

Master Service Agreement

This Master Service Agreement ("**Agreement**"), is by and between Clarizen ("**We**" or "**Us**") and ("**You**").

WHEREAS We are the owner of an online project management software platform and service available at <http://www.clarizen.com> ("**Site**"); and

WHEREAS You wish to utilize Our Service and We wish to provide You with the Service pursuant to the terms and conditions set forth in this Agreement;

NOW THEREFORE, in consideration of the mutual undertakings herein contained, the parties hereby agree as follows:

By accepting this Agreement, either by physically signing this Agreement, electronically accepting the terms of this Agreement or by executing a Purchase Order, You agree to the terms of this Agreement. If You are entering this Agreement on behalf of a company or another legal entity, You represent that You have the authority to bind such entity and its Affiliates to these terms and conditions, in which case the terms "You" or "Your" shall refer to such entity and its Affiliates.

The following terms and conditions shall govern use of the Service by Your Users and that with respect to the Services, this Agreement shall supersede the Online Agreement that has been, or may be, agreed to by Your Users in connection with their use of the Service.

This Agreement is effective between You and Us as of the date of You accepting this Agreement.

1. DEFINITIONS

1.1. "Account" means the account opened within the Service under Your subscribed name.

1.2. "Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

1.3. "Malicious Code" means viruses, worms, time bombs, trojan horses and other harmful or malicious code, files, scripts, agents or programs.

1.4. "Purchase Order" means the ordering documents for purchases hereunder, including addenda thereto, that are entered into between You and Us from time to time. Purchase Orders shall become effective when signed by You or when submitted by You using the standard form through Our Site. All Purchase Orders shall be deemed incorporated herein by reference.

1.6. "Our Basic Support" means the support services We provide You at no extra charge as set forth on Exhibit A.

1.7. "Service or Services" means the online, Web-based applications and platform that We provide via the Site, including associated offline components, but excluding Third Party Applications.

1.8. "Third-Party Applications" means online, Web-based applications and offline software products that are provided by third parties and interoperate with the Services.

1.9. "Users" means individuals who are authorized by You to use the Services, for whom subscriptions to a Service have been purchased, and who have been supplied user identifications and passwords by You (or by Us at Your request). Users may include but are not limited to Your employees, consultants, contractors and agents; or third parties with which You transact business.

1.10. "We," "Us" or "Our" means Clarizen directly or through any of its Affiliates.

1.11. "You" or "Your" means the company or other legal entity for which You are accepting this Agreement and Affiliates of that company or entity.

1.12. "Your Data" means all electronic data or information submitted by You to the Services, including all text, photographs, caricatures, illustrations, designs, charts, graphs, icons, articles, audio clips, video clips, and other materials posted, emailed, transmitted, created, or otherwise utilized by You or Your Users while interacting with the Service.

2. THE SERVICES

2.1. **Provision of Services** . We shall make the Services available to You non-exclusively pursuant to this Agreement and the relevant Purchase Order during a subscription term, by purchasing User subscriptions as provided in Section 2.2 below. Except as may be otherwise agreed in writing, You agree that Your purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding future functionality or features. You can utilize the Services as long as You abide by the terms of this Agreement and as long as Your Account is not terminated by either party hereto.

We hereby grant to You and to your Affiliates, the non-exclusive, non-transferable, fully-paid licenses to electronically access and use the Site and the Services in accordance with the terms of this Agreement.

2.2. **User Subscriptions** . Unless otherwise specified in the applicable Purchase Order, (i) The Services are purchased as User subscriptions and may be accessed by no more than the specified number of Users. Additional User subscriptions may be added at any time by executing another Purchase Order. User subscriptions are for designated Users and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Services.

3. USE OF THE SERVICES

3.1 **Our Responsibilities** . We shall: (i) provide to You Our Basic Support for the Services at no additional charge, and/or upgraded support if purchased separately, (ii) use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week except for: (a) planned downtime (of which We shall give You a prior notice via the Site, and shall use commercially

reasonable effort to ensure that such downtime interference to the Services will be as minimal as possible), or (b) any unavailability caused by circumstances beyond Our reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Our employees), or Internet service provider failures or delays, and (iii) provide the Services only in accordance with applicable laws and government regulations.

3.2. Your Responsibilities . You shall (i) be responsible for Users' compliance with this Agreement, (ii) be and remain solely responsible for the accuracy, quality, integrity and legality of Your Data and of the means by which You acquired Your Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Us promptly of any such unauthorized access or use, (iv) be responsible for maintaining the security of the User names and passwords of Your Users using the Service and notify Us promptly of any other breach of security known or suspected by You, (v) use the Services only in accordance with applicable laws and government regulations, and (vi) be responsible for all activity under Your Account, including the activity of other Users who have been added to Your Account by You or by another User of the Account. You shall not (a) make the Services available to anyone other than Users, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights (including any materials which are illegal, obscene, indecent, defamatory, incites racial or ethnic hatred, violates the rights of others, harms or threatens the safety of Users or others or may otherwise constitute a breach of any applicable law), (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, (f) attempt to gain unauthorized access to the Services or their related systems or networks or (g) perform or disclose any performance or vulnerability testing of the Services without Our prior written approval, or perform or disclose network discovery, port and service identification, vulnerability scanning, password cracking or remote access testing of the Services.

3.3. Protection of Your Data . We shall maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data. Our personnel shall not (a) modify Your Data unless otherwise required in order to provide the Services, (b) disclose Your Data except as compelled by law in accordance with Section 7.4 (Compelled Disclosure) or as expressly permitted in writing by You, or (c) access Your Data except to provide the Services or prevent or address service or technical problems, or at Your request in connection with customer support matters.

3.4 Deletion of Your Data .

If You become aware that any portion of Your Data or User activity violates this Agreement, You shall take all necessary action to prevent such activity and remove such Data from the Services. To the extent We become aware that Your Data, in Our reasonable discretion, is in violation of this Agreement or any applicable law, We may upon notice to You immediately block access to the Services. We also reserve the right to cooperate with legal authorities and third parties in the investigation of alleged wrongdoing. We will endeavor to provide notice to You prior to suspension or termination of Your use of the Services, but may immediately suspend or terminate them in instances where Your continued use of the Services would violate law or have a material adverse effect on Us.

3.5 Usage Limitations . The storage space and functionality available for Your Account will be determined by multiplying the number of Users Subscriptions purchased by You by the following:

<u>Enterprise Edition</u>	<u>Unlimited Edition</u>
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1 GB per User	Unlimited per User
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Enterprise Edition is limited to one Custom Object and Unlimited Edition is limited to five Custom Objects. The Services provide real-time information to enable You to monitor Your compliance with such limitations.

3.6 Non Material Modifications . Without limiting any other terms herein contained, We reserve the right in Our sole discretion to add, change, discontinue or otherwise modify non material elements and features to the Services at any time, provided the same does not degrade the Service. We will post notifications regarding such changes on Our Site.

3.7 Your Applications and Code . If You, a third party acting on Your behalf, or a User creates applications or program code using the Services, You authorize Us to host, copy, transmit, display and adapt such applications and program code, solely as necessary for Us to provide the Services in accordance with this Agreement. Subject to the above, We acquire no right, title or interest from You or Your licensors under this Agreement in or to such applications or program code, including any intellectual property rights therein.

3.8 Non-GA Services . From time to time We may invite You to try, at no charge, Our products or services that are not generally available to Our customers ("**Non-GA Services**"). You may accept or decline any such trial in Your sole discretion. Any Non-GA Services will be clearly designated as beta, pilot, limited release, developer preview, non-production or by a description of similar import. Non-GA Services are provided for evaluation purposes and not for production use, are not supported, may contain bugs or errors, and may be subject to additional terms. NON-GA SERVICES ARE NOT CONSIDERED "SERVICES" HEREUNDER AND ARE PROVIDED "AS IS" WITH NO EXPRESS OR IMPLIED WARRANTY. We may discontinue Non-GA Services at any time in Our sole discretion and may never make them generally available.

4. FEES AND PAYMENT FOR SERVICES

4.1. User Fees . You shall pay all fees specified in all Purchase Orders hereunder. Except as otherwise specified herein or in a Purchase Order, (i) fees are quoted and payable in United States dollars (ii) fees are based on Services purchased and not actual usage, (iii) except as set forth herein, payment obligations are non-cancelable and fees paid are non-refundable, (iv) the number of User subscriptions purchased cannot be decreased during the relevant subscription term stated on the Purchase Order, User subscription fees are based on such periods as shall be specified in the Purchase Order, and (v) We may change the User Fees upon notice to You according to Section 12.2 below.

4.2. Invoicing and Payment . We will invoice You in advance and otherwise in accordance with the relevant Purchase Order. Unless otherwise stated in the Purchase Order, invoiced charges are due 30 days from the invoice date. You are responsible for maintaining complete and accurate billing and contact information in the Service and notifying Us of any changes to such information. The payment of the periodic fee will grant You access to the Services for the applicable period only.

4.3. Overdue Charges and Collection Fee . If any charges are not received from You by the due date, then at Our discretion, (a) such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and/or (b) We may condition future subscription

renewals and Purchase Orders on payment terms shorter than those specified in Section 4.2 (Invoicing and Payment) above. In the event you fail to pay overdue charges, We may refer your account(s) to a third party for collection and You shall be responsible for such third party's collection costs.

4.4. Suspension of Service and Acceleration . If any amount owed by You under this or any other Agreement for Our Services is 30 or more days overdue, We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under such Agreements so that all such obligations become immediately due and payable, and suspend your access to the Services until such amounts are paid in full. We will give you at least 7 days' prior notice that Your account is overdue, in accordance with Section 13.1 (Manner of Giving Notice), before suspending your access to the Services.

4.5. Taxes. You will pay any sales, value-added or other similar taxes imposed by applicable law that we must pay based on the Services You ordered, except for taxes based on our income. Fees for Services listed in an order are exclusive of taxes and expenses.

5. THIRD-PARTY PROVIDERS

5.1. Acquisition of Third-Party Products and Services . We may offer Third-Party Applications for sale under Purchase Orders. Any other acquisition by You of third-party products or services, including but not limited to Third-Party Applications and implementation, customization and other consulting services, and any exchange of data between You and any third-party provider, is solely between You and the applicable third-party provider. We do not warrant or support third-party products or services, whether or not they are designated by Us as "certified" or otherwise, except as otherwise specified in the Purchase Order. Subject to Section 5.3 below (Integration with Third Party Services), no purchase of third-party products or services is required to use the Services except a supported computing device, operating system, web browser and Internet connection.

5.2. Third-Party Applications and Your Data . If You install or enable Third-Party Applications for use with Services, You acknowledge that We may allow providers of those Third-Party Applications to access Your Data as required for the interoperation of such Third-Party Applications with the Services. We shall not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by Third-Party Application providers. The Services shall allow You to restrict such access by restricting Users from installing or enabling such Third-Party Applications for use with the Services.

5.3 Integration with Third-Party Applications . The Services may contain features designed to interoperate with Third-Party Applications (e.g., Google, Facebook or Twitter applications). To use such features, You may be required to obtain access to such Third-Party Applications from such third parties. If such third party ceases to make the Third-Party Application available for interoperation with the corresponding Service features on reasonable terms, We may cease providing such Service features without entitling You to any refund, credit, or other compensation.

You hereby acknowledge and confirm that We may work with a third-party application provider to enable You to view certain electronic files in their native format while using the Services. You further acknowledge that any such third party provider that provides such third-party application may have access to files You choose to upload and view while using the Services and that such files will be stored on a storage service maintained by Us and / or such third party vendor. We do not warrant or support this third party application service and reserve the right to remove this functionality from the Services at any time.

6. PROPRIETARY RIGHTS

6.1. **Reservation of Rights** . Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the Services and the Site (including, without limitation, all derivative works thereof and all customizations, changes and modifications to the Services made by Us, You or a third party) and all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

6.2. **Restrictions**. You shall not (i) permit any third party to access the Services except as permitted herein or in a Purchase Order, (ii) create derivative works based on the Services, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes during the subscription term and for the exclusive use of Your Users, (iv) reverse engineer the Services, or (v) access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.

6.3. **Ownership of Your Data** . As between Us and You, You exclusively own all rights, title and interest in and to all of Your Data.

6.4. **Third Party Data** . All title and intellectual property rights in and to any data of any third party which may be linked to or viewed in connection with the Service is the property of the respective data owner and may be protected by applicable copyright or other intellectual property laws and treaties. This Agreement does not grant You any right to use such data except as allowed by such third party.

6.5. **Suggestions**. We shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by You, including Users, relating to the operation of the Services.

6.6. **Service Monitoring and Analyses**. We may (i) compile statistical and other information related to the performance, operation and use of the Services, and (ii) use data from the Services in aggregated form for security and operations management, to create statistical analyses, and for research and development purposes (clauses i and ii are collectively referred to as "Service Analyses"). We may make Service Analyses publicly available; however, Service Analyses will not incorporate Your Data or Confidential Information in a form that could serve to identify You or any individual. We retain all intellectual property rights in Service Analyses.

7. CONFIDENTIALITY AND PRIVACY POLICY

7.1. This Agreement is subject to Our Privacy Policy, which can be found at <http://www.clarizen.com/about-us/privacy-policy.html>, and constitutes an integral part of this Agreement.

7.2 **Definition of Confidential Information** . As used herein, "Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or written, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Your Data; Our Confidential Information shall include the Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Purchase Orders, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Your Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the

Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

7.3. Protection of Confidential Information . Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall protect the Disclosing Party's Confidential Information by using the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care), and shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who are bound by confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

7.4. Compelled Disclosure . The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

7.5. No Implied Rights . Except as expressly set forth herein, no license or other rights to Confidential Information are granted or implied hereby by either party.

8. MARKETING; PUBLICATION

You are willing to assist Us to publish certain press releases or other communications. Joint press releases or other communications shall be mutually approved in advance by You and Us. Unilateral references or other non-press related communications by one party such as social media, newsletters, websites, presentations, blogs and other methods that may be relevant from time to time, in which the name and/or logo of the other party appears, shall not require the prior written consent of such other party.

9. WARRANTIES AND DISCLAIMERS

9.1. Our Warranties . We warrant that (i) the Services shall perform materially in accordance with the features and functionalities, as set forth in the Site, (ii) Subject to Section 5.3 (Integration with Third Party Services), the functionality of the Services will not be materially decreased during a subscription term, and (iii) We will not transmit Malicious Code. For any breach of any such warranty, Your exclusive remedy shall be as provided in Section 12.3 (Termination for Cause) and Section 12.4 (Refund or Payment upon Termination) below.

9.2. Mutual Warranties . Each party represents and warrants that it has the legal power to enter into this Agreement.

9.3. Disclaimer. EXCEPT AS OTHERWISE PROVIDED HEREIN, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS.

EXCEPT AS PROVIDED IN SECTION 9.1, WE EXPRESSLY DISCLAIM ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES

OF QUALITY, PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

EXCEPT AS OTHERWISE PROVIDED HEREIN, WE MAKE NO WARRANTY THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR NEEDS OR THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY OR BE FREE FROM SOFTWARE ERRORS, NOR DO WE MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES OR THE ACCURACY OF ANY OTHER INFORMATION OBTAINED THROUGH THE SERVICES OR THAT DEFECTS IN THE SERVICES WILL BE CORRECTED.

10. MUTUAL INDEMNIFICATION

10.1. Indemnification by Us. We shall defend You against any claim, demand, suit, or proceeding (“Claim”) made or brought against You by a third party alleging that the use of the Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party, and shall indemnify You for any damages finally awarded against, and for reasonable attorney fees incurred by, You in connection with any such Claim; provided, that You (a) promptly give Us written notice of the Claim; (b) give Us sole control of the defense and settlement of the Claim (provided that We may not settle any Claim unless the settlement unconditionally releases You of all liability and You may not make any admissions or settlements without Our prior written consent); (c) provide to Us all reasonable assistance, at Our expense; and (d) provided that such infringement or misappropriation of any third party's intellectual property rights is not resulting from: (i) Your or Your Users misuse of the Services or the Site; (ii) Your use of the Services together with a Third Party Application or integration; or (iii) from non-compliance by You or Your Users of the terms and conditions contained herein. In the event of a Claim against You, or if We reasonably believe the Services may infringe or misappropriate, We may in Our discretion and at no cost to You (i) modify the Services so that they no longer infringe or misappropriate, (ii) obtain a license for Your continued use of the Services in accordance with this Agreement, or (iii) terminate Your User subscriptions for such Services upon 30 days’ written notice and refund to You any prepaid fees covering the remainder of the term of such User subscriptions after the effective date of termination.

10.2. Indemnification by You. You shall defend Us against any Claim made or brought against Us by a third party alleging that: (i) Your Data; or (ii) Your use of the Services in violation of this Agreement; or (iii) or the use by You of any third party’s integration , infringes or misappropriates the intellectual property rights of a third party or violates applicable law, and shall indemnify Us for any damages finally awarded against, and for reasonable attorney's fees incurred by Us in connection with any such Claim as a result of, or for any amounts paid by Us under a court-approved settlement of a Claim; provided, that We (a) promptly give You written notice of the Claim; (b) give You sole control of the defense and settlement of the Claim (provided that You may not settle any Claim unless the settlement unconditionally releases Us of all liability and We may not make any admissions or settlements without Your prior written consent); and (c) provide to You all reasonable assistance, at Your expense.

10.3. Exclusive Remedy. This Section 10 (Mutual Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of Claim described in this Section.

11. LIMITATION OF LIABILITY

11.1. Limitation of Liability. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS RESPECTIVE AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL FEES PAID TO US BY YOU FOR USE OF THE SERVICES IN THE TWELVE MONTH PRECEDING

THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING SHALL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER SECTION 5 (FEES AND PAYMENT FOR SERVICES).

11.2. Exclusion of Consequential and Related Damages. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, GOODWILL OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

11.3 Essential Purpose . THE ESSENTIAL PURPOSE OF THIS SECTION 11 IS TO ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN THE PARTIES AND LIMIT POTENTIAL LIABILITY GIVEN THE SERVICES CHARGES, WHICH WOULD HAVE BEEN SUBSTANTIALLY HIGHER IF WE WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN. WE HAVE RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO PROVIDE YOU THE RIGHTS TO ACCESS AND USE THE SERVICES PROVIDED FOR IN THIS AGREEMENT.

12. TERM AND TERMINATION

12.1. Term of Agreement. This Agreement commences on the day you sign this Agreement and continues until all User subscriptions granted in accordance with this Agreement have expired or been terminated.

12.2. Term of Purchased User Subscriptions. User subscriptions purchased by You commence on the start date specified in the applicable Purchase Order and continue for the subscription term specified therein. Except as otherwise specified in the applicable Purchase Order, all User subscriptions shall automatically renew for additional periods equal to the expiring subscription term unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless We have given You written notice of a pricing increase at least 30 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter. Any such pricing increase shall not exceed 7% of the pricing for the relevant Services in the immediately prior subscription term. Notwithstanding anything to the contrary, any renewal in which subscription volume for any Services has decreased from the prior term will result in re-pricing at renewal without regard to the prior term's per-unit pricing.

12.3. Termination for Cause. A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

12.4. Refund or Payment upon Termination. Upon any termination for cause by You, We shall refund You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. In no event shall any such termination relieve You of the obligation to pay any fees payable to Us for the period prior to the effective date of termination. Upon any termination for cause by Us, You shall pay any unpaid fees covering the remainder of the term of all Purchase Orders after the effective date of termination. The parties acknowledge and agree that actual damages resulting from Your material breach are difficult to determine and that payment under this Section 12.4 represents a reasonable estimation of damages agreed to by the parties, and is not a penalty.

12.5. **Effect of Termination.** Except as set forth below, termination of this Agreement will result in the immediate deactivation or deletion of Your Account or Your and Your Users access to the Account. Upon termination, all Your access to the Service will be disabled and all of Your Data will be stored in the Site's database for a period of 90 days following the termination of Your Account (the "Storage Period"). During the Storage Period, Your Services administrator shall be able to retrieve the data in a readable format along with attachments in their native format. Upon the end of the Storage Period all Your Data will be permanently deleted from the Site's servers. Once deleted, this information cannot be recovered. After such 90-day period, We shall have no obligation to maintain or provide any of Your Data and may thereafter, unless legally prohibited, delete all of Your Data in Our systems or otherwise in Our possession or under Our control.

12.6. **Surviving Provisions.** Section 4 (Fees and Payment for Services), 6 (Proprietary Rights), 7 (Confidentiality), 10.3 (Disclaimer), 10 (Mutual Indemnification), 11 (Limitation of Liability), 12.5 (Effect of Termination), and 13 (General Provisions) shall survive any termination or expiration of this Agreement.

13. GENERAL PROVISIONS

13.1. **Manner of Giving Notice.** Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the first business day after mailing provided written or electronic delivery confirmation is provided by a third party carrier, or (iii) the first business day after sending by email (provided email shall not be sufficient for notices of non-renewal, termination or an indemnifiable claim). Notices to You shall be addressed to the system administrator designated by You for Your relevant Services account, and in the case of billing-related notices, to the relevant billing contact designated by You. Notices to us shall be to applicable addresses detailed in the "contact us" section on our web site and to the attention of General Counsel and General Manager.

13.2. **Waiver of Jury Trial.** Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

13.3. **Export Compliance.** Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Services. Without limiting the foregoing, (i) each party represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports, and (ii) You shall not permit Users to access or use Services in violation of any U.S. export embargo, prohibition or restriction countries (currently Cuba, Iran, North Korea, Sudan, Syria or Crimea).

13.4. **Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

13.5. **No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

13.6. **Waiver and Cumulative Remedies .** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

13.7. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to

accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

13.8. **Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Purchase Orders), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement upon written notice to the assigning party. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

13.10. **Governing Law & Venue** – This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding that body of California law concerning conflicts of law. The parties further submit to the exclusive jurisdiction of the Courts of the State of California, for any litigation arising out of this Agreement. The United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this agreement.

13.11 **Anti-Corruption.** You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Our employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If You learn of any violation of the above restriction, You will use reasonable efforts to promptly notify Our team at LEGAL@CLARIZEN.COM.

This Agreement, including all exhibits and addendum hereto and all Purchase Orders, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Purchase Order, the terms of such exhibit, addendum or Purchase Order shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in Your form of purchase order or other order documentation (excluding Our Purchase Orders) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

QUESTIONS ABOUT THIS AGREEMENT SHOULD BE SENT TO LEGAL@CLARIZEN.COM.

Exhibit A

Basic Support

1. Availability.

a.) Definitions.

i. "Target Availability" will mean 99.5% Availability of the Services.

ii. "Availability" will be calculated monthly as a percentage using the following formula:

- the total number of Available Hours for the calendar month converted into minutes *minus*
- the total number of minutes of Unavailability *and the result divided by*
- the total number of Available Hours for the month converted into minutes.

iii. "Available Hours" in a calendar month means the total number of hours in the month (24 hours per day, seven days per week) minus any time during such month for any of the following:

(A) Periodic routine maintenance. All periodic routine maintenance by Clarizen of its systems or the Services shall be conducted during weekends or on weekdays outside of the hours of 9:00am to 12:00am Eastern Time (ET).

(B) Extraordinary Circumstances.

iv. "Unavailability" shall be defined as any period of time, in excess of 300 seconds, during which the Service is either unreachable or responds to all valid requests with invalid responses for all of Your Users, for reasons attributable to Clarizen.

vi. "Extraordinary Circumstances" include fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, strikes, lockouts, labor difficulties, generalized internet interruptions (through denial of service, worms, telecommunications problems or the like) or any other cause beyond Clarizen's reasonable control.

b.) Clarizen will use commercially reasonable efforts to achieve the Target Availability in each calendar month.

2. Support.

Clarizen will provide You with support e-mail and online resources, to assist You in using the Services, identifying, reproducing, and verifying problems with the Services, and to provide You with work-arounds or other available solutions. You agree to make reasonable efforts to resolve technical support problems before contacting Clarizen.

a.) Support is available via email at support@Clarizen.com Sunday through Friday. Online support resources are also available at <http://Success.Clarizen.com>.

b.) Support is available via email 24 hours per day, 365 days of the year, for Priority 1 and 2 issues (see below).

c.) The Clarizen Trust site at <http://trust.clarizen.com> will publish known downtime and performance issues. You can subscribe to incident notifications by using the Clarizen Trust RSS feeds.

d.) Clarizen classifies support calls on the following basis:

Priority	Description	Sample Issues
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Priority	Description	Sample Issues
1	Critical production issue affecting all users, including system unavailability and data integrity issues with no workaround available	<ul style="list-style-type: none"> •Service is down or unavailable. •A critical part of the Software as a Service infrastructure is unavailable or inaccessible, resulting in total disruption of work or critical business impact. •Service crashes or hangs indefinitely causing unacceptable or indefinite delays for resources or response. •Data corrupted or lost and must restore from backup.
2	Major functionality is impacted or significant performance degradation is experienced. Issue is persistent and affects many users and/or major functionality. No reasonable workaround available	<ul style="list-style-type: none"> •Service is operational but highly degraded performance to the point of major impact on usage. •Important features of the Software as a Service offering are unavailable with no acceptable workaround; however, operations can continue in a restricted fashion. •A critical documented feature / function is not available. •Access to a particular third-party application or service provider deemed noncritical is impacted
3	System bug affecting some but not all users. Short-term workaround is available, but not scalable	<ul style="list-style-type: none"> •Service is operational but partially degraded for some or all customers, and an acceptable workaround or solution exists. •Problem with non-critical feature or functionality

Priority	Description	Sample Issues
4	Inquiry regarding a routine technical issue; information requested on application capabilities, navigation, installation or configuration; bug affecting a small number of users. Acceptable workaround available	<ul style="list-style-type: none"> • Minor problem not impacting service functionality. • Missing or erroneous documentation. • Minor problem that does not affect delivery of service.

e.) Clarizen will use commercially reasonable efforts to respond to and resolve each problem notification as indicated below:

Priority	Receipt Acknowledged	Response
1	4 Hours	Clarizen and You will commit the necessary resources around the clock for problem resolution to obtain a workaround or reduce the severity of the error.
2	8 Hours	Clarizen and You will use commercially reasonable efforts during normal business hours for problem resolution, to obtain workaround or reduce the severity of the error.
3	1 Business Day	To Be Determined with Proposed Course of Action
4	1 Business Day	To Be Determined with Proposed Course of Action