

MASTER SERVICES AGREEMENT

This Master Services Agreement (the “**Agreement**”) is effective as of the date of last signature (“**Effective Date**”) and made between:

Customer Name (“**Customer**”)

RingCentral Germany GmbH (“**RingCentral**”)

Address:

Address:

Address

Hamburg Business Center Poststraße 33
Hamburg, 20354
Germany

[Signature Block]

RingCentral is entering into this Agreement through its agent Avaya Inc. (“**Avaya**”). RingCentral and Customer are together referred to as the “**Parties**” and, along with Avaya for the purposes of the Section titled “**Authority**” below, each individually as a “**Party**.”

THE PARTIES AGREE AS FOLLOWS:

1. The Agreement consists of the terms and conditions contained herein, and any Service Attachments applicable to Customer’s Services, and any other Attachments agreed by the Parties, are incorporated into and form a part of this Agreement, in particular:

Exhibit A – Definitions

Attachment A – Avaya Cloud Office Services

Attachment B – Data Processing Addendum

2. Ordering and Term

- A. Ordering Services.** Customer may order the Services set forth in the relevant Attachments, attached hereto, by executing an Order Form in the format provided by RingCentral. Customer must submit the Order Form to RingCentral either in writing or electronically via the Administrative Portal. The Order Form will identify the Services requested by Customer together with: (i) the price for each Service; (ii) scheduled Start Date; (iii) and products rented, licenced or sold to Customer, if any. An Order Form will become binding when it is executed by the Customer and accepted by RingCentral. RingCentral may accept an Order Form by commencing performance of the requested Services. The Services and invoicing for those Services will begin on the Start Date, as identified in the applicable Order Form or on the day Services are ordered via the Administrative Portal. Customer may purchase additional Services, software, and equipment via the Administrative Portal or by executing additional Order Forms. If Customer’s Home Country, as defined below, is any country other than Germany, please see additional country-specific terms which are applicable to the Services which are available at <https://www.ringcentral.com/de/de/legal/tos-country-specific-terms.html> and incorporated into this Agreement.
- B. Equipment.** Customer may purchase or rent equipment from RingCentral for use with the Services. The terms and conditions that govern any such transaction can be found at:
 - i. Purchase: <https://www.ringcentral.com/de/de/legal/hardware-tos.html>, and
 - ii. Rental: <https://www.ringcentral.co.uk/legal/lease-rental.html>.
- C. Term of this Agreement.** The Term of this Agreement will commence on the Effective Date and continue until the last Order Form is terminated or expires, unless terminated earlier in accordance with its terms.

- D. Services Term.** The Services Term will begin on the Start Date of the initial Order Form and continue for the initial term set forth in the initial Order Form (“**Initial Term**”). Upon expiration of the Initial Term, unless otherwise set forth in the Order Form, the term recurring Services provided on a recurring basis in the meaning of an ongoing contractual relationship (Dauerschuldverhältnis) will automatically renew for successive periods as set forth in the initial Order Form (each a “**Renewal Term**”) unless either Party gives notice of non-renewal at least thirty (30) days before the expiration of the Initial Term or the then-current Renewal Term. The term of any recurring Services provided on a recurring basis in the meaning of an ongoing contractual relationship (Dauerschuldverhältnis) added to your Account after the initial Order Form is executed will start on the Start Date in the applicable Order Form, will run coterminously with the then-current Term of any preexisting Services unless otherwise extended in the applicable Order Form, and will be invoiced on the same billing cycles as the preexisting Services.

3. Invoicing and Payment

- A. Prices and Charges.** All prices are identified in Euros on the Administrative Portal or in the applicable Order Form unless otherwise agreed by the Parties. Additional charges may result if Customer activates additional features, exceeds usage thresholds, or purchases additional Services or equipment. Customer will be liable for all charges resulting from use of the Services on its Account. Unless otherwise agreed between the Parties, recurring charges (such as charges for Digital Lines, product licences, minute bundles, and equipment rental fees) for the Services begin on the Start Date identified in the Administrative Portal or in the applicable Order Form and will remain in effect for the Initial Term (as described in an Order Form) or, if applicable, the then-current Renewal Term. RingCentral will provide notice of any proposed increase in such charges no later than sixty (60) days before the end of the Initial Term or then-current Renewal Term, if Customer does not object against the increase in such charges within thirty (30) days upon receipt of RingCentral’s notice of a proposed increase in such charges, Customer shall be deemed to have accepted the proposed increase, and any such increase will be effective on the first day of the next Renewal Term. RingCentral will inform Customer about the thirty (30) days period and the consequences of not objecting within this period under this Section 3A as part of any notice of a proposed increase in such charges. The right of each Party to give notice of non-renewal at least thirty (30) days before the expiration of the Initial Term or the then-current Renewal Term under Section 2.D (Services Term and Termination) remains unaffected.

Outbound calling rates will be applied based on the rate in effect at the time of use. Customer may locate the currently effective rates in the Administrative Portal.

- B. Invoicing and Payment.** Invoices will be issued in accordance with the payment terms set forth in the Order Form. If Customer chooses to pay by credit or debit card, by providing a valid credit or debit card, Customer is expressly authorising all Services and equipment charges and fees to be charged to such payment card, including recurring payments billed on a monthly or annual basis. In addition, Customer’s provided credit card shall be used for any in-month purchases of additional services and products, or where Customer has exceeded usage or threshold limits, any overage charges. Unless otherwise stated in the applicable Order Form, recurring charges are invoiced in advance in the frequency set forth in the Order Form, and usage-based and onetime charges are billed monthly in arrears. Unless otherwise stated at the time of purchase or on the Customer’s invoice, Customer shall make payment in full, without deduction or set-off, within thirty (30) days of the invoice date. The date for payment will be indicated on the Customer’s invoice. The term “payment” refers to the actual provision of funds. Any payment not made when due shall be subject to a late payment fee charged to the Customer’s next invoice and calculated according to the then current base interest rate set by the German Federal Bank increased by 9 percentage points per annum (“**The Late Payment Fee**”). Any late payment will also result, without appeal and without prejudice to any claim for damages, to a lump sum charge of EUR 40 per invoice pursuant to Section 288(5) of the German Civil Code. In no event may payment be subject to delays due to Customer internal purchase order process. No discount will be applied by RingCentral for payment within a period shorter than that mentioned herein. RingCentral’s acceptance of late or partial payments (regardless of how they are marked or designated (including without limitation as ‘Paid in Full’, ‘Accord and Satisfaction’, or similarly)) will not waive, limit, or prejudice in any way RingCentral’s rights to collect any amount due.
- C. Taxes.** All rates, fees, and charges are exclusive of applicable Taxes, for which Customer is solely responsible. Taxes may vary based on jurisdiction and the Services provided. If any withholding tax is levied on the payments, then Customer must increase the sums paid to RingCentral so that the amount received by RingCentral after the withholding tax is deducted is the full amount RingCentral would have received if no withholding or deduction had been made. If Customer is a tax-exempt entity, tax exemption will take effect upon provision to and validation by RingCentral of certificate of tax exemption.
- D. Billing Disputes.** If a Customer reasonably and in good faith disputes any portion of RingCentral’s invoice, it must provide written notice to RingCentral within thirty (30) days of the invoice date, identifying the reason for the dispute and the amount being disputed. Customer’s dispute as to any portion of the invoice will not excuse

Customer's obligation to timely pay the undisputed portion of the invoice. Upon resolution, Customer must pay any validly invoiced unpaid amounts within thirty (30) days. Any amounts that are found to be in error resulting in an overpayment by the Customer will be applied as a billing credit against future invoices. Customer will be reimbursed any outstanding billing credits at the expiration or termination of this Agreement.

4. Provision of the Service

- A. General Terms.** RingCentral will provide the Services as described in the relevant Service Attachment. RingCentral may enhance, replace, and/or change the features of the Services, but it will not materially reduce the core features, functions, or security of the Services during the Term without Customer's consent.
- B. Customer Care**
- i. Customer must provide Helpdesk Support to Customer's End Users. RingCentral may require Customer's Helpdesk Support personnel to complete a designated series of training courses on RingCentral's Services. Such training will be provided to Customer online in English at no cost.
 - ii. RingCentral will make remote support available to Customer's Helpdesk Support personnel and/or Account Administrators via the Customer Care call centre, which will be available 24/7, to attempt to resolve technical issues with, and answer questions regarding the use of the Services. Unless otherwise agreed by the parties, Customer Care support will be provided in English, and onsite and implementation services are not included in the Customer Care support.
 - iii. Customer may open a case with Customer Care following the process in place at the time. Any individual contacting Customer Care on behalf of Customer must be authorised to do so on behalf of the Account and will be required to follow applicable authentication protocols.
- C. Professional Services.** RingCentral offers a broad portfolio of professional services that includes onsite and remote implementation services; extended enterprise services including dedicated proactive network monitoring and premium technical support; and consulting. Any such services are governed by this Agreement, the Professional Services terms, and any applicable Statement of Work (SOW), which may be attached hereto.
- D. Subcontracting.** RingCentral may provide any of the Services hereunder through any of its Affiliates or subcontractors, provided that RingCentral will bear the same degree of responsibility for acts and omissions for those subcontractors acting on RingCentral's behalf in the performance of its obligations under this Agreement as it would bear if such acts and omissions were performed by RingCentral directly.

5. Use of the Service

- A. Service Requirements.** The Services are dependent upon Customer's maintenance of sufficient Internet access, networks and power as set forth in RingCentral's Technical Sufficiency Criteria, available at <https://www.ringcentral.com/de/de/legal/technical-sufficiency-criteria.html>. RingCentral will not be responsible for any deficiencies in the provision of the Services if Customer's network does not meet RingCentral's Technical Sufficiency Criteria.
- B. Use Policies.** Customer and its End Users may use the Services only in compliance with this Agreement, applicable Law, and the Use Policies referenced below, which are incorporated into and form part of this Agreement. Customer must ensure that its End Users comply with the Use Policies. Any breach of this Section (Use Policies) will be deemed a material breach of this Agreement. RingCentral may update the Use Policies from time to time and provided that such updates do not change the structure of the Use Policies in their entirety and will provide notice of material updates to Customer at the email address on file with the Account and will post non-material changes to the Use Policies on the websites listed below under Sections 5.B.i. to 5.B.iii. All material effective updates will become effective thirty (30) days after such notice to Customer, unless Customer objects to such material change in accordance with this Section 5.B. or, in case of non-material updates, thirty (30) days after posting for non-material changes. In the event that RingCentral notifies Customer of a modification to any Use Policy, in particular where such modification has a material adverse effect on Customer's use of the Services and is not required by Law, the Customer can object to a modification by sending written notice to RingCentral within thirty (30) days from the date such modification is notified. In that case, the Parties shall work in good faith to find a mutually agreeable solution. If after negotiating in good faith the Parties cannot reach agreement, then either Party may terminate the affected Services without penalty with a thirty (30) days written notice to the other Party. Any use of the Services after the effective date of such modification will be deemed Customer's acceptance of the change.

If Customer does not object against the material modification to any Use Policy within thirty (30) days from the date of such notice, Customer will be deemed to have accepted such modification.

RingCentral will inform Customer about the mechanism under this Section 5.B. as part of any notice of proposed material changes to the Use Policies.

- i. **Acceptable Use Policy.** The Services must be used in accordance with RingCentral's Acceptable Use Policy, available at <https://www.ringcentral.com/de/de/legal/acceptable-use-policy.html>. Notwithstanding anything to the contrary in this Agreement, RingCentral may act immediately and without notice to suspend or limit the Services if RingCentral reasonably suspects fraudulent or illegal activity in the Customer's Account, material breach of the Acceptable Use Policy, or use of the Services that could interfere with the functioning of the RingCentral Network provided such suspension or limitation may only be to the extent reasonably necessary to protect against the applicable condition, activity, or use. RingCentral will promptly remove the suspension or limitation as soon as the condition, activity or use is resolved and mitigated in full. If Customer anticipates legitimate but unusual activity on its Account, Customer should contact Customer Care in advance to avoid any Service disruption.
- ii. **Emergency Services.** RingCentral's policy governing the provision of emergency services accessed via the Services is available at <https://www.ringcentral.com/de/de/legal/emergency-services.html>.
- iii. **Numbering Policy.** The provision, use, and publication of numbers used in conjunction with the Services are governed by RingCentral's Numbering Policies, available at <https://www.ringcentral.com/de/de/legal/numbering-policy.html>.

6. Termination

- A. **Termination for Cause.** Either Party may terminate this Agreement and any Services purchased hereunder in whole or part by giving written notice to the other Party: (i) if the other Party breaches any material term of this Agreement and fails to cure such breach within thirty (30) days after receipt of such notice; (ii) at the written recommendation of a government or regulatory agency following a change in either applicable Law or the Services; or (iii) upon the commencement by or against the other Party of insolvency, receivership or bankruptcy proceedings or any other proceedings or an assignment for the benefit of creditors.
- B. **Effect of Termination.** If Customer terminates the Services, a portion of the Services, or this Agreement in its entirety due to RingCentral's material breach under Section 6(A) (Termination for Cause), Customer will not be liable for any fees or charges for terminated Services for any period subsequent to the effective date of such termination (except those arising from continued usage before the Services are disconnected), and RingCentral will provide Customer a pro-rata refund of any prepaid and unused fees or charges paid by Customer for terminated Services. If this Agreement or any Services are terminated for any reason other than as a result of a material breach by RingCentral or as otherwise permitted pursuant to Section 6(A) or as set forth in Section 14(I) (Regulatory and Legal Changes) the Customer must, to the extent permitted by applicable Law and without limiting any other right or remedy of RingCentral, pay within thirty (30) days of such termination all amounts that have accrued prior to such termination, as well as all sums remaining unpaid for the Services for the remainder of the then-current Term plus related Taxes and fees.

7. Intellectual Property

A. Limited Licence

- i. Subject to, and conditional upon Customer's compliance with, the terms of this Agreement, RingCentral grants to Customer and its End User, a limited, personal, revocable, non-exclusive, non-transferable (other than as permitted under this Agreement), non-sublicensable licence to use any software provided or made available by RingCentral to the Customer as part of the Services ("**Software**") to the extent reasonably required to use the Services as permitted by this Agreement, only for the duration that Customer is entitled to use the Services and subject to the Customer being current on its payment obligations.
- ii. Customer will not, and will not allow its End Users, to: (a) sublicense, resell, distribute or assign its right under the licence granted under this Agreement to any other person or entity; (b) modify, adapt or create derivative works of the Software or any associated documentation; (c) reverse engineer, decompile, decrypt, disassemble or otherwise attempt to derive the source code for the Software, Section 69e of the German Copyright Act (*Urheberrechtgesetz*) remains unaffected; (d) use the Software for infringement analysis, benchmarking, or for any purpose other than as necessary to use the Services Customer is authorised to use; (e) create any competing Software or Services; or (f) remove any copyright or other proprietary or confidential notices on any Software or Services.

B. IP Rights

- i. **RingCentral's Rights.** Except as expressly provided in this Agreement, the limited licence granted to Customer under Section 7(A) (Limited Licence) does not convey any ownership or other rights or licences,

express or implied, in the Services (including the Software), any related materials, or in any Intellectual Property and no IP Rights or other rights or licences are granted, transferred, or assigned to Customer, any End User, or any other party by implication, estoppel, or otherwise. All rights not expressly granted herein are reserved and retained by RingCentral and its licensors. The Software and Services may comprise or incorporate services, software, technology or products developed or provided by third parties, including open source software or code. Customer acknowledges that misuse of RingCentral Services may violate third-party IP rights.

- ii. **Customer Rights.** As between RingCentral and Customer, Customer retains title to all IP Rights that are owned by the Customer or its suppliers. To the extent reasonably required or desirable for the provision of the Services, Customer grants to RingCentral a limited, personal, non-exclusive, royalty-free, licence to use Customer's IP Rights in the same. Customer must provide (and is solely responsible for providing) all required notices and obtaining all licences, consents, authorizations or other approvals related to the use, reproduction, transmission, or receipt of any Customer Content that includes personal or Confidential Information or incorporates any third-party IP rights.

- C. **Use of Marks.** Neither Party may use or display the other Party's trademarks, service mark or logos in any manner without such Party's prior written consent.

8. Confidentiality

During the Term of this Agreement and for at least one (1) year thereafter, the Receiving Party shall hold the Disclosing Party's Confidential Information in confidence, shall use such Confidential Information only for the purpose of fulfilling its obligations under this Agreement, and shall use at least as great a standard of care in protecting the Confidential Information as it uses to protect its own Confidential Information. Each Party may disclose Confidential Information only to those of its employees, agents or subcontractors who have a need to it in order to perform or exercise such Party's rights or obligations under this Agreement and who are required to protect it against unauthorised disclosure in a manner no less protective than required under this Agreement. Each Party may disclose the other Party's Confidential Information in any legal proceeding or to a governmental entity as required by Law.

These restrictions on the use or disclosure of Confidential Information do not apply to any information (i) which is independently developed by the Receiving Party or lawfully received free of restriction from another source having the right to so furnish such information; (ii) after it has become generally available to the public without breach of this Agreement by the Receiving Party; (iii) which at the time of disclosure was already known to the Receiving Party, without restriction as evidenced by documentation in such Party's possession; (iv) or which the Disclosing Party confirms in writing is free of such restrictions.

Upon termination of this Agreement, the Receiving Party will promptly delete, destroy or, at the Disclosing Party's request, return to the Disclosing Party, all Disclosing Party's Confidential Information in its possession, including deleting or rendering unusable all electronic files and data that contain Confidential Information, and upon request will provide the Disclosing Party with certification of compliance with this subsection.

9. Data Protection

- A. **Data Privacy.** RingCentral respects Customer's privacy and will only use the information provided by Customer to RingCentral or collected in the provision of the Services in accordance with: [RingCentral's Data Processing Addendum](#) which is attached to this Agreement. RingCentral may update the Data Processing Addendum from time to time and will provide notice of any material updates to the Customer as required by applicable Laws at the email address on file with the Account. Such updates will be effective thirty (30) days after such notice to Customer.

- B. **Data Security.** RingCentral will take commercially reasonable precautions, including, without limitation, technical (e.g., firewalls and data encryption), organizational, administrative and physical measures, to help safeguard Customer's Account, Account Data, and Customer Content against unauthorised use, disclosure, or modification. Customer must protect all End Points using commercially reasonable security measures. Customer is solely responsible to keep all user identifications and passwords secure. Customer must monitor use of the Services for possible unlawful or fraudulent use. Customer must notify RingCentral immediately if Customer becomes aware or has reason to believe that the Services are being used fraudulently or without authorisation by any End User or third party. Failure to notify RingCentral may result in the suspension or termination of the Services and additional charges to Customer resulting from such use. RingCentral will not be liable for any charges resulting from unauthorised use of Customer's Account.

- C. **Software Changes.** RingCentral may from time to time push software updates and patches directly to Customer's device(s) for installation and Customer consents, and will cause its End Users to consent, to allow RingCentral to push software updates and patches and will not prevent, and will cause its End Users

not to prevent, RingCentral from doing so. Customer must implement promptly all fixes, updates, upgrades and replacements of software and third-party software that may be provided by RingCentral. RingCentral will not be liable for inoperability of the Services or any other Services failures due to failure of Customer to timely implement the required changes.

- D. Survival.** The limitations of liability contained in this Section 10 (Limitation of Liability) will survive termination or expiration of this Agreement and apply in any and all circumstances (except as expressly set forth above), including without limitation in the event of any failure of the essential purpose of any limited warranty or available remedy provided herein.

10. Limitations of Liability

A. Limitation of Liability for Slight Negligence

Subject to Section 10.B, neither Party will be liable for damages caused by slight negligence irrespective of its legal ground.

B. Liability for a Slight Negligent Breach of Essential Contractual Obligations

The Parties will be liable for a slight negligent breach of essential contractual obligations (*Kardinalpflichten*). Essential contractual obligations are contractual obligations imposed on a Party by the content and purpose of this Agreement the fulfilment of which facilitates the proper performance of this Agreement in the first place, and the fulfilment of which the other Party may and does usually rely on. The Parties' liability for the breach of essential contractual obligations will be limited to the typical damage which was foreseeable by the Parties when entering into this Agreement.

C. Agreed Liability Cap

The Parties agree that the typical damage foreseeable under Section 10.B will not exceed the amounts paid or payable under this agreement during the previous SIX (6) MONTHS.

D. Unlimited Liability

The limitations of liability in this Section 10 will not apply to (1) any fraudulent concealment of a defect; (2) a guarantee in terms of strict liability expressly assumed by a Party; (3) liability for the harm to life, body or health; (4) any statutory strict liability, in particular under the German Product Liability Act (*Produkthaftungsgesetz*); (5) either Party's liability for the infringement of the other Party's IP rights; (6) liability for gross negligence, (7) liability for intentional breach of contract; or (8) Customer's liability resulting from use of the Services in breach of the Acceptable Use Policy or Emergency Services Policy .

E. Exclusions

Neither Party nor its Affiliates will be liable for (1) indirect, incidental, consequential, exemplary, reputational, special or punitive damages of any kind; (2) costs of procurement, cover, or substitute goods or services; (3) loss of use, loss or corruption of data; or (4) loss of business opportunities, profits, goodwill, or savings. Neither Party will be liable for actions reasonably taken to comply with law. Nothing in this Section 10.E is intended to limit Sections 10.B and 10.D.

F. Duty to Mitigate Losses

Each Party will be obliged to take adequate measures to avoid and reduce losses.

11. Indemnification

A. Indemnification by RingCentral

- i. RingCentral shall indemnify and hold harmless the Customer and its Affiliates for Indemnifiable Amounts, and shall defend any third-party claims or causes of action (a "**Third Party Claim**") to the extent such Third Party Claim arises out of or alleges that:
 - a. The Services, as provided by RingCentral, infringe or misappropriate the patent, copyright, trademark, or trade secret rights of a third party.
- ii. RingCentral will have no indemnification obligations under subsection (i) above to the extent the Third Party Claim arises from: (a) use of the Services in combination with data, software, hardware, equipment, or technology not provided or authorised by RingCentral in writing unless any of the foregoing are necessary for the proper operation of the Services; (b) modifications to the Services not made by RingCentral; (c) Customer Content; (d) failure to promptly install any updates of any software or firmware or accept or use any modified or replacement items provided free of charge by or on behalf of RingCentral;

- (e) breach of the Agreement; or (f) a Third Party Claim brought by Customer's Affiliate, successor, or assignee.
- iii. If such a Third-Party Claim is made or appears possible, Customer agrees to permit RingCentral, at RingCentral's sole discretion and expense, to (a) modify or replace the Services, or component or part thereof, to make it non-infringing or (b) obtain the right for Customer to continue to use the Services. If RingCentral determines that neither alternative is commercially reasonable, RingCentral may terminate this Agreement in its entirety or with respect to the affected Service, component or part (a "**Discontinued Component**"), effective immediately on written notice to Customer, in which case Customer will not owe any fees or charges relating to the Discontinued Component for any period subsequent to the date of such termination, and will be entitled to receive a refund of any prepaid but unused fees relating to the Discontinued Component. In the event the removal of the Discontinued Component does not substantially affect Customer's use of the Services, the refund or fee abatement pursuant to the foregoing shall be a reasonable portion of the total fees owed by Customer for the Services as a whole based on the significance of the Discontinued Component to the total value of the Services as a whole. RingCentral's obligations under this Sub-Section will be RingCentral's sole and exclusive liability and Customer's sole and exclusive remedies with respect to any actual or alleged intellectual property violations. Nothing in this Section 11.A is intended to limit Sections 10.B and 10.D.
- B. Indemnification by Customer.** Customer shall indemnify, and hold harmless RingCentral and its Affiliates for Indemnifiable Amounts, and shall defend any Third Party Claims arising out of or in connection with: (i) material violation of applicable Law by the Customer, its Affiliates, or their respective End Users in connection with their use of the Services; (ii) use of the Services in breach of the Use Policies; (iii) failure to promptly install any updates of any software or firmware or accept or use modified or replacement items provided free of charge by or on behalf of RingCentral; or (iv) Customer Content.
- C. Defence and Indemnification Procedures.** Any Party seeking defence or indemnification under this Section 11 (the "**Indemnified Party**") shall provide the Party from which it seeks such indemnification or defence (the "**Indemnifying Party**") with the following: (a) prompt written notice of the Third-Party Claim, (b) sole control over the defence and settlement of the Third-Party Claim, and (c) reasonable information, cooperation, and assistance (at the Indemnifying Party's sole expense except for the value of the time of the Indemnified Party's personnel) in connection with the defence and settlement of the Third-Party Claim. The Indemnified Party's failure to comply with the foregoing obligations will not relieve the Indemnifying Party of its defence or indemnification obligations under this Section 11 (Indemnification) except to the extent that the Indemnifying Party is materially prejudiced by such failure. The Indemnified Party will have the right to participate (but not control), at its own expense, in the defence of such Third-Party Claim, including any related settlement negotiations. No such claim may be settled or compromised by the Indemnifying Party without the Indemnified Party's express written consent (not to be unreasonably withheld, conditioned, or delayed) unless such settlement or compromise includes a full and complete release of all claims and actions against the Indemnified Party by each party bringing such Third-Party Claim.

12. Warranties

- A. RingCentral Warranty.** RingCentral will provide the Services using a commercially reasonable level of skill and care, in material compliance with all applicable Laws and otherwise subject to the terms of this Agreement. However, RingCentral cannot warrant that the Services will be free of errors or will operate without interruption. To the extent permitted by law, RingCentral shall pass through to Customer any and all warranties RingCentral receives in connection with equipment provided to Customer by or on behalf of RingCentral.

If the Parties have agreed on specific service levels for the Services and on specific remedies for non-compliance with these service levels, the remedies set out in the committed service levels shall be Customer's sole remedy for any failure to meet committed service levels; Sections 10.B and 10.D as well as the right to terminate the Agreement for cause remain unaffected.

- B. Customer Warranty.** Customer's and its End Users' use of the Services must always comply with all applicable Laws and this Agreement.
- C. Disclaimer of Warranties.** **EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT RINGCENTRAL MAKES NO OTHER WARRANTIES OR GUARANTEES (*Garentien*), EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, QUIET ENJOYMENT, AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE IN TRADE, TOGETHER WITH SIMILAR WARRANTIES, WHETHER ARISING UNDER ANY LAW OR OTHERWISE. TO THE EXTENT THAT RINGCENTRAL CANNOT DISCLAIM ANY SUCH WARRANTY OR GUARANTEE AS A**

MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW.

Nothing in this Section 12 is intended to create strict liability by RingCentral, i.e. liability independent of default in the meaning of a guarantee (*Garantie*). Nothing in this Section 12 is intended to limit Sections 10.B and 10.D and the right to terminate the Agreement for cause.

13. Dispute Resolution

- A. Governing Law.** Any dispute arising out of or relating to this Agreement shall be governed and construed in accordance with the laws of the Federal Republic of Germany, excluding its conflict of law principles. In the event that the Parties are unable to resolve a Dispute, the District Court Munich I (Landgericht München I) shall have exclusive jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement or Customer's use of the products or Services.
- B. Good Faith Attempt to Settle Disputes.** In the event of a dispute, each Party shall appoint a duly authorised representative who shall use all reasonable endeavours to resolve in good faith any dispute within reasonable timescales.
- C. Interim Injunction for Urgency.** For the avoidance of doubt, each party is free to apply for interim injunctions for urgency (einstweilige Verfügung and / or Arrest) before any competent court and without the need to conduct the procedure under Section 13.A above.
- D. Statute of Limitation.** Except for (i) claims for nonpayment pursuant to Section 3 (Invoicing and Payment), (ii) liability arising from Section 11 (Indemnification) and/or (iii) claims specified in Sections 10(B) and/or 10(D), all claims arising out of or in connection with this Agreement shall be time-barred after two years upon commencement of the statutory limitation period.
- E. Equitable Relief.** Any breach or threatened breach by a Party of its obligation under Section 5 (Use of the Services), Section 7 (Intellectual Property), Section 8 (Confidentiality), or Section 9 (Data Protection) will cause the other Party irreparable harm for which monetary damages will be inadequate and such affected Party may, in addition to other remedies available at Law or in equity, obtain interim injunctive relief without the necessity of posting a bond or other security, proof of damages, or other similar requirement.

14. Miscellaneous

- A. Relationship of the Parties.** RingCentral and Customer are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between RingCentral and Customer.
- B. Assignment.** Neither Party may assign the Agreement or any portion thereof without the other Party's prior written consent (which such consent may not be unreasonably withheld or delayed), however either Party may assign the Agreement and all of that Party's rights and obligations thereunder without consent (a) to an Affiliate; (b) to the Party's successor or surviving entity in connection with a merger, acquisition, consolidation, sale of all or substantially all of its assets used in connection with the provision of Services under this Agreement; or (c) as part of the transfer or disposition of more than fifty percent (50%) of a Party's voting control or assets. This Agreement will bind and inure to the benefit of the Parties, and their permitted assigns and successors.
- C. Notices.** Except where otherwise expressly stated in the Agreement, all notices or other communications must be in English and are deemed to have been fully given when made in writing and delivered in person, upon delivered email, confirmed facsimile, or five days after deposit with a reputable overnight courier service, to RingCentral's address listed at the top of this Agreement, with a copy to legal@ringcentral.com and to Customer at either the physical address or email address associated with the Customer Account.

Customer acknowledges and agrees that all electronic notices have the full force and effect of paper notices. The addresses to which notices may be given by either Party may be changed (a) by RingCentral upon written notice given to Customer pursuant to this Section or (b) by Customer in the Administrative Portal.
- D. Force Majeure.** Excluding either Party's payment obligations under the Agreement, neither Party will be responsible or liable for any failure to perform or delay in performing to the extent resulting from any event or circumstance that is beyond that Party's reasonable control, including without limitation any act of God; national emergency; third-party telecommunications networks; riot; war; terrorism; governmental act or direction; change in Laws; fibre, cable, or wire cut; power outage or reduction; rebellion; revolution; insurrection; earthquake; storm; hurricane; flood, fire, or other natural disaster; strike or labour disturbance; or other cause, whether similar or dissimilar to the foregoing, not resulting from the actions or inactions of such Party.

- E. Third-Party Beneficiaries.** RingCentral and Customer agree that there will be no third-party beneficiaries to this Agreement.
- F. Headings, Interpretation.** The headings, section titles, and captions used in the Agreement are for convenience of reference only and will have no legal effect. All defined terms include related grammatical forms, and, whenever the context may require, the singular form of nouns and pronouns include the plural, and vice versa.
- G. Anti-Bribery.** Each Party represents that in the execution of this Agreement and in the performance of its obligations under this Agreement it has complied and will comply with all applicable anti-bribery Laws and regulations, including, without limitation, the U.S. Foreign Corrupt Practices Act, the UK Bribery Act, Sapin II law of December 9, 2016 and its implemented decree of April 25, 2017, and similar applicable Laws.
- H. Export Control.** Any services, products, software, and technical information (including, but not limited to, services and training) provided pursuant to the Agreement may be subject to U.S., U.K., or European export Laws and regulations. Customer will not use, distribute, transfer, or transmit the services, products, software, or technical information (even if incorporated into other products) except in compliance with U.S., U.K., European, and other applicable export regulations.
- I. Regulatory and Legal Changes.** In the event of any change in Law, regulation or industry change that would prohibit or otherwise materially interfere with RingCentral's ability to provide Services under this Agreement, RingCentral may terminate the affected Services or this Agreement or otherwise modify the terms thereof, the process for modifications of Use Policies set out in Section 5.B of this Agreement applies accordingly to any such modifications of the terms of this Agreement.
- J. Entire Agreement.** The Agreement, together with any exhibits, Order Forms, Use Policies, Data Processing Addendum, and Attachments, each of which is expressly incorporated into this Agreement by reference, constitutes the entire agreement between the Parties and supersedes and replaces any and all prior or contemporaneous understandings, proposals, representations, marketing materials, statements, or agreements, whether oral, written, or otherwise, regarding such subject.
- K. Interpretation Conflict.** In the event of a difference in interpretation between the English and German versions, the English text shall take precedence.
- L. Order of Precedence.** In the event of any conflict between the documents comprising this Agreement, precedence will be given to the documents in the following descending order: (i) the applicable Order Form; (ii) the applicable Attachment; (iii) the main body of this Agreement; (iv) Use Policies and Data Processing Addendum incorporated by reference in this Agreement; and (v) any other document expressly referred to in this Agreement which governs the Services. With respect to data processing, the Data Processing Addendum shall take precedence over any inconsistent terms in any of the documents listed in the previous sentence.
- M. Amendments.** Except as otherwise provided, this Agreement may only be modified by a written amendment executed by authorized representatives of both Parties. In no event will handwritten changes to any terms or conditions, including in the applicable Order Form, be effective.
- N. Severability and Waiver.** In the event any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, such provision(s) will be stricken and the remainder of this Agreement will remain legal, valid and binding. The failure by either Party to exercise or enforce any right conferred by this Agreement will not be deemed to be a waiver of any such right or to operate so as to bar the exercise or enforcement of any such or other right on any later occasion. Except as otherwise expressly stated in this Agreement, all rights and remedies stated in the Agreement are cumulative and in addition to any other rights and remedies available under the Agreement, at Law, or in equity.
- O. Publicity.** Subject to Customer's prior written approval, which may not be unreasonably withheld or denied, in each instance, and notwithstanding anything to the contrary in this Agreement, RingCentral may identify Customer as a customer (including use of any Customer logo or trademark) and may refer to this Agreement during its earnings calls and in connection with its business deals, press releases, and marketing and/or promotional materials.
- P. Execution.** Each Party represents and warrants that: (a) it possesses the legal right and capacity to enter into the Agreement and to perform all of its obligations thereunder; (b) the individual signing the Agreement and (each executable part thereof) on that Party's behalf has full power and authority to execute and deliver the same; and (c) the Agreement will be a binding obligation of that Party. Each Party agrees that an Electronic Signature, whether digital or encrypted, is intended to authenticate this Agreement and to have the same force and effect as manual signatures.

- Q. Counterparts.** This Agreement may be executed electronically and in separate counterparts each of which when taken together will constitute one in the same original.
- R. Survival.** The rights and obligations of either Party that by their nature would continue beyond the expiration or termination of this Agreement or an Order Form will survive expiration or termination of this Agreement or the Order Form, including without limitation payment obligations, warranty disclaimers, indemnities, limitations of liability, definitions and miscellaneous.

15. Authority

Avaya represents that is has the authority as RingCentral's agent to bind RingCentral to this Agreement (including each Order Form and all other documents incorporated here).

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EXHIBIT A DEFINITIONS

Definitions. Capitalised terms used in this Agreement but otherwise not defined have the following meaning:

1. **“Account”** means the numbered account established with RingCentral and associated with Customer and the Services provided to Customer under this Agreement. For billing and convenience purposes, multiple services, Digital Lines, or End Users may be included in a single billing account, and/or a single Customer may have multiple billing accounts encompassing different geographic locations, business units, or other designations as requested by Customer and accepted by RingCentral.
2. **“Account Administrator”** means the person(s) who have been granted authority by Customer to set up, amend, or otherwise control settings and/or make additional purchases for the Account via the Administrative Portal. Account Administrators may have varying levels of Account rights, skills, or permissions.
3. **“Account Data”** means: any business contact information provided with the Account; RingCentral-generated logs of calling or other metadata developed or collected in the provision of the Services; configuration data; and records of Digital Lines and any Services purchased under this Agreement.
4. **“Administrative Portal”** means the online administrative portal through which Account Administrators control settings and/or make additional purchases for the Account.
5. **“Affiliate(s)”** means a person or entity that is controlled by a Party hereto, controls a Party hereto, or is under common control with a Party hereto, and “control” means beneficial ownership of greater than fifty percent (50%) of an entity’s then-outstanding voting securities or ownership interests.
6. **“Attachment(s)”** means documents appended to the contract containing additional terms for products and Services. Attachments and the terms and conditions contained therein are part of this Agreement.
7. **“Confidential Information”** means any information disclosed (by or on behalf of the Disclosing Party) to the Receiving Party that should reasonably be considered as confidential given the nature of the information and the circumstances surrounding its disclosure.
8. **“Customer Care”** means Customer support operations delivered by RingCentral and/or its subcontractors.
9. **“Customer Content”** means the content of calls, facsimiles, SMS messages, voicemails, voice recordings, shared files, conferences or other communications transmitted or stored through the Services.
10. **“Digital Line”** means a phone number assigned to an End User or a specifically designated location (e.g., conference room) and the associated voice service for inbound and outbound calling that permits an End User generally to make and receive calls to and from the public switched telephone network as well as to and from other extensions within the same Account.
11. **“Disclosing Party”** means the Party disclosing Confidential Information or on whose behalf Confidential Information is disclosed by such Party’s agents, including but not limited to, its Affiliates, officers, directors, employees and attorneys.
12. **“Electronic Signatures”** means an electronic sound, symbol, or process, including clicking a digital button to accept, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.
13. **“Electronic Signatures”** means an electronic sound, symbol, or process, including clicking a digital button to accept, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.
14. **“End Point”** means an application or device through which any End-User might access and/or use any of the Services, including without limitation IP Desk Phones, Desktop Clients, Web Clients, Mobile Applications, and Software Integrations.
15. **“End User”** means an individual user to whom Customer makes the Services available, and may be a natural person, and may include but is not limited to Customer’s employees, consultants, clients, external users, invitees, contractors and agents.
16. **“Helpdesk Support”** shall mean the performance of the following tasks:
 - Standard feature/functionality (“how to”) support for End Users (i.e. call forwarding, voice mail set-up, etc.).
 - Standard management of the Admin Interface within the product; and

- Support all moves, adds, changes and deletes of employees.
17. **“Home Country”** means Germany or the country that is otherwise designated as the Customer’s primary or home country in the Order Form for the Services.
 18. **“Indemnifiable Amounts”** means all (X) damages and other amounts awarded against the Indemnified Party by a court of competent jurisdiction pursuant to a final judgment or a final award of an arbitral body in connection with such Third-Party Claim; (Y) any amounts payable by the Indemnified Party or its Affiliates pursuant to a binding, written agreement settling the Third Party Claim, provided such agreement is approved in advance in writing by the Indemnifying Party; and (Z) all reasonable costs and expenses paid to third parties by the Indemnified Party or its Affiliates in connection with the Indemnified Party’s or its Affiliates’ attorneys’ fees and related expenses.
 19. **“Indemnifying Party”** and **“Indemnified Party”** have the meanings set forth in Section 11(C) (Defence and Indemnification Procedures).
 20. **“Initial Term”** has the meaning set forth in Section 2(D) (Services Term).
 21. **“Intellectual Property Rights”** or **“IP Rights”** means all common law and statutory rights (whether registered or unregistered, or recorded or unrecorded, regardless of method) arising out of or associated with: (a) patents and patent applications, inventions, industrial designs, discoveries, business methods, and processes; (b) copyrights and copyright registrations, and “moral” rights; (c) the protection of trade and industrial secrets and Confidential Information; (d) other proprietary rights relating to intangible property; (e) trademarks, trade names and service marks; (f) a person’s name, likeness, voice, photograph or signature, including without limitation rights of personality, privacy, and publicity; (g) analogous rights to those set forth above; and (h) divisions, continuations, continuations-in-part, renewals, reissuances and extensions of the foregoing (as applicable).
 22. **“Law”** means any applicable law, statute, regulation, rule, ordinance, administrative guidance, treaty or convention, or court or administrative order or ruling of any governing Federal, State, Provincial, local, or non-local governmental body with jurisdiction over the Services.
 23. **“Order Form(s)”** means a request for Service describing the type and quantity of Services required by Customer and submitted and accepted by the Parties in accordance with Section 2(A) (Ordering Services). The Order Form may be presented and executed via the Administrative Portal.
 24. **“Receiving Party”** means the Party or its agents, including, but not limited to its Affiliates, officers, directors, employees and attorneys receiving Confidential Information.
 25. **“Renewal Term”** has the meaning set forth in Section 2(D) (Services Term).
 26. **“RingCentral Network”** means the network and supporting facilities between and among the RingCentral points of presence (**“PoP(s)”**), up to and including the interconnection point between the RingCentral’s network and facilities, and the public Internet, and the Public Switched Telephone Network (PSTN). The RingCentral Network does not include the public Internet, a Customer’s own private network, or the PSTN.
 27. **“Service(s)”** means all services provided under this Agreement and set forth in one or more Order Form(s).
 28. **“Start Date”** means the date so identified in the relevant Order Form or the date on which Customer orders Services via the Administrative Portal.
 29. **“Taxes”** means present or future taxes, levies, imposts, duties, deductions, charges, fees or withholdings in each case of a fiscal nature imposed, levied, withheld or assessed by any governmental authority (including, without limitation, value added, sales or turnover taxes), together with any interest, surcharges or penalties imposed thereon or with respect thereto.
 30. **“Term”** means the Initial Term plus any Renewal Terms.
 31. **“Third Party Claim”** has the meaning set forth in Section 11(A) (Indemnification by RingCentral).
- “Use Policy”** refers to any of the policies identified in Section 5(B) (Use Policies).