppDynamics. This DPE is governed by the terms of the applicable agreement entered into by and between the Parties (“the **Agreement**”) including, but not limited to any limitations or exclusions of liability set forth in the Agreement, and, together with the Agreement, comprises the complete agreement between the Parties. This DPE, together with the Agreement, is the complete agreement between the Parties and replaces any prior oral or written communications between the Parties. There are no conditions, understandings, agreements, representations, or warranties expressed or implied, that are not specified herein. This DPE may only be modified by a written document executed by the Parties hereto.

1. Definitions.

“**APEC**” means the Asia Pacific Economic Cooperation, a regional economic forum established in 1989 to leverage the growing interdependence of the Asia Pacific. See www.apec.org for more information.

“**APEC Member Economy**” means the 21 members of APEC: Australia, Brunei Darussalam, Canada, Chile, China, Hong Kong, China, Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Philippines, Russia, Singapore, Chinese Taipei, Thailand, United States, and Vietnam.

“**Applicable Laws**” means any applicable country, federal, state, and local law, ordinances, statute, bylaw, regulation, order, regulatory policy (including any requirement or notice of any regulatory body), compulsory guidance of a regulatory body with authority over the applicable Party, rule of court or directives, binding court decision or precedent, or delegated or subordinate legislation, each of the above as may be amended from time to time. Parties will comply with all laws, all licenses, permits and approvals required by any government or authority, and shall comply with all applicable laws, rules, policies and procedures. For avoidance of doubt, Applicable Laws includes data protection and privacy laws of each jurisdiction where an AppDynamics entity that is legally responsible for such Personal Data is established and those of each jurisdiction where such Personal Data is collected or otherwise processed.

“**Approved Jurisdiction**” means a member state of the European Economic Area, or other jurisdiction as may be approved as having adequate legal protections for data by the European Commission currently found here: http://ec.europa.eu/justice/dataprotection/internationaltransfers/adequacy/index_en.htm.g.

“**EEA**” or “**European Economic Area**” means those countries that are members of European Free Trade Association (“EFTA”), and the then current, post accession member states of the European Union.

“**Data Subject**” means the individual to whom Personal Data relates.

“**Information Security Incident**” means a successful or imminent threat of unauthorized access, use, disclosure, breach, modification, theft, loss, corruption, or destruction of information; interference with information technology operations; or interference with system operations.

“**Personal Data**” means any information that is about, or can be related to, an identifiable individual. It includes any information that can be linked to an individual or used to directly or indirectly identify an individual, natural person. Personal Data is Protected Data.

“**Protected Data**” means Confidential Information and all Personal Data.

2. Default Standards.

- 2.1. The security measures referred to in this DPE shall include, at a minimum (i) SOC 2 certification and a written information security program (ii) routine risk assessments of Descript's information security program, (iii) regular testing and monitoring to measure and confirm the effectiveness of the information security program's key controls, systems, and procedures, and (iv) encryption of Special Categories, as defined by the GDPR, of Data while during transmission, and storage. If encryption is not feasible, Descript shall not store Personal Data on any unencrypted devices unless compensating controls are implemented. Further, Descript shall protect all Personal Data stored on electronic databases, servers, or other forms of nonmobile devices against all reasonably anticipated forms of compromise.
- 2.2. Descript agrees that, in the event of a breach of this DPE, whether or not AppDynamics has an adequate remedy in damages, AppDynamics may be entitled to seek injunctive or equitable relief to immediately cease or prevent the use, processing, or disclosure of Personal Data not contemplated by the Descript's obligations to AppDynamics and/or this DPE and to enforce the terms of this DPE or enforce compliance with all Applicable Laws.
- 2.3. Any ambiguity in this DPE shall be resolved to permit AppDynamics to comply with all Applicable Laws. In the event and to the extent that the Applicable Laws impose stricter obligations on the Descript than under this DPE, the Applicable Laws shall prevail.
3. Certifications. Descript must maintain the certifications listed in an applicable agreement between the Parties, if any, and Descript shall recertify such certifications as reasonably required. If there is a material change in the requirements of a required certification or the nature of the Performance Descript is providing, such that Descript no longer wishes to maintain such certifications, the Parties will discuss alternatives and compensating controls in good faith. Descript will notify AppDynamics if Descript has failed or no longer intends to adhere to such certifications.
4. Data Protection and Privacy. The Parties agree that, for Personal Data, AppDynamics shall be the Data Controller and Descript shall be the Data processor.
 - 4.1. AppDynamics shall in its use of Descript's products and/or services ("Products and/or Services"), comply with Applicable Laws, including maintaining all relevant regulatory registrations and notifications as required under Applicable Laws; ensure all instructions given by it to Descript in respect of Personal Data shall at all times be in accordance with Applicable Laws; have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which AppDynamics acquired Personal Data, including providing any required notices to, and obtaining any necessary consent from, its employees, agents or third parties to whom it extends the benefits of the Products and/or Services; and keep the amount of Personal Data provided to Descript to the minimum necessary for the performance of the Products and/or Services.
 - 4.2. If Descript has access to or otherwise processes Personal Data, then Descript shall implement and maintain commercially reasonable and appropriate physical, technical, and organizational security measures described in this DPE designed to protect Personal Data against accidental or unlawful destruction; accidental loss, alteration, unauthorized disclosure or access; all other unlawful forms of processing; and any Information Security Incident; take reasonable steps designed to ensure the reliability of its staff and that they are subject to a binding written contractual obligation with Descript to keep the Personal Data confidential and any other person acting under its supervision who may come into contact with, or otherwise have access to and process Personal Data; and require that such personnel are aware of their responsibilities under this DPE and any Applicable Laws (or Descript's own written binding policies that are at least as restrictive as this DPE); appoint data protection lead(s). Upon request, Descript will provide the contact details of the appointed person and assist AppDynamics as reasonably needed to respond to requests from supervisory authorities, data subjects, customers, or others to provide information (including details of the Services provided by Descript) related to Descript's processing of Personal Data. Descript further agrees to:
 - a) Not transfer Personal Data from the EEA or Switzerland to a jurisdiction which is not an Approved Jurisdiction, unless it first provides AppDynamics advance notice and an opportunity to object;

AppDynamics consents to the transfer of information within the United States. If AppDynamics reasonably objects to the proposed cross border transfer and the Parties do not mutually achieve an alternative within a commercially reasonable time of not less than 30 days, the applicable Performance that is the subject matter of the objection shall terminate.

Where Descript processes Personal Data from the EEA or Switzerland on behalf of AppDynamics, Descript shall perform such processing in a manner substantially consistent with the Privacy Shield Principles (see www.commerce.gov/privacyshield) or its successor framework(s) (the "Principles") to the extent the Principles are applicable to Descript's processing of such data. For clarity, in no event does this require Descript to become a Privacy Shield participant, including providing notice of being a Privacy Shield participant, linking to the Department of Commerce Privacy Shield page, providing independent recourse mechanisms, annual certifications or the like. If Descript is unable to provide the same level of protection as required by the Principles, Descript shall promptly notify AppDynamics and cease processing. In such event, AppDynamics may terminate the applicable Performance of such processing by written notice within thirty (30) days.

- b) For jurisdictions other than the EEA or Switzerland, not transfer Personal Data outside of the jurisdiction where the Personal Data is obtained unless permitted under Applicable Laws and it first provides AppDynamics advance notice and an opportunity to object; if AppDynamics reasonably objects to the proposed cross border transfer and the Parties do not mutually achieve an alternative, the applicable obligations that is the subject matter of the objection shall terminate.
- c) If Descript processes Personal Data in the course of Performance of its obligations to AppDynamics, then Descript shall also:
 - only process the Personal Data in accordance with AppDynamics's documented instructions, Appendix 1 of Attachment A and this DPE, but only to the extent that such instructions are consistent with Applicable Laws. If Descript reasonably believes that AppDynamics's instructions are inconsistent with Applicable Laws, Descript will promptly notify AppDynamics of such;
 - if required by Applicable Laws, court order, warrant, subpoena, or other legal or judicial process to process Personal Data other than in accordance with AppDynamics's instructions, notify AppDynamics of any such requirement before processing the Personal Data (unless Applicable Laws prohibit such information on important grounds of public interest);
 - only Process Personal Data on its systems or facilities to the extent necessary to Perform its obligations solely on behalf of AppDynamics and only for purposes contemplated by the Parties;
 - maintain reasonably accurate records of the processing of any Personal Data received from AppDynamics under the Agreement;
 - not lease, sell, distribute, or otherwise encumber Personal Data;
 - provide reasonable cooperation and assistance to AppDynamics in allowing the persons to whom Personal Data relate to have access to their data and to delete or correct such Personal Data if they are demonstrably incorrect (or, if AppDynamics or AppDynamics's customer does not agree that they are incorrect, to have recorded the fact that the relevant person considers the data to be incorrect);
 - provide such assistance as AppDynamics reasonably requests (either on its own behalf or on behalf of its customers), and Descript or a Representative is reasonably able to provide, with a view to meeting any applicable filing or similar requirements in relation to Applicable Laws;
 - promptly notify AppDynamics of any investigation, litigation, arbitrated matter, or other dispute relating to Descript's information security or privacy practices as it relates to Descript's Performance of its obligations to AppDynamics;
 - provide such reasonable information and assistance as AppDynamics reasonably requires (taking into account the nature of processing and the information available to Descript) to AppDynamics, at AppDynamics expense, in ensuring compliance with AppDynamics's obligations under Applicable Laws with respect to: security of processing; data protection impact assessments (as such term is defined by Applicable Laws); prior consultation with a supervisory authority regarding high risk processing; and notifications to the supervisory authority and/or communications to Data Subjects by

AppDynamics in response to any Information Security Incident; and, on termination of the DPE for whatever reason, or upon written request at any time during the Term, Descript shall cease to process any Personal Data received from AppDynamics, and within a reasonable period will, at the request of AppDynamics: (1) return all Personal Data; or (2) securely and completely destroy or erase all Personal Data in its possession or control unless such return or destruction is not feasible or continued retention and processing is required by Applicable Laws. At AppDynamics's request, Descript shall certify to AppDynamics in writing confirming that it has fully complied with this clause. To the extent any requests from AppDynamics under this section are (i) through no fault of Descript, and (ii) not required by Descript under Applicable Laws, then such assistance shall be at AppDynamics' cost.

5. Standard Contractual Clauses for the processing of Personal Data. If, and only with AppDynamics's prior consent, Descript processes Personal Data from the EEA or Switzerland in a jurisdiction that is not an Approved Jurisdiction, the Parties shall confirm there is a legally approved mechanism in place to allow for the international data transfer. If Descript intends to rely on Standard Contractual Clauses (rather than another permissible transfer mechanism), the following additional terms will apply to Descript and Descript's subprocessors and/or Affiliates who may be Performing on behalf of the Descript:

- 5.1. The Standard Contractual Clauses set forth in Attachment A will apply. If such Standard Contractual Clauses are superseded by new or modified Standard Contractual Clauses, the Parties shall promptly enter into the new or modified Standard Contractual Clauses, as necessary. If Descript subcontracts any processing of Personal Data (only as expressly allowed by an applicable agreement between the Parties and Applicable Laws), Descript will:
- a) To the extent that Descript uses a new subcontractor not on the approved list of subcontractors listed in Attachment B hereto, notify AppDynamics in advance of such processing and provide AppDynamics an opportunity to object prior to processing and if AppDynamics reasonably objects to the proposed cross border transfer and the Parties do not mutually achieve an alternative, the applicable Performance that is the subject matter of the objection shall terminate.
 - b) Require that Descript's subprocessors have entered into written agreements with Descript in which the subprocessors agree to abide by terms consistent with the applicable portions of the Standard Contractual Clauses with respect to such Personal Data.
 - c) If necessary to comply with Applicable Laws, and where requested by AppDynamics on behalf of its customers, Descript shall enter into the Standard Contractual Clauses directly with AppDynamics's customers.

6. Subprocessing.

- 6.1. Descript shall have a documented security program and policies that provide (i) guidance to its subprocessors with respect to ensuring the security, confidentiality, integrity, and availability of personal data and systems maintained or processed by Descript; and (ii) express instructions regarding the steps to take in the event of a compromise or other anomalous event.
- 6.2. Descript shall not subcontract its DPE obligations to another person or entity, in whole or in part.
- 6.3. Descript will execute a written agreement with such approved subprocessors containing terms at least as protective as this DPE and the applicable Exhibits (provided that Descript shall not be entitled to permit the subprocessor to further subcontract or otherwise delegate all or any part of the subprocessor's processing without Descript's prior notice and opportunity to object)
- 6.4. Descript shall be liable and accountable for the acts or omissions of Affiliates' officers, directors, employees, agents, contractors, temporary personnel, subprocessors, subcontractors, and consultants to

the same extent it is liable and accountable for its own actions or omissions under this DPE.

6.5. AppDynamics acknowledges and expressly agrees that Descript's Affiliates may be retained as subprocessors, and (b) Descript's Affiliates respectively may engage thirdparty subprocessors in the course of Performance. Descript shall make available to AppDynamics a current list of subprocessors for the respective Services with the identities of those subprocessors ("Subprocessor List") upon AppDynamics's reasonable request.

7. Rights of Data Subjects.

7.1. Data Subject Requests. To the extent required by applicable laws, Descript shall promptly notify AppDynamics if it receives a request from a Data Subject for access to, correction, portability, or deletion of such Data Subject's Personal Data. Unless required by Applicable Laws, Descript shall not respond to any such Data Subject request without AppDynamics's prior written consent except to confirm that the request relates to AppDynamics. In addition, Descript shall provide such information and cooperation and take such action as AppDynamics reasonably requests in relation to a Data Subject request.

7.2. Complaints or Notices related to Personal Data. In the event Descript receives any official complaint, notice, or communication that relates to Descript's processing of Personal Data or either Party's compliance with Applicable Laws in connection with Personal Data, Descript shall promptly notify AppDynamics and, to the extent applicable, Descript shall provide AppDynamics with reasonable cooperation in relation to any such complaint, notice, or communication. AppDynamics shall be responsible for any reasonable costs arising from Descript's provision of such assistance.

8. Choice of Law. The validity, interpretation, and performance of this DPE shall be governed by and construed under the laws of the State of California, United States of America, as if performed wholly within the state and without giving effect to the principles of conflicts of law. The Federal District Court, Northern District of California or the Superior Court of San Francisco County, California shall have exclusive jurisdiction over any claim arising under this DPE, provided that either Party may seek interim injunctive relief in any court of appropriate jurisdiction with respect to any alleged breach of such Party's intellectual property or proprietary rights.

9. Attorneys' Fees. In any suit or proceeding relating to this DPE the prevailing Party will have the right to recover from the other its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal, separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of this DPE and shall survive expiration or termination and shall not be merged into any such judgment.

10. No Waiver. The waiver by either Party of any right provided under this DPE shall not constitute a subsequent or continuing waiver of such right or of any other right under this DPE.

11. Assignment. Unless otherwise expressly provided under this DPE, neither Party may assign this DPE or assign its rights or delegate its obligations hereunder, either in whole or in part, whether by operation of law or otherwise, without the prior written consent of the other Party except to a successor in interest in connection with a merger, acquisition or transfer of substantially all of the assignee's assets. Any attempt at such an assignment or delegation without the other Party's written consent where required will be void. The rights and liabilities of the Parties under this DPE will bind and inure to the benefit of the Parties' respective successors and permitted assigns. For purposes of this Section 11 (Assignment), a twenty percent (20%) change in control of a Party shall constitute an assignment.

12. Severability. If one or more terms of this DPE become or are declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, each such part or term shall be null and void and shall be deemed deleted from this DPE. All remaining terms of this DPE shall remain in full force and effect. However, if this paragraph is invoked and, as a result, the value of this DPE is materially impaired for either Party, then the

affected Party may terminate this DPE by written notice with immediate effect.

13. Notices. All notices required or permitted under this DPE shall be in writing. Notices will be deemed to have been given (i) one day after deposit with a commercial express courier specifying next day delivery; or (ii) two days for international courier packages specifying two-day delivery, with written verification of receipt. All communications shall be sent to the Parties' addresses below.

ATTACHMENT A STANDARD CONTRACTUAL CLAUSES

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection (These can be located in their original text on the European Commission [website](#).)

For purposes of this Attachment A: any reference to “data exporter” means AppDynamics, acting as data exporter on behalf of its EEA or Swiss customer(s) where applicable, and any reference to “data importer” means Descript each a “party”; together “the parties”.

The parties have agreed on the following Standard Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

Clause 1. Definitions. For the Purposes of the Clauses.

“personal data”, “special categories of data”, “process/processing”, “controller”, “processor”, “data subject” and “supervisory authority” shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

“the data exporter” means the controller who transfers the personal data;

“the data importer” means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country’s system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

“the subprocessor” means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

“the applicable data protection law” means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

“technical and organisational security measures” means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2. Details of the Transfer.

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

Clause 3. Third-party Beneficiary Clause.

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as thirdparty beneficiary.

2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.
3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such thirdparty liability of the subprocessor shall be limited to its own processing operations under the Clauses.
4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4. Obligations of the Data Exporter. The data exporter agrees and warrants:

1. that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;
2. that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;
3. that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Attachment A to this contract;
4. that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;
5. that it will ensure compliance with the security measures;
6. that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;
7. to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;
8. to make available to the data subjects upon request a copy of the Clauses, with the exception of Attachment A, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;
9. that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data

subject as the data importer under the Clauses; and

10. that it will ensure compliance with Clause 4(a) to (i).

Clause 5. Obligations of the Data Importer. The data importer agrees and warrants:

1. to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
2. that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
3. that it has implemented the technical and organisational security measures specified in Attachment A before processing the personal data transferred;
4. that it will promptly notify the data exporter about:
 - 4.1 any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,
 - 4.2 any accidental or unauthorised access, and
 - 4.3 any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;
5. to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;
6. at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;
7. to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Attachment A which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;
8. that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;
9. that the processing services by the subprocessor will be carried out in accordance with Clause 11;
10. to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

Clause 6. Liability.

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.
2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.
3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

Clause 7. Mediation and Jurisdiction.

1. The data importer agrees that if the data subject invokes against it thirdparty beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject: (a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority; (b) to refer the dispute to the courts in the Member State in which the data exporter is established.
2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8. Cooperation with Supervisory Authorities.

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.
2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.
3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5(b).

Clause 9. Governing Law.

The Clauses shall be governed by the law of the Member State in which the data controller is established.

Clause 10. Variation of the Contract.

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

Clause 11. Subprocessing.

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.
2. The prior written contract between the data importer and the subprocessor shall also provide for a thirdparty beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such thirdparty liability of the subprocessor shall be limited to its own processing operations under the Clauses.
3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data controller is established.
4. The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

Clause 12. Obligation After the Termination of Personal Data Processing Services.

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.
2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

APPENDIX 1 TO ATTACHMENT A
THE STANDARD CONTRACTUAL CLAUSES

This Appendix 1 forms part of the Clauses.

Data exporter. The data exporter is AppDynamics, acting as data exporter on behalf of itself or a customer where applicable. Activities relevant to the transfer include the performance of services for AppDynamics and its customer(s).

Data importer. The data importer is Descript. Activities relevant to the transfer include the performance of services for AppDynamics and customers.

Data subjects. The personal data transferred may concern the following categories of data subjects: Employees, contractors, business partners, representatives and end customers of customers, and other individuals whose personal data is processed by or on behalf of AppDynamics or AppDynamics's customers and delivered as part of the Services.

Categories of data. The personal data transferred may concern the following categories of data: Personal Data related directly or indirectly to the delivery of services or Performance, including online and offline customer, prospect, partner, and Descript data, and personal data provided by customers in connection with the resolution of support requests.

Special categories of data. The personal data transferred may concern the following special categories of data: Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union memberships, and data concerning health or sex life, and data relating to offenses, criminal convictions or security measures.

Processing operations. The personal data transferred may be subject to the following basic processing activities, as may be further set forth in contractual agreements entered into from time to time between AppDynamics and customers: (a) customer service activities, such as processing orders, providing technical support and improving offerings, (b) sales and marketing activities as permissible under applicable law, (c) consulting, professional, security, storage, hosting and other services delivered to customers, including services offered by means of the products and solutions described by Descript, and (d) internal business processes and management, fraud detection and prevention, and compliance with governmental, legislative, and regulatory requirements.

Attachment B

Descript Sub-processors Approved by AppDynamics

- Amplitude
- GSuite
- Stripe
- Zendesk
- CustomerIO
- Amazon Web Services
- Auth0
- Google Cloud Platform
- Heroku