

**ZOOM VIDEO COMMUNICATIONS  
MASTER SUBSCRIPTION AGREEMENT**

This Master Subscription Agreement (this "**Agreement**") is effective July 1, 2019 ("**Effective Date**") between County of Monterey, a political subdivision of the State of California ("**Customer**"), and Zoom Video Communications, Inc. and its Affiliates ("**Zoom**") for Customer's use of the Services (defined below) to which Customer has subscribed as specified in one or more Zoom order form(s) ("**Order Form**"). Additional terms may also be set forth in the Order Forms or on Exhibits to this Agreement. In the event of a conflict between the Agreement and an Order Form, the conflicting term(s) in the Order Form will not be considered an amendment to the Agreement but the conflicting term(s) in the Order Form will only apply to that individual order.

1. **Definitions.** The following definitions will apply in this Agreement and the Order Forms, and any reference to the singular includes a reference to the plural and vice versa. Service specific definitions are found on Exhibit A.

**"Affiliate"** means, with respect to a Party, any entity that directly or indirectly controls, is controlled by or is under common control with that Party. For purposes of this Agreement, "control" means an economic or voting interest of at least fifty percent (50%) or, in the absence of such economic or voting interest, the power to direct or cause the direction of the management and set the policies of such entity.

**"Agreement"** means this Master Subscription Agreement, together with all Exhibits and all Order Forms entered into pursuant to this Master Subscription Agreement, each of which is incorporated herein by reference.

**"Charges"** is defined in Section 5.

**"Claim"** is defined in Section 15.1.

**"Confidential Information"** is defined in Section 8.

**"Customer Content"** is defined in Section 4.2.

**"Customer Data"** is defined in Section 4.1.

**"Downtime"** means the Services were not available to the Internet due to causes within the reasonable control of Zoom other than scheduled maintenance performed between the hours of 11 pm and 3 am PT. Downtime does NOT include any inability of Customer to access the Services caused by third parties outside of the control of Zoom (such as internet service providers, network service providers or telecommunications service providers) or caused by Customer hardware, software, systems or networks.

**"End User"** means a Host or Participant (as defined in Exhibit A) who uses the Services.

**"Initial Subscription Term"** means the initial subscription term for a Service as specified in an Order Form.

**"Laws"** means all U.S. or non-U.S. national, regional, state, provincial or local laws, statutes, rules, regulations, ordinances, administrative rulings, judgments, decrees, orders, directives, policies, or treaties applicable to Zoom's provision and Customer's use of the Services.

**"Order Form"** is defined in the Preamble.

**"Service Effective Date"** means the date that an Initial Subscription Term begins as specified in an Order Form.

**"Renewal Term"** means the renewal subscription term for a Service commencing after the Initial Subscription Term or another Renewal Term as specified in an Order Form.

**"Services"** means the Zoom Meeting Services and/or Zoom Phone Services described in Exhibit A to which Customer has subscribed as specified in one or more Zoom Order Form(s).

**"Taxes and Fees"** and **"Taxes or Fees"** means all applicable sales, use, value-added or regulatory taxes, fees, duties, charges, surcharges or assessments levied on the provision of Services to Customer (exclusive of any income tax imposed on Zoom).

2. **Access, Use, Customer Responsibility.**

2.1 **Right to Use.** Zoom hereby grants to Customer a non-exclusive, non-transferable right for Customer to use the Services, subject to the terms and conditions of this Agreement for the Initial Subscription Term and any Renewal Term as specified in the Order Form. Zoom reserves the right to enhance or modify features of the Services but will not materially reduce the core functionality or discontinue any Services without providing prior written notice to Customer. Customer will receive standard updates to the Zoom Services that are made generally available by Zoom during the term specified in the Order Form. However, Zoom reserves the right to offer additional functionality or premium feature improvements for an additional cost. All rights not expressly granted herein are reserved by Zoom and its licensors.

2.2 **Beta Versions.** Zoom or its Affiliates may, from time to time, offer access to services that are classified as Beta version (*i.e.*, a version that is not generally available). Access to and use of Beta versions may be subject to additional agreements. Zoom makes no representations that a Beta version will ever be made generally available and reserves the right to discontinue or modify a Beta version at any time without notice. Beta versions are provided AS IS, may contain bugs, errors or other defects, and Customer's use of a Beta version is at the sole risk of the Customer.

2.3 **Customer Use and Responsibility.** Customer may only use the Services pursuant to the terms of this Agreement and all use must conform to Zoom's Privacy Policy, Acceptable Use Policy, and to the use limits imposed by the purchased plan level. Customer is solely responsible for its and its End Users use of the Services and shall abide by, and ensure compliance with, all Laws in connection with its and each End User's use of the Services, including but not limited to Laws related to recording, intellectual property, privacy and export control/economic sanctions.

2.4 **Prohibited Use; Notification of Unauthorized Use.** Customer shall not use, and shall not permit any End User to use, the Services to: (a) modify, disassemble, decompile, prepare derivative works of, reverse engineer or otherwise attempt to gain access to the source code of the Services; (b) knowingly or negligently use the Services in a way that abuses, interferes with, or disrupts Zoom's networks, Customer accounts, or the Services; (c) engage in activity that is illegal, fraudulent, false, or misleading, (d) transmit through the Services any material that may infringe the intellectual property or other rights of third parties; (e) build or benchmark a competitive product or service, or copy any features, functions or graphics of the Services; or (f) use the Services in violation of Zoom's Acceptable Use Policy or any other policy referenced herein, or any applicable Law. Customer shall notify Zoom immediately if it becomes aware of any unauthorized use of any password or account or any other known or suspected breach of security or misuse of the Services. If Customer becomes aware of any violation of this Agreement in connection with use of the Services by any person, Customer may contact Zoom at [violation@zoom.us](mailto:violation@zoom.us). Zoom will investigate any complaints of violations that come to its attention and may take any action that it believes is appropriate, in its sole discretion, including, but not limited to, issuing warnings, removing content, suspending services, or terminating accounts and/or End User profiles.

3. **Professional Use; No Commercial Transfer.** Customer may subscribe to and use the Services for business purposes, and Customer agrees, if Customer is an individual, that the Services are being purchased in a business or professional capacity. Customer may not sublicense, sell, resell, transfer, assign, distribute, use on a timeshare or service bureau basis, or charge fees to other parties for use of the Services.

4. **Customer Data and Content; Responsibility for Use.**

4.1 **Customer Data.** Customer Data is information provided to Zoom so that Zoom can fulfill the terms of the Agreement and provide access to the Services (*e.g.*, Company name, billing address, contact name and information). Customer is solely responsible for the accuracy of Customer Data, and Zoom has no liability whatsoever for errors and omissions in Customer Data. Subject to Section 8 herein, Zoom will not exchange Customer Data with any other person or entity.

4.2 **Customer Content.** Customer Content is any data or content originated by Customer, or an End User, and stored or transmitted using the Services. Customer Content includes files, documents, recordings, chat logs, meeting subject and attendees, transcripts, and any other information Customer or End Users may upload into the Services in connection with the use of the Services. Zoom collects and processes Customer Content only at the direction of Customer and for no other purposes than the provision of Services hereunder. As between Customer and Zoom, Customer shall retain ownership of all Customer Content. For the avoidance of doubt, in no event shall Zoom be a Data Controller, as defined in the GDPR, or the substantial equivalent of a Data Controller under any Law. For purposes of Section 9 below, Customer Content is not "disclosed" to Zoom.

- 4.3 Customer Responsibility for Customer Content.** As between Zoom and Customer, Customer is solely responsible for the use of the Customer Content and compliance with all Laws pertaining to the Customer Content, including, but not limited to, Laws requiring Customer to obtain the consent of a third party to use the Customer Content and to provide appropriate notices of third-party rights. Customer grants to Zoom a limited right to modify, reproduce and distribute the Customer Content, solely in connection with providing the Services. Customer represents and warrants that it has the right to upload the Customer Content to Zoom and that such use does not violate or infringe on any rights of any third party. Under no circumstances will Zoom be liable in any way for any (a) Customer Content that is transmitted or viewed while using the Services, (b) errors or omissions in Customer Content, or (c) any loss or damage of any kind incurred as a result of the use of, access to, or denial of access to Customer Content.
- 4.4 Zoom Obligations for Customer Content.** Zoom will maintain reasonable physical and technical safeguards to prevent unauthorized disclosure of or access to Customer Content, in accordance with industry standards. Zoom will notify Customer if it becomes aware of unauthorized access to Customer Content. Zoom will not access, view or process Customer Content except (a) as provided for in this Agreement and in Zoom's Privacy Policy; (b) as authorized or instructed by Customer, (c) as required to perform its obligations under this Agreement; or (d) as required by Law. Zoom has no other obligations with respect to Customer Content.
- 4.5 Data Processing Agreements and Similar Agreements.** Upon request, Zoom will prepare and execute a data processing agreement or addendum to this Agreement further delineating the Parties' responsibilities with respect to information that reasonably identifies a specific individual.
- 5. Prices and Fulfillment.** For each Service subscription that Zoom provisions to Customer, Zoom will bill Customer certain non-recurring and recurring charges at prices set forth in the applicable Order Form. The prices specified in the Order Form include all Zoom charges for the right to use the Services and are exclusive of all Taxes and Fees. Prices include standard support (see [Zoom Help Center](#)) and generally available updates to the Services. Separate charges for overage amounts and per-use charges may also apply, which charges will be described in the Order Form, and Customer agrees to pay these charges if Customer incurs them. Prices for professional services, if any, will be set forth in a professional services Order Form. All such Zoom charges are referred to as "**Charges**".
- 5.1 Price Changes.** Zoom may change prices for the Services from time to time, in its sole discretion. Any price changes will be effective upon the commencement of Customer's next Renewal Term; provided, that Zoom shall provide Customer with reasonable notice of any such fee increase prior to the expiration of the Term or any Renewal Term. Prices for Services may also change if Customer chooses to increase or decrease the number of subscriptions or add Services. Price changes will be effective at the time Customer makes such changes to Customer's account.
- 5.2 Discounts and Promotional Pricing.** Prices specified in the Order Form may include discounts or promotional pricing. These discounts or promotional pricing amounts may be temporary and may expire upon the commencement of a Renewal Term, without additional notice. Zoom reserves the right to discontinue or modify any promotion, sale or special offer at its sole and reasonable discretion.
- 6. Invoices and Payments.** Unless specified otherwise in an Order Form, Customer shall pay all invoices within thirty (30) days receipt of such invoice. Invoices may be emailed to the address specified by the Customer. Except as explicitly provided in this Agreement, all payment obligations are non-cancelable and all amounts paid are non-refundable. Zoom shall invoice Customer for all non-recurring Charges, overage and per-use Charges, and associated Taxes and Fees, on the invoice following the provision of Service giving rise to such Charges; and, shall invoice Customer for all recurring Charges and associated Taxes and Fees on the invoice preceding the period in which Services will be provided.
- 6.1 Purchase Order Numbers.** If a Purchase Order Number is required for processing an invoice, Customer will provide such Purchase Order Number with the applicable Order Form. If issuance of a Purchase Order is delayed, Customer will provide a Purchase Order Number within 5 days of the Service Effective Date via email to [billings@zoom.us](mailto:billings@zoom.us). Notwithstanding the foregoing, the thirty (30) day period for payment shall commence as of the applicable invoice date. Such payment period shall not restart based on any delays in issuing a Purchase Order or any other Customer required procurement process.
- 6.2 VAT Invoices.** If required by Law, Zoom will issue a VAT invoice to Customer.
- 6.3 Withholding.** To the extent that any amounts payable by Customer are subject to withholding Taxes and Fees, the amount payable shall be grossed up by Customer when customer remits payment such that the amount paid net of withholding Taxes and Fees equals the amount invoiced by Zoom.

- 6.4 **Tax Exemptions.** In the event Customer is exempt from any Tax or Fee, Customer will provide Zoom with all appropriate resale certificates, VAT registration numbers, and/or other documentation satisfactory to the applicable taxing authorities to substantiate such exemption status.
- 6.5 **Billing and Contract Information; Billing Disputes.** Customer represents and warrants that the Customer Data provided to Zoom is complete and accurate. If Customer believes an invoice is incorrect, Customer must contact Zoom in writing within thirty (30) days of the date of the invoice, and identify the amount in question, to be eligible to receive an adjustment or credit, which adjustment or credit, if any, shall be determined by Zoom in Zoom's reasonable discretion after reviews all relevant information.
7. **Zoom Proprietary Rights.** Zoom or its licensors own and shall retain all proprietary rights, including all copyright, patent, trade secret, trademark, trade name and all other intellectual property rights, in and to the Services. Zoom shall retain ownership of any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer or any other party relating to the Services. The Services are protected by copyright laws and international copyright treaties, as well as other U.S. federal, state and international intellectual property laws and treaties. Customer acknowledges that the rights granted under this Agreement do not provide Customer with title to or ownership of the Services, but only a right to use under the terms and conditions of this Agreement.
8. **Confidentiality.** Each party agrees to regard and preserve as confidential all non-public information provided by the other party relating to the business, systems, operations, strategic plans, clients, pricing (including, but not limited to, the pricing terms herein), methods, processes, financial data, programs, and/or products of the other party in any form, that are designated as "confidential," or a reasonable person knows or reasonably should understand to be confidential (herein "**Confidential Information**"). For purposes of this Agreement, Customer's Confidential Information shall include Customer Data, and any information disclosed to Zoom by the Customer relating to the business, systems, operations, strategic plans, clients, pricing, methods, processes, financial data, programs, and/or products of the Customer. Each party agrees to limit its disclosure of the other party's Confidential Information to as few persons as possible and only to those persons with a need to know that are its or its Affiliates' personnel and subject to an obligation to keep such information confidential. Except as needed to fulfill their respective obligations under this Agreement, neither party shall, without first obtaining the other party's prior written consent, disclose to any person, firm or enterprise, except as expressly permitted herein, or use for its own benefit, or the benefit of a third party, the Confidential Information of the other party.
- 8.1 **Exclusions.** "**Confidential Information**" shall not include Customer Content or information that (a) is already rightfully known to a party at the time it is obtained from the other party, free from any obligation to keep such information confidential; (b) is or becomes publicly known or available through no wrongful act of a party; (c) is rightfully received from a third party without restriction and without breach of this Agreement; or (d) is developed by a party without the use of any proprietary, non-public information provided by the other party under this Agreement.
- 8.2 **Exception.** Either party may disclose Confidential Information where required by law, regulation, or court order, provided that the party subject to such law, regulation or court order shall, where permitted, notify the other party of any such use or requirement prior to disclosure in order to afford such other party an opportunity to seek a protective order to prevent or limit disclosure of the information to third parties.
- 8.3 **Confidentiality Period and Obligations.** The confidentiality obligations set forth in this section of the Agreement shall remain in effect for a period of five (5) years from the disclosure of the information. Both parties agree (a) to take reasonable steps to protect the other party's Confidential Information, and these steps must be at least as protective as those the receiving party takes to protect its own Confidential Information, and no less than a reasonable standard of care; (b) to notify the disclosing party promptly upon discovery of any unauthorized use or disclosure of Confidential Information; and (c) in the event of any unauthorized disclosure by a receiving party, to cooperate with the disclosing party to help regain control of the Confidential Information and prevent further unauthorized use or disclosure of it.
9. **Term and Termination; Suspension.** Each Order Form will specify a Service Effective Date, an Initial Subscription Term, and a Renewal Term for the Services subscribed to in that Order Form.
- 9.1 **Term and Renewal; Early Termination.** Unless specified otherwise in the Order Form, a Renewal Term will commence automatically upon conclusion of the Initial Subscription Term or prior Renewal Term unless either party sends written notice of termination at least thirty (30) days prior to the commencement of the next Renewal Term.
- 9.2 **Termination by Either Party.** A Party may terminate this Agreement by: (a) providing written notice of termination without cause to the other party, provided that all subscription terms for all outstanding Order Forms have expired or been terminated, or (b) providing written notice of termination for cause if the other party has

materially breached the Agreement and has not cured such breach within thirty (30) days of written notice of such breach.

**9.3 Termination or Suspension by Zoom.** In the event Zoom reasonably believes that Customer or any End User is in material breach of Sections 2 or 8, Zoom may immediately suspend or disconnect access to Customer's or such End User's use of the relevant Services, prior to termination for cause as provided above and until such breach is cured. Zoom may also suspend Customer's and/or an End User's use of or access to any Service if it reasonably believes that such suspension is necessary to prevent imminent harm to Zoom, Zoom's network, any End User, or any third party communicating with an End User. Zoom may immediately terminate access if it reasonably believes Customer is in breach of Section 2.4. Any such suspension, disconnection, or termination shall be without liability to Zoom, and Customer will remain responsible for all recurring Charges incurred during the period of suspension or disconnection.

**9.4 Termination by Zoom Due to Change in Law.** In the event of any change in Law that has the effect of materially increasing Zoom's costs to provide Service hereunder or effectively cancels, changes or supersedes any material term or provision of this Agreement (collectively "**Change in Law**") either party may, on thirty (30) days' prior written notice to the other require that they enter into good faith negotiations to revise the Agreement to appropriately address the Change in Law. If the Parties are unable to agree on such revisions within thirty (30) days from the date of notice, Zoom may terminate this Agreement with immediate effect.

**10. Responsibilities upon Termination.**

**10.1 Cessation of Use.** Upon any termination of this Agreement, Customer shall immediately cease any further use of the Services.

**10.2 Return of Customer Data.** For thirty (30) days following expiration or termination of the Agreement, Zoom will provide Customer access to retrieve Customer Content, after which time Customer Content will be deleted according to regularly scheduled deletion protocols.

**11. Service Level Agreement.** Zoom shall make commercially reasonable efforts to ensure that Downtime does not exceed 0.1% in a month. In the event of any Downtime of the Services in excess of 0.1% in a month, Zoom shall provide Customer a credit in an amount equal to the Downtime percentage times Customer's monthly subscription amount for the Service. Customer shall provide Zoom with prompt written notice of any Downtime. If Zoom fails to correct any Downtime situation within fifteen (15) business days after receipt of such notice, Customer may terminate this Agreement.

**12. Zoom Marketplace.** The Zoom Marketplace is a site where third party developers may make available applications that are interoperable with the Services and is further defined in Exhibit A.

**13. Managed Domains.** The Managed Domains functionality is made available to certain Customers and is subject to the terms as further defined in Exhibit A.

**14. Warranties.**

**14.1 Limited Warranty.** Zoom warrants to Customer that the Services will, in all material respects, conform to the functionality described in the Zoom Documentation. Zoom's sole and exclusive obligation, and Customer's sole and exclusive remedy for a breach of this warranty shall be that Zoom shall use commercially reasonable efforts to modify the Services to conform in all material respects to the Zoom documentation, and if Zoom is unable to materially restore such functionality within thirty (30) days from receipt of written notice of said breach, Customer shall be entitled to terminate the Agreement upon written notice and shall be entitled to receive a pro-rata refund of the unused Charges that have been paid in advance (if any) under this Agreement. This warranty shall be in effect for the first thirty (30) days ("**Warranty Period**") from the date the applicable Services are first provided to the Customer. In the event of any material non-conformance reported after the Warranty Period, Zoom's sole and exclusive obligation and Customer's sole and exclusive remedy shall be to secure assistance through Zoom's technical support services.

**14.2 Warranty Disclaimer.** EXCEPT AS EXPLICITLY PROVIDED IN SECTION 14.1, ZOOM AND ITS LICENSORS EXPRESSLY DISCLAIM ANY AND ALL OTHER REPRESENTATIONS AND WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE WITH RESPECT THERETO, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR THE CONTINUOUS, UNINTERRUPTED, ERROR-FREE, VIRUS-FREE, OR SECURE ACCESS TO OR OPERATION OF THE SERVICES AND/OR ZOOM SERVICES. ZOOM EXPRESSLY DISCLAIMS ANY WARRANTY AS TO THE ACCURACY OR

COMPLETENESS OF ANY INFORMATION OR DATA ACCESSED OR USED IN CONNECTION WITH THE SERVICES. TO THE EXTENT ZOOM CANNOT DISCLAIM ANY SUCH WARRANTY AS A MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WARRANTY SHALL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW.

**15. Insurance and Indemnification.**

**15.1 Insurance Requirements**

At all times during the Term, Zoom shall procure and maintain comprehensive general liability insurance covering itself, its employees, directors and officers, in the minimum amounts of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) annual aggregate of all claims. Zoom shall maintain worker's compensation coverage in amounts no less than statutory limits. In addition to providing the Certificate of Insurance, Zoom shall provide endorsements to the automobile insurance and general liability naming the County of Monterey, its officers, agents and employees as Additional Insureds and stating Zoom's insurance is primary and that the Additional Insureds insurance shall not be called upon to contribute to a loss covered by Zoom's insurance. Prior to the full execution of this Master Subscription Agreement, Zoom shall provide Customer with the required certificate of insurance and endorsement documents.

**15.2 Indemnification by Zoom.** Provided that Customer complies with the terms of Section 15.3 below, Zoom agrees to indemnify, defend and hold harmless Customer from any third party suits, claims or demands and associated liabilities, costs, damages and expenses (including, but not limited to, attorneys' fees, expert fees and court costs) (collectively, "**Claims**") that Customer may sustain or incur arising from infringement by the Services of any copyright, trademark or trade secret of a third party, or any U.S. patent. This indemnity will not apply to any Claim that the infringement arose from the combination of the Services with software, hardware, content, data or other items not supplied by Zoom. In the event that the licensed Services are, or in Zoom's sole opinion are likely to be, enjoined due to the type of infringement described in this Section 15, Zoom, at its option and expense, may (a) replace the applicable Services with functionally equivalent non-infringing technology or (b) obtain a license for Customer's continued use of the applicable Services, or, if the foregoing alternatives are not reasonably available to Zoom (c) terminate this Agreement and refund any sums prepaid for Services not provided as a result of such termination.

**15.3 Indemnification by Customer.** Provided that Zoom complies with the terms of Section 15.3 below, Customer agrees to indemnify, defend and hold harmless Zoom and its Affiliates and their respective officers, directors, members, employees, consultants, agents, suppliers and resellers from any Claims arising from (a) Customer's or Customer's End Users' use of the Services in violation of this Agreement; (b) any infringement or violation by Customer or any End User of any intellectual property or other right of any person; and (c) Customer's or any End User's violation of any Law.

**15.4 Indemnification Procedures.** In claiming any indemnification under this Section 15, the indemnified party shall promptly provide the indemnifying party with notice of any claim that the indemnified party believes is within the scope of the obligation to indemnify. The indemnified party may, at its own expense, assist in the defense if it so chooses, but the indemnifying party shall control the defense and all negotiations relative to the settlement of any such claim. Any settlement intended to bind the indemnified party shall not be final without the indemnified party's written consent, which consent shall not be unreasonably withheld or delayed.

**16. Limitation on Liability.**

**16.1 EXCLUSIONS.** ZOOM SHALL NOT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR (a) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; (b) ANY UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF THE WEB SITE, ANY CONTENT, CUSTOMER DATA, SYSTEM DATA, OTHER DATA FILES, PROGRAMS OR INFORMATION THROUGH ERROR, OMISSION, ACCIDENT OR FRAUDULENT MEANS OR DEVICES NOT DIRECTLY ATTRIBUTABLE TO ZOOM'S NEGLIGENT ACTS OR OMISSIONS, OR FOR OTHER CIRCUMSTANCES OUTSIDE OF ZOOM'S REASONABLE CONTROL, OR (c) ANY MALFUNCTION OR CESSATION OF INTERNET SERVICES BY INTERNET SERVICE PROVIDERS OR OF ANY OF THE NETWORKS THAT FORM THE INTERNET WHICH MAY AFFECT THE OPERATION OF THE SERVICES.

**16.2 NO INDIRECT DAMAGES.** IN NO EVENT SHALL EITHER PARTY OR ITS LICENSORS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOSS OF REVENUES OR PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, BREACH OF DATA, OR THE COST OF SUBSTITUTE PRODUCTS OR SERVICES, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF

SUCH DAMAGES. EACH PARTY AGREES TO TAKE REASONABLE ACTION TO MITIGATE ITS DAMAGES.

**16.3 AGGREGATE LIABILITY CAP.** IN NO EVENT SHALL ZOOM'S LIABILITY FOR ANY DAMAGES EXCEED AN AMOUNT EQUAL TO THE THREE TIMES THE TOTAL CHARGES PAID TO ZOOM UNDER THIS AGREEMENT IN THE PRIOR TWELVE (12) MONTHS PRECEDING THE INCIDENT GIVING RISE TO THE CLAIM. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, MISREPRESENTATIONS, NEGLIGENCE, STRICT LIABILITY AND OTHER TORTS. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

17. **Force Majeure.** Neither party hereto will be liable for defaults or delays (other than the non-payment of Charges) due to Acts of God, or the public enemy, acts or demands of any government or governmental agency, fires, floods, accidents, or other unforeseeable causes beyond its control and not due to its fault or negligence.

18. **Binding Arbitration and Class Action Waiver.**

**18.1 Agreement to Arbitrate; Waiver of Class Action.** For Customers located in the United States, Customer and Zoom agree to resolve disputes only on an individual basis, through arbitration pursuant to Sections 18.2, 18.3, and 18.4. **THE PARTIES EXPRESSLY WAIVE ANY RIGHT TO BRING ANY ACTION, LAWSUIT, OR PROCEEDING AS A CLASS OR COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR ANY OTHER PROCEEDING IN WHICH ANY PARTY ACTS OR PROPOSES TO ACT IN A REPRESENTATIVE CAPACITY.**

**18.2 Disputes.** A dispute is any controversy between Customer and Zoom concerning the Services, any software related to the Services, the price of the Services, Customer's account, Zoom's advertising, marketing, or communications, Customer's purchase transaction or billing, or any term of this Agreement, under any legal theory including contract, warranty, tort, statute, or regulation, except disputes relating to the enforcement or validity of Customer's or Zoom's intellectual property rights. As part of the best efforts process to resolve disputes, and prior to initiating arbitration proceedings, each party agrees to provide notice of the dispute to the other party, including a description of the dispute, what efforts have been made to resolve it, and what the disputing party is requesting as resolution, to the address provided below for Notices.

**18.3 Small Claims Court Available.** Customer may initiate an action in Small Claims Court for its local jurisdiction if Customer meets the court's requirements. However, if such a claim is transferred, removed or appealed to a different court, Zoom reserves the right to require arbitration.

**18.4 Arbitration Procedure.** Disputes not resolved pursuant to Section 18.1 or 18.2 shall be resolved through arbitration. The American Arbitration Association ("AAA") will conduct any arbitration under its Commercial Arbitration Rules. For more information, see [www.adr.org](http://www.adr.org). Arbitration hearings will take place in the federal judicial district of Customer's primary business location. A single arbitrator will be appointed. The arbitrator must: (a) follow all applicable substantive Law; (b) follow applicable statutes of limitations; (c) honor valid claims of privilege; (d) issue a written decision including the reasons for the award. The arbitrator may award damages, declaratory or injunctive relief, and costs (including reasonable attorneys' fees). Any arbitration award may be enforced (such as through a judgment) in any court with jurisdiction. **Under AAA Rules, the arbitrator rules on his or her own jurisdiction, including the arbitrability of any claim; however, a court has exclusive authority to enforce the prohibition on arbitration on a class-wide basis or in a representative capacity.**

**18.5 Arbitration Fees.** If Customer is unable to afford the arbitration costs, Zoom will advance those costs to Customer, subject to the arbitrator's determination if costs should be reimbursed to Zoom if Zoom prevails. For disputes involving more than \$75,000, the AAA rules will govern payment of filing fees and the AAA's and arbitrator's fees and expenses.

**18.6 Conflict with AAA Rules.** This Agreement governs if there is a conflict with the AAA's Commercial Arbitration Rules.

**18.7 Requirement to File Within One Year.** Notwithstanding any other statute of limitations, a claim or dispute under this Agreement must be filed in Small Claims Court or noticed for arbitration within one year of when it could first be filed, or such claim will be permanently barred.

**18.8 Severability.** If the class action waiver is found to be illegal or unenforceable as to all or some parts of a dispute, then those parts will not be arbitrated but will be resolved in court, with the balance resolved through arbitration. If

any provision of this Section 18 is found to be illegal or unenforceable, then that provision will be severed; however, the remaining provisions shall still apply and shall be interpreted to as nearly as possible achieve the original intent of this Section, inclusive of the severed provision.

**19. Miscellaneous.**

- 19.1 Choice of Law and Forum.** This Agreement shall be governed by and construed under the laws of the State of California, U.S.A. Except as provided in Section 18.4, the parties consent to the exclusive jurisdiction and venue of the courts located in Monterey County, California.
- 19.2 Export Restrictions.** You acknowledge that the Services, or portion thereof may be subject to the export control laws of the United States and other applicable country export control and trade sanctions laws (“Export Control and Sanctions Laws”). You and your End Users may not access, use, export, re-export, divert, transfer or disclose any portion of the Services or any related technical information or materials, directly or indirectly, in violation of any applicable export control or trade sanctions law or regulation. You represent and warrant that (i) You and your End Users are not citizens of, or located within, a country or territory that is subject to U.S. trade sanctions or other significant trade restrictions (including without limitation Cuba, Iran, North Korea, Syria, and the Crimea) and that you and your End Users will not access or use the Services, or export, re-export, divert, or transfer the Services, in or to such countries or territories; (ii) You and your End Users are not identified on any U.S. government restricted party lists (including without limitation the U.S. Treasury Department’s List of Specially Designated Nationals and Blocked Persons and Foreign Sanctions Evaders List, the U.S. Department of Commerce’s Denied Parties List, Entity List, and Unverified List, and the U.S. Department of State proliferation-related lists); and (iii) that no Content created or submitted by You or your End Users is subject to any restriction on disclosure, transfer, download, export or re-export under the Export Control Laws. You are solely responsible for complying with the Export Control Laws and monitoring them for any modifications.
- 19.3 Incorporation of Zoom Policies.** Customer acknowledges and agrees that the Zoom policies disclosed at [www.zoom.us/legal](http://www.zoom.us/legal) are incorporated herein by reference, and Customer agrees to that it has read such policies and shall comply (where applicable) with any and all obligations of Customer as set forth in such policies. Zoom reserves the right to update these policies from time to time, and will provide commercially reasonable notice of such updates.
- 19.4 Waiver and Severability.** Failure by either party to exercise any of its rights under, or to enforce any provision of, this Agreement will not be deemed a waiver or forfeiture of such rights or ability to enforce such provision. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision will be amended to achieve as nearly as possible the same economic effect of the original provision and the remainder of this Agreement will remain in full force and effect.
- 19.5 General Provisions.** This Agreement embodies the entire understanding and agreement between the parties respecting the subject matter of this Agreement and supersedes any and all prior understandings and agreements between the parties respecting such subject matter. Any modification to this Agreement must be in writing and signed by both parties. Unless specified otherwise herein, any and all rights and remedies of either parties upon breach or other default under this Agreement will be deemed cumulative and not exclusive of any other right or remedy conferred by this Agreement or by law or equity on either party, and the exercise of any one remedy will not preclude the exercise of any other. The captions and headings appearing in this Agreement are for reference only and will not be considered in construing this Agreement. No text or information set forth on any other purchase order, preprinted form or document shall add to or vary the terms and conditions of this Agreement. No joint venture, partnership, employment, or agency relationship exists between the parties as a result of this agreement or use of the Services.
- 19.6 Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other party (which consent shall not be unreasonably withheld, conditioned or delayed) except that this Agreement be assigned or transferred without such consent to (a) an Affiliate, or (b) a successor by merger. Any purported assignment in violation of this section shall be void.
- 19.7 Copyright Infringement.** Infringement of copyrights in connection with the Services may be reported to Zoom’s Copyright Agent through the process defined at [www.zoom.us/legal](http://www.zoom.us/legal).
- 19.8 Marketing.** Customer may consider granting Zoom permission to name them as a customer and/or use their logo across Zoom marketing materials, e.g., the [zoom.us](http://zoom.us) website, emails, presentations, brochures, etc. Customer may consider granting Zoom permission to develop content around their experience as a Zoom customer, e.g., a written



and/or video case study. This content will be created in cooperation with Customer and used only upon Customer's written prior approval.

**19.9 Notice.** Zoom may give notice by electronic mail to Customer's e-mail address on record in Customer's account information, or by written communication sent by first class mail or pre-paid post to Customer's address on record in Customer's account information. Such notice shall be deemed to have been given upon the expiration of forty-eight (48) hours after mailing or posting (if sent by first class mail or pre-paid post) or twelve (12) hours after sending (if sent by email). Customer may give notice to Zoom (such notice shall be deemed given when received by Zoom) at any time by any of the following: letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to Zoom at the following: 55 Almaden Blvd, San Jose, CA, 95113, Suite 600, USA, addressed to the attention of: Legal or by email to [legal@zoom.us](mailto:legal@zoom.us).

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

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be signed by duly authorized officers or representatives as of the Effective Date.

CUSTOMER: COUNTY OF MONTEREY, CA

ZOOM VIDEO COMMUNICATIONS, INC.

Signature: *Eric A. Chatham*  
Name: Eric A. Chatham  
Title: Director of ITD  
Date: 4/27/2019

Signature: *Roy Benhorin*  
Name: ROY BENHORIN  
Title: CAO  
Date: 7/11/19

APPROVED AS TO FORM  
*Rebecca M. Ceniceros*  
DEPUTY COUNTY COUNSEL  
COUNTY OF MONTEREY  
  
Rebecca M. Ceniceros  
May 24, 2019

Reviewed as to fiscal provisions  
*[Signature]*  
Auditor-Controller  
County of Monterey 5/28/19

**Master Subscription Agreement: Exhibit A  
Services Description**

This Exhibit A to the Master Subscription Agreement (“MSA”) describes the Services that may be ordered on an Order Form, or provided by Zoom, and sets forth further Service-specific terms and conditions that may apply to Zoom’s provision and Customer’s use of the Services. Capitalized terms not defined herein shall have the meanings assigned to them in the MSA.

**A. Definitions.** For purposes of this Service Description, the following definitions will apply:

“**Host**” means an individual who is an identified employee, contractor, or agent of Customer to whom Customer assigns the right to host Meetings. A Host may hold an unlimited number of Meetings, but only one Meeting at a time. A Host subscription may not be shared or used by anyone other than the individual assigned to be a Host.

“**Meeting**” means a Zoom Video meeting.

“**Participant**” means an individual, other than the Host, who accesses or uses the Services, with or without the permission and knowledge of the Host.

“**Zoom Documentation**” means this Exhibit, the Zoom website ([www.zoom.us](http://www.zoom.us)) and any additional description of the Services which may be incorporated into this Agreement.

“**Zoom Meeting Services**” means the various video conferencing, web conferencing, webinar, meeting room, screensharing and other collaborative services offered by Zoom Video that Customer may order on an Order Form.

“**Zoom Phone Services**” means voice connectivity services, including, but not limited to, interconnected VoIP services, provisioning of direct dial numbers, and related services offered by Zoom Voice Communications, Inc. (“**Zoom Voice**”) that Customer may order on an Order Form.

**B. Zoom Meeting Services.** Zoom Meeting Services enable Hosts to schedule and start Meetings and to allow Participants to join Meetings for the purpose of collaborating using voice, video, and screensharing functionality. Every meeting will have one Host. Chat features allow for out-of-session one-on-one or group collaboration. Further features, functionality, and solutions are described at [www.zoom.us](http://www.zoom.us).

**C. Zoom Phone Services.** The following sets forth the further terms and conditions that apply to the Zoom Phone Services.

1. **Definitions:** For purposes of the Zoom Phone Services, the following definitions apply:

“**Device**” means the device assigned to a virtual extension or individual digital line set up within an account or by Zoom at Customer’s direction or request.

“**Phone Host**” means the individual assigned to a number which enables use of the Zoom Voice Service. A Phone Host is a “Host” for purposes of the definition of End User.

“**Zoom Phone Calling Plan**” means the pricing structure that enables Phone Hosts and End Users to access the PSTN. Calling plans may be “Metered” or “Unlimited” as defined on the Order Form.

“**Zoom Phone Commitment**” means the minimum monthly bundle of minutes that a Zoom Phone Metered Calling Plan Customer commits to use in connection with Zoom Phone Services.

2. **Telecommunications Provider.** Zoom Voice is the telecommunications provider of Zoom Phone Services and sets the terms, conditions and rates for Zoom Phone Services.

3. **Description of Services.** Zoom Phone Services are cloud-based phone services that use voice over internet protocol (VoIP) to provide Customer with the following services and functionalities (as selected by Customer on an Order Form):

a. **Zoom Phone Service.** Zoom Phone Service is a cloud-based phone service that allows two-way voice calling and private branch exchange (PBX) functionality, including, but not limited to, the following features: unlimited extension-to-extension calling (On Net Access), auto attendant/ interactive voice response (IVR), call routing, call queuing, music on hold, call history, caller identification (outbound and inbound), call forwarding, call transfer, and call recording.

b. **Public Switched Telephone Network Communications (PSTN) Access.** Phone Hosts and End Users can be enabled to make and receive calls to the PSTN and be assigned a direct inward dialing phone number (DID) via a Zoom Phone Calling Plan.

- c. **Additional Zoom Phone Services.** Additional functionality such as enabling common area phones, and additional Toll Free and DID phone numbers may be purchased as described on the Order Form.
4. **Billing and Invoicing.** Zoom will bill Customer on behalf of Zoom Voice based on the Charges set forth on the Order Form. Charges based on usage, or overage amounts that exceed the Zoom Phone Commitment, will be billed in arrears, the month following the month a Charge is incurred. No adjustment will be made, or credit or refund given, for usage that is less than the Zoom Phone Commitment. Customer may change its Zoom Phone Commitment at any time; provided, however, that any change shall be effective as of (and reflected on) Customer's next monthly invoice
    - a. **On Net Access.** On Net capability will be provisioned by default for all Zoom Meeting Services. Phone Hosts may access and use On Net services at no charge for so long as the underlying license to the Zoom Meeting Service remains active.
    - b. **Taxes.** Customer acknowledges and agrees that Zoom Phone Services are subject to certain Taxes and Fees (including, but not limited to, assessments for universal service) that are not applicable to Zoom Meeting Services. Accordingly, Zoom shall invoice Customer for Taxes and Fees associated with the Charges.
  5. **Reasonable Use and Right to Review.** Zoom Voice offers unlimited and metered Phone Calling Plans. These plans are subject to this Zoom Voice Communications, Inc. Reasonable Use Policy. Zoom Phone Calling Plans are for normal and reasonable business use; unreasonable use is prohibited. Use of Zoom Phone may qualify as unreasonable if Customer (a) engages in business activities that involve continual, uninterrupted, or consistently excessive use of Zoom Phone Services, (b) makes any misrepresentations to Zoom Voice that materially affect volume or type of use of Zoom Phone Services, (c) engages in fraudulent or illegal use of Zoom Phone Services, including any activity that violates telemarketing laws or regulations, or (d) uses Zoom Phone Services in any manner that harms Zoom Voice's network or facilities or interferes with the use of the service by other Customers. Use that is inconsistent with the types and levels of usage by typical business customers on the same plan may be used as an indicator of abnormal or unreasonable use, including but not limited to abnormal call lengths; abnormal call frequency; abnormal call duration; abnormal calling patterns that indicate an attempt to evade enforcement of this Zoom Voice Communications, Inc. Reasonable Use Policy. Zoom reserves the right to review Customer use to determine if it is consistent with this Zoom Voice Communications, Inc. Reasonable Use Policy. In the event Zoom Voice determines that Customer may be engaging in unreasonable use, Zoom will discuss the use with Customer and will determine the appropriate remedy. Such remedies may include moving the Customer to an appropriate Zoom Phone Calling Plan, terminating certain Hosts, otherwise modifying the Customer's Zoom Phone Services, suspending the Customer's Zoom Phone Services, or terminating the Customer's Zoom Phone Services.
  6. **Termination of Zoom Meeting Services.** Access to Zoom Phone Services requires a corresponding license to Zoom Meeting Services. In the event that the Zoom Meeting Service license is terminated, the equivalent access to Zoom Phone Services will also be terminated. At such time, Customer will be billed for any incurred usage charges, and will not be credited for any pre-paid amounts toward the Zoom Phone Commitment.
  7. **Zoom Voice Policies.** Customer acknowledges and agrees that the Zoom Voice Communications, Inc. policies found at <https://zoom.us/legal> apply to Customer's use of Zoom Phone Services.
  8. **Zoom Emergency Calling (E911) Customer Obligations.** Customer acknowledges and agrees that Customer has read and understood Zoom Voice Communications, Inc.'s 911 Customer Notification, found at [www.zoom.us/legal](http://www.zoom.us/legal), which sets forth specific limitations of Zoom Phone's emergency calling capabilities and Customer's obligations with respect to its End Users. Such obligations include, but are not limited to:
    - a. ensuring that all Phone Hosts receive Zoom Voice's 911 Customer Notification;
    - b. ensuring that all assigned phone numbers are registered for emergency calling purposes through the E911 link within Customer's account, and that all registration information remains accurate and up to date; and
    - c. distributing warning stickers or other appropriate labels warning End Users that emergency service may be limited or not available and instructing Phone Hosts to place such stickers on or near the Devices and other equipment used in conjunction with Zoom Phone Services.

Zoom Voice reserves the right at any time to update the Zoom Voice Communications, Inc. 911 Customer Notification as necessary to reflect changes in law or technology that affect the emergency calling capabilities of Zoom Phone Services, and any such updates shall be effective immediately upon Customer's receipt of notice.
  9. **Equipment.** Zoom Voice does not supply any Devices or other equipment used in connection with the Zoom Phone Services, and accordingly Zoom Voice does not provide any guarantees as to the quality or operability of such Devices and equipment when used to access Zoom Phone Services. However, Zoom Voice does test certain Devices and

equipment to determine whether such Devices and equipment are supported on the Zoom Phone platform (although it has not tested all possible Devices and equipment available in the marketplace). The summary of Devices and equipment to date that Zoom Voice has determined are supported by the Zoom Phone platform may be provided on request. Customer should consult with Zoom Voice prior to deploying any other Devices and equipment.

- D. **Zoom Marketplace.** The Zoom Marketplace, available at <https://marketplace.zoom.us>, is a site hosted by Zoom to provide access to applications (the "Apps") created by third party developers ("Publishers") that are interoperable with Zoom Services, and make them available from both mobile and desktop client apps. Access to and use of the Zoom Marketplace and Zoom for Developers (available at <https://developer.zoom.us>) sites are governed by separate terms and conditions available at <https://zoom.us/service>. Besides testing for compatibility with Zoom, Zoom does not perform any other testing and does not warrant or support the Apps. Publishers are solely responsible for all aspects of the Apps they publish, including content, functionality, availability and support. Publishers are required to provide their own terms of service, privacy policy and support information ("Publisher Terms"). Customers who access or download Apps must enter into Publisher Terms directly with the Publisher. Zoom is not responsible for the Apps, their content, functionality, availability, or support. Apps are hosted AS IS and use of the Apps is at Customer's own risk, subject to the Publisher Terms. Apps may become unavailable or be removed by a Publisher at any time and any data stored in them may be lost or become inaccessible. Zoom is not responsible for Customer Data transferred to a Publisher, or for any transmission, collection, disclosure, security, modification, use or deletion of Customer Data by or through an App. Publishers may use Customer Data as permitted in the Publisher Terms. Use of the Apps may require Customer Data to be transferred to the Publisher and by accessing and using the App, Customer consents to the transfer of Customer Data by Zoom as required by the Publisher. Zoom does not support the Apps. Customer should contact the Publisher for support or questions. Zoom makes no representations and disclaims all warranties, express or implied, regarding Apps and reserves the right to remove an App from the Marketplace at any time, in its sole discretion.
- E. **Managed Domains.** Zoom permits Customers to reserve domains associated with their enterprise and to manage any accounts that are subscribed to Zoom using that domain ("Managed Domain Customer"). Customer may only associate to the Zoom Services domain(s) that they own or are legally entitled to associate for use with the Services. In the event that a Zoom account is created or exists on the reserved domain, but is not authorized by the Managed Domain Customer (the "Non-Managed Domain Account"), the person using or creating such Non-Managed Domain Account will be notified that the domain is reserved for the Managed Domain Customer and will be requested to change the domain associated with the Non-Managed Domain Account. If the person using or creating such Non-Managed Domain Account does not change the domain within the period specified, that person will be deemed to have consented to the Non-Managed Domain Account being added to the Managed Domain Customer and to have further consented for all data associated with the Non-Managed Domain Account to be shared with the Managed Domain Customer.



Order Form Number: Q338028  
Valid Until: 07/26/2019

Zoom Video Communications Inc. ("Zoom")  
55 Almaden Blvd, 6<sup>th</sup> Floor  
San Jose, CA  
Email: john.mensik@zoom.us

<b>Billed To</b>  <b>Subscriber:</b> County of Monterey - IT Dept <b>Contact Name:</b> Alex Zheng 1590 Moffett Street Salinas, California 93905, United States <b>Email Address:</b> zhenga@co.monterey.ca.us <b>Phone:</b> (831) 759-6991	<b>Delivered To</b>  <b>Subscriber:</b> County of Monterey - IT Dept <b>Contact Name:</b> Alex Zheng 1590 Moffett Street Salinas, California 93905, United States <b>Email Address:</b> zhenga@co.monterey.ca.us <b>Phone:</b> (831) 759-6991
<b>Auto Renew:</b> Yes <b>Initial Paid Subscription Term:</b> 24 Month <b>Renewal Subscription Term:</b> 12 Month <b>Paid Period Start Date:</b> 07/01/2019	<b>Billing Method:</b> Email <b>Currency:</b> USD <b>Payment Method:</b> Other <b>Payment Term:</b> Net 30

This Zoom Order Form and any other Order Forms that reference this Order Form are governed by Zoom Terms and Conditions found at <http://www.zoom.us/terms> (unless Subscriber and Zoom have entered a written governing Master Subscription Agreement, in which case such written agreement will govern). Information regarding Zoom's support services can be found at <http://support.zoom.us>.

SERVICE	BILLING PERIOD	QUANTITY	PRICE	TOTAL
Enterprise Active Host   Annual	Annual	250	USD 240.00	USD 60,000.00
Room Connector Annual	Annual	12	USD 400.00	USD 4,800.00
Zoom Rooms Annual	Annual	6	USD 400.00	USD 2,400.00
Webinar 5000 Annual	Annual	1	USD 0.00	USD 0.00
<b>(Before Taxes)</b> <b>Annual Payment</b>				<b>USD 67,200.00</b>

<b>Payment Schedule Summary (Before Taxes)</b>
First Payment: USD 67,200.00

<b>Other Terms &amp; Notes</b>
<b>Special Notes:</b>
<b>I. Standard Terms and Definitions of Order Form</b>
1. Active Hosts. An 'Active Host' is a Named Host (as defined in Zoom Terms or MSA) who actually hosts one (1) or more meetings per month using the Zoom

Services. An Active Host agreement provides a Host license (as defined in the Zoom Terms or MSA) to all users to which Subscriber assigns an Active Host license, up to the Total Available License. Pricing is based on the percentage of the total Hosts expected to be Active Hosts upon execution of this Order ('Active Host Billed Quantity'), to be trued up according to the process described below. For the term of the Order, Subscriber can assign licenses, up to the number of Total Available Licenses provisioned, with no change in pricing, even if number of Active Hosts is higher than the Active Host Billed Quantity used to derive pricing for the Initial and Renewal Terms.

- Subscriber shall assign licenses to a Named Host account on the site administration section of their Zoom account log in (the 'List'). The List will be maintained by the Subscriber's Site Administrator and provided to Zoom upon request.
- The calculation of Active Host Billed Quantity for the first twelve (12) months of the Initial Paid Subscription Term is based upon the agreed percentage of paid licenses out of the total available licenses. This is called the Year 1 Commit to Purchase %, and is calculated at the start of the Order and correlates to the pricing plan to be used for Year 1. After establishing the year one Active Host Billed Quantity, this quantity becomes the minimum threshold for the remainder of the term.
- Calculation of the Active Host Billed Quantity for all subsequent years of the Initial Paid Subscription Term and/or Renewal Term. Prior to the conclusion of each twelve (12) months of paid Service of the Initial Paid Subscription Term or Renewal Term, Zoom will recalculate the number of Active Hosts (defined in Section 1) averaged over the immediately preceding three (3) month period (for example, months 9, 10 and 11) to determine the 'Active Host Average'.
- Subscriber understands and agrees that any change in the Active Host Billed Quantity based upon the calculation in Section 4 above will occur immediately upon calculation and without prior notice. Subscriber will be made aware of the change upon invoicing in the subsequent billing period.

**II. Conditions of the Order Form and Subscriber Engagements**

- Total Available Zoom Pro Licenses under this Order Form: 2500. The percentage of the Active Host as defined in Section I.1 above and the Schedule of Rates is based upon the Total Available Zoom Pro Licenses.
- Schedule of Rates** – Enterprise Active Host Annual rate will be calculated based upon the Active Host cap as follows in the schedule of yearly Rates:

Calculation	Description	Annual Enterprise Active Host Fees
Year One Cap – 10% or 250 Active Host Billed Quantity	Based upon the Total Available Licenses in Section II.1 and according to the terms in Section I.3. Year one is a minimum commitment of 10%.	\$60,000
Year Two Cap – 12% or 300 Active Host Billed Quantity	Based upon the Total Available Licenses in Section II.1 and according to the terms in Section I.3 through I.5. *if Active Host usage is less than the cap, Enterprise Active Host Annual charge will be recalculated and adjusted but not lower than the year one cap of 10%.	\$72,000

- Agreement may be renewed for three (3) additional one year terms with written approval by County sixty (60) days prior to the expiration of the yearly Enterprise Active Host term and Zoom shall provide an order form reflection the subscriptions rates as follows:

Renewal Rate/Calculation	Description	Annual Enterprise Active Host Fees
Year Three Cap – 15% or 375 Active Host Billed Quantity	Based upon the Total Available Licenses in Section II.1 and according to the terms in Section I.3 through I.5. *if Active Host usage is less than the cap, Enterprise Active Host Annual charge will be recalculated and adjusted but not lower than the year two cap of 12%.	\$90,000
Year Four Cap - 15% or 375 Active Host Billed Quantity	Based upon the Total Available Licenses in Section II.1 and according to the terms in Section I.3 through I.5. *if Active Host usage is less than the cap, Enterprise Active Host Annual charge will be recalculated and adjusted but not lower than the year two cap of 12%.	\$90,000
Year Five Cap - 15% or 375 Active Host Billed Quantity	Based upon the Total Available Licenses in Section II.1 and according to the terms in Section I.3 through I.5. *if Active Host usage is less than the cap, Enterprise Active Host Annual charge will be recalculated and adjusted but not lower than the year two cap of 12%.	\$90,000

**III. Additional Terms**

- This order form consolidates the existing Account #700111 and new Account #50051827 with Account #50051827 to be the Master Account.
- Account #700111 will be the sub-account with the terms and conditions of the Business Associates Agreement attached to this Order Form to apply to the license holders set up under this sub-account. All Active Host usage under this sub-account shall be considered HIPAA compliant.
- The Account Administrators will be able to add new users under the sub-account #700111 with the sub-account configured to meet HIPAA compliance requirements.
- Upon consolidation of both accounts, all prepaid licenses under both accounts shall be reflected as a credit to newly established Master Account.
- All future billing will be submitted referencing the Master Account 50051827.

**Other:**

**Enterprise Active Host Plan** includes 500 meeting capacity and webinar 500 attendee capacity for available licenses.

**Fees** - The fees for the Services, if any, are described in the Order Form. The actual fees may also include overage amounts or per use charges for audio and/or cloud recording in addition to the fees in the Order, if such use is higher than the amounts described in the Order, and you agree to pay these amounts or charges if you incur them. Invoicing for Services begins on the first day that the service is available for use by the Subscriber and monthly thereafter for the duration Term, except for annual pre-pay option which is invoiced once in the first month of the annual term. Invoices are pro-rated from paid period start date to base subscription end date. Purchase order, if any, issued in connection with this order should reference the above order form number. Commitments not utilized by the Subscriber during the month for which they are committed may not be carried forward into any subsequent month or term.

State and/or local taxes may apply to Zoom and Zoom Phone services. Regulatory telecommunications fees, such as USF, will apply to Zoom Phone services and details of taxes and fees will be included in issued invoices.

Professional Services, if purchased, will be presented in a separate Order Form.

Accepted and agreed as of the date specified below by the authorized representative of Subscriber

Year four Renewal cap 15% or 375 Paid active host

This account will also include the consolidation of account # 700111 into the newly created active host account

Any prepaid for customer's existing named host account #50051827 and account #700111 will be credited to payment on newly created active host account

Total Available Licenses = 2500

Year 1 Commit to Purchase % = 10%

Active Host Billed Quantity = 250 (As applicable per sections 1 and 3 below)

1. Active Hosts. An 'Active Host' is a Named Host (as defined in Zoom Terms or MSA) who actually hosts one (1) or more meetings per month using the Zoom Services. An Active Host agreement provides a Host license (as defined in the Zoom Terms or MSA) to all users to which Subscriber assigns an Active Host license, up to the Total Available License. Pricing is based on the percentage of the total Hosts expected to be Active Hosts upon execution of this Order ('Active Host Billed Quantity'), to be tried up according to the process described below. For the term of the Order, Subscriber can assign licenses, up to the number of Total Available Licenses provisioned, with no change in pricing, even if number of Active Hosts is higher than the Active Host Billed Quantity used to derive pricing for the Initial and Renewal Terms.

2. Subscriber shall assign licenses to a Named Host account on the site administration section of their Zoom account log in (the 'List'). The List will be maintained by the Subscriber's Site Administrator and provided to Zoom upon request.

3. The calculation of Active Host Billed Quantity for the first twelve (12) months of the Initial Paid Subscription Term is based upon the agreed percentage of paid licenses out of the total available licenses. This is called the Year 1 Commit to Purchase %, and is calculated at the start of the Order and correlates to the pricing plan to be used for Year 1. After establishing the year one Active Host Billed Quantity, this quantity becomes the minimum threshold for the remainder of the term.

4. Calculation of the Active Host Billed Quantity for all subsequent years of the Initial Paid Subscription Term and/or Renewal Term. Prior to the conclusion of each year (12) months of paid Service of the Initial Paid Subscription Term or Renewal Term, Zoom will recalculate the number of Active Hosts (defined in Section 1) averaged over the immediately preceding three (3) month period (for example, months 9, 10 and 11) to determine the 'Active Host Average'.

Subscriber understands and agrees that any change in the Active Host Billed Quantity based upon the calculation in Section 4 above will occur immediately upon calculation and without prior notice. Subscriber will be made aware of the change upon invoicing in the subsequent billing period.

5. Termination

Enterprise Active Host Plan includes 500 meeting capacity and webinar 500 attendee capacity for available licenses.

Fees - The fees for the Services, if any, are described in the Order Form. The actual fees may also include overage amounts or per use charges for audio and/or cloud recording in addition to the fees in the Order, if such use is higher than the amounts described in the Order, and you agree to pay these amounts or charges if you incur them. Invoicing for Services begins on the first day that the service is available for use by the Subscriber and monthly thereafter for the duration Term, except for annual pre-pay option which is invoiced once in the first month of the annual term. Invoices are pro-rated from paid period start date to base subscription end date. Purchase order, if any, issued in connection with this order should reference the above order form number. Commitments not utilized by the Subscriber during the month for which they are committed may not be carried forward into any subsequent month or term.

State and/or local taxes may apply to Zoom and Zoom Phone services. Regulatory telecommunications fees, such as USF, will apply to Zoom Phone services and details of taxes and fees will be included in issued invoices.

Professional Services, if purchased, will be presented in a separate Order Form.

APPROVED AS TO FORM  
*Rebecca M. Ceniceros*  
DEPUTY COUNTY COUNSEL  
COUNTY OF MONTEREY

Rebecca M. Ceniceros

*May 24, 2019*

Accepted and agreed as of the date specified below by the authorized representative of Subscriber

Signature:
Print Name:
Date:
Zoom Service Effective Date: 07/01/2019
PO # (If Applicable):
VAT # (If Applicable):

The Services will be activated within 48 hours of order signature or Zoom Service Effective Date, whichever is later.

If a PO# is required for processing the invoice related to this order, please provide a PO with this order. If issuance of PO is delayed, please provide a PO within 5 days of the service effective date via email to [billing@zoom.us](mailto:billing@zoom.us). Notwithstanding the foregoing, the period for payment shall commence as of the applicable invoice date. Such payment period shall not restart based on any delays in issuing a Purchase Order or any procurement process.

Zoom Phone services provided by Zoom Voice Communications, Inc. Rates, terms and conditions for Zoom Phone services are set by Zoom Voice Communications, Inc.

Reviewed as to fiscal provisions

*[Signature]*  
Auditor-Controller  
County of Monterey 5/28/19

<b>Signature:</b>	<i>Eric A. Chatham</i>
<b>Print Name:</b>	Eric A. Chatham
<b>Date:</b>	6/27/2019
<b>Zoom Service Effective Date: 07/01/2019</b>	
<b>PO # (If Applicable):</b>	
<b>VAT # (If Applicable):</b>	

The Services will be activated within 48 hours of order signature or Zoom Service Effective Date, whichever is later.

*If a PO# is required for processing the invoice related to this order, please provide a PO with this order. If issuance of PO is delayed, please provide a PO within 5 days of the service effective date via email to [billing@zoom.us](mailto:billing@zoom.us). Notwithstanding the foregoing, the period for payment shall commence as of the applicable invoice date. Such payment period shall not restart based on any delays in issuing a Purchase Order or any procurement process.*

Zoom Phone services provided by Zoom Voice Communications, Inc. Rates, terms and conditions for Zoom Phone services are set by Zoom Voice Communications, Inc.