



## ZENCITY ORDER FORM

Order form #: [ ]

Order form prepared for: City/County of:

Order form expiration date: [ ]

This Order Form ("**Order Form**") is entered into between the Zencity entity detailed below ("**Zencity**"), and the entity identified below ("**Customer**", and jointly with Zencity the "**Parties**"), as of the Effective Date (as defined below) which shall remain in effect for the duration of the Initial Term as defined below and any renewal term (the "**Term**") unless agreed otherwise explicitly and in writing between the Parties. This Order Form includes and incorporates the Zencity Terms and Conditions attached hereto as Appendix A (the "**T&Cs**"). In the event of any conflict between this Order Form and the T&Cs, the terms of this Order Form shall prevail. All prices are quoted in USD.

[LEGAL ENTITY: FOR US CUSTOMERS CHOOSE **Zencity Technologies US Inc.**; FOR CANADIAN CUSTOMERS CHOOSE **Zencity Technologies CA LTD.**; FOR ALL OTHER CUSTOMERS CHOOSE **Zencity Technologies LTD**]

ZENCITY	
<b>Entity (legal) name:</b>	[Zencity Technologies US Inc./ Zencity Technologies LTD. / Zencity Technologies CA LTD.]
<b>Full address:</b>	[1313 N Market St, Suite 5100 Wilmington, DE 19801 / 20 Carlebach St., Tel Aviv, Israel, 6473005 / 1750-1055 West Georgia Street P.O. Box 11125 Vancouver, BC V6E 3P3, CA]
<b>Contact:</b>	[sales executive]
<b>Phone:</b>	[sales executive phone]
<b>Email:</b>	[sales executive email]

CUSTOMER	
<b>Entity (legal) name:</b>	
<b>Full address:</b>	
<b>Contact:</b>	
<b>Phone:</b>	
<b>Email:</b>	

[PLACEHOLDER TABLE DEPENDING ON WHAT WE'RE SELLING. PLEASE CUSTOMIZE PER RELEVANT DEAL IN A LOCAL COPY]

[Missing the Table]

Any additional modules, quantity increases or other custom development and integration work requested by Customer during the Term shall require an Order Form executed by the Parties, and shall be subject to the prevailing Zencity rate card subject to amendment from time to time.

ORDER FORM TERMS	
<b>Effective Date:</b>	[INSERT DATE]
<b>Initial Term:</b>	[3] years, commencing on the Effective Date.
<b>Fees:</b>	The Fees are exclusive of any applicable taxes (including sales tax) and withholdings, which will be added to the Fees and paid by Customer, if and to the extent applicable.
<b>Payment Terms:</b>	The Fees shall be payable on [an annual/a semi-annual/ a quarterly/ a monthly] basis within [30/45/60] days of the Effective Date and on each [annual/ 6 month/ 3 month/ monthly] anniversary thereof.
<b>Customer Billing Contact:</b>	Name: [ ], Phone: [ ], Email: [ ]
<b>Customer PO # (if applicable):</b>	

**CUSTOMER**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ZENCITY**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix A

### Zencity Terms and Conditions

#### 1. SOFTWARE LICENSE & SUPPORT SERVICES

1.1. Subject to the terms and conditions of these Zencity Terms and Conditions and of the applicable Order Form (collectively, the "**Agreement**"), Zencity hereby grants to Customer a revocable non sublicenseable non-exclusive, non-transferable limited license to use the products and services licensed by Zencity to Customer solely for Customer and its Affiliates' internal business purposes and in accordance with the subscriptions specified in the applicable Order (the "**Licensed Program**" or "Platform") Unless otherwise indicated, the term Licensed Program also includes all software, revisions, fixes, improvements and/or updates to the subscription and is identified in the applicable Order Form entered into by Zencity and Customer and the documentation and user manuals for the Licensed Program supplied by Zencity to Customer throughout the Term (the "**Documentation**").

For the purposes of this Section 1.1, the term "use" shall be only in accordance with the confidentiality provisions of this Agreement and shall include the rights to use the Licensed Program only for the use of the Customer's organization, company or institution. It is hereby acknowledged and agreed by Customer that subscription to the Licensed Program is nonrefundable due to non-utilization of part and/or all of the Licensed Program features.

For the purposes of this Section 1.1 the term "use" shall not include: (i) the right to make, use, or sell products incorporating the Licensed Program, or (ii) the right to sub-license the Licensed Program.

Except as specifically permitted herein, without the prior written consent of Zencity, Customer shall not, and shall not allow any Permitted User or any third party to, directly or indirectly: (i) copy, modify, create derivative works of or distribute any part of the Platform (including by incorporation into its products); (ii) sell, license (or sub-license), lease, assign, transfer, pledge, or share Customer's rights under this Agreement with any third party; (iii) disclose the results of any testing or benchmarking of the Platform to any third party; (iv) disassemble, decompile, reverse engineer or attempt to discover the Platform's source code or underlying algorithms; (v) use the Platform for any use in competition with Zencity's Services; (vi) use the Platform in a manner that violates or infringes any rights of any third party; (vii) remove or alter any trademarks or other proprietary notices related to the Platform; or (viii) circumvent, disable or otherwise interfere with security-related features of the Platform or features that enforce use limitations

1.2. **Service Level Agreement (SLA)**. The availability and performance standards applicable to the Services are described in Exhibit A, which is hereby incorporated by reference into these Terms and Conditions. By using the Services, Customer agrees to the terms and conditions of the SLA.

1.3. Routine customer support is available via email. Any claim will be answered within 24 hours of the report. On or before the Effective Date, Customer and Zencity shall each designate a liaison as a respective point of contact for technical issues. Each party may change such liaison upon written notice from time to time at reasonable intervals. Zencity will not be obligated to provide support to any person other than the Customer's designated liaison.

1.4. During the Term, Customer may have access to Updates upon request at no additional cost. "**Updates**" shall mean certain new features as determined by Zencity, or fixes of minor errors in the Licensed Program which are incorporated in a new release of the Licensed Program.

1.5. Certain upgrades can be delivered to Customer upon commercial terms and conditions to be agreed upon. "**Upgrades**" shall mean enhancements, new functionalities that are added into the Licensed Program.

#### 2. RESTRICTIONS AND RESPONSIBILITIES

- 2.1. Customer agrees not to, directly or indirectly: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of the Licensed Program, Documentation or data related to the Licensed Program, except to the extent such a restriction is limited by applicable law; modify, translate, or create derivative works based on the Licensed Program; or copy, reproduce, rent, lease, distribute, assign, sell, or otherwise dispose of the Licensed Program, in whole or in part, or otherwise commercially exploit, transfer, or encumber rights to the Licensed Program; or remove any proprietary notices.
  - 2.2. Customer will use the Licensed Program only in compliance with all applicable laws and regulations (including, but not limited to, any export restrictions, surveillance and monitoring restrictions, and any privacy and data protection requirements).
  - 2.3. Customer shall be responsible for obtaining and maintaining any equipment and other services needed to connect to, access, or otherwise use the Licensed Program and Customer shall also be responsible for (a) ensuring that such equipment is compatible with the Licensed Program, (b) maintaining the security of such equipment, user accounts, passwords and files, and (c) for all uses of Customer user accounts with or without Customer's knowledge or consent. To the extent Customer provides any Personal Data (as defined below) of personnel for registration purposes, Customer represents and warrants that it has any right, license, consent, and power and it has provided any notice, all as required under applicable law, to provide Zencity with such Personal Data and will be fully and solely responsible for providing only Personal Data of personnel related to the Customer. Zencity will handle such Personal Data in accordance with its Privacy Policy available at: <https://zencity.io/privacy-policy/>.
3. **PROPRIETARY RIGHTS.** Zencity retains all right, title, and interest in the Licensed Program, Documentation and any future modifications'enhancements corrections, modifications, alterations, revisions, extensions and updates and derivative works thereof, and all intellectual property rights (including all past, present, and future rights associated with works of authorship, including exclusive exploitation rights, copyrights, and moral rights, trademark, and trade name rights and similar rights, trade secret rights, patent rights, and any other proprietary rights in intellectual property of every kind and nature) therein. Customer is granted only a limited right of use to the Licensed Program and Documentation as set forth herein, which right of use is not coupled with an interest and is revocable in accordance with the terms of this Agreement.

This Agreement does not convey to Customer any interest in or to the Platform other than a limited right to use the Platform in accordance with Section 1 (Subscription). Nothing herein constitutes a waiver of Zencity's intellectual property rights under any law. Zencity reserves all rights not expressly granted herein to the Platform. All written or oral comments, ideas, suggestions made by Customer to Zencity regarding the Services (including user experience, functionality, and performance of the Services; collectively, "Feedback") may be freely utilized by Zencity without attribution or compensation of any kind to Customer. Feedback shall not include any Customer Confidential Information, and Zencity shall not disclose the source of any Feedback.

4. **CONFIDENTIALITY.** Each party (the "**Receiving Party**") agrees not to disclose (except as permitted herein) any Confidential Information of the other party and any other information that a reasonable person should have reason to believe is proprietary, confidential, or competitively sensitive (the "**Disclosing Party**") without the Disclosing Party's prior written consent. "**Confidential Information**" means all confidential business, technical, and financial information of the disclosing party that is marked as "Confidential" or an equivalent designation or that should reasonably be understood to be confidential given the nature of the information and/or the circumstances surrounding the disclosure (including the terms of the applicable License Agreement). Zencity's Confidential Information includes, without limitation, the software underlying the Licensed Program and all Documentation. The Receiving Party agrees: (i) to use and disclose the Confidential Information only in connection with this Agreement; and (ii) to protect such Confidential Information using the measures that Receiving Party employs with respect to its own Confidential Information of a similar nature, but in no event with less than reasonable care. Receiving Party shall, before receipt or usage of such Confidential Information inform its personnel of Receiving Party's confidentiality

obligations under this Agreement. Notwithstanding the foregoing, Confidential Information does not include information that: (i) has become publicly known through no breach by the Receiving Party; (ii) was rightfully received by the Receiving Party from a third party without restriction on use or disclosure; or (iii) is independently developed by the Receiving Party without access to such Confidential Information. Notwithstanding the above, the Receiving Party may disclose Confidential Information to the extent required by law or court order, provided that prior written notice of such required disclosure and an opportunity to oppose or limit disclosure is given to the Disclosing Party.

The receiving Party shall only permit access to the disclosing Party's Confidential Information to its and/or its Affiliates' respective employees, consultants, affiliates, service providers, agents, partners, and subcontractors having a need to know such information, and who are bound by at least equivalent obligations of confidentiality and non-disclosure as those under this Agreement (such recipients being "**Authorized Recipients**"). The receiving Party is responsible for the compliance of its Authorized Recipients with the confidentiality and non-disclosure obligations of this Agreement.

Notwithstanding the foregoing, each Party can disclose the terms and existence of this Agreement to third parties in connection with a due diligence review (i.e., a potential investment in a Party or a going-public transaction) subject to such third parties being bound by at least equivalent obligations of confidentiality and non-disclosure as those under this Agreement. All right, title and interest in and to Confidential Information are and shall remain the sole and exclusive property of the disclosing Party.

## 5. **DATA AND MATERIALS LICENSE.**

- 5.1. Customer grants Zencity a non-exclusive, transferable, perpetual, worldwide, and royalty-free license to use any data or information provided by Customer for use in, by, or in connection with the Licensed Program, any information collected, and/or any analysis of any such information conducted by the Licensed Program.
- 5.2. Any content created by Customer and provided to Zencity for use in connection with the Licensed Program or other services provided by Zencity ("**Customer Materials**") shall be the sole property of the Customer. Customer hereby grants Zencity and its successors and assigns a perpetual, irrevocable, transferrable, worldwide, royalty-free, fully paid-up, and non-exclusive license under any of Customer's intellectual property, moral or privacy rights to use, copy, distribute, display, modify and create derivative works of any Customer Materials for the provision of the services in accordance with the terms of this Agreement. The parties acknowledge that Zencity does not require any Personal Data to be provided in order to provide the Licensed Program and Customer undertakes that it shall not provide Zencity with any Personal Data as part of the Customer Materials. To the extent the Customer Materials shall include any Personal Data it shall be incidental and Customer shall be fully liable for such Personal Data in accordance with the terms of this Agreement and applicable law.
- 5.3. Customer acknowledges and agrees that Zencity may collect and process information regarding the configuration, performance, security, access to and use of the Services by Customer including product usage and support metrics, logs and findings, threat intelligence or threat actor data and potentially malicious artifacts scanned or generated by the Services ("**Account Data**") for its internal business purposes including to develop, improve, support, secure and operate the Services, in each case without derogating from Zencity's confidentiality, data and security obligations hereunder and without identifying Customer or Customer Data to other customers or third parties which are not deemed Authorized Recipients under this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall restrict Zencity's use of Account Data that has been anonymized in accordance with applicable laws ("**Anonymized Data**").

## 6. **FEES.**

- 6.1. The fees for the Licensed Program ("**Fees**") are set forth in the applicable Order Form. The Services are conditioned on Customer's payment of the applicable fees as set forth in each Order and Zencity reserves the right, following at least thirty (30) days' prior written notice to Customer, to suspend Customer's access to the Services for non or late payment of any amounts not subject to a good faith dispute.
- 6.2. Unless otherwise specified in an Order: (i) Customer will pay all amounts due under this Agreement in U.S. Dollars currency, (ii) Fees for the entire Subscription Term set out in the applicable Order are due at the commencement of such Subscription Term and payable as described in the Order; (iii) all Fees are due and payable within thirty (30) days of the date of Zencity's invoice; (iv) any amount not paid when due shall accrue interest on a daily basis until paid in full at the lesser of: (a) the rate of one and a half percent (1.5%) per month; or (b) the highest amount permitted by applicable law; and (v) all amounts payable under each Direct Order are exclusive of all sales, use, value-added, withholding, and other direct or indirect taxes, charges, levies and duties ("**Taxes**"). For the avoidance of doubt, discounts or credits relating to any term defined in any Order Form shall apply to said term only and shall not carry over to any Renewal Term.

## 7. TERM & TERMINATION

- 7.1. This Agreement shall commence on the Effective Date and continue for the period of **three/two/ one [3/2/1]** years, unless earlier terminated in accordance with this Section 7.
- 7.2. **The Initial Term shall be automatically extended for successive renewal terms of 36/24/12 months each (each, a "Renewal Term" and collectively with the Initial Term, the "Term") unless either party provides written notice of non-renewal to the other party at least 60 days before the end of each applicable term [To remove if there is no auto renewal in accordance with the Decision Matrix].** In the event of any Renewal Term, effective at the start of each Renewal Term, the Fees for the Licensed Program shall automatically increase by five percent (5%) on an annual basis unless otherwise agreed in writing by the parties **[Annual increase can be removed in accordance with the Decision Matrix].**
- 7.3. Either party may terminate this Agreement for cause with immediately only if: (a) the other Party breaches any material term or condition of an Order and/or this Agreement, and (b) such breach remains uncured thirty (30) days after the breaching Party receives written notice thereof; **or** (c) the other party is judged bankrupt or insolvent, makes a general assignment for the benefit of its creditors, a trustee or receiver is appointed for such party; or any petition by or on behalf of such party is filed under any bankruptcy or similar laws. **[Termination for convenience language to be added in accordance with the Decision Matrix: "In addition, either party may terminate this Agreement for convenience upon 60 days' prior written notice to the other party. Upon such termination, the Customer shall remain liable for all fees due up to the effective date of termination, and unless otherwise stated in the applicable Order Form, any prepaid but unused fees will be refunded on a pro-rata basis. Termination for convenience shall not relieve either party of any obligations or liabilities accrued prior to the effective date of termination."**
- 7.4. Upon termination or expiration of this Agreement and/or an Order: (i) all rights granted to Customer in the Platform shall expire, and Customer shall discontinue any further use and access thereof; and (ii) each party shall return to the other party or, at the other party's option, destroy all Confidential Information of the other party in its possession.

7.5. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

## 8. **WARRANTY AND DISCLAIMER**

8.1. Zencity represents and warrants that: (i) it has all right and authority necessary to enter into and perform this Agreement; and (ii) the Licensed Program shall perform in accordance with generally prevailing industry standards.

8.2. Customer represents and warrants that (i) it has all right and authority necessary to enter into and perform this Agreement; (ii) it owns all right, title, and interest in and to all data, including without limitation, any Personal Data that may be included therein, provided to Zencity (if any) for use in connection with this Agreement, or possesses the necessary authorization thereto; and (iii) Zencity's use of such data or materials including Customer Materials as contemplated hereunder will not violate the rights of any third party; (iv) it has all right, license and consent required to provide Zencity with the Customer Materials, including Personal Data contained therein, if and to the extent provided in accordance with Section 6.2 above; (v) the Customer Materials and Zencity's use thereof in accordance with the terms of this Agreement does not and will not infringe upon any third party's right; and (vi) it shall at all times use the Licensed Program in compliance with applicable Data Protection laws.

8.3. **"Data Protection Laws"** means all laws and regulations of the European Union, the EEA and their Member States, Switzerland, the United Kingdom, and the United States Privacy Laws, each if and to the extent applicable to the Processing of Customer Personal Data under this Agreement.

8.4. **"United States Privacy Laws"** means the California Consumer Privacy Act of 2018, Cal. Civ. Code § 1798.100 et seq., as amended by the California Privacy Rights Act of 2020 along with any associated regulations ("CCPA"); the Virginia Consumer Data Protection Act ("VCDPA"); the Colorado Privacy Act; and any similar U.S. laws governing data privacy and security once effective. **"Personal Data"** have the definition ascribed to it by the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 ("**GDPR**") or any parallel term in the jurisdiction in which the Licensed Program is being used.

8.5. Customer represents that the individual executing this Agreement on its behalf is duly authorized to do so, and that such execution creates a binding obligation on the from the Effective Date and forward, in accordance with the terms of this Agreement..

8.6. ZENCITY DOES NOT WARRANT THAT USE OF THE LICENSED PROGRAM WILL BE UNINTERRUPTED OR ERROR-FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE LICENSED PROGRAM. EXCEPT AS SET FORTH IN THIS SECTION9, THE LICENSED PROGRAM IS PROVIDED "AS IS" AND ZENCITY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. ZENCITY DOES NOT WARRANT THAT ANY OR ALL FAILURES, DEFECTS OR ERRORS WILL BE CORRECTED, OR WARRANT THAT THE FUNCTIONS CONTAINED IN THE LICENSED PROGRAM WILL MEET CUSTOMER'S REQUIREMENTS.

8.7. To the extent the Licensed Program or any services provided by Zencity hereunder are provided through or in connection with any third-party services, Zencity shall not have any responsibility for any technical issues or limitations resulting from the use of such third-party service, including actions of Zencity on such third-party service taken on behalf of and at the instruction of Customer. Customer acknowledges and agrees that use of any third-party service shall be in accordance with such third party's terms and privacy policy. Zencity shall not be responsible for any warranties and representations made by any third party to customer, and such warranties and representations are the sole responsibility of such third party.

9. **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT:

**(A)** EXCEPT WITH RESPECT TO EXCLUDED CLAIMS (AS DEFINED BELOW) AND SUBJECT TO SECTION 9.5(C), IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF REVENUE, PROFITS, REPUTATION, OR DATA, OR THE COST OF PROCURING SUBSTITUTE SERVICES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**(B)** EXCEPT WITH RESPECT TO EXCLUDED CLAIMS AND PROTECTED INFORMATION CLAIMS, EACH PARTY'S AND ITS AFFILIATES' TOTAL AGGREGATE LIABILITY TO THE OTHER PARTY AND ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION (WHETHER IN CONTRACT, TORT, OR OTHERWISE), SHALL NOT EXCEED THE TOTAL FEES ACTUALLY PAID BY CUSTOMER UNDER THE APPLICABLE ORDER FORM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM (THE "**GENERAL LIABILITY CAP**").

**(C)** FOR PROTECTED INFORMATION CLAIMS (AS DEFINED BELOW), EACH PARTY'S AND ITS AFFILIATES' TOTAL AGGREGATE LIABILITY SHALL NOT EXCEED TWO (2) TIMES THE GENERAL LIABILITY CAP (THE "**EXPANDED LIABILITY CAP**").

**THESE LIMITATIONS OF LIABILITY APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, AND EVEN IF A LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.**

**"Excluded Claims"** means: (i) either party's indemnification obligations under Section 10 (Intellectual Property Infringement); (ii) liability arising from a party's gross negligence or willful misconduct; and (iii) any liability which cannot be excluded or limited under applicable law.

**Protected Information Claims"** means any liability arising from a breach of Section 6 (Customer Data), Section 8 (Security), or Section 11 (Confidentiality).

10. **Indemnification.**

10.1. Zencity agrees to defend, at its expense, any third-party action or suit brought against Customer alleging that the Platform, when used in accordance with this Agreement and the applicable Order Form or Partner Order, infringes any third party's intellectual property rights (an "IP Infringement Claim"). Zencity will pay any damages finally awarded against Customer, or settlement amounts approved in writing by Zencity, arising out of such IP Infringement Claim, provided that: (i) Customer promptly notifies Zencity in writing of the claim; (ii) Zencity has sole control over the defense and settlement of the claim; and (iii) Customer provides Zencity with all reasonable assistance, at Zencity's expense, and refrains from admitting liability or settling without Zencity's prior written consent.

10.2. If the Platform becomes, or in Zencity's opinion is likely to become, the subject of an IP Infringement Claim, Zencity may, at its sole discretion: (a) procure for Customer the right to continue using the Platform; (b) replace or modify the Platform to avoid infringement; or (c) if neither (a) nor (b) is commercially feasible, terminate the affected Order(s) and provide Customer with a pro-rata refund of any prepaid fees for the remaining unused portion of the Term.

10.3. Zencity shall have no liability for any IP Infringement Claim to the extent arising from: (i) modifications made by anyone other than Zencity; (ii) Customer's failure to implement updates

provided by Zencity to avoid infringement; or (iii) use of the Platform in combination with third-party software not provided by or approved in writing by Zencity.

- 10.4. Customer shall indemnify and hold harmless Zencity, its affiliates, and their respective officers, directors, employees, and agents (each, an "Indemnitee") from and against any and all losses, liabilities, damages, costs, and expenses (including reasonable legal fees), interest, and penalties (collectively, "Losses") arising out of or related to any third-party claim against an Indemnitee arising from: (a) Customer's fraud, gross negligence, or willful misconduct; (b) any actual or alleged infringement or misappropriation of third-party intellectual property rights by Customer; or (c) any breach by Customer of its confidentiality, privacy, or security obligations under this Agreement.
- 10.5. Zencity shall promptly notify Customer of any claim for which it seeks indemnification, but failure to provide prompt notice shall not relieve Customer of its obligations, except to the extent materially prejudiced by such failure. Customer shall have the right to assume the defense of the claim, subject to Zencity's right to participate in the defense with counsel of its own choosing, at its own expense. Zencity may assume control of the defense if: (i) Customer fails to diligently pursue the defense; (ii) a conflict of interest arises; or (iii) the claim seeks injunctive relief. Zencity shall provide reasonable assistance, at Customer's expense, and shall not settle any claim without Customer's prior written consent, which shall not be unreasonably withheld.
- 10.6. **MISCELLANEOUS.** Capitalized terms not otherwise defined in these Terms and Conditions have the meaning set forth in the applicable License Agreement. Neither party shall be held responsible or liable for any losses arising out of any delay or failure in performance of any part of this Agreement, other than payment obligations, due to any act of God, act of governmental authority, or due to war, riot, labor difficulty, pandemic, failure of performance by any third-party service, utilities, or equipment provider, or any other cause beyond the reasonable control of the party delayed or prevented from performing. Zencity shall have the right to use and display Customer's logos and trade names for marketing and promotional purposes in connection with Zencity's website and marketing materials, subject to Customer's trademark usage guidelines (as provided to Zencity). If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable or transferable by either party without the other party's prior written consent, provided however that either party may assign this Agreement to a successor to all or substantially all of its business or assets. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement. All waivers and modifications must be in a writing signed by both parties. No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither party has any authority of any kind to bind the other party in any respect. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement shall be governed by the laws of the State of New York without regard to its conflict of laws provisions and the competent courts of New York City shall have exclusive jurisdiction to hear any disputes arising hereunder.

IN WITNESS HEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives to be effective as of the Effective Date.

## **Exhibit A- Service Level Agreement**

### **1. Service Availability.**

Zencity is committed to providing a reliable and consistent level of service. Accordingly, Zencity shall use commercially reasonable efforts to make the Services available with a Monthly Uptime Percentage of **at least 99.5%**, excluding any Permitted Downtime (as defined below) (the “**Service Level Commitment**”).

### **2. Definitions.**

- “**Monthly Uptime Percentage**” means the total number of minutes in a calendar month, minus the number of minutes of Downtime during the same month, divided by the total number of minutes in the month.
- “**Downtime**” means any period of time during which the core functionality of the Services is unavailable to all Users, excluding Permitted Downtime.
- “**Permitted Downtime**” includes:
  - (a) scheduled maintenance, provided that Zencity gives at least 24 hours’ notice via email or in-app notification,
  - (b) emergency maintenance required to address a security vulnerability or critical system failure, and
  - (c) outages attributable to circumstances beyond Zencity’s reasonable control, including but not limited to force majeure events, Internet service provider failures, or issues caused by the Customer’s own systems.

### **3. Service Credits.**

While Zencity strives to meet the Service Level Commitment, failure to meet the Monthly Uptime Percentage does not automatically entitle the Customer to any service credits or refunds unless separately agreed in a signed Service Level Agreement. Customers may request service performance details by contacting Zencity support.

### **4. Monitoring and Reporting.**

Service availability is monitored using industry-standard tools and methods. Monthly availability reports can be provided upon request.