



HOSTED SERVICE AGREEMENT

This Hosted Service Agreement ("**Agreement**") between Agiloft, Inc. ("**Agiloft**") and _____ and its Affiliates, if any, set forth below ("**Customer**") is made as of the last signature date set forth below ("**Effective Date**").

This Agreement incorporates by reference the following, attached as Exhibit A - Standard and Enterprise Extended Support.

1. DEFINITIONS

"Agreement" - this Hosted Service agreement.

"Affiliate" – means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity; and "control" for the purposes of this definition means direct or indirect ownership or control of more than 50% of the voting interest of the subject entity, provided that any such Affiliate shall be deemed an Affiliate only for so long as such control lasts. Affiliates may purchase subscriptions to the Hosted Service that are subject to the terms and conditions of this Agreement by executing an Order Form hereunder.

"Corrections" - any corrections, changes, or workarounds Agiloft may provide Customer for any defects, errors, or malfunctions in Agiloft's Software Product or systems.

"Customer Data" - any electronic data or information supplied by or for Customer and not part of Agiloft's Software Product or Hosted Service, that is submitted, collected, processed or managed by or for Customer in conjunction with Customer's use of the Hosted Service, Software Product, or Standard or Extended Enterprise Support.

"Customer KnowledgeBase" – Customer data and the configuration of business rules, workflows and other database attributes created or modified for Customer.

"Documentation" - Agiloft's online user guides, documentation, and help and training materials, including courses, quizzes and videos.

"Edition" - the specific package of the Agiloft product licensed, which determines the available license types and features.

"Force Majeure" - events beyond Agiloft's control, such as an act of God or act of government, including but not limited to flood, fire, earthquake, civil unrest, act of terror, provider strike or other labor problem, internet service provider failure or delay, or denial of service attack.

"Hosted Service" - the hosting infrastructure, access and services related to the online delivery of the Software Product, or any part thereof.



“Malevolent Code” - code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

“On-Premise Service” - the provision of licenses, support, and upgrades for the Software Product installed on Customer’s servers.

“Other Applications” - any on or offline software application created or provided by Customer or any party other than Agiloft, that interoperates with Agiloft’s Software Product or Hosted Service (e.g., DocuSign).

“Extended Enterprise Support” - Standard Support plus round the clock telephone support for critical issues, priority queue and case routing, annual system health check, and a designated service representative.

“Quote” - the ordering documents (e.g., Statement of Work) specifying the pricing terms for the Software Product, Hosted Service, and Standard or Enterprise Support Service and other services as applicable provided by us to Customer, including any addenda and supplements thereto.

“Software Product” - any computer programs, applications or scripts created by us and used or accessed by Customer, directly or indirectly, including all functionality described in the Documentation, or any part thereof.

“Standard Support” - the support services provided to all Hosted Service customers.

“User” - an individual authorized to use Agiloft’s Hosted Service, Software Product or Support Service.

2. AGILOFT’S OBLIGATIONS

2.1 Hosted Service Availability and Credits. Agiloft will make the Hosted Service available to Customer pursuant to this Agreement, at the rates set out in the applicable Quote.

As part of the Hosted Service, Agiloft will take all reasonable measures to keep uptime at or above 99.9% (ninety-nine and nine tenths percent). If, due to Agiloft’s error, Agiloft’s hosted service is unavailable more than 0.1% (one tenth of one percent) in a given month, Customer will be entitled to receive a 50% (fifty percent) credit for that month. If, due to Agiloft’s error, Agiloft’s hosted service is unavailable more than 0.5% (one half of one percent) in a given month, Customer will be entitled to receive a 100% (one hundred percent) credit for that month. Agiloft shall contact Customer in the event of any qualified downtime. If the availability drops below 99.9% during three consecutive calendar months, Customer may terminate this Agreement on notice in writing to Agiloft.

In no event will Customer be entitled to a refund for downtime caused by maintenance (normally conducted during the hours of 10pm-4am, PST, and most often during a weekend), or a Force Majeure event.

- 2.2 Software Product and Upgrades.** Agiloft will grant Customer licenses to use Agiloft's Software Product pursuant to this Agreement, at the rates set out in the applicable Quote. Agiloft is constantly improving Agiloft's Software Product and wants its Customer to benefit from such improvements. To that end, Agiloft will:
- a) Provide Customer with corrections, changes, or workarounds ("Corrections") for any significant defects, errors, or malfunctions in Agiloft's Software Product or systems, on a timely basis, given the nature and scope of the defect.
 - b) Install upgrades of Agiloft's Software Product to the hosted servers as soon as practical, after they become available. Agiloft will promptly notify Customer of any upgrades that will significantly affect Customer program functionality.
 - c) Make release notes available and identify any significant impact upgrades may have on existing customizations.
 - d) Make available to Customer any revisions to the system Documentation developed to reflect upgrades and improvements to the Software Product.
 - e) Make all commercially reasonable efforts to introduce updates in a manner that can be disabled where applicable. Agiloft reserves the right to immediately upgrade and incorporate enhancements directly related to security or patching of supporting systems.
- 2.3. Technical Support.** Agiloft will provide Agiloft's Standard Support to Customer at no additional charge or Agiloft's Extended Enterprise Support at the rates set out in the applicable Quote. As part of the Standard Support, Agiloft will:
- a) Provide Customer with support for the most recent release of Agiloft's Software Product. Following any new release, Agiloft will also provide Customer with support for the immediately prior version of Agiloft's Software Product for a period not to exceed four (4) months.
 - b) Agiloft's Standard Support covers support on standard functionality and Software Product defects. It does not include the provision of customization advice or consulting services. Neither does it cover problems caused by Customer's system administrator, such as Customer's accidental or inadvertent destruction of Customer's own data or a Force Majeure.
 - c) Further details of Agiloft's Standard and Extended Enterprise support services are incorporated and attached as Exhibit A.
- 2.4 Consulting Services.** Agiloft will provide Consulting Services as specified in an applicable Quote.
- 2.5 Protection of Customer Data.** Agiloft will take organizational, physical, and technical precautions to protect the security of Customer Data, as described in the Documentation and



addendums and amendments. Those precautions will include measures for preventing access, use, modification or disclosure of Customer Data by Agiloft's employees and contractors except (a) to provide the Hosted Service and prevent or address service or technical problems, (b) as compelled by law in accordance with §7.4 (Compelled Disclosure) below, or (c) as Customer expressly permits in writing.

3. RESTRICTIONS ON USE

3.1 Usage Limits. Agiloft's Software Product is subject to usage limits, including those based on the Edition and limits on the number and type of licenses purchased. The applicable Quote will specify the Edition and the permitted number of licenses of each type and their appropriate usage, and Customer agrees to stay within the license restrictions. If Customer exceeds a contractual usage limit, Agiloft may work with Customer to seek to reduce Customer's usage so that it conforms to that limit. If, notwithstanding Agiloft's efforts, Customer is unable or unwilling to abide by a contractual usage limit, Customer agrees to pay for the additional necessary licenses or services promptly upon Agiloft's providing Customer with a new Quote, and/or pay any invoice for excess usage in accordance with §5.2 (Invoicing and Payment).

3.2 Usage Control. Customer will be responsible for user compliance with this Agreement, as it applies to the accuracy, quality and legality of Customer's KnowledgeBase, including the means by which Customer acquires Customer Data. Customer agrees to use commercially reasonable efforts to prevent unauthorized access to or use of Agiloft's Hosted Service or Software Product, and to notify Agiloft promptly of any such unauthorized access or use. Customer agrees to use Agiloft's Hosted Service and Software Product only in accordance with the Quote, the Documentation and applicable laws and government regulations. It is Customer's responsibility to comply with any terms of service for Other Applications which Customer uses in conjunction with Agiloft's Hosted Service or Software Product.

3.3 Usage Restrictions. Customer will not (a) make any Hosted Service or Software Product available to, or use any Hosted Service or Software Product for the benefit of anyone other than Customer or users, or (b) sell, resell, license, sublicense, distribute, rent or lease the Hosted Service or Software Product. Customer will not use Customer's KnowledgeBase or the Hosted Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or material in violation of third-party privacy rights, to store or transmit Malevolent Code, to interfere with or disrupt the integrity or performance of any Hosted Service or data not belonging to Customer, or attempt to gain unauthorized access to any Hosted Service or Software Product or its related systems or networks.

Customer will not use Customer's KnowledgeBase or the Hosted Service to circumvent a contractual usage limit, or to copy the Hosted Service or any part thereof, including a feature, function or user interface, except as permitted in writing by us. Customer will not frame or mirror any part of any Agiloft's Hosted Service or Software Product, other than framing on Customer's own intranets or otherwise for Customer's own internal business purposes or as permitted in the

Documentation. Customer may not access any Hosted Service or Software Product in order to build a competitive product or service, or reverse engineer any Hosted Service, KnowledgeBase or Software Product (to the extent such restriction is permitted by law).

3.4 Test Licenses. Customer may wish to purchase test licenses for use in development and testing. Any additional fees associated with such licenses will be set forth in the Quote.

3.5 External-Facing Hosted Service Behavior. Customer and its Users are solely responsible for complying with applicable law in any use of cookies or other tracking technologies, as well as the U.S. Digital Millennium Copyright Act. In addition, if Customer or its Users engage in any of the following activities, Customer may be deemed in material breach of this Agreement:

- a) Customer may not use or allow the use of the Hosted Service to display, store, process or transmit: corrupted files, hoaxes, frauds such as pyramid schemes or any other items of a destructive or deceptive nature; material that infringes or misappropriates a third party's intellectual property or proprietary rights; that violates a third-party's privacy rights; that violates applicable law; that is excessively profane; that is hateful or violent; that advocates racial or ethnic intolerance; that is intended to advocate or advance computer hacking or cracking; illegal software; Malevolent Code; or any other material that violates or encourages conduct that would violate any criminal laws, any other applicable laws, or any other third-party rights.
- b) Customer may not use, or allow anyone else to use the Hosted Service to: generate or facilitate unsolicited commercial email (spam). Spam activity includes, but is not limited to: sending email in violation of the CAN-SPAM Act or any other applicable anti-spam law; imitating or impersonating another person or email address, creating false accounts for the purpose of sending spam; mining or harvesting any web property (including any data not belonging to Customer) to find email addresses or other user account information; sending unauthorized mail via open, third-party servers; and sending email to users who have requested removal from a mailing list.
- c) Customer may not use, or allow anyone else to use, the Hosted Service in connection with illegal peer-to-peer file sharing; to engage in or promote gambling, to run a gambling operation; to sell, distribute or export prescription drugs or other controlled substances; to sell, distribute or promote drug paraphernalia; to corrupt minors; or to access any other service or website, directly or indirectly, in a manner that violates the terms for use of or access to such service or website.

3.6. Removal of Software Product and Other Applications. If a third party contends that any content in Agiloft's Hosted Service or Software Product violates applicable law or third-party rights, and if Agiloft are directed to remove such content in Agiloft's Software Product or Hosted Service, Agiloft will remove such content as soon as practical in an upgrade to Agiloft's Software Product. If Agiloft receive information that integration with any Other Application may violate the terms set out in this §3 or applicable law or third-party rights, and if Agiloft so notify Customer, Customer will promptly disable or modify such integration with the Other Application to resolve the potential violation. If Customer does not take the actions described in this subsection, Agiloft



may disable Customer's use of the applicable Software Product, Hosted Service or Other Application, or any part of any of these, until the potential violation is resolved.

- 3.7 Export Compliance.** Agiloft's Hosted Service, Software Product, other technology Agiloft make available to Customer, party represents that it is not named on any U.S. government denied-party list. Customer shall not permit users to access or use any Hosted Service or Software Product in a U.S.-embargoed country (currently Cuba, Iran, North Korea, Sudan, Syria, or Crimea) or in violation of any U.S. export law or regulation.
- 3.8 Anti-Corruption.** Neither party has received, been offered, solicited, or accepted any illegal (in accordance with applicable State and Federal law) or improper bribe, kickback, payment, gift, or thing of value from any of either party's employees or agents in connection with this Agreement.
- 3.9 Anti-Terrorism.** Neither Party is in violation of any U.S. Anti-Terrorism (including applicable Executive Orders) or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

4. OTHER APPLICATIONS; ESCROW

- 4.1 Acquisition of Other Applications and Hosted Service.** Any rights or obligations associated with the acquisition by Customer of other applications, products or services, and any exchange of data between Customer and any third party provider, are held between Customer and that provider. Agiloft does not warrant or support Other Applications.
- 4.2 Other Applications and Customer KnowledgeBase.** If Customer installs or enables any Other Application for use with the Hosted Service or Software Product, Customer may be required to grant permission to the provider of that Other Application to access the Customer KnowledgeBase as required for the interoperation of that Other Application with the Hosted Service or Software Product. Agiloft is not responsible for any disclosure, modification or deletion of Customer Data resulting from access by any Other Application.
- 4.3 Integration with Other Applications.** The Hosted Service or Software Product may contain features designed to interoperate with Other Applications. To use such features, Customer may be required to obtain access to Other Applications from their providers, and may be required to grant Agiloft access to Customer account(s) for the Other Applications. If the provider of the Other Application ceases to make the Other Application available for interoperation with the corresponding Hosted Service or Software Product on reasonable terms, or changes the API (application programming interface) in a manner which breaks the integration with the Software Product or Hosted Service, Customer will not be entitled to any refund, credit, or other compensation.
- 4.4 Escrow.** During the term of this Agreement, Agiloft may, at Customer's expense, agree to maintain a copy of the source code for the Hosted Service along with other necessary



documentation associated with such software, in escrow on the basis of a separately executed escrow agreement.

5. BILLING

- 5.1 Fees and Expenses.** Customer agrees to pay all fees as set out in the applicable Quote. Except as otherwise stated herein, Customer agrees that fee payment obligations are non-cancelable and fees paid are non-refundable. Customer understands that licenses and services purchased can be increased at any time but cannot be decreased until the end of the applicable term. Any travel expenses shall be pre-approved by Customer and will be billed at actual travel and lodging costs and a fixed per diem of the greater of \$75.00 USD or the applicable rate set by the US Government General Services Administration.
- 5.2 Invoicing and Payment.** Customer will provide Agiloft with a valid purchase order or alternative payment authorization documents acceptable to us. Agiloft accepts ACH, wire transfers, checks, credit card, and if applicable, P-Card payments. If Customer opts for credit card or P-Card payment, Customer authorizes Agiloft to charge such card for the Hosted Service and Software Product as set out in the Quote for the initial term and any authorized renewal term(s) as described in §12.2 (Renewals) and §12.4 (Termination). If Customer chooses to pay by credit card and/or P-Card payments, such payments will be subject to a three percent (3%) service fee. Agiloft will invoice Customer in accordance with the relevant Quote.
- 5.3 Payment Due Dates.** Unless otherwise stated in the Quote, invoiced charges are due 30 (thirty) days from the invoice date. Customer is responsible for providing complete and accurate billing and contact information to Agiloft and notifying Agiloft of any changes to such information.
- 5.4 Overdue Invoices.** If any invoiced amount is not received by Agiloft by the due date, then without limiting Agiloft's rights or remedies, those charges will 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.
- 5.5 Suspension of Service and Acceleration.** If any amount owed by Customer for Agiloft's Hosted Service is 30 (thirty) or more days overdue, Agiloft may, without limiting its other rights and remedies, accelerate Customer's unpaid fee obligations for any (i) unpaid license fees due or (ii) services performed, so that all such obligations become immediately due and payable, and suspend Agiloft's Hosted Service to Customer until such obligations are paid in full. Agiloft will give Customer at least 10 (ten) days' prior notice that Customer's account is overdue, in accordance with §12.2 (Manner of Giving Notice), before suspending Hosted Service to Customer.
- 5.6 Payment Disputes.** Agiloft will not exercise our rights under §5.4 (Overdue Charges) or §5.5 (Suspension of Hosted Service and Acceleration) above if Customer is disputing the relevant



charges reasonably and in good faith and is cooperating diligently to resolve the dispute.

- 5.7 Taxes.** Customer is responsible for paying any required taxes not invoiced by us for any purchase under this Agreement.
- 5.8 Prospective Functionality.** Customer acknowledge that Customer's purchase of Agiloft's Hosted Service or Software Product is not contingent on the delivery of any prospective functionality or features, or dependent on any oral or written comments made by us regarding future functionality or features.

6. PROPRIETARY RIGHTS AND LICENSE GRANTS

- 6.1 Reservation of Rights.** Agiloft's Software Product is protected by domestic and international intellectual property laws and treaties, including copyright laws. Agiloft's Software Product is licensed, not sold. Whether Customer has paid for its licenses or not, Customer may only access and use Agiloft's Software Product in accordance with this Agreement. Subject to the limited rights expressly granted hereunder, Agiloft reserves all of its right, title and interest in and to the Hosted Service and Software Product, including all of Agiloft's related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein.
- 6.2 License by Agiloft to use Agiloft's Software Product.** Agiloft grants to Customer a specific number of limited, non-exclusive, non-sublicensable, non-transferable licenses, to use Agiloft's Software Product pursuant to the applicable Quote, subject to that Quote and this Agreement.
- 6.3 License by Customer to Host Customer's KnowledgeBase.** Customer grants Agiloft a limited term license to host Customer's KnowledgeBase, and any Other Applications and program code created by or for Customer, as necessary in conjunction with Customer's use of Agiloft's Hosted Service. Subject to the limited licenses granted herein, Agiloft acquires no right, title or interest in or to Customer's KnowledgeBase, Customer's Data, or any Other Application.
- 6.4 License by Customer to use Customer's Feedback.** Subject to the restrictions on Confidential Data, Customer grants to Agiloft a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Hosted Service any suggestion, enhancement request, recommendation, or other feedback provided by Customer or its Users relating to the operation of the Hosted Service.
- 6.5 Federal Government End Use Provisions.** Agiloft provides the Hosted Service, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Hosted Service include only those rights customarily provided to the public as defined in this Agreement. This

customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data - Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with us to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

- 6.6 Third Party Software.** Agiloft's Software Product may contain software which originated with third parties, and without limiting the general applicability of the other provisions of this Agreement, Customer agrees: (a) the right, title and interest to any third-party software incorporated in the Software Product remains with the third-party, which supplied the same; and (b) Customer will not distribute, disseminate, or otherwise provide any such third-party software available with the Software Product, in any manner, outside the scope set forth in this Agreement.

7. CONFIDENTIALITY

- 7.1 Definition.** "Confidential Information" is all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, either expressly designated as confidential or that should reasonably be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information may include, but is not limited to, business information or ideas, trade secrets, proprietary data, personnel data, suppliers, procedures, cost of merchandise, sales data, price lists, financial information, business plans, prospect names, business opportunities, confidential business reports, customer lists, data or contracts, computer software usage, technical reports on products and services, product data or specifications, technical know-how, formulae, diagrams, flow charts, drawings, source code, object code, program listings, test results, processes, inventions, research projects or product development.
- 7.2 Exceptions.** Confidential Information will remain the exclusive property of the Disclosing Party, unless and until the Receiving Party can prove that it (a) became publicly known through no fault of the Receiving Party, (b) was properly and lawfully known to Receiving Party, without restriction, prior to disclosure by the Disclosing Party, (c) became properly and lawfully available to Receiving Party through a third party, or (d) was independently developed by Receiving Party.
- 7.3 Standard of Protection.** Receiving Party will hold in confidence and not disclose Confidential Information to anyone, except as necessary to carry out the terms of this Agreement, or as

authorized by the Disclosing Party in writing, and agrees to limit access to Confidential Information of the Disclosing Party to employees and contractors of the Receiving Party who have signed confidentiality agreements containing protections no less stringent than those herein.

- 7.4 Compelled Disclosure.** If Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, Receiving Party agrees to give Disclosing Party prompt notice of the compelled disclosure. Receiving Party further agrees to give reasonable assistance to Disclosing Party, to the extent legally permitted, and at Disclosing Party's cost, in any contest by Disclosing Party to the compelled disclosure.

8. WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

- 8.1 Representations.** Each party represents that it has entered into this Agreement in good faith and has the legal power to do so.

- 8.2 Unconditional Satisfaction Guarantee.** Agiloft offers a 90 (ninety) day, full money-back guarantee on its Hosted Service, Software Product and Agiloft implementation services, with an extended period for Enterprise Extended Edition customers or lengthy consulting service implementations, as specified in the initial Quote. Customer may cancel the Hosted Service for any reason within 90 days of the Effective Date of Agreement. Unless specifically excluded in the Quote, this guarantee covers the software and all consulting services directly related to the Agiloft implementation. If Customer requests services that are not directly related to Agiloft, such as cleaning up Customer data for import, these may not be included in the guarantee; however, any such exceptions will be spelled out in the Quote. To cancel the order and receive a complete refund of any fees paid, please notify Agiloft per §11.4(d).

- 8.3 Limited Warranties.** Agiloft warrants that it will not materially decrease the overall security of the Hosted Service during the applicable term; that the Hosted Service will perform materially in accordance with the applicable Documentation, that, subject to §4.3 (Integration with Other Applications), Agiloft will not materially decrease the functionality of the Hosted Service during the current term, and that the Hosted Service and Software Product will not introduce Malevolent Code into Customer systems.

- 8.4 Mutual Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, AGILOFT SOFTWARE PRODUCT, ANY THIRD PARTY SOFTWARE, OR HOSTED SERVICE ARE PROVIDED "AS IS" AND



NEITHER AGILOFT NOR CUSTOMER MAKES ANY WARRANTY OF ANY KIND, WHETHER OR NOT EXPRESS, IMPLIED, STATUTORY NOR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. EACH PARTY DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY SOFTWARE OR HOSTING PROVIDERS. AGILOFT MAKES NO REPRESENTATION AND WARRANTY WHATSOEVER WITH RESPECT TO THIRD PARTY SOFTWARE INCORPORATED INTO THE SOFTWARE PRODUCT.

9. INDEMNIFICATION

9.1 Agiloft's Indemnification Obligations. Subject to the limitations set forth above in Paragraph 9, Agiloft will defend Customer against any claim, demand, suit or proceeding made or brought against Customer by a third party alleging that Customer's use of the Software Product or Hosted Service in accordance with this Agreement infringes or misappropriates such third party's intellectual property rights, and will indemnify Customer from any damages, attorney fees and costs finally awarded against Customer as a result of such a claim against Customer, or for amounts paid by Customer under a settlement approved by Agiloft in writing of such a claim, provided Customer (a) promptly gives Agiloft written notice of such a claim, (b) gives Agiloft sole control of the defense and settlement of such a claim, except that Agiloft may not choose to settle any such claim unless it unconditionally releases Customer of all liability, and (c) gives Agiloft all reasonable assistance, at Agiloft's expense.

If Agiloft receives information about an infringement or misappropriation claim related to Agiloft's Software Product or Hosted Service, Agiloft may choose, in our discretion and at no cost to Customer, to (a) modify the Software Product or Hosted Service so that it no longer infringes or misappropriates, without breaching Agiloft's warranties under §9.3 (Limited Warranties), (b) obtain a license to allow for Customer's continued use of the Software Product or Hosted Service in accordance with this Agreement, or (c) terminate Customer's use of our Software Product or Hosted Service upon 30 (thirty) days' written notice and refund Customer any prepaid fees covering the remainder of the term. The above defense and indemnification obligations do not apply to the extent a claim against Customer arises from alleged infringement or misappropriation in Customer's KnowledgeBase, any Other Application or Customer's breach of this Agreement.

9.2 Customer's Indemnification Obligations. Customer will defend Agiloft against any claim,



demand, suit or proceeding made or brought against Agiloft by a third party alleging that Customer's KnowledgeBase, or Customer's use of the Hosted Service or Software Product in breach of this Agreement, infringes or misappropriates such third party's intellectual property rights or violates applicable law, and will indemnify Agiloft from any damages, attorney fees and costs finally awarded against Agiloft as a result of such a claim, or for any amounts paid by Agiloft under a settlement approved by Customer in writing, of such a claim against Agiloft, provided Agiloft (a) promptly gives Customer written notice of such a claim against Agiloft, (b) gives Customer sole control of the defense and settlement of such a claim against Agiloft, except that Customer may not settle any such claim against Agiloft unless it unconditionally releases Agiloft of all liability, and (c) gives Customer all reasonable assistance in the defense of such a claim against Agiloft, at Customer's expense.

9.3 Exclusive Remedy. This §9 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 §9.

10. LIMITATIONS OF LIABILITY

10.1 EXCEPT FOR EACH PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 9 (MUTUAL INDEMNIFICATION), IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER UNDER THIS AGREEMENT, INCLUDING ANY RENEWAL, PREDECESSOR OR SUCCESSOR AGREEMENTS, FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE (12) MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE ABOVE LIMITATIONS WILL (i) APPLY WHETHER AN ACTION IS CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY AND (ii) AMOUNTS PAYABLE BY AGILOFT ARE TO BE RECOVERED FROM AGILOFT'S INSURANCE COVERAGE. HOWEVER, THE ABOVE LIMITATIONS WILL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS UNDER SECTION 6 (FEES AND PAYMENT FOR HOSTED SERVICE).

10.2 Exclusion of Consequential and Related Damages. IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, REVENUES, OR INDIRECT, SPECIAL, INCIDENTAL, COVER, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.



11. RENEWALS AND TERMINATION

- 11.1 Term of Agreement.** This Agreement commences on the Effective Date and continues for one year, or as otherwise set forth in the Quote, unless terminated.
- 11.2 Renewal.** The Agreement will renew for another term as specified in a renewal invoice upon Customer's payment of the renewal invoice ("Renewal Invoice"). Agiloft will make commercially reasonable efforts to confirm Customer's intention for any renewal term if the Renewal Invoice is not timely paid. Unless Agiloft provides its intent to not renew the Agreement, such notice to be at least one hundred and eighty (180) days prior to the expiration date, Agiloft will send Customer the Renewal Invoice at least 45 (forty-five) days in advance of the expiration date of the current term, at the then-prevailing price for the licenses and services then being provided to Customer. If the payment for the Renewal Invoice is late, the Agreement will be renewed retroactively as of the date of expiration and all of its provisions shall be deemed to have been in effect continuously since that time. License renewals per license and service prices will be the same as that of the immediately prior term unless Agiloft notifies Customer in writing of a price increase, which Agiloft will do at least 90 (ninety) days before expiration. Such price increases will not exceed 5% (five percent) per year since the last price increase or start of service, whichever is later, unless the previous pricing was designated as special or one-time pricing.
- 11.3 Increases and Decreases.** Customer may purchase additional licenses or services at any time, and the additional costs associated with these purchases will be based on current pricing, pro-rated to the end of the then current contract term. Decreases in service or the number of licenses must be made at the end of the then current term, and any renewal for a decrease in licenses will be based on current pricing without regard to prior per-license pricing.
- 11.4 Termination.** Non-payment of the renewal invoice will be considered termination by the Customer. A party may terminate this Agreement for cause (a) upon 30 (thirty) days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (b) if the other party becomes the subject of a bankruptcy petition or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors, or (c) terminated by Customer as a result of purchasing On-Premise licenses, (d) by Customer as a result of selecting the ninety (90) day satisfaction guarantee, as described in §8.2 or (e) by Customer with written notice.
- 11.5 Refund or Payment upon Termination.** If this Agreement is terminated by Customer in



accordance with §11.4 (a), (c), or (d), Agiloft will refund, as applicable, to Customer any prepaid fees covering the remainder of the term after the effective date of termination or all prepaid fees in the event of 11.4(d). If this Agreement is terminated by Agiloft in accordance with §11.4, Customer will pay any unpaid fees for service up through the termination date. Unless Customer is entitled to a complete refund under the Money Back Satisfaction Guarantee as described in §8.2, termination will not relieve Customer of its obligation to pay any fees due Agiloft for the period prior to the effective date of termination, or of its obligation to pay any hosted service fees due Agiloft through the end of the term for Customer termination in accordance with 11(a), breach by customer, 11(b), or 11(e).

- 11.6 Data Portability and Deletion.** Customer's Data may be exported at any time while this Agreement is in effect, using the standard administrative interface. Upon written request by Customer made within 30 (thirty) days after the effective date of termination or expiration of this Agreement, Agiloft will make Customer Data available to Customer for export or download as provided in the Documentation. After that 30-day period, Agiloft will have no obligation to maintain or provide Customer Data, and will delete or destroy all copies of Customer Data in our systems or otherwise in our possession or control as provided in the Documentation, unless prohibited by applicable law from doing so.
- 11.7 Surviving Provisions.** The sections titled "Fees and Payment" "Proprietary Rights and Licenses," "Confidentiality," "Warranties, Exclusive Remedies and Disclaimers," "Mutual Indemnification," "Mutual Limitation of Liability," "Renewals and Termination," "Data Portability and Deletion," "Governing Law and Exclusive Jurisdiction," and "General Provisions" will survive any termination or expiration of this Agreement.

12. GENERAL PROVISIONS

- 12.1 Entire Agreement.** This Agreement is 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 will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted.
- 12.2 Manner of Giving Notice.** All notices, permissions and approvals given under this Agreement shall be in writing and shall be deemed to have been provided upon: (a) personal delivery, (b) the second business day after first class mailing, or (c) one day after receipt of an email sent to the email address of notice, or (d) one week after international express mailing. All notices to



Agiloft shall be addressed to Accounts Payable, Agiloft, Inc., 460 Seaport Court, Suite 200, Redwood City, CA 94063 or accounting@agiloft.com. Billing-related notices to Customer shall be addressed to the relevant billing contact or email address designated by Customer. All other notices to Customer shall be addressed to the Hosted Service system administrator designated by Customer.

12.3 Consent to Governing Law and Exclusive Jurisdiction. Each party agrees to the applicable governing law of the following jurisdictions, without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of their courts as follows.

- a) Each Party agrees to participate, in good faith, in informal and confidential dispute resolution prior to bringing any claim against the other in a court of competent jurisdiction.
- b) If Customer is located in the United States, or anywhere not specifically identified in this subsection 12.3, this Agreement shall be governed by the laws of the State of California, and adjudicated in the state courts located in San Mateo County, California, or if required by law, the federal courts of the Northern District of California.
- c) If Customer is located in Europe, including Greenland, in the Middle East or in Africa, this Agreement will be governed by the laws of England, and adjudicated in the courts located in England. The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contract (Rights of Third Parties) Act (UK) 1999 by any person not a party to this Agreement.
- d) If Customer is located in Asia (including Pakistan, Sri Lanka, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Uzbekistan) or in the Pacific Rim, this Agreement will be governed by the laws of the Republic of Singapore and adjudicated in the courts of the Republic of Singapore. The parties to this Agreement do not intend that any of its terms shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act (Cap. 53B) (Singapore) by any person not a party to this Agreement.

12.4 Order of Precedence. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) this Agreement and as applicable, addendums and amendments, and (2) the applicable Quote or Statement of Work

12.5 Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent, not to be unreasonably withheld, unless as part of a merger or sale of substantially all of the assigning party's assets.

12.6 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.

12.7 Prevailing Party. In any action or proceeding to enforce rights under this Agreement, the prevailing party shall be entitled to recover all costs and reasonable attorney’s fees.

12.8 Waiver. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.

12.9 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.

THE PARTIES HEREBY EXECUTE THIS AGREEMENT AS OF THE LAST DATE BELOW.

<hr/>	Agiloft, Inc.
Individual signing:	Individual signing:
Signature:	Signature:
Title:	Title:
Date:	Date:
Customer address for notice:	Agiloft address for notice: Agiloft, Inc. 460 Seaport Court #200, Redwood City, CA 94063



EXHIBIT A - SUPPORT

1. SUPPORT

A STANDARD SUPPORT

- a) Agiloft provides a web-based [Support Portal](#) and online documentation at the [Help Wiki](#). Customers are provided with customer logins to Agiloft's Support Portal and may self-register. The Support Portal is used to submit requests for support or questions, to request new implementation work, to submit ideas for enhancements, and to search for answers to FAQs. Customers are notified as support tickets move through the process to resolution. The Support Portal is available 24/7 for submitting and updating tickets and for accessing FAQs and is staffed during Standard Support hours.
- b) Agiloft provides telephone support with a technical support telephone number in Redwood City, California, US, during Standard Support hours.
- c) Standard Support hours are Monday-Friday, 7:30 am to 8:00 pm EST except holidays in the US, and during business hours in other countries.
- d) Telephone calls may be logged in Agiloft's Web-based customer Support Portal, depending upon the content of the call and whether or not an immediate resolution is provided.
- e) Customer personnel view only their own support tickets by default; upon request, they may be permitted to view all support tickets from Customer's employees. Agiloft support services are not provided to Customer's customers, vendors, or other external users.

B EXTENDED ENTERPRISE SUPPORT

The Enterprise Extended Edition with CLM includes full Enterprise Extended support as part of the base yearly subscription license fee. Extended Enterprise Support includes all Standard Support services as well as:

- 24x5 general issues support, including the Support Portal and telephone
- 24x7 support for critical issues, including the Support Portal and telephone
- Named support representative with a direct contact number
- Priority status for resolving support tickets
- Annual performance and usage review and analysis.



C CUSTOM SUPPORT PACKAGE

Custom Support for additional coverage is provided as specified in Quotes.

2. PROBLEM CLASSIFICATION

Support tickets are placed into three general categories as follows:

- **Support Issue** - a question about standard Agiloft functionality that does not involve changes to the core Software Product, although it may involve changes to the configuration made by the administrator using their browser. Support Issues can generally be resolved by Customer's administrator within a few hours of submission based on advice provided by support staff.
- **Enhancement Request** - request to add functionality to the core Software Product. Enhancement requests may be scheduled at Agiloft's discretion, based on the perceived usefulness of the request for other customers. Note that enhancement requests may also be performed as paid custom development at Customer's request, should Agiloft choose not to incorporate them as a general enhancement.
- **Bug** - a defect in the core Software Product. Agiloft shall respond to and use reasonable commercial efforts to resolve issues deemed to be Bugs in accordance with Section 3 below, which priority shall be determined in good faith by Customer. Because it is usually possible to accomplish the same task in more than one way in Agiloft, Agiloft is often able to provide reasonable workarounds to any functional bugs.

3. PRIORITY RESPONSE TIMES FOR PROBLEMS

The following Investigation Response Times and Target Resolution times are for handling issues that have been classified as Bugs. The hours during which Agiloft is obligated to work on problem resolution are restricted to Standard Support hours, which are from 7:30 am to 8:00 pm EST, Monday through Friday, except on federal holidays unless Customer has an extended or custom support plan.

If a priority 1 issue is submitted during standard business hours, Agiloft will continue working on it outside of those hours until resolved, provided the resolution is within Agiloft's control (i.e. Agiloft staff have necessary access to the hosted server and Customer personnel are available as needed). Agiloft will use Agiloft's best commercially reasonable efforts to meet the response times and resolution targets set forth in this Section.



Priority	Description	Investigation Response Time	Target Resolution/ Workaround Time
1 - System Down	The production system is rendered inoperable due to a system software failure	30 minutes	30-60 minutes – Agiloft will assign as many engineers and/or support staff as needed 24/7 until the problem is resolved.
2 – Critical	A major program function is affected by a software failure, so that customers are adversely affected	60 minutes	1-2 hours – Agiloft will assign as many engineers and/or support staff as needed along with the best workaround available.
3 - High	A minor program function is affected by a software error, resulting in diminished productivity, or a problem occurs infrequently, or a workaround has been provided.	4 hours	If a workaround can be provided, the correction will be scheduled for the next regular upgrade. If not, a correction will typically be provided within a week.
4 - Medium	A desired new functionality is not working as expected, or a problem occurs that is not readily reproducible, or a workaround has been provided.	8 hours	If a workaround can be provided, any correction will be scheduled for the next regular upgrade. If not, a correction will typically be provided within a month.
5 - Low	An issue with negligible impact or a documentation or how-to question	24 hours	If a workaround or answer can be provided, the correction may be made at discretion of Provider, based on its relevance to other customers.

For timely resolution, particularly of priority Level 1 or 2 issues, you are requested to provide admin login access

4. EXCLUSIONS

Standard Support is intended to cover standard functionality and software defects. It does not include the provision of customization advice and consulting services. If the issue is specific to the particular configuration of the customer KnowledgeBase or requires that Agiloft access and review the customer KnowledgeBase in order to



provide a solution, it is classified as Consulting and is not covered under the support contract. Consulting may be purchased separately at the current price quoted at Agiloft's website at <https://www.Agiloft.com/consulting.htm>.

Problems caused by or arising from the following will not be considered "problems" for the purposes hereof and will not be subject to Agiloft's obligation to provide Support Services:

- a) failure of server hardware or equipment not owned or directly controlled by Agiloft or its subcontractors;
- b) failure of telecommunications or internet hardware or equipment not owned or directly controlled by Agiloft or its subcontractors;
- c) failure directly resulting from errors made by the customer's system administrator;
- d) irreversible destruction of data directly caused by direct actions taken by customer.