



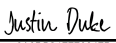
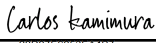
REFERRAL AGREEMENT

This Referral Agreement, consisting of this Cover Page and the attached Business Terms (collectively, this “Agreement”), is made and entered into by and between Zendesk and Partner (each, as defined below). The Agreement will become binding once the Parties execute this Agreement (the “Effective Date”). Zendesk and Partner are sometimes referred to as a “Party”, and together as the “Parties.”

As used in this Agreement, the following terms have the meanings set forth below:

Zendesk:	Partner:
“Zendesk” means Zendesk, Inc., including its Affiliates (as defined in the Reseller Agreement), a U.S., State of Delaware company with corporate offices in San Francisco, California.	“Partner” or “You” means <u>Third South Zen, LLC</u> .
Zendesk Headquarters and Notice Address:	Partner Headquarters and Notice Address:
989 Market Street, San Francisco, CA 94103 For legal notices, provide copies to: Zendesk, Inc. – Legal Department; legal@zendesk.com	3305 Monument Avenue #1 Richmond, VA United States of America 23221
TERM: “Term” means the “Initial Term” and all “Renewal Term(s)” thereafter (each, as defined in Section 4 of the Business Terms).	

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized officers or representatives as of the Effective Date:

PARTNER: Third South Zen, LLC		ZENDESK, INC.	
BY	<small>DocuSigned by:</small> 	BY	<small>DocuSigned by:</small> 
NAME	<small>6A0B5C17776247D...</small> Justin Duke	NAME	<small>20D07E8053EA4B7...</small> Carlos Kamimura
TITLE	Vice President	TITLE	VP Partner Sales, LATAM
DATE	9/21/2023	DATE	9/21/2023



BUSINESS TERMS

BACKGROUND

Zendesk is the owner and operator of Zendesk®, a unique customer relations platform and service that promotes effective, interactive engagement among Zendesk customers and their customer base (the “Zendesk Service”). Partner wishes to promote, market and advertise the Zendesk Service to potential Zendesk customers or new opportunities at existing Zendesk customers (“Referrals”) through its website(s) and other marketing channels, in accordance with Zendesk’s Partner Program (“Program”) detailed in this Agreement. The documentation made available to You that is labeled as a Program Guide (as may be revised from time to time, at Zendesk’s sole discretion, the “Program Guide”) details additional benefits and requirements applicable to You and is hereby incorporated into this Agreement.

AGREEMENT

The Parties agree as follows:

1. LICENSE

1.1 Subject to this Agreement and its terms, Zendesk hereby grants to Partner a free, non-exclusive, non-transferable and revocable license (“License”) to market the Zendesk Service to Referrals and to use the Zendesk trademarks, logos and URLs provided by Zendesk and listed in the Guidelines (as defined below) (“Zendesk Marks”), and any associated materials for the sole purpose of promoting the Zendesk Service (collectively, “Marketing Materials”).

1.2 The license to use the Zendesk Marks granted herein is subject to Zendesk’s Trademark Usage Guidelines (“Guidelines”) (which can be found at <https://www.zendesk.com/company/trademark-property/#trademarks>), incorporated here by reference, as updated from time to time by Zendesk at its sole discretion. Zendesk may revoke this license at any time by giving Partner written notice (including via email).

2. PROGRAM COMMITMENTS

2.1 The Program. To participate in the Program, Partner must complete (1) the online application for participation in the Program found on Zendesk’s website (“Site”) and any other requirements specified in the Program Guide, and (2) enter this Agreement. Zendesk may accept or reject any application at its sole discretion.

2.2 Legal Agreements. As part of its participation in the Program and in acting as Zendesk’s Partner, Partner hereby agrees and consents to the terms of this Agreement and the Program, the Guidelines, and any other requests and rules set by Zendesk from time to time, in its reasonable discretion, in connection with Partner’s ongoing participation in the Program and promotion of the Zendesk Service to Referrals. In all its activities under this Agreement, and specifically such activities relating to Partner’s promotion of Zendesk Service, Partner shall cooperate with Zendesk and act in good faith.

2.3 Promotion, Referral Activities. Partner agrees to engage in continued, active promotion of the Zendesk Service in various marketing channels using the Zendesk Marks and Marketing Materials in compliance with the terms of this Agreement.

2.4 Prohibited Activities. Partner agrees not to associate Marketing Materials with content that is unlawful in any manner, or which is otherwise harmful, threatening, defamatory, obscene, offensive, harassing, sexually explicit, violent, discriminatory, or otherwise objectionable in Zendesk’s sole discretion. Partner agrees not to send unsolicited electronic messages to multiple unrelated recipients in promoting the Zendesk Service, or otherwise to engage in any other form of mass electronic communications prohibited by law in connection with activities contemplated under this Agreement.

2.5 Permissible Use of Zendesk Marks.

2.5.1 Partner expressly agrees to comply with all the terms herein (particularly Section 5.3) in using the Zendesk Marks and in creating Marketing Materials.

2.5.2 Partner shall ensure that all Zendesk Marks appearing on its Marketing Materials are in the form approved by Zendesk in the Guidelines or otherwise, shall not modify any Zendesk Marks or otherwise substantially modify other Marketing Materials contrary to reasonable instructions provided by Zendesk, and shall further comply with reasonable instructions from Zendesk as to the form, content and display of Marketing Materials. Upon termination of this Agreement for any reason whatsoever, or upon written request by Zendesk, the license granted herein will expire, and Partner shall immediately cease all its activities under this Agreement.

2.6 Liabilities. Partner shall be solely responsible for its operations in acting under this Agreement, including, without limitation, the legality of Partner's operations and materials. Except for a claim alleging that a Zendesk Mark violates a third party's trademark rights, Zendesk is not responsible for the development, operation or content of Partner's Marketing Materials, and Partner agrees to defend, indemnify and hold Zendesk harmless against any and all claims, actions, causes of action, damages, or expenses (including attorney fees) relating to the development, operation, content and maintenance of Partner's Marketing Materials.

2.7 Customer Relations. During and after the Term, Zendesk shall be the exclusive owner of all relations created via Partner between Zendesk and Referrals with respect to the Zendesk Service.

2.8 Affiliates of Partner. An Affiliate of Partner may also market the Zendesk Service to Referrals under this Agreement provided that such Affiliate submits the Referral Form (as defined below). By submitting a Referral Form, an Affiliate agrees to be bound by the terms of this Agreement. Partner also agrees that it will be responsible for its Affiliates' compliance with this Schedule.

3. QUALIFIED REFERRALS, COMMISSIONS

3.1 "Qualified Referrals" mean Referrals (a) referred by Partner to Zendesk and who complete the sign-up procedure in accordance with the procedure described in Section 3.2 below; (b) of whom Zendesk has no record of: (i) for new customers, the customer in connection with the Zendesk Service, or who are not, at the time referred to Zendesk by a Partner, in any contractual relations or ongoing negotiations with Zendesk in connection with the Zendesk Service; and (ii) for new opportunities, the opportunity at the existing Zendesk customer, or, at the time referred to Zendesk by a Partner, the customer is not in any contractual relations or ongoing negotiations with Zendesk in connection with the opportunity; (c) who accept the Master Agreement and acquire within one hundred eighty (180) days of being referred to Zendesk by Partner, at a Referral's own discretion and without receiving any monetary or other incentive from Partner, at least monthly subscriptions of at least five (5) Agents for any of the Zendesk Service Plans listed in the Program Guide; and (d) who are not rejected by Zendesk, and make at least one payment to receive the Zendesk Service. All Referrals will be deemed rejected by Zendesk if they do not become a Qualified Referral within one hundred eighty (180) days of first being submitted to Zendesk by Partner. On a case by case basis, the Parties may mutually agree in writing (email sufficing) to waive or extend the one hundred eighty (180) day time limit for a particular Referral.

3.2 Referral Procedure. Partner shall refer each Referral to Zendesk through an online form provided by Zendesk to Partner, which Partner shall fully complete and submit to Zendesk ("Referral Form"). Upon receiving each Referral Form, Zendesk shall send an email to the Referral's email address indicated in the Referral Form, detailing the steps to be taken towards registration to receive the Zendesk Service and become a Qualified Referral. Zendesk shall be responsible for the sales process to all Referrals, subject to the Parties' continued good-faith cooperation in promoting the sales process to Referral.

3.3 Commissions.

3.3.1 Responsibilities. Zendesk shall collect all fees for the Zendesk Service directly from Referrals.

3.3.2 Referral Fees. Upon a Referral becoming a Qualified Referral, Zendesk shall pay Partner referral fees in arrears in accordance with the Program Guide ("Referral Fees").

3.3.3 Associated charges. Partner shall be responsible for payment of all taxes, duties, governmental charges and other like charges levied on the Referral Fees, and Partner shall indemnify, defend and hold Zendesk harmless from and against any claims arising out or relating to all charges emanating from Zendesk's payment of Referral Fees.

4. TERM AND TERMINATION

4.1 Initial Term. This Agreement is effective as of the Effective Date and will remain in effect for twelve (12) months thereafter (“Initial Term”), unless Zendesk rejects Partner’s application to participate in the Program.

4.2 Renewal Term. Following expiration of the Initial Term, this Agreement will be automatically renewed for additional consecutive terms of twelve (12) months (each, a “Renewal Term”), unless a Party gives written notice of termination to the other Party at least thirty (30) days prior to the end of the Initial Term or any Renewal Term.

4.3 Early Termination.

4.3.1 Without Cause. Zendesk shall have the right to terminate this Agreement at any time for any or no reason by giving ten (10) days’ prior written notice to Partner.

4.3.2 For Cause. Either Party may terminate this Agreement at any time, effective immediately upon written notice to the other Party who has materially breached this Agreement, provided that prior to terminating this Agreement the terminating Party shall provide written notice of such material breach and thirty (30) days’ opportunity for the breaching Party to cure such breach.

4.3.3 Effect of Termination. From and following the date of termination of this Agreement, Partner’s rights under this Agreement will terminate, and Partner will not be entitled to receive any Referral Fees or any other payments under this Agreement other than commissions or payments earned or accrued prior to termination of this Agreement.

5. GENERAL

5.1 Modification of Agreement. Zendesk may modify this Agreement from time-to-time at its reasonable discretion by posting a change on the Site or notifying Partner via email. If Partner objects to any such change, Partner may terminate this Agreement for cause. Partner’s continued participation in the Program following receipt of notice about changes to this Agreement will constitute binding acceptance of this Agreement as amended.

5.2 Assignment. This Agreement may not be assigned by a Party thereto without the prior written consent of the other Party, which consent will not be unreasonably withheld. Notwithstanding the foregoing, either Party may assign this Agreement without the other Party’s prior consent to its Affiliate, or in connection with the sale, merger or other corporate combination involving all or substantially all of the assets of the Party, provided the assignee agrees in writing to assume all of such Party’s obligations and liabilities hereunder.

5.3 Intellectual Property Rights. All intellectual property rights (such as but not limited to trademarks, trade names, logos, patents, copyrights, domain names and derivative rights) in Zendesk Marks, the Zendesk Service and related content and technology around the world (“Zendesk IP Rights”) are and will remain the exclusive property of Zendesk and its subsidiary companies. Partner’s right to use the Zendesk Marks is at the discretion of Zendesk and is subject to Partner’s compliance with the terms of this Agreement, the Guidelines, and all applicable laws and regulations. Partner agrees to (a) not use any Zendesk IP Rights in any manner reasonably likely to breach this Agreement; (b) not do anything contesting or impairing any Zendesk IP Rights; (c) not create or obtain any intellectual property rights (such as but not limited to trademarks, trade names, logos, patents, copyrights, domain names and derivative rights) that are substantially similar to any Zendesk IP Rights; (d) promptly notify Zendesk of any unauthorized use of any Zendesk IP Rights of which Partner has actual knowledge; and (e) always use any Zendesk Marks in compliance with the Guidelines. Zendesk may perform periodic reviews of any Marketing Materials presented by Partner, and Zendesk shall have the exclusive authority and discretion to order the removal and/or amendment of any Marketing Materials presented by Partner.

5.4 No Waiver. Either Party’s failure to enforce the other Party’s strict performance of any provision of this Agreement will not constitute a waiver of the first Party’s right to subsequently enforce such provision or any other provision of this Agreement.

5.5 Compliance with Laws. Partner agrees that at all times during the Term it shall comply with all applicable laws, as well as this Agreement and the Guidelines. In submitting personal data to Zendesk in connection with a Referral, Partner agrees that it (i) shall comply with all applicable laws governing Partner’s collection, storage, processing, use and transfer of such information; and (ii) shall provide all appropriate notices to data subjects and obtained all appropriate consents to transfer data to Zendesk and allow its processing according to the terms of this Agreement.

5.6 Disclaimer of Warranty. Zendesk expressly disclaims any and all warranties and conditions, including but not limited to any implied warranty of merchantability, fitness for a particular purpose, availability, security, title, and/or non-infringement of the subject matter of this Agreement.

5.7 LIMITATION OF LIABILITY. NEITHER ZENDESK NOR ANY OFFICER, EMPLOYEE, DIRECTOR OR ANY OTHER REPRESENTATIVE OF ZENDESK WILL BE LIABLE TOWARDS PARTNER OR TOWARDS ANY THIRD PARTY, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS TERMINATION, IN CONTRACT, PRE-CONTRACT, TORT OR OTHERWISE FOR (A) ANY ECONOMIC LOSS (INCLUDING LOSS OF REVENUES, PROFITS, CONTRACTS, BUSINESS OR ANTICIPATED SAVINGS) OR (B) ANY LOSS OF GOODWILL OR REPUTATION. SUCH LOSSES INCLUDE, WITHOUT LIMITATION, ANY SPECIAL, INDIRECT, INCIDENTAL, STATUTORY, PUNITIVE OR CONSEQUENTIAL LOSSES OR DAMAGES AS WELL AS ANY LOSSES OR DAMAGES CAUSED BY INTERRUPTION OF OPERATIONS. NOTWITHSTANDING ANY OTHER CIRCUMSTANCES OR UNDERSTANDINGS SURROUNDING ANY RELATIONS AMONG THE PARTIES, ZENDESK'S ENTIRE LIABILITY TO PARTNER UNDER THIS AGREEMENT WILL NOT EXCEED \$100 U.S. FOR ANY AND ALL CLAIMS FOR DAMAGES OF ANY KIND MADE BY PARTNER UNDER THIS AGREEMENT, AND BY ENTERING THIS AGREEMENT PARTNER RECOGNIZES THE LIMITATIONS HEREIN ON ZENDESK'S LIABILITY.

5.8 Independent Contractors. The Parties herein act on their own behalf as independent contractors. Nothing in this Agreement will create any joint venture, agency, franchise, sales representative, employment or any other relationship between the Parties beyond the relations set out in this Agreement, and Partner is expressly precluded from acting on Zendesk's behalf. Partner's display of Zendesk Marks under this Agreement, other content presented by Partner, or contact among Partner and third parties shall not misrepresent the relations described herein.

5.9 Indemnification. Partner shall indemnify, defend and hold Zendesk and its subsidiaries, affiliates, officers and employees (the "Zendesk Indemnified Parties") harmless from and against any and all costs, liabilities, losses and expenses (including but not limited to reasonable attorneys' fees) resulting from any claim, suit, action, demand or proceeding brought by any third party against the Zendesk Indemnified Parties arising from any of the following: (a) a breach of the Agreement by Partner; (b) the negligence, gross negligence or willful misconduct of Partner or its employees, agents or contractors; or (c) a failure by Partner or its employees, agents, contractors or invitees to comply with the laws and regulations referenced hereinbefore.

5.10 Confidential Information. Each of the Parties guarantees that all information of a confidential nature received from the other Party before, during and after the conclusion of the Agreement will remain confidential. Information will be considered confidential if related to pricing, discounts, Referrals' information or if designated as confidential by either of the Parties. Further, unless separate consent is provided to Partner by Zendesk, Partner agrees to use any Referral information provided to it by Zendesk only to promote the Zendesk Service (including integrations to the Zendesk Service).

5.11 Force Majeure. A Party will not be obliged to perform any of its obligations herein if it is prevented from doing so by a situation of force majeure. "Force majeure" events include events beyond the reasonable control of the Parties, including natural disasters, fire, governmental acts, labor disputes or failure of suppliers. If a situation of force majeure lasts for more than thirty (30) days, either Party may terminate this agreement upon written notice to the other Party.

5.12 Entire Agreement; Severability. This Agreement represents the entire agreement among the Parties regarding the subject matter thereof. No other documents, or oral or written agreements among the Parties reflect in any way on the agreements laid out in this Agreement. Whenever possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement is found to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

5.13 Anti-Bribery. Partner agrees not to promote, approach or submit Referrals, or use, distribute, transfer, provide, sub-license, or otherwise offer the Service in violation of the United States Foreign Corrupt Practices Act, the UK Bribery Act or any similar anti-corruption statutes in all jurisdictions. Further, Partner agrees to the Acknowledgement of Zendesk's Global Anti-Corruption Policy attached as Schedule A to the Agreement and to complete updated compliance certifications as requested by Zendesk from time to time.

5.14 Non-Disparagement. During the Term and for five (5) years thereafter, Partner agrees that it will not disparage Zendesk or any of its officers, directors or employees or otherwise take any action that could reasonably be expected to damage the business, interests or reputation of Zendesk. For purposes of this Agreement, "disparage" means any negative statement, whether written or oral, about Zendesk or any of its officers, directors or employees. The Parties

agree and acknowledge that this non-disparagement provision is a material term of this Agreement, the absence of which would have resulted in the Zendesk refusing to enter into this Agreement.

5.15 Parties' Expenses. The Parties shall each carry and pay all their respective costs, charges and expenses incurred by it in the performance of this Agreement, except as otherwise may be agreed-upon by the Parties in writing in advance.

5.16 Notices. All notices relating to this Agreement will be delivered via email (with return receipt) or next-day mail to the addresses detailed in the Cover Page or submitted to Zendesk during Partner's registration or at any time thereafter.

5.17 Governing Law; Jurisdiction; Dispute Resolution. This Agreement shall be governed by the laws of the State of California, U.S.A, without giving effect to any principles of conflicts of law. Jurisdiction shall lie exclusively in the District Courts of San Francisco County, California. The sole and exclusive jurisdiction and venue for any litigation arising out of this Agreement shall be an appropriate federal or state court located in the State of California, and the Parties agree not to raise, and hereby waive, any objections or defenses based upon venue or forum non conveniens. Prior to initiating any legal action arising under or relating to this Agreement, a Party shall provide the other Party written notice of a dispute and the Parties shall actively and in good faith negotiate with a view to speedy resolution of such dispute within ten (10) business days of the receipt of such notice.

SCHEDULE A

ACKNOWLEDGMENT OF ZENDESK'S GLOBAL ANTI-CORRUPTION POLICY

Dear Partner:

Zendesk, Inc. and its affiliated companies (collectively, “Zendesk”) is committed to maintaining the highest possible ethical standards. Our reputation is one of our greatest assets, and we will not tolerate any impropriety or questionable conduct in connection with our business operations. We expect the same high standard of conduct from our business partners as from our employees. Zendesk’s Global Anti-Corruption Policy (the “Policy”) can be reviewed [here](#). As a prospective or existing business partner or representative of Partner or one of its affiliated companies, we require that you have read, understand, and agree to comply with the provisions of the Policy in the conduct of all business *as if you were directly employed by Zendesk*.

By signing the Agreement, you agree to the following:

1. That you will notify us immediately if any Government Official¹ or candidate for a political office, or a family member, relative, or close business associate of such a Government Official or candidate for political office, has or hereafter acquires any direct or indirect ownership interest in your company. If such an ownership interest presently exists, or shall exist in the future, Zendesk, at its discretion, may decide to neither establish nor continue your relationship with Zendesk;

2. That, unless specifically authorized in writing by Zendesk, you will not offer, promise to pay, or pay any money or anything else of value, or authorize such offer, promise to pay, or payment, directly or indirectly, to a Government Official, or to any family member, relative or close business associate of such a Government Official, or to any political party, any official of a political party or any candidate for a political office in connection with your representation of Zendesk.

3. That you will not offer, promise to pay, or pay any money or anything else of value, or authorize such offer, promise to pay, or payment, directly or indirectly to any employee, agent, or representative of another company or enterprise in the course of their business dealings with Zendesk, except as specifically disclosed to us in writing and approved by us in writing.

¹ For purposes of this Policy, “Government Official” is broadly interpreted and includes:

- any elected or appointed government official;
- any employee or person acting for or on behalf of a government official, agency, or enterprise performing a governmental function;
- any political party, officer, employee or person acting for or on behalf of a political party or candidate for public office; or
- an employee or person acting for or on behalf of a public international organization.

The term “Government” is meant to include all levels and subdivisions of government (*i.e.*, local, regional or national and administrative, legislative or executive). In addition, for purposes of this Policy, “Relative” or “Familial Relationship” means a parent, spouse, child, or sibling (including by marriage).

4. That in connection with your representation of and/or partnership with Zendesk, or any of its affiliated companies, you will make no facilitating payments, political donations, charitable contributions, promotional or marketing expenses, or promotional gifts, except as specifically disclosed to us in writing and approved by us in writing.

5. That you will keep accurate books and records with respect to all transactions relating to your business with Zendesk.

6. That you will report any suspected violation of Zendesk's Policy.

In addition, we ask all of our business partners to understand and agree that:

1. You will cooperate fully in any due diligence interviews or other compliance inquiry requested by Zendesk;

2. You will confirm, in writing, periodically as required by Zendesk, and as a condition of our continued business relationship, that neither you nor anyone acting on behalf of you or your company, have performed any act prohibited by the attached Policy; and that you have no reason to believe that any person acting on behalf of you or your company has performed any prohibited act.

3. If any prohibited payments or gifts are made by you, or if we have reasonable cause to believe that such payments or gifts have been or are being made, we will terminate our relationship with you and your company; and

4. If, based upon a good faith review, and within its sole discretion, Zendesk chooses to terminate the relationship with you based upon any aspect of the provisions of the attached Policy, you agree to forfeit any and all compensation earned or potentially due and owing to you under your agreement.

Thank you for your consideration of this matter.

Sincerely,

Zendesk, Inc.

SCHEDULE B**ZENDESK IMPLEMENTATION PARTNER PROGRAM AGREEMENT**

This Zendesk Implementation Partner Program Agreement (the “Agreement”) is made as of the last date marked on the signature page below (“Effective Date”), by and between Zendesk, Inc., including all of its Affiliates, a Delaware Corporation with offices at 989 Market Street, San Francisco, CA 94103 (“Zendesk,” “We,” “Us” and their derivatives) and Third South Zen, LLC, a limited liability company with its principal place of business at 3305 Monument Avenue #1, Richmond VA 23221 (“Partner,” or “You,” “Your” and their derivatives). Each of Zendesk and You may sometimes be referred to herein as a “Party” and together, “Parties.”

Background:

- A. Zendesk is the owner and operator of Zendesk®, a unique customer relations platform and service that promotes effective, interactive engagement among Zendesk customers and their customer base (the “Zendesk Service”);
- B. You seek to participate in the Zendesk Implementation Partner Program described in this Agreement and provide the Implementation Services listed in the Program Guide (each, an “Implementation Service,” and together, the “Implementation Services”) to Your customers under the terms of this Agreement, as more specifically described in this Agreement (“Program”); and
- C. Zendesk will grant You a license to participate in the Program under the following terms.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized officers or representatives as of the Effective Date:

PARTNER: Third South Zen, LLC		ZENDESK, INC.	
BY	<small>DocuSigned by:</small> <i>Justin Duke</i> <small>6A0B5C17776247D...</small>	BY	<small>DocuSigned by:</small> <i>Carlos Kamimura</i> <small>20D07E6053EA4B7...</small>
NAME	Justin Duke	NAME	Carlos Kamimura
TITLE	Vice President	TITLE	VP Partner Sales, LATAM
DATE	9/21/2023	DATE	9/21/2023



1. DEFINITIONS: Certain capitalized terms used in this Agreement shall have the meaning assigned to them where defined, and the terms defined in this Section 1 shall have the following meanings:

1.1 Account(s): means a Customer instance providing for use of the Zendesk Service by such Customer's Agents and other authorized users.

1.2 Affiliate(s): means, with respect to a Party, any entity that directly or indirectly controls, is controlled by, or is under common control with such Party, whereby "control" (including, with correlative meaning, the terms "controlled by" and "under common control") means the possession, directly or indirectly, of the power to direct, or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract, or otherwise.

1.3 Agent: means a single authorized user of the Zendesk Service allocated to a Customer.

1.4 Confidential Information: means any non-public information or data disclosed by either Party in any form (whether tangible, oral, visual or a different form) that is marked or otherwise designated as confidential or proprietary, or that should otherwise be reasonably understood to be confidential in light of the nature of the information and the circumstances surrounding disclosure. Without limiting the foregoing, Confidential Information includes any information regarding a Party's business, customers, products, technology, know-how, trade secrets, Documentation, Content, Customer Information and this Agreement. Notwithstanding the foregoing, "Confidential Information" shall not include any information which (a) is in the public domain through no fault of the receiving Party; (b) was known to the receiving Party, without restriction or fault, prior to disclosure by the disclosing Party; (c) was properly disclosed to the receiving Party, without restriction, by another Person with the legal authority to do so; or (d) is independently developed by the receiving Party without any use of or reference to the disclosing Party's Confidential Information.

1.5 Content: means all content, in any form or format, created and uploaded into the Zendesk Service by Customers and End Users.

1.6 Contract(s): means one of more agreements among You and Customers for the provision of Implementation Services, on terms consistent with this Agreement.

1.7 Customer(s): means customers who use the Zendesk Service and acquire subscriptions to the Zendesk Service directly from Zendesk (and subject to the Master Subscription Agreement) or an unrelated third party authorized to sell the Zendesk Service (and subject to the Reseller Terms).

1.8 Customer Information: means the customer identifying information and Implementation Services information contained in a Contract.

1.9 Documentation: means the written or electronic documentation, images, video and text specifying the functionalities of the Zendesk Service made available to You, Agents or End-Users; provided, however, that Documentation shall specifically exclude any "community moderated" forums related to the Zendesk Service.

1.10 End User(s): means Persons with whom Customers transact while using the Services.

1.11 Intellectual Property Rights: means any registered and un-registered rights in inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other proprietary rights, derivatives thereof, and forms of protection of a similar nature under any applicable Law anywhere in the world.

1.12 Laws: means, collectively, laws, statutes, ordinances, regulations and other types of governmental authority.

1.13 Master Subscription Agreement: means the agreement found at <https://www.zendesk.com/company/customers-partners/#master-subscription-agreement> among Zendesk and its subscribers, as may be amended by Zendesk from time to time in accordance with its terms.

1.14 Partner Portal: means the partner onboarding and management portal service provided by Zendesk, including, individually and collectively, all corresponding software and any documentation.

1.15 Partner Services: means other products and services that You offer to Customers, which may be combined with the Implementation Services.

1.16 Partner Technology: means technology (including software, Open Source Code, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) owned and/or used by You in providing the Partner Services.

1.17 Person: means an individual, corporation, association, joint venture, partnership, limited liability company, estate, trust, unincorporated organization and any other entity or organization, governmental or otherwise.

1.18 Program Guide: means the documentation made available to You in the Partner Portal or otherwise that is labeled as a Program Guide and details the fees, benefits and requirements of the Program as applicable to You. The Program Guide may be revised from time to time at Zendesk's sole discretion and is hereby incorporated into this Agreement.

1.19 Open Source Code: means software available in source code and licensed under any open source license which allows licensees to copy, modify and redistribute source code.

1.20 Implementation Partner Fees: means the fees associated with the Implementation Partner Program as indicated in the Program Guide or otherwise communicated to the Partner.

1.21 Reseller Terms: means the Subscription Services Agreement found at <https://www.zendesk.com/company/customers-partners/#reseller-terms-of-service> and any addendums applicable to Associated Services, as may be updated from time to time.

1.22 Term: is the timeframe described in Section 10.

1.23 Territory: means all the countries and/or territories where Partner may sell the Implementation Services. Unless otherwise indicated by Zendesk in writing (email sufficing), the Territory is worldwide.

1.24 Trademark Usage Guidelines: means Zendesk's Trademark Usage Guidelines ("Guidelines," which can be found at <https://www.zendesk.com/company/trademark-property/trademarks/>) as updated by Zendesk from time to time.

1.25 Zendesk Technology: means the Zendesk Service and all of Zendesk's and its Affiliate's technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) owned by Zendesk, or an Affiliate of Zendesk, and/or used in providing the Zendesk Service, and subsequent updates or upgrades of any of the foregoing.

2. PROGRAM PARTICIPATION

2.1 Appointment. Subject to all terms and conditions set out in this Agreement (including the Program Guide), Zendesk hereby:

2.1.1 Appoints You to the Program (and You hereby accept such appointment) as a permitted provider of Implementation Services.

2.1.2 Grants You a limited, non-exclusive, terminable right as a member of the Program, to provide Implementation Services in the Territory during the Term, alone or in combination with Partner Services as contemplated herein.

2.1.3 Affiliates. Your Affiliates may also provide Implementation Services under this Agreement provided that (i) Partner agrees that it will be responsible for its Affiliates' compliance with this Agreement and (ii) Affiliate has a qualified and certified personnel that will be providing or overseeing the delivery of the Implementation Services in accordance with the Program Guide.

2.2 Compliance. As a participant in the Program You expressly agree to comply at all times with the Program requirements in this Agreement, and with Zendesk's guidelines and guidance to Partners participating in the Program, including, but not limited to, the requirements contained in the Program Guide.

2.3 Program Overview. Your appointment to the Program and license allow you to:

2.3.1 Market and offer Implementation Services as described in the Program Guide to Customers as a standalone service or together with Partner Services.

2.3.2 Charge Customers for sale of the Implementation Services only under Contracts entered into in compliance with Section 3 and other applicable provisions of this Agreement.; provided that Zendesk may reject the sale of Implementation Services to any Customer at its sole discretion at any time.

2.3.3 Access the Zendesk Service for demonstration or evaluation purposes.

2.3.4 Manage the contractual relationship with Customers during the Term with respect to the Implementation Services.

2.3.5 Receive the Program benefits applicable to Your Partner status as described in the Program Guide and communicated to You by Zendesk representatives.

2.4 Program Obligations.

2.4.1 In cooperation with Zendesk, You agree to use continuous commercially reasonable efforts to market and promote the Implementation Services to Customers in the Territory. You are responsible for creating any required marketing materials at Your own cost and expense, in accordance with this Agreement and the Trademark Usage Guidelines.

2.4.2 You agree to only sell the Implementation Services under Contracts in compliance with the provisions of Section 3.

2.4.3 You will keep copies of all such Contracts, maintain records of the lifecycle of all such Contracts, and provide copies of the foregoing records to Zendesk upon request.

2.4.4 You agree to treat all Confidential Information in accordance with the terms of this Agreement and all applicable Laws. You further agree to implement policies and procedures to ensure the continued treatment of Confidential Information as such during the Term and thereafter.

2.4.5 Failure to meet certain goals and requirements communicated to You in the Program Guide may result in You no longer receiving certain benefits and discounts related to Your Partner status and may result in a change in Your Partner status or Zendesk exercising its termination rights under Section 10.

2.5 Compliance Certification. You agree to the Acknowledgement of Zendesk's Global Anti-Corruption Policy attached hereto as Schedule A and to complete any updated compliance certifications as requested by Zendesk from time to time.

2.6 Parties' Expenses. Each Party shall each carry and pay all costs, charges and expenses incurred by it in the performance of this Agreement, except as otherwise may be agreed-upon in advance by the Parties in writing in advance.

2.7 Program Restrictions.

2.7.1 You agree not to make any unauthorized, false, misleading or illegal statements concerning this Agreement, Customers, Zendesk, the Zendesk Service, or the Implementation Services.

2.7.2 You will not sell the Implementation Services in violation of this Agreement, including but not limited to sales to Persons engaged in illegal activities or deceptive business practices under applicable Laws.

2.7.3 You will not share a single Agent's login information among multiple Persons.

2.7.4 You will not request access to any Account or Account information to any Person unless specifically requested by the Customer subscribing to such Account.

2.7.5 You will not seek to obtain access to any Account or any account information without the express written consent of the Customer subscribing to such Account.

2.7.6 You will not solicit any business from, or sell Implementation Services to, any Person that does not have a principal place of business within the Territory. A Person's principal place of business will be determined by the place where that Person maintains its main corporate offices and manages its business.

2.7.7 You will not present Yourself as the owner of the Zendesk Service or any Zendesk Confidential Information, or otherwise create, through Partner Data or any other medium, an impression of any relationship among You and Zendesk or the Zendesk Service other than the consulting relationship as established in this Agreement.

2.7.8 You will not copy, edit, modify, adapt, store, translate or reproduce the Zendesk Service, Zendesk Confidential Information, or any portion thereof (except as permitted in this Agreement and the Documentation).

2.7.9 You will not reverse engineer, disassemble or decompile the Zendesk Service or any component thereof, or otherwise attempt to discover or disclose the source code of the Zendesk Technology or any component thereof.

2.7.10 Except as permitted in the Zendesk Developer Portal located at <https://developer.zendesk.com/>, You will not integrate any Partner Technology with Zendesk Technology (including, but not limited to Open Source Code), without the prior written consent of Zendesk.

2.7.11 You will not encumber, time-share, rent or lease the rights granted under this Agreement.

2.7.12 You will not remove, obscure, or alter any notice of Intellectual Property Rights present on or in the Zendesk Service or any component thereof, except as explicitly permitted by this Agreement and/or the Documentation.

2.7.13 You will not authorize or permit any Affiliate or other Person to do any of the foregoing.

2.8 Feedback. From time to time You may provide Zendesk, independently or upon Zendesk's request, verbal and/or written suggestions, comments or other feedback related to the Zendesk Service, including, without limitation, design input, troubleshooting or other assistance provided in response to support requests ("Feedback"). You hereby assign to Zendesk all right, title and interest in and to such Feedback. All Feedback is provided "AS IS," and You make no warranties whatsoever about any feedback.

3. CUSTOMER CONTRACTS AND SERVICE PROVISIONING

3.1 Implementation Services Contracts. All Customers purchasing Implementation Services through You shall first enter Contracts with You. Such Contracts shall, without limitation (a) clearly present You as a non-owner of the Zendesk Service; (b) reference this Agreement as the contract allowing You to sell the applicable Implementation Services; and (c) reflect Your and Customers' rights and obligations under such Contracts in relation to the applicable Implementation Services, as detailed in this Agreement.

3.2 Liability to Customers. Zendesk will not be responsible or liable to You for any claims relating to Customers' use of the Implementation Services, or to Your collection, knowledge, maintenance and/or handling of Customer Information and/or Content. You agree to disclaim in Your Contracts, to the full extent permitted by applicable Laws, Zendesk's and its Affiliates' liability for any damages, whether direct, indirect, incidental or consequential, arising out of Your selling of the Implementation Services under Your Contracts or their use of the Implementation Services pursuant to such Contracts.

4. CUSTOMER INFORMATION AND CONTENT

You understand and agree that Zendesk and its Affiliates may access Customer Information and Content in the normal course of business as the operator of the Zendesk Service. Zendesk will have no responsibility or liability for the deletion or loss by You, Customers, End Users or any other non-Zendesk Person of any messages, Customer Information, End Users' data or Content or other communications or other content maintained or transmitted to or from You. You hereby agree to indemnify and hold Zendesk and its Affiliates harmless from and against any and all liabilities, losses, damages, costs and expenses arising out of or relating to deletion or loss of such data by You or any such Customers, End Users or any Person other than Zendesk.

5. RESERVED RIGHTS

Zendesk and its Affiliates expressly reserve the right to market and provide the Implementation Services and the Zendesk Service in the Territory, themselves or through any other Person, and You shall not be entitled to any commission, compensation or other rights whatsoever in relation to such marketing or provision of the Implementation Services or the Zendesk Service.

6. SECURITY PROCEDURES

The Parties shall each use commercially reasonable efforts to safeguard and maintain the integrity of Customer Information, End User data and Content in their possession and/or under their control. Such efforts will include the development and implementation of commercially reasonable technical, administrative and physical measures to protect such data from unpermitted disclosure. The Parties agree that (a) such security procedures constitute reasonable procedures to protect the integrity of such data from unauthorized access; and (b) the state of the art does not permit the development of electronic security systems that are completely free of failures.

7. ACCOUNT PASSWORDS

Zendesk and its Affiliates will not be liable to You or any other Person for Your or Customers' failure to maintain the confidentiality of their passwords for the Zendesk Service, and You agree to hold Zendesk and its Affiliates harmless for any claims arising from loss of passwords by You or Customers. You agree to notify Zendesk of any unauthorized use of the Zendesk Service that comes to Your attention.

8. INTEGRATION ACTIVITIES

Except as permitted in the Zendesk Developer Portal (located at <https://developer.zendesk.com/>), You will not integrate any Partner Technology with Zendesk Technology (including, but not limited to Open Source Code) without the prior written consent of Zendesk. In the event any Partner Technology is integrated with Zendesk Technology, Partner retains ownership of the Partner Technology.

9. AUDITS

9.1 Audit Rights. You agree to create and to maintain during the Term and for two (2) years after the termination of this Agreement, sufficient books, records and accounts to confirm information about Your Contracts, Customer Information, fees collected from or charged to Customers with respect to the Implementation Services, as reasonably necessary to evidence all Your activities as a Partner. Upon reasonable notice to You and during normal business hours, Zendesk may audit such books, records and accounts to verify such activities, including on-site examination of such books and records.

9.2 Penalties. If any such examination discloses a material violation of any of the terms of this Agreement, You hereby agree that Zendesk shall be entitled, in addition to any other remedies, to be reimbursed by You for any underpayments made under this Agreement, as well as all of Zendesk's audit costs.

10. TERM AND TERMINATION

10.1 Term. This Agreement will become effective on the Effective Date and remain in full force for one year ("Initial Term") and any number of Successive Terms (as defined below), unless earlier terminated during the Initial Term or any Successive Term in accordance with the termination provisions below (such Initial Term and any number of Successive Terms, the "Term").

10.2 Successive Terms. Unless either Party provides at least 30 days' prior written notice to the other Party of its intent to terminate this Agreement as of the end of the then effective Term, this Agreement will be renewed automatically for a term (each such successive renewal term, a "Successive Term") of (a) one (1) year or (b) if shorter, the duration of the Initial Term.

10.3 Termination.

10.3.1 A Party may terminate this Agreement for cause upon written notice to the other Party of a material breach by the other Party if such breach remains uncured after thirty (30) days from the date of receipt of such notice.

10.3.2 Either Party may terminate this agreement without cause upon ninety (90) days' written notice to the other Party.

10.3.3 Either Party may terminate this Agreement immediately if, under applicable Law, the other Party is liquidated, commences dissolution proceedings, fails to continue business, assigns its assets and/or business to the benefit of creditors, or otherwise becomes the subject of bankruptcy or similar proceeding.

10.4 Effect of Termination.

10.4.1 Upon termination of this Agreement (a) all rights and licenses granted to You hereunder shall immediately cease and You shall return or destroy all Confidential Information of Zendesk in your possession or control; (b) within thirty (30) days of any termination You shall pay all fees due to Zendesk; and (c) You shall, upon Zendesk's written request, deliver a certificate signed by Your executive officer attesting to compliance with the foregoing.

10.4.2 Termination of this Agreement will not limit either Party from pursuing any other remedies available to it, including injunctive relief, nor will such termination relieve any obligation to pay all fees that have accrued or are otherwise owed under this Agreement.

10.4.3 Notwithstanding termination, the provisions of this Agreement will survive the expiration or earlier termination of this Agreement to the extent necessary to affect their intent and operation with respect to the Parties relations hereunder.

11. MARKETING COMMITMENT

11.1 You agree to make a commercially reasonable effort to promote the Implementation Services, and to solicit and obtain orders from Customers for the Implementation Services in the Territory. In determining the manner and method You pursue in discharging this undertaking, You shall account for policies established from time to time by Zendesk for its Partners.

11.2 In selling the Implementation Services alone or within Partner Services, You will ensure at all times clear reference to Zendesk in accordance with Trademark Usage Guidelines and Program Guide.

11.3 Upon execution of this Agreement, and in consideration for making the Zendesk Implementation Partner Program available to You under this Agreement, You agree to allow Zendesk to publicly reference you as a member of the Implementation Partner Program in accordance with this Agreement.

11.4 You will not issue any press release or other public announcement regarding the existence or content of this Agreement or the relations contemplated herein, without Zendesk's prior written approval.

12. CONFIDENTIAL INFORMATION

12.1 Either Party, as the Party receiving Confidential Information (“Recipient”) may only use the disclosing Party’s (“Discloser”) Confidential information for the purpose and objectives of this Agreement and as necessary to provide the Services. Both Parties shall protect Confidential Information from unauthorized disclosure or misuse by using the same degree of care as they would for their own confidential information of like importance, but the Parties shall at least use reasonable care. Further, both Parties agree to have each of their employees, agents or independent contractors with access to any Confidential Information agree to be bound by an enforceable agreement that reasonably ensures the protection of the Confidential Information from disclosure.

12.2 Each Party, as Receiver, agrees to promptly notify the Discloser upon learning of any unauthorized disclosure of the Discloser’s Confidential Information, and the Receiver shall provide reasonable assistance to the Discloser to remedy and contain such breach. The foregoing notwithstanding, a Receiver may disclose the Discloser’s Confidential Information if the information is required by Law to be disclosed in response to a valid order of a court of competent jurisdiction or authorized government agency, provided that the Receiver gives the Discloser prompt written notice and obtains or assists the efforts by the Discloser to obtain a protective order prior to disclosure.

13. INTELLECTUAL PROPERTY RIGHTS

13.1 Ownership of Intellectual Property Rights. As between the Parties, Zendesk retains all right, title and interest, including, without limitation, all Intellectual Property Rights to the Zendesk Service, Marks (as defined below), Zendesk Technology, and all modifications, enhancements, and other works deriving from the foregoing. Except for the limited rights granted to You under this Agreement, no right, title or interest is granted, express or implied, to You hereunder to any of the foregoing. At any time, during the Term or following termination of this Agreement, You agree not to (i) contest or aid others in contesting or (ii) do, or aid others in doing anything which impairs the rights, title or interest in or validity of any of Zendesk’s proprietary or Intellectual Property Rights to the Zendesk Service, the Zendesk Technology, Marks, or modifications, enhancements and other derivative works of the foregoing, or Zendesk’s Confidential Information.

13.2 Trademark License; Trademark Use.

13.2.1 Zendesk hereby grants You a limited, non-exclusive and non-transferable right during the Term to use certain Zendesk’s logos, service marks and trademarks associated with the Services (“Marks,” as listed in the Trademark Usage Guidelines, and as may be amended by Zendesk from time to time), solely to promote, market and sell the Implementation Services within the Territory to Customers pursuant to this Agreement. The right granted herein to use the Marks is subject to the Trademark Usage Guidelines and may be revoked by Zendesk at any time by giving You a written notice (including via email).

13.2.2 You agree not to contest the validity or ownership of any Marks, or take any action in derogation of any Mark or the other registered or unregistered service marks or trademarks of Zendesk, including without limitation, applying to register any trademark, trade name, domain name, service mark or other designation that is confusingly similar to any Mark or the other registered or unregistered service marks or trademarks or domain name of Zendesk.

13.2.3 You will ensure that proper trademark notices are displayed at all times in association with the Marks, including, but not limited to any such use or display on Your web site or in implementing this Section 13.

13.2.4 You agree not to adopt any commercial marks that are confusingly similar to any of the Marks or the other registered or unregistered service marks or trademarks or domain names of Zendesk.

13.2.5 If you elect to post a website to promote Your business, You agree that such website (a) should be readily distinguishable by a Customer as Your website (and not Zendesk’s); (b) should make clear that You are a separate and distinct entity from Zendesk; and (c) will not copy design features of Zendesk’s websites or otherwise infringe any Zendesk Intellectual Property Rights.

14. FEES

14.1 Implementation Partner Fees. Zendesk will charge You the fees indicated to You in the Program Guide. Zendesk reserves the right to change the Fees at its discretion. Invoices shall be due and payable net 60 days from sending by Zendesk. As of the Effective Date of this Agreement, there are no fees associated with the Zendesk Implementation Partner Program, although this is subject to change as per the Program Guide.

14.2 Non-Payment. You agree to pay Zendesk the Implementation Partner Fees regardless of whether a Customer fulfills its obligation to pay You for the Implementation Services. Without limiting any other remedies available to it, Zendesk reserves the right to terminate this Agreement if You fail to pay any Implementation Partner Fees due to Zendesk..

14.2.1 You agree to fully indemnify Zendesk and hold Zendesk and its Affiliates harmless from and against any and all liabilities, losses, damages, costs and expenses arising out of or relating to any third party claim due to such termination of this Agreement.

14.2 Taxes. You will be responsible for, and will indemnify and hold Zendesk and its Affiliates harmless against all international, federal, state and local taxes of any government, including, but not limited to, sales and use tax (exclusive of taxes on Zendesk's net income), duties and assessments arising on or measured by amounts payable to Zendesk or arising on or measured by amounts sold by You.

14.3 No Set-Off; No Refunds. You will not set-off or offset against fees owed by You amounts that You claim are due to You by Zendesk or any amounts resulting from any billing or collection dispute between You and a Customer. You will bring any claims or causes or action You may have in a separate action, and You hereby waive any rights You may have under any Law or regulation to offset, set-off, or withhold any fees due. No refunds or credits for fees or payments will be provided to You if any Customer elects to terminate any Contract or subscription or close or cancel any Account or if Zendesk terminates this Agreement pursuant to its rights under this Agreement.

14.4 Currency Control. You represent and warrant that, as of the Effective Date of this Agreement, no currency control Laws applicable in the Territory or other applicable countries where You conduct the activities under the Agreement prevent the payment to Zendesk of any sums due under this Agreement.

15. INDEMNIFICATION

15.1 Generally. The indemnities specified herein are the only remedy under this Agreement for any third party claims arising out of this Agreement.

15.2 Indemnification by You. You will indemnify, defend and hold Zendesk and its Affiliates harmless from and against all liabilities, damages or costs (including settlement costs and reasonable attorneys' fees) (collectively, "Costs") arising out of any third party's allegations, threats, claims and/or actions (collectively, "Claims") brought against Zendesk or its Affiliates due to (a) Your activities or breach under this Agreement, (b) Your breach of any Contract, or (c) Your operation of or access to any Account, Your activity within the Zendesk Service with respect to any Account, or Your operation, sale, or distribution of a Partner Services; provided that (a) Zendesk shall promptly notify You in writing of any such Claim, (b) You will have the authority to defend and/or settle such Claim (provided that you will not settle any Claim without Zendesk's consent unless it completely eliminates any liability attributed to Zendesk), and (c) Zendesk shall reasonably cooperate with You in connection with such Claims; and provided further that Zendesk may at its choice participate in the defense of such Claims at its own expense.

16. LIMITED WARRANTY; LIMITATION OF LIABILITY

16.1 THE ZENDESK SERVICE IS PROVIDED "AS IS" AND ZENDESK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OR ANY REPRESENTATIONS TO YOU OR ANY CUSTOMER REGARDING THE USABILITY, CONDITION, OPERATION OR FITNESS OF THE SERVICES. ZENDESK DOES NOT WARRANT THAT YOUR OR ANY CUSTOMERS' ACCESS TO OR USE OF THE ZENDESK SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT IT WILL MEET ANY PARTICULAR CRITERIA OF PERFORMANCE OR QUALITY. ZENDESK EXPRESSLY DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, COMPATIBILITY, SECURITY OR ACCURACY.

16.2 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES BE LIABLE FOR ANY INDIRECT DAMAGES (SUCH AS SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES OR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF INFORMATION, OR ANY OTHER PECUNIARY LOSS) RESULTING FROM ANY CLAIMS, DEMANDS OR ACTIONS ARISING OUT OF THIS AGREEMENT.

16.3 ZENDESK'S AND ITS AFFILIATES AGGREGATE LIABILITY HEREUNDER WILL NOT CUMULATIVELY EXCEED THE AMOUNT OF FEES PAID BY YOU UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRECEDING THE ALLEGED EVENTS GIVING RISE TO LIABILITY.

17. GENERAL

17.1 Governing Law. Before bringing any action under this Agreement, the Parties agree to first make a reasonable effort to negotiate and resolve misunderstandings or disputes by escalating the same to their respective executives for timely consideration. This Agreement will be governed by and construed, interpreted and enforced in accordance with the laws of the State of California. The Parties irrevocably submit to the exclusive jurisdiction of the courts of San Francisco County, California. The United Nations Convention on Contracts for the Sales of Goods will not apply to this Agreement.

17.2 Anti-Bribery and Export Compliance. You will not use, sell, distribute, transfer, provide, sub-license, share with, or otherwise offer the Implementation Services in violation of any Laws or this Agreement, including, without limitation, the United States Foreign Corrupt Practices Act, the UK Bribery Act and similar anti-corruption statutes in all jurisdictions. Without limiting the foregoing, You will not knowingly directly or indirectly export, re-export, transfer, make available or release (collectively, “Export”) the Implementation Services to any destination, person, entity or end use prohibited or restricted under US law without prior US government authorization to the extent required by regulation, including without limitation, any parties listed on any of the denied parties lists or specially designated nationals lists maintained under the EAR or the Security, and the Foreign Asset Control Regulations (31 CFR 500 et seq.) administered by the US Department of Treasury, Office of Foreign Assets Control without appropriate US government authorization to the extent required by regulation. Compliance with the trade laws of other countries pertaining to the provision of the Implementation Services to Customers is Your responsibility.

17.3 Assignment. This Agreement may not be assigned by a Party thereto without the prior written consent of the other Party, which consent will not be unreasonably withheld. Notwithstanding the foregoing, either Party may assign this Agreement without the other Party’s prior consent to its Affiliate, or in connection with the sale, merger or other corporate combination involving all or substantially all of the assets of the Party, provided the assignee agrees in writing to assume all of such Party’s obligations and liabilities hereunder.

17.4 Binding on Successors. This Agreement will endure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

17.5 Severability/Waiver. If any provision of this Agreement is determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect.

17.6 Waiver of Breach. No delay or omission by either Party to exercise any right or power arising upon the other Party’s nonperformance or breach will impair that right or power or be construed as a waiver of it. Any waiver must be in writing and signed by the waiving party. A waiver on one occasion will not be construed as a waiver of any subsequent event of nonperformance or breach.

17.7 Force Majeure. Except for the obligation to make payments, performance under this Agreement will be postponed automatically to the extent that either Party is prevented from meeting its obligations due to causes beyond its reasonable control, including but not limited to natural disasters, fire, governmental acts, labor disputes or failure of suppliers, provided that a force majeure event affecting a Party’s performance under this Agreement for thirty (30) or more days will entitle the other Party to terminate this Agreement and receive any due fees.

17.8 Notices. All notices provided by You in connection with this Agreement shall be delivered in English and in (a) nationally recognized overnight delivery service (“Courier”) or U.S. mail to 989 Market Street, San Francisco, California 94103 U.S.A. Attn: Legal Department; or (b) electronic mail to legalnotice@zendesk.com. All notices provided by Zendesk to You in connection with this Agreement may be delivered in writing by Courier or U.S. mail to the contact mailing address provided by You on the first page of this Agreement. Such notices shall be deemed delivered after three (3) working days of delivery by registered post or courier or, if delivered by email with return receipt, upon receipt acknowledgement.

17.9 No Agency. The Parties acknowledge that each is an independent contractor and nothing herein constitutes a joint venture or partnership. You have no right to vary any policies, conditions, representations or warranties made by Zendesk, and neither Party has the right to bind or act for the other as agent or in any capacity except as expressly provided in writing by amendment to this Agreement. The relationship under this Agreement will not create any legal partnership, franchise relationship or other form of legal association between the Parties that would impose a liability between the Parties or to third parties.

17.10 Entire Agreement. This Agreement, including all schedules and attachments hereto, contains the complete and exclusive statement of the agreement between the Parties with respect to the subject matter herein. The terms and conditions of this Agreement will prevail over any purchase order submitted by You. Any changes or amendments to this Agreement must (i) be in writing, (ii) expressly refer to the changes to this Agreement, and (iii) be duly executed by both Parties.

17.11 Counterparts. This Agreement may be signed in counterparts and delivered by facsimile or electronic mail, each of which will be considered an original document, but together which will constitute one complete document.

SCHEDULE C

ZENDESK, INC. SERVICES SUBCONTRACTING AGREEMENT

This Services Subcontracting Agreement (“Agreement”) by and between Third South Zen, LLC (“Partner”), and Zendesk, Inc., with principal offices at 989 Market St, San Francisco, CA 94103 (“Zendesk” and together with Partner, “Parties”), is made as of the last date indicated near the Parties’ signature below (“Effective Date”). This Agreement sets forth the terms and conditions under which Zendesk will provide certain Services (as defined below) to Partner and/or Partner’s customers (“Customers”).

Whereas, Partner wishes to have Zendesk provide, and Zendesk wishes to provide certain Services to Customers in accordance with the terms of this Agreement;

Whereas, under this Agreement Zendesk will provide Services to Customers as an independent contractor and not as an agent of Partner;

Therefore, in consideration of the mutual promises and agreements set forth in this Agreement, the Parties hereby agree to the terms of this Agreement (and any exhibit attached therewith), which will control the provision of Services to Customers by Zendesk as further stated herein.

1. **Definitions:**

Capitalized terms not defined in this Section 1 will have the meaning assigned to such terms where defined in this Agreement, and the below capitalized terms will have the following meaning:

- i. “Acceptance” means written notification from a Customer to Partner indicating that the Services have been evaluated, and are deemed to satisfy the completion and acceptance criteria referenced in the applicable SOW. Acceptance may be partial or complete, as specified in such notification.
- ii. “Deliverables” mean any and all items described in a SOW that Zendesk agrees to deliver to a Customer as part of a Project under such SOW or Form and this Agreement.
- iii. “Intellectual Property Rights” mean (i) any and all rights under any applicable legal theory in any patent, copyright, trade secret or a trademark, including a trade name, logo or service mark, (in any of the foregoing, including applications and whether or not registered), in each case as relating to Inventions, confidential information, products, services, know-how, process, formulae, technology, development tools, ideas, concepts or methodologies; (ii) any right to use or exploit any of the foregoing; and (iii) any other proprietary right in any of the foregoing, whether arising under the laws of the United States or any other country.
- iv. “Invention(s)” mean any designs, techniques, inventions, discoveries, or improvements, whether patentable or not, that are conceived of or reduced to practice by Zendesk in providing the Services to a Customer under this Agreement.
- v. “Form” means a Service Order Form describing certain Services and related services to be provided to a Customer, which Form may be attached to a Statement of Work
- vi. “Personal Data” means any information relating to an identified or identifiable natural person where an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to their physical, physiological, mental, economic, cultural or social identity.

vii. “Project” means Services provided by Zendesk to a Customer under a SOW and/or Project-Specific Form, as applicable.

viii. “Services” means the consulting, design, development, implementation, integration, installation, maintenance, migration, and/or support services, and related Deliverables that Zendesk provides to Customers under this Agreement and a Project-Specific Form or SOW (“Services”);

ix. “Statement of Work” or “SOW” means a statement describing in reasonable detail and clarity, as necessary, the Services, scope of Services, Deliverables, milestones, Acceptance of Services, relevant timeframes, term and termination, payment schedules (including applicable rates, charges and related payment method options), Key Personnel and Project Manager(s) (each, as defined below), relevant contact information, resources allocation and any other relevant information.

2. **Duties:**

a. **Engagement.** Zendesk will deliver Services to Customers under this Agreement, in each case under a corresponding SOW, as more specifically detailed in such SOW, on an ongoing basis throughout the Term (as defined below). Accordingly, in the case of Zendesk Services, Partner and a Customer receiving such Services will execute one or more Project-specific Form/SOW, each detailing a unique set of Services that Zendesk will deliver on behalf of Partner to such Customer.

b. **Statements of Work and Subcontracting Agreement Forms.**

i. Each SOW agreed-upon between Zendesk and Partner will contain, all Project-specific information and/or other appropriate terms and conditions pertinent to Zendesk’s provision of Services under such SOW.

ii. As between the Parties, each SOW will be governed by and subordinated to the terms and conditions of this Agreement, and in the event of any conflict between a SOW and this Agreement, the provisions of this Agreement will prevail unless specifically stated otherwise in a SOW.

c. **Documentation and Training.** In the course of delivering Services, Zendesk will provide Customers updated and sufficient training and materials, including but not limited to documentation, specifications and other supporting materials, commensurate with the type of Services delivered.

d. **Performance levels.** In delivering Services under this Agreement, Zendesk will:

i. Ensure at all times that Services delivered (including all materials, updates, training and other components) are suitable and updated for their intended purpose;

ii. Deliver all Services in a timely and professional manner, consistent with or exceeding generally accepted industry standards;

iii. Establish reasonable management and supervision tools to ensure the continuous quality, monitoring, administration, and performance of Services provided;

iv. Provide sufficient, professionally-trained personnel and other complementary resources as necessary to ensure timely and professional delivery of Services;

v. Share with Partner, upon request, sufficient information to establish Zendesk’s proper delivery, administration and management of Services provided by Zendesk; and

vi. Undertake all other reasonable actions as necessary (and as may be advised by Partner from time to time) to complete the satisfactory delivery of Services under any SOW.

e. **Project Management.** Each SOW relating to Services will name at least one Zendesk's representative who will, at a minimum, coordinate delivery of Services with Customers, update Partner of Projects progress upon request, respond to Customers' inquiries and otherwise maintain communication with Customers receiving Project-specific Services (such representative, "Project Manager").

f. **Engagement Volume.** The parties understand and agree that by executing this Agreement they are not committing or obligating themselves to provide a set amount of Services, and that no Services or charges are due hereunder unless and until authorized in writing by an SOW signed by Partner or Zendesk and a Customer, as applicable.

3. **Reporting.**

a. **Records about Services.** In the course of performing the Services, Zendesk will create and maintain current files, working papers, Payment Records (as defined below) and other pertinent records relating to the performance of each Project-specific Services.

b. **Payment Records.** Zendesk will create and maintain records summarizing Fees (as defined below) invoiced, owed and paid between Zendesk and Partner in connection with Services contracted for by Zendesk under this Agreement ("Payment Records"). Payment Records will, among other things, summarize and present balance and/or discrepancies between fees paid by Partner to Zendesk ("Fees").

4. **Fees and Payments.** The Fees charged by Zendesk to Partner for Services performed by Zendesk will be set forth in a payment schedule within the applicable SOW under this Agreement, or be determined under a General Fee Schedule (hourly or per Project) if agreed among the Parties for Indirect Services. Out-of-pocket expenses necessary to perform such Services will either be stated in the applicable SOW or approved by Partner in writing (email sufficing). Zendesk will invoice Partner for such Services upon completion of each Project, which invoice will specify, at a minimum, Fees charged, Customer receiving Services, consulting days worked and related business expenses. Partner will pay all undisputed Fees in such invoice upon receipt of invoice.

5. **Relationship of the Parties.**

a. **Contact Persons.** The Parties will designate in writing one or more individuals within their respective organizations as representatives responsible for directing technical and administrative performance of that party's functions under this Agreement. These representatives will manage the requirements and responsibilities of the Parties under this Agreement.

b. **No employment relations.** This Agreement does not establish a partnership, employer-employee, agency or joint venture relations between Zendesk and Partner (or Zendesk and Customers). Zendesk will not be considered under this Agreement or otherwise as having the status of an employee of Partner or a Customer, and will not be entitled to participate in any schemes, plans, arrangements or distributions by Partner (or a Customer) pertaining to or in connection with any financial benefit or benefit in-kind, including but not limited to health insurance, stock options, bonus arrangements, profit sharing or other benefits that may be provided from to Partner's/Customer's employees.

c. **Independent Contractor.** Zendesk will only be engaged or retained by Partner (under this Agreement) for the purpose and to the extent set out in this Agreement and related SOWs/Forms. As between the Parties and between Zendesk and Customers, Zendesk will act as, and be considered during the period or periods that Services are provided, an independent contractor for Partner.

d. **Tax Obligations.** Zendesk will withhold and pay social security, income taxes and other employment taxes for itself and its employees.

e. **Subcontracting.** Zendesk may not subcontract the performance of Services to any third party, unless agreed to in writing (email sufficing) between the Parties. In all such cases, Zendesk will only employ Authorized Agents, and assume any and all liability for subcontracts it issues hereunder, and for all work performed by its Authorized Agents in connection with the provision of Services and/or Deliverables to Customers. Any Authorized Agent retained by Zendesk in connection with the Services will undertake in writing the same obligations as set forth herein with respect to Partner and Customers.

f. **Conflicts of Interest.** Notwithstanding anything else in this Agreement to the contrary, Zendesk may refuse to participate in any task or effort if it can reasonably demonstrate that a potential or existing conflict of interest prevents it from delivering Services.

6. Intellectual Property Rights; Information, Data and Materials.

a. **License.** Subject to this Agreement and Partner's continued compliance with its terms, Zendesk hereby grants Partner a free, non-exclusive, non-transferable and revocable license and right during the Term to access and use certain Zendesk's trademarks, logos and URLs provided by Zendesk ("Licensed Marks" as may be amended from time to time), and associated materials for the sole purpose of promoting Zendesk's provision of the Services (collectively, "Marketing Materials").

b. **License Limitations.** The license granted herein to use the Licensed Marks and Marketing Materials is subject to any guidance and other instructions conveyed by Zendesk to Partner at any time, and Zendesk may revoke the license herein at any time by giving Partner a written notice. The license to use the Licensed Marks is further subject to Zendesk's Trademark Usage Guidelines ("Guidelines"), which can be found at <https://www.zendesk.com/company/trademark-property/#trademarks> (as may be amended from time to time by Zendesk) and are incorporated here by reference. Partner expressly agrees to comply with all such guidance, instructions and Guidelines in promoting the Services.

c. **Ownership.** Unless otherwise expressly specified in a SOW, all Services, Deliverables and related information, reports, methods, formulae, computer designs, software specifications, manuals and visual aids (collectively, "Information, Data and Materials") delivered by Zendesk to Partner or any Customer will be the sole and exclusive property of Zendesk (including all title and other interest in all Intellectual Property Rights embodied therewith), and no rights thereto will accrue in any manner to Partner or any Customer. To the extent deemed to constitute Partner's or any Customer's property under any applicable law, Partner or any Customer hereby irrevocably assigns and conveys all Intellectual Property Rights and other proprietary rights in Services, Deliverables and related Information, Data and Materials to Zendesk. Partner or any Customer will render all reasonable assistance as Zendesk may require in any legal or other proceeding involving the rights conveyed herein; provided, however, that Partner or any Customer receives reasonable notice of the need for such assistance and is compensated for its expenses in rendering such assistance.

7. Confidentiality Requirements.

a. **Confidential Information Defined.** The Parties each agree to keep confidential all non-public information about the Services and Deliverables they learn during their relations under this Agreement, including all technical, product, business, financial and other information regarding the business and products of the Parties and of Customers, such as, but not limited to, ideas, techniques, documentation, technical information and data, methodologies, personnel information, marketing or other business plans, Customers identity or business methods (collectively, "Confidential Information"). Confidential Information will also include this Agreement, all data included in SOWs/Forms, Tickets Data and Personal Data. Notwithstanding the foregoing, Confidential Information will not include information which (i) is already in the possession of the party receiving such information at the time of disclosure by the disclosing party; (ii) is or becomes part of

public knowledge other than as a result of any action or inaction by the receiving party; (iii) is obtained by a party without a duty of confidentiality; or (iv) is independently developed by a party.

b. **Confidentiality Commitment.** The Parties will at all times protect and safeguard the confidentiality of such Confidential Information, using safety and security measures at least as stringent as those utilized by the receiving party to protect its own confidential information, and in no event less stringent than as customary under acceptable industry standards.

c. **Limited Use.** The Parties will only use Confidential Information as required to carry out its duties under this Agreement, or as is otherwise authorized by the other party in writing prior to any other use of Confidential Information. At any time during the Term, either Party will return or destroy any Confidential Information upon receiving a written request from the other party to do so (email accepted), and thereafter certify to the other party in writing that no Confidential Information (or copies thereof) remain in the other party's possession. Upon termination of this Agreement for any reason, the parties will promptly return to the other Party all Confidential Information in its possession and embodied in tangible (including electronic) form, or destroy all copies of such Confidential Information in its possession and certify in writing to the other party that all such Confidential Information has been destroyed.

d. **Extended Term.** This clause will continue in force for a period of two (2) years after termination of this Agreement covering Services, whichever date being the later.

8. **Representations and Warranties of Zendesk.** Zendesk represents and warrants that:

a. It is under no contractual obligation preventing or limiting it from performing Services under this Agreement.

b. The Services/Deliverables will be performed in a timely, workmanlike and professional manner, in accordance with the requirements and standards set forth in this Agreement and any SOW issued hereunder.

c. The Services and Deliverables will meet quality standards acceptable to Partner at its reasonable discretion and in no event will fall under the standards customarily met by professional persons providing such Services and Deliverables.

d. All personnel assigned to perform work under this Agreement will have a level of skill and experience commensurate with the requirements of the task to which such personnel are required to perform.

e. All Deliverables, and Information, Data and Materials will be the original work product of Zendesk or properly licensed to Zendesk's use in providing Services, and none of the Deliverables and Information, Data and Materials will violate any Intellectual Property Rights or other proprietary rights of any third party.

9. **Limitation of Liability.**

a. **Limitation on Warranties.** Except for the warranties expressly made by Zendesk under Section 8 above or elsewhere in this Agreement, Zendesk makes no warranties, express or implied, as to any matter whatsoever, including without limitation the condition of the Services or any work product or Deliverables developed hereunder, and Zendesk expressly disclaims all warranties of merchantability, title, or fitness for any particular purpose or need, and makes no warranties that Services will be uninterrupted, timely, secure, or error free.

b. **No Consequential Damages.** Except for breaches of the indemnification obligations under Section 10 herein, to the extent permitted by applicable law, in no event will either party be liable under any legal theory for any special, indirect, consequential, exemplary or incidental damages, however caused, arising out of or relating to this Agreement, even if such party has been advised of the possibility of such damages.

c. **Limits on Monetary Damages.** Except for breaches of the indemnification obligations under Section 10 herein, neither party's liability to the other party under this Agreement will exceed the total amount paid to Zendesk for Services by Partner under this Agreement.

10. **Indemnity.**

a. **Partner Indemnification Obligation.** Partner will indemnify, defend and hold Zendesk and its affiliates harmless from and against all liabilities, damages or costs (including settlement costs and reasonable attorneys' fees) (collectively, "Costs") arising out of any third party's allegations, threats, claims and/or actions (collectively, "Claims") brought against Zendesk or its affiliates due to (i) Partner's activities or breach under this Agreement, (ii) Partner's breach of any contract with a Customer, or (iii) Partner's operation of or access to any third party data; provided that (a) Zendesk shall promptly notify Partner in writing of any such Claim, (b) Partner will have the authority to defend and/or settle such Claim (provided that Partner will not settle any Claim without Zendesk consent unless it completely eliminates any liability attributed to Zendesk), and (c) Zendesk shall reasonably cooperate with Partner in connection with such Claims; and provided further that Zendesk may at its choice participate in the defense of such Claims at its own expense.

b. **Zendesk Indemnification Obligations.** Zendesk will indemnify and hold Partner harmless, from and against any claim against Partner brought by a third party alleging that the Zendesk infringes or misappropriates a third party's valid patent, copyright, trademark or trade secret (an "IP Claim"). Zendesk shall, at its expense, defend such IP Claim and pay damages finally awarded against Partner in connection therewith, including the reasonable fees and expenses of the attorneys engaged by Zendesk for such defense, provided that (a) Partner promptly notify Zendesk of the threat or notice of such IP Claim; (b) Zendesk will have the sole and exclusive control and authority to select defense attorneys, defend and/or settle any such IP Claim; and (c) You fully cooperate with Zendesk in connection therewith. Zendesk will have no liability or obligation under this Section 10(b) with respect to any IP Claim if such claim is caused in whole or in part by (i) compliance with designs, data, instructions or specifications provided by Partner; (ii) modification of the contested intellectual property right by anyone other than Zendesk; or (iii) the combination, operation or use of the intellectual property right with other hardware or software where the Zendesk intellectual property would not by itself be infringing.

11. **Term and Termination**

a. **Term.** This Agreement will become effective as of the Effective Date and terminate in accordance the terms of this Section 11 ("Term") unless otherwise agreed in writing by the Parties.

b. **Termination.** This Agreement may be terminated by either party at any time upon thirty (30) days' advance written notice (email accepted) to the other party. Notice of termination of any SOW will not be considered notice of termination of this Agreement unless specifically stated in a notice by Partner under Section 11(c) herein; provided, however, that any termination of this Agreement will automatically terminate all SOWs/Forms, except for SOWs/Forms outstanding at the time of termination of this Agreement (unless terminated by Partner under Section 11(c) herein), which will continue to be governed by this Agreement and fulfilled by Zendesk as if this Agreement had not been terminated.

c. **SOW Termination.** Partner may terminate any SOW at any time by giving written notice to Zendesk in its sole discretion, in which case (unless Zendesk is in breach of this Agreement), Partner will with respect to Services, pay Zendesk for the reasonable value of work performed prior to the date in which Zendesk receives such termination notice, as well as out-of-pocket expenses approved by Partner or stated in such SOW. In the event of such termination by Partner, Zendesk will deliver to Partner or Customer (as applicable) all copies of any and all material or information provided by Partner or a Customer, and all Deliverables, Information Data and Materials created by Zendesk prior to the date of such termination, whether partial or complete.

d. **Termination for Cause.** Either party may terminate this Agreement immediately upon notice to the other party if the other party breaches or is in default of any obligation hereunder, including the failure to make any payments when due, which default is incapable of being cured, or has not been cured within ten (10) days of the breaching party receiving written notice from the non-breaching party.

e. **Effect of Termination.** Upon termination of this Agreement, Zendesk will immediately cease performing any Services (except for uncompleted SOWs, as detailed in Section 11(b) herein), and Partner will pay Zendesk reasonable undisputed Fees for Services actually rendered. Provisions intended to survive termination will do so. Termination of this Agreement by either party will not act as a waiver of any breach of this Agreement or as a release of either party from any liability for breach of such party's obligations under this Agreement. Neither party will be liable to the other for damages of any kind solely as a result of terminating this Agreement in accordance with its terms. Termination of this Agreement by a Party will be without prejudice to any other right or remedy of such party under this Agreement or applicable law.

12. **Miscellaneous:**

a. **Entire Agreement.** This Agreement (i) sets forth the entire framework Agreement between the Parties with respect to provision of Services by Zendesk to Customers (which will be detailed in the SOW), (ii) constitutes the sole and exclusive statement of the terms and conditions hereof and supersedes any prior discussions, writings and negotiations with respect thereof, and (iii) may not be altered or amended except in explicit writing signed by each both Parties.

b. **Severability.** If any provision in this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision will be modified by the court and interpreted so as to best accomplish the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement will remain in effect.

c. **Assignment of Obligations and Rights.** This Agreement may not be assigned by a Party thereto without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Zendesk may assign this Agreement without Partner's prior consent to its affiliate, or in connection with the sale, merger or other corporate combination involving all or substantially all of the assets of Zendesk, provided the assignee agrees in writing to assume all of Zendesk's obligations and liabilities hereunder.

d. **Non-Waiver.** No delay or failure of either party in exercising any right hereunder, and no partial or single exercise of said rights will be deemed to constitute a waiver of such right or of any other rights set out in this Agreement.

e. **Force Majeure.** Neither party will be considered in default in its performance of any obligation hereunder to the extent that the performance of such obligation is prevented or delayed by an event outside the reasonable control of such party and is not attributable to any act or failure of such party to take preventative action, including fire, flood, labor strike, armed conflict, malicious damage, acts of terrorism, or any other natural or man-made disaster, but excluding (i) any industrial action occurring within Zendesk's organization, or (ii) the failure of any of Zendesk's Zendesks to perform its obligations under any subcontract.

f. **Publicity.** Neither Party shall use the name of the other Party for any commercial purpose without the prior written consent of the other Party (email sufficing).

g. **Governing Law.** This Agreement will be governed by and construed in accordance with the Laws of California without regard to conflict of laws principles. The Parties expressly and affirmatively agree to submit to the exclusive personal jurisdiction of the federal and state courts of the State of California, San Francisco County, for the purpose of resolving any dispute which may arise between the Parties concerning this Agreement.

[Reminder of Page Left Blank Intentionally]

In Witness Whereof, the Parties have caused this Agreement to be executed in counterpart originals by their authorized representatives as of the Effective Date.

PARTNER

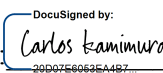
Zendesk, Inc.

By:  _____
8A0B5C17778247D

Name (print): Justin Duke _____

Title: Vice President _____

Date: 9/21/2023 _____

By:  _____
20D0756063E44B7

Name (print): Carlos Kamimura _____

Title: VP Partner Sales, LATAM _____

Date: 9/21/2023 _____



Exhibit A
Statement of Work Template

SOW No. [XX] TO THE SUBCONTRACTOR AGREEMENT BETWEEN PARTNER AND ZENDESK DATED
MM/DD/YYYY

Customer: [CUSTOMER NAME]

Subcontractor: Zendesk, Inc.

Date of Service: [Date – Date]

This Statement of Work ("SOW") shall be attached to, incorporated into and governed by the Services Subcontractor Agreement ("Subcontractor Agreement") entered into between the Parties on [Insert Effective Date of Services Subcontracting Agreement]. All capitalized terms used herein without definition shall have the meanings assigned to them in the Subcontractor Agreement; all capitalized terms defined herein shall have the meaning set forth in this SOW. By executing this SOW, the Parties intend for Zendesk to complete the services described herein to Customer in accordance with the Subcontractor Agreement and this SOW.

This SOW describes the tasks required of Subcontractor during this period.

Business Case & Background

<<< OVERVIEW OF SOLUTION, CUSTOMER, BACKGROUND >>>

Services or Detailed Task/Work Requirements

[Customer Name] ("Customer") has engaged Partner to provide consulting services to:

<<< DEFINITION OF SERVICES TO BE RENDERED >>>

Subcontractor will perform the following activities under the direction of Partner and/or Customer as follows:

•<<INSERT DELIVERABLES & MILESTONES>>

Objectives & Expectations

The Zendesk's Consulting Resource will be responsible for the following day-to-day <<ROLE>> activities:

- Provide guidance in key functional and technical decisions related to the solution, serving as a subject matter expert in the area defined

- Support the Project Manager in the identification, documentation, and remediation of project issues and risks
- Support activities related to the deployment of the solution into test and/or production environments
- Submit weekly status reports to Partner Project Manager
- Zendesk's Resource(s) will submit their time and expenses into Partner's time and expense system by COB each Friday.

Location

Most foreseeable work in support of this SOW shall be performed at Partner offices in [enter city, state] and [Customer Name] offices in [enter city, state].

Expenses

The Parties anticipate some expenses associated with travel to/from the [Customer Name] sites or remote Partner offices.

1. Therefore the Zendesk will be eligible for reimbursement of travel expenses with prior written approval of Partner.
2. All expenses must be submitted within one month of the date the expense is incurred, under this SOW.
3. Partner and [Customer Name] project expense policies apply to all expenses.

Personnel Policies and Rates

Name (Role)	Dates	Estimated Hours	Hourly Rate	Total Estimated Costs

1. Either party has the ability to terminate the SOW in accordance with the terms of Section 11 of the Agreement.
2. The subcontract is based on a time and materials hourly rate.
3. The total amount invoiced to Partner under this SOW will not exceed \$XXX without prior written approval from Partner.
4. If Zendesk expects to work more than 40 hours in a given week prior approval is required by the Partner Project Manager.
5. All time and expense payments are due Net 30.

Contact Persons

The contact persons for this contract and referenced by this work order shall be:

	Partner Contact	Zendesk Contact
Name:		
City, State, Zip		
Phone:		
Address:		
Email:		

In Witness Whereof, the Parties have caused this SOW to be executed in counterpart originals by their authorized representatives as of the last date listed below.

PARTNER

Zendesk, Inc.

By: _____

By: _____

Name (print): _____

Name (print): _____

Title: _____

Title: _____

Date: _____

Date: _____