



## **MASTER SERVICES AGREEMENT**

### **SECTION 1 GENERAL**

This Master Services Agreement is entered into by and between the Docebo entity executing and delivering this Agreement and the Customer, as defined below. The terms and conditions herein are common to all Schedules, and to any Order Forms and/or SOWs entered into by and between the Parties hereunder. In the event of a conflict between this Agreement and any Schedule, or any Order Form(s) or SOW, the body of this Agreement will control, unless the Schedule, or applicable Order Form or SOW expressly states that it shall supersede. In the event of a conflict between any Schedule, and any Order Form or SOW, the Schedule will control, unless the Order Form or SOW expressly states that it shall supersede the applicable provision of the Schedule.

### **SECTION 2 DEFINITIONS**

**“Active User”** means an End User that accesses and engages with the Software Services during a monthly or annual period, as stated in the applicable Order Form.

**“Addendum”** means the additional documentation that forms part of this Agreement that further details the terms of use of a particular Service as detailed in section 3.4.

**“Affiliate”** means an entity that directly or indirectly controls, is controlled by or is under common control with an entity, where “control” means, for the purposes of this definition, an ownership, voting, or similar interest representing fifty percent (50%) or more of the total interests then outstanding of the entity in question.

**“Agreement”** means this Master Services Agreement and all Schedules, Order Forms, SOWs, and Addenda specifically referenced or incorporated herein.

**“Content”** means Docebo Data and Third-Party Content, as defined in the applicable Addendum.

**“Customer”** means the customer contracting entity identified in any Order Form or SOW issued hereunder that is receiving Services from Docebo unless expressly stated to the contrary in any applicable Order Form or SOW; provided, however, that such term includes all parents, subsidiaries, corporate affiliates, employees, representatives, successors and assigns and, if agreed in the Order Form or SOW, customers of the contracting party who shall, at the Customer’s election, also be entitled to receive Services hereunder and request Order Forms and SOWs hereunder. Notwithstanding the broad interpretation of the term Customer hereunder, it is expressly understood that nothing in this Agreement permits the Customer to be a ‘reseller’ or ‘partner’ of Docebo, and any such relationship shall only be formed by separate written agreement between Docebo and the Customer.

**“Customer Data”** all electronic data, Content (excluding Docebo Data and Docebo Content), Materials and information input by the Customer or End Users into the Docebo Software.

**“Derivative Works”** means any suggestions, contributions, enhancements, improvements, additions, modifications, or statutorily defined derivative works to the referenced software or other Materials.

**“Docebo”** means the Docebo contracting entity set for on the signature page hereto.



**“Docebo App(s)”** means applications that allow the functionalities, advanced architecture capabilities, and integration between third-party systems and the Software Services.

**“Docebo Content”** means certain online courses and educational products provided by or through the Docebo Software and excludes Customer Data and any Customer Material input into the Software Services.

**“Docebo Data”** means proprietary information gathered or created by Docebo and provided to Customer as part of the Services, excluding Third-Party Content (as defined in the Addendum).

**“Docebo Software”** means the internet based Docebo software technology and related Services provided by Docebo, and that are accessible to the Customer and its End Users via a web browser through the internet.

**“Documentation”** means the user documentation and any other operating, training, and reference manuals relating to the use of the Services, as supplied by Docebo to the Customer, as well as any Derivative Works thereof.

**“Effective Date”** means, with respect to this Agreement the date on which the Agreement commences, which shall be the date set forth on the signature page below.

**“End User”** means an employee of the Customer or individual third-party, in each case who is over the age of 16, who is authorized by the Customer to use the Software Services and has been provided individual login credentials.

**“Intellectual Property Rights”** means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection in any part of the world.

**“Marks”** means service marks, trademarks, trade names, logos, and any modifications to the foregoing.

**“Materials”** means data, information, pictures, documentation, audio, video, artistic works, writings, and other works of authorship.

**“Order Form(s)”** means the ordering document executed by the Parties that specifies the Services, including any Schedules attached thereto.

**“Party /Parties”** each of Docebo and the Customer are sometimes referred to herein, individually and collectively.

**“Professional Services”** means the consulting, implementation, training, integration, enhancement, configuration and other services as applicable provided by Docebo pursuant to an Order Form or SOW.

**“Schedule”** means any document or addenda incorporated or attached hereto or to any Order Form or SOW that sets out additional terms applicable to specific Services.

**“Services”** means all services provided by Docebo under this Agreement as described on an Order Form or SOW including Software Services and Docebo Software.

**“Software Services”** as defined in the applicable Addendum.



“SOW” means a Statement of Work executed by the Parties that specifies the Professional Services to be provided to the Customer.

## SECTION 3 SERVICES

**3.1 Subcontractors.** All Services will be provided to the Customer by Docebo, directly or through an Affiliate, according to this Agreement and one or more Schedules, and Order Forms or SOWs issued hereunder. Docebo may from time to time, in its discretion, engage third parties to perform Services (“Subcontractor”) provided that Docebo (a) remains primarily responsible for performance of its obligations under the Agreement; (b) be responsible and liable for the acts and omissions of each Subcontractor in the scope of its performing any Services to the same extent as if such acts or omissions were by Docebo or its employees; and (c) be responsible for all fees and expenses payable to any Subcontractor, including, if applicable, withholding of income taxes, and the payment and withholding of payroll taxes, unemployment insurance, workers’ compensation insurance payments, employer health tax, and disability benefits in any such event. For greater certainty, Sub-processors, as defined in the DPA, shall not be considered Subcontractors for the purposes of this Agreement.

### 3.2 Docebo Software

- (a) During the Term, and as set forth in one or more Order Forms, Docebo will provide the Customer and its End Users with remote access to the Docebo Software. During the Term, and subject to compliance with this Agreement, Docebo grants to the Customer a worldwide, non-exclusive, non-transferable, non-assignable (except as provided herein), and limited right and license to allow End Users to remotely access the Docebo Software that is located on the Docebo server, in accordance with the terms of this Agreement.
- (b) The Customer acknowledges that certain maintenance activities regarding the Docebo Software may be necessary or appropriate, from time to time, including bug fixes, software updates, feature updates, and the addition of new applications and new modules. In most instances, the Docebo infrastructure is designed to support updates by the Docebo engineering and support teams without the need to interrupt the Docebo Software. Docebo will provide notice to the Customer regarding such maintenance activities that will interrupt the Services at least twenty-four (24) hours in advance. If Docebo reasonably determines that maintenance activities will require an unavailability or outage of the Docebo Software in excess of ten (10) consecutive minutes, then Docebo will give the Customer reasonable advance written notice of the same. Docebo will use commercially reasonable efforts to perform routine scheduled maintenance during non-Business Hours (as defined in the Helpdesk Services /SLA document referenced in section 3.5) (“Maintenance Windows”).

**3.3 General Technical Requirements.** Using the Software Services requires a modern web browser that supports cookies and JavaScript. Docebo neither represents nor warrants that the Software Services will be accessible through all web browser releases or all versions of tablets, smartphones, or other computing devices. The Software Services currently support the following browsers: <https://www.docebo.com/online-training-lms-system-requirements/> (which is subject to change, with reasonable notice, in Docebo’s sole discretion). Regardless of any changes to such supported browsers, Docebo warrants that, at any one given time, it will maintain support for a reasonable cross-section of commonly used current version browser releases. In accordance with this Agreement, Customer must have the requisite equipment, software, and internet access to be able



to use the Services. Acquiring, installing, maintaining, and operating equipment, any Customer software, and internet access is solely the Customer's responsibility. Internet access is not included in the Services purchased from Docebo, and the Customer is responsible for internet access with the service provider of its choosing. Docebo will not be responsible for any malfunction of the internet or any antivirus protection system installed by the Customer. In the event that the Customer cannot meet the technical requirements to access the Software Services, through no fault of Docebo, Docebo shall be under no obligation to provide the Helpdesk Services, as defined below.

**3.4 Software Service Addendum.** The specific terms pertaining to the Software Services can be found at the following link: <https://www.docebo.com/company/software-service-addendums/>. Each section of the Addendum is only applicable if the Service(s) named have been subscribed to as stated in the applicable Order Form.

**3.5 Helpdesk Services / Service Level Agreement.** Docebo will provide customer care and support services to the Customer, as set forth in the Order Form and/or SOW and as further described via the following link: <https://www.docebo.com/company/service-level-agreement/> (the “**Helpdesk Services**”). Docebo shall not be responsible for any customer support services outside of the terms stated or incorporated herein.

**3.6 Professional Services.**

- (a) If the Customer requests and Docebo agrees, Docebo may provide additional Professional Services to the Customer pursuant to the terms of an Order Form or SOW. Each such Order Form or SOW will include, at a minimum, (I) a description of the Professional Services; (ii) the then estimated project completion dates; (iii) the fees, costs, and expenses payable to Docebo; (iv) the payment schedule; and (v) a signature by each Party's respective authorized representatives.
- (b) In the event that Customer needs to temporarily suspend any Professional Services engagement with Docebo during the course of their delivery of such Professional Services, Customer must provide written notice (in accordance with Section 13.5 (Communications; Notices) no less than two (2) weeks prior to the date they wish to commence such temporary suspension. In this written notice Customer must provide the following:
  - (i) Customer's reasons for temporary suspension;
  - (ii) date Customer requests the suspension status begin; and
  - (iii) date Customer anticipates suspension status to end.
- (c) Docebo will review and determine, in its sole and reasonable discretion, to accept such requests. In the event Customer requests to restart the Professional Service earlier or later than the originally requested date, Customer must provide at least two (2) weeks' notice of such change and Docebo will use commercially reasonable efforts to accommodate such request. Additionally, depending on the requested length of such suspension, Docebo will work with Customer to set a mutually agreeable re-start date based on the availability of the original resources assigned to the Customer and other resources that may be assigned to the Customer. Customer may only go into such suspension status once per Professional Service engagement.
- (d) All timelines for delivery of any Professional Services as detailed in any applicable Order Form or SOW are estimates for delivery of the Services indicated and such timelines are not additive and some Professional Services may be delivered in tandem. Docebo will work



with Customer to establish mutually agreed timelines at the onset of any Professional Services engagement.

- 3.7 On-Site Services.** In the event that the Parties agree that Docebo will provide certain Professional Services on-site, the Customer will provide to Docebo copies of all applicable on-site safety policies and procedures.
- 3.8 Expenses.** For any requests by Customer requiring Docebo personnel to be on site to deliver Professional Services, the Customer will reimburse Docebo for its actual, reasonable travel, living, and other incidental expenses incurred; provided, however, that all such expenses shall be pre-approved by the Customer in writing.
- 3.9 Additional Services.** Through its use of the Services, any of the Customer's designated administrators may have the ability to purchase: (I) online courses; (ii) customized educational products; (iii) Docebo Apps; (iv) customized software ("**Customized Software**"); and/or (v) additional modules (collectively, the "**Additional Services**"). The delivery of and fees for the Additional Services will be charged to the Customer. For greater certainty, this Section 3.9 does not apply to any Third-Party Content (other than Docebo Content).
- 3.10 Beta Releases.** Docebo may, at its sole discretion, may invite Customer and make certain services available to the Customer on a test basis which will be clearly designated as beta, pilot, limited release, non-production or by similar description ("**Beta Release**"). Notwithstanding anything to the contrary in the Agreement, Customer acknowledges and agrees that Beta Release is provided on an "as is" and "as available" basis without any liability and indemnity obligations, warranty, support, Helpdesk Services, Professional Services, maintenance, or service level obligations of any kind. Docebo does not guarantee that future versions of Beta Release will be released or that if such Beta Release is made generally available, it will be substantially similar to the current Beta Release. Docebo may terminate Customer's right to use Beta Release at any time for any reason. If Docebo publicly releases Beta Release, Customer may execute a separate Order Form to procure the relevant Software Services (being the publicly available version of the Beta Release) at then-current applicable fees.

## SECTION 4

### OWNERSHIP; USE OF CUSTOMER DATA AND STATISTICAL INFORMATION.

- 4.1 For Docebo.** All title, ownership rights, and Intellectual Property Rights in and to the Docebo Software, the Documentation, Docebo Data and all Docebo Marks (and all Derivative Works and copies thereof) are and will remain owned exclusively by Docebo. The Customer acknowledges that the Docebo Software, in source code form, remains proprietary information of Docebo and that the source code is not licensed to the Customer by this Agreement or any Schedule, Order Form or SOW and will not be provided or escrowed by Docebo. Docebo will also retain all Intellectual Property Rights in any Professional Services or Additional Services, unless and to the extent that the Parties agree that the same are intended to be transferred to the Customer in connection with the performance of and payment thereof, as indicated in the applicable Order Form or SOW.
- 4.2 For Customer.** All title, ownership rights, and Intellectual Property Rights in Customer Data that the Customer owns or has licensed, and that the Customer or its End Users uploads to the Software Services, will remain owned exclusively by the Customer, or other third-party(ies), as the case may be. Customer will be solely responsible for (i) the accuracy, quality, content, legality and use of Customer Data, including the means by which Customer Data is acquired and transferred by Customer or its End Users outside of the Services, (ii) obtaining any licenses, permissions or authorizations required for any use of the Customer Data, and (iii) complying with all applicable





terms and conditions of any third-party website related to Customer Data obtained from such third-party website or its use in connection with the Services. Customer grants to Docebo the necessary licenses and rights to Customer Data solely as necessary for Docebo to provide the Services to Customer. Docebo may review Customer's use of the Services which may include accessing Customer Data. Docebo may, for internal purposes only, use Customer Data to improve the Services in accordance with Section **Error! Reference source not found.** below.

- 4.3 Statistical Information.** Docebo may use Customer Data in an aggregated and anonymized form for the analysis, operation, and improvement of the Services (the "Statistical Information"). Docebo may use and disclose the Statistical Information for the foregoing purposes, provided that they do not include any data that would reveal the identification of Customer, Customer Data, or any other Customer Confidential Information. Docebo retains all rights, title, and interest in and to such Statistical Information.

## SECTION 5 FEES AND PAYMENT TERMS

- 5.1 Fees.** Fees payable for Services received under this Agreement shall be in the amounts and payable on the terms set forth on the applicable Order Form or SOW, and as otherwise set forth in Section 5.2 below. Except as otherwise may be set forth in an applicable Order Form or SOW, all payments for fees shall be due within thirty (30) days from the date of invoice and shall not be subject to any setoff, recoupment, counterclaim, deduction, debit or withholding, for any reason (other than any deduction or withholding of tax, as may be required by applicable law). All fees paid, and expenses reimbursed under this Agreement will be in the currency specified in the applicable Order Form or SOW. Except as otherwise specified in the applicable Order Form or SOW, payment must be made by wire transfer, cheque or automated clearing house (ACH).
- 5.2 Active Users.** Unless otherwise set forth in the Order Form, the fees for accessing the Services are based on the number of Active Users; and Active User limitations may vary across the Services. Fees for additional Active Users in excess of the authorized number of Active Users set forth in the Order Form (each, an "**Extra User**") will be invoiced to the Customer as specified in the Order Form. When the Customer reaches approximately ninety percent (~90.0%) of its Active User limitations, Docebo will provide electronic notice to the Customer regarding its possible exceedance of such limitations. For greater certainty, no change will be made to the fees if the actual number of Active Users is less than the authorized number of Active Users set forth in the Order Form; and no 'down-grading' of the Active User thresholds will be permitted during the Term.
- 5.3 Late Payments.** The Customer will pay a late fee of up to one and one-half percent (1.5%) per month (not to exceed the maximum allowed under applicable law) on all balances not paid when due on account of all invoices which are not reasonably in dispute. Docebo may, at its option, upon notice and a reasonable opportunity to cure, suspend the Services, in whole or in part, if Docebo does not receive all amounts which are due and owing, and not reasonably in dispute, under the Agreement when due, provided that it shall restore the Services promptly upon the clearance of any such disputed amounts. The Customer will reimburse Docebo for all reasonable costs incurred by Docebo in collecting any late payment or interest, including attorneys' fees, in an amount not to exceed fifteen percent (15.0%) of the outstanding amount owed, court costs and collection agency fees.
- 5.4 Taxes.** Customer shall, in addition to the other amounts payable under this Agreement, pay all applicable customs, duties, sales, use, value added or other taxes, federal, state, provincial or



otherwise, however designated, which are levied or imposed by reason of the transactions contemplated by this Agreement, excluding only taxes based on Docebo's net income.

## **SECTION 6**

### **RECEIPT OF SERVICES; GENERAL PARTY OBLIGATIONS.**

#### **6.1 Use of Docebo Software and Services**

- (a) The Software and Services may be used only for Customer's own lawful business purposes. The Customer represents and warrants that it shall not knowingly, and shall not knowingly permit others, in using the Services to: (i) defame, abuse, harass, stalk, threaten or otherwise violate or infringe the legal rights (such as rights of privacy, publicity and intellectual property) of others or Docebo, or interfere with another party's use of the Services; (ii) publish, upload, ship, distribute or disseminate any harmful, infringing, fraudulent, tortious, or unlawful material or information (including any unsolicited commercial communications); (iii) misrepresent, or in any other way falsely identify, the Customer's identity or affiliation, including through impersonation or altering any technical information in communications using the Services; (iv) transmit or upload any Material through the Services containing viruses, trojan horses, worms, time bombs, cancelbots, or any other programs with the intent or effect of damaging, destroying, disrupting or otherwise impairing Docebo's, or any other person's or entity's, network, computer system, or other equipment; (v) upload any Sensitive Data (as defined in the DPA) or protected health information into the Services (vi) interfere with or disrupt the Services, networks or servers connected to the Docebo Systems or violate the regulations, policies or procedures of such networks or servers, including unlawful or unauthorized altering of any of the information submitted through the Services; (vii) attempt to gain unauthorized access to the Services, other Docebo customers' computer systems or networks using the Services through any means; (viii) copy, modify or create Derivative Works or improvements of the Services or the Docebo Software; (ix) reverse engineer, disassemble, decompile, decode, adapt or otherwise attempt to derive or gain access to the source code of the Services or Docebo Software, in whole or in part; (x) bypass or breach any security device or protection used by the Services or Docebo Software or access or use the Services or Docebo Software other than through the use of then valid access credentials; (xi) remove, delete, alter or obscure any trademarks, Documentation, warranties or disclaimers, or any copyright, trademark, patent or other intellectual property rights notices from any Services or the Docebo Software; (xii) access or use the Services or the Docebo Software for purposes of the development, provision, or use of a competing software service or product, or (xiii) sell, resell, assign, pledge, transfer, license, sublicense, distribute, rent or lease the Services or Docebo Software.
- (b) Docebo has no obligation to monitor the Customer's use of the Services and the Docebo Software; however, Docebo reserves the right, upon being made aware of material non-compliance with the terms of the Agreement, to monitor such use, and to review, retain and disclose any information as necessary to ensure compliance with the terms of the Agreement and to satisfy or cooperate with any applicable law or regulation, or duly served legal process or governmental request.

#### **6.2 Compliance with Law**

- (a) Both Parties will observe and comply with all applicable laws in connection with their performance under this Agreement. Each Party will notify the other, promptly and without

any undue delay, of any discovered unauthorized use of the Services related to the Customer's receipt of such Services hereunder; provided that such Party is legally able to give such notice. To the extent any End User is under the age of 18, Customer represents and warrants that it is responsible for obtaining any additional consents as required by applicable law.

- (b) Docebo may suspend the Services, upon notice and a reasonable opportunity to cure, in the event of a material violation by the Customer of any obligation contained in this Section 6, until such violation ceases and Docebo receives reasonable assurances that such violation will not continue. If Docebo believes, in its sole reasonable discretion, that the software, computing equipment, API or network systems owned or controlled by Docebo (collectively, **"Docebo Systems"**) are being currently used for criminal activity, in a manner that violates the legal rights of Docebo, Docebo's customers (including the Customer), any user of the Docebo Software or other third-party, or is experiencing an actual data loss or data misappropriation, or that the continued operation of the Docebo Systems places the Docebo Systems in potential danger of data loss, data breach, or catastrophic failure, then such suspension may occur prior to the giving of such notice to the Customer.

### 6.3 Application Programming Interface Provisions

- (a) In connection with its use of the Docebo Software, the Customer may be provided with access to an 'instance' or 'deployment environment' of the Docebo Software (a **"Docebo Instance"**). The Docebo Instance may be accessible through an Application Program Interface (API) requiring login and API credentials (the **"Docebo Credentials"**). Docebo allows the Customer to control, track, and monitor End Users with access to the Docebo Credentials.
- (b) Docebo provides documentation disclosing certain aspects of its Docebo Software functionality (the **"API Protocols"**), which may be updated from time to time provided however such change will not result in a material degradation of the Customer's ability to use the Services. Docebo expressly disclaims and shall have no liability with respect to how the API Protocols are used, except to the extent that it has directed the same. Further, unless otherwise specified by the Parties, in writing in an applicable Order Form or SOW, Docebo takes no ownership interest in or rights to any third-party software code that incorporates the API Protocols.
- (c) In order to enable the functionality provided by the API Protocols, a requesting party must serve licensed Docebo Credentials to the Docebo Instance. The Customer expressly understands that Docebo does not go beyond a verification of proper Docebo Credentials to validate whether or not access to or use of a customer's Docebo Instance is authorized. Accordingly, an unauthorized party may use misappropriated, although valid, Docebo Credentials to gain access to and employ the functionality of an otherwise properly licensed Docebo Instance. Once the Docebo Credentials are validated by the Docebo Instance, any software code that is written in accordance with the API Protocols will function with the Docebo Instance as designed. Thus, any unauthorized dissemination and distribution of the Docebo Credentials may lead to an unauthorized use of a Docebo Instance. Docebo expressly disclaims and shall have no liability to the Customer, or any third-party, for any loss or damages resulting from how the API Protocols are used, unless and to the extent that the same may be attributable to Docebo's actions.



## SECTION 7 CONFIDENTIALITY

- 7.1 Confidential Information.** “**Confidential Information**” means all information disclosed by a party (“**Disclosing Party**”) to the other party (“**Receiving Party**”) that is of value to its owner and is treated as confidential (including all information which is subject to treatment as a ‘trade secret’ under applicable law) or should otherwise be reasonably understood to be confidential, in light of the context in which it is disclosed. Customer Data shall expressly be considered as Confidential Information hereunder. Docebo Software, Documentation, and the terms and conditions of this Agreement (including pricing) shall expressly be considered as Confidential Information. For purposes of this Agreement, Confidential Information does not include any information that: (i) the Receiving Party establishes was publicly known at the time of the Receiving Party’s receipt or has become publicly known other than by a breach of this Agreement; (ii) prior to disclosure hereunder, it was already in the Receiving Party’s possession without restriction as evidenced by appropriate documentation; (iii) subsequent to any disclosure hereunder, the information is obtained by the Receiving Party on a non-confidential basis from a third-party who has the right to disclose such information; or (iv) was developed by the Receiving Party without any use of any of the Confidential Information as evidenced by appropriate documentation. For greater certainty, the Parties agree that Customer Personal Data is Confidential Information but is governed by Section 8 of this Agreement.
- 7.2 Disclosure.** The Parties agree that, during the Term of this Agreement, each Party may disclose to the other Party certain Confidential Information of such Party or of such Party’s associated companies, distributors, licensors, suppliers, or customers.
- 7.3 Requirement of Confidentiality**
- (a) Each Receiving Party agrees to hold all Confidential Information disclosed to such Receiving Party by the Disclosing Party in confidence and not to, directly or indirectly, copy, reproduce, distribute, manufacture, duplicate, reveal, report, publish, disclose, cause to be disclosed, or otherwise transfer the Confidential Information disclosed by the Disclosing Party to any third-party, or utilize the Confidential Information disclosed by the Disclosing Party for any purpose whatsoever other than as expressly contemplated by the Agreement.
  - (b) The Customer acknowledges that the Docebo Software and Documentation, as well as all pricing aspects of Order Forms and SOWs issued in connection with this Agreement, are the Confidential Information of Docebo.
  - (c) With regard to all Confidential Information, the obligations in this Section 7 shall continue for the Term of the Agreement and for a period of three (3) years thereafter; provided, however, that, with respect to any Confidential Information which is a trade secret under applicable law, the obligations shall continue in perpetuity for so long as such information is considered a trade secret.
  - (d) Notwithstanding anything to the contrary herein, if the Receiving Party is ordered by an administrative agency or other governmental body of competent jurisdiction to disclose the Confidential Information, then the Receiving Party may disclose the requested Confidential Information; provided however, that, the Receiving Party shall first notify the Disclosing Party prior to disclosure, if allowed by law, in order to give the Disclosing Party a reasonable opportunity to seek an appropriate protective order or waive compliance with the terms of this Agreement and shall disclose only that part of the Confidential Information which the Receiving Party is required to disclose.

- 7.4 Return of Materials.** Upon the request of the Disclosing Party or upon the expiration or termination of the Agreement, the Receiving Party shall promptly destroy or deliver to the Disclosing Party all of the Disclosing Party's Confidential Information and any notes, extracts, or other reproductions in whole or in part relating thereto, without retaining any copy thereof. Notwithstanding the foregoing, the Receiving Party shall be permitted to retain such copies of Confidential Information as may be reasonably necessary for legal or recordkeeping purposes, including such copies as are embedded in the automated backup of electronic data processing systems.

## **SECTION 8 DATA PROTECTION**

- 8.1 Processing of Personal Data.** To the extent that Docebo processes Customer Personal Data, it shall do so only in accordance with the Data Processing Addendum available at: <https://www.docebo.com/company/data-processing-addendum/> (the “DPA”) and the Information Protection and Security Standards (the “IPSS”), attached to the DPA as Annex A, which is incorporated by reference into this Agreement. As used herein, “Customer Personal Data” shall be as defined in the DPA.
- 8.2 Security Matters.** Docebo has implemented and will maintain, throughout the Term and the tail of any of its obligations under this Agreement, in accordance with industry best practices, appropriate technical and organizational safeguards described in the IPSS, in order to support the security, confidentiality and integrity of Customer Data and other proprietary information. Docebo shall only use Customer Data as permitted under this Agreement and in accordance with the DPA, including as necessary or appropriate to prevent technical problems (e.g., to resolve issues related to technical support).

Customer's notification referents for matters related to the DPA are the following:

Name:

Email:

Telephone:

## **SECTION 9 LIMITED WARRANTY AND DISCLAIMER.**

- (a) Docebo represents and warrants to the Customer that: (i) it will provide the Services in a manner consistent with general industry standards reasonably applicable to the provision thereof; (ii) it has all rights, licenses, consents and authorizations necessary to grant the rights and licenses granted in this Agreement; (iii) the Services delivered under the Agreement will operate substantially in conformity with its Documentation under normal use and circumstances; (iv) the Documentation accurately and completely reflects all material features and functions of the Services; and (v) it shall comply with all applicable federal, state, provincial and local laws, rules, and regulations when performing its obligations under this Agreement.
- (b) The above warranty will not apply to non-conformities, errors or problems caused by acts within the control of the Customer or its End Users, or arising from Customer's negligence or improper



use of the Services from unauthorized modifications or use of Services in an unsupported operating environment or manner, or any issues that arise from integrations made with third-party software at Customer's election.

- (c) OTHER THAN AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER DOCEBO, ITS AFFILIATES, LICENSORS OR SUPPLIERS, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS OR REPRESENTATIVES MAKES ANY EXPRESS OR IMPLIED WARRANTIES, CONDITIONS, OR REPRESENTATIONS TO THE CUSTOMER, OR ANY OTHER PERSON OR ENTITY WITH RESPECT TO THE SERVICES OR OTHERWISE REGARDING THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED OR STATUTORY, AND, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SERVICES ARE PROVIDED TO THE CUSTOMER ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND ARE FOR COMMERCIAL USE ONLY.
- (d) WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, THE IMPLIED WARRANTY OR CONDITION OF FITNESS FOR A PARTICULAR PURPOSE, AND THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE ARE EXPRESSLY EXCLUDED AND DISCLAIMED. NO WARRANTY IS MADE THAT USE OF THE SERVICES WILL BE TIMELY, ERROR FREE OR UNINTERRUPTED, THAT ANY NON-MATERIAL ERRORS OR DEFECTS IN THE SERVICES WILL BE CORRECTED, THAT THE SERVICES WILL OPERATE IN COMBINATION WITH HARDWARE, SOFTWARE, SYSTEMS OR DATA NOT PROVIDED OR RECOMMENDED BY DOCEBO, OR THAT THE SERVICES FUNCTIONALITY WILL MEET THE CUSTOMER'S REQUIREMENTS.

## SECTION 10 LIMITATIONS OF LIABILITY

- 10.1 Exclusions of Liability.** Except in connection with and to the extent of any breach of Section 7 (Confidentiality), in no event shall either Party, its affiliates, licensors or suppliers, or any of their respective officers, directors, employees, shareholders, agents or representatives be liable to the other Party, or any other person or entity for any indirect, special, incidental, exemplary or consequential damages or any loss of goodwill under or in any way relating to this Agreement or resulting from the use of or inability to use the deliverables or the performance or non-performance of any Services, including the failure of essential purpose, even if such Party has been notified of the possibility or likelihood of such damages occurring, and whether such liability is based on any legal or equitable theory, including, but not limited to, contract, tort, negligence, strict liability, products liability or otherwise.
- 10.2 Maximum Liability.** Except for claims arising in connection with and to the extent of (a) any breach of Section 7 (Confidentiality), (b) Section 11 (Indemnification) or (c) in connection with contractual payment obligations hereunder, in no event shall either Party's liability for any damages to the other Party, or to any other person or entity, regardless of the form of action, whether based on contract, tort, negligence, strict liability, products liability or otherwise, exceed an amount equal to twelve (12) months of fees for Services which were paid or would otherwise be payable to Docebo by the Customer during the Term during which arose the events giving rise to such action.

## SECTION 11 INDEMNIFICATION

### 11.1 Docebo Indemnification

- (a) Docebo shall indemnify and defend the Customer and its officers, directors, employees and affiliates and End Users against any and all third-party claims, actions or proceedings arising out of or in connection with, and to the extent caused by, (i) any infringement by the Docebo Software or Docebo Data against any patent, copyright, or trademark, or the misappropriation of any trade secret (except for claims which are specifically excluded under the terms of Section 11.1(b) or (ii) any violation by Docebo of its obligations in Section 7 (Confidentiality). If any Services (including the Docebo Software) becomes, or, in Docebo's opinion, is likely to become, the subject of any claim of infringement, Docebo may, at its sole option, (x) obtain for the Customer the right to continue using the Services; (y) replace or modify the affected Services so that it becomes non-infringing while providing substantially equivalent functionality; or (z) if such remedies are not available on commercially reasonable terms, as determined by Docebo, terminate the license to use the Services for the affected portion and promptly refund any pre-paid subscription fees for the affected portion thereof.
- (b) Notwithstanding any terms contained in Section 11.1(a), Docebo shall have no liability for infringement claims if the alleged infringement is based on or arises from (i) the combination or use of the Services with software or other materials not provided or recommended for use by Docebo, (ii) the modification of the Services by anyone other than Docebo, or at Docebo's direction, or (iii) the use of the Services not in accordance with the Documentation or this Agreement.

**11.2 Customer Indemnification.** The Customer will indemnify and defend, Docebo, and its officers, directors, employees and affiliates against all third-party claims, actions or proceedings arising out of or in connection with, and to the extent caused by, (i) Customer Data; (ii) any infringement or misappropriation of any Intellectual Property Rights of third parties; or (iii) any violation by the Customer of its obligations in Section 7 (Confidentiality).

**11.3 Indemnification Obligations.** The indemnification provided in Sections 11.1 and 11.2 is conditioned on: (i) the party to be indemnified (the **"Indemnified Party"**) giving the indemnifying party (the **"Indemnifying Party"**) prompt written notice of such claim; (ii) the Indemnified Party providing its full cooperation in the defense of such claim, if requested by the Indemnifying Party; and (iii) the Indemnified Party granting the Indemnifying Party the sole authority to defend or settle the claim.

## SECTION 12 TERM AND TERMINATION

**12.1 Term.** The term of this Agreement shall commence on the Effective Date and shall continue through until the expiration or termination of all Service Terms (the **"Term"**). A **"Service Term"** is defined as the period of time, as set out on each applicable Order Form or SOW, for each Service provided to Customer under this Agreement.

**12.2 Automatic Renewal.** Except as otherwise specified in an Order Form or SOW, subscriptions will automatically renew for subsequent twelve (12) month periods (each, a **"Renewal Term"**), unless either Party gives written notice of non-renewal in accordance with this Section 12.1. Upon each subsequent Renewal Term, the fees will be revised to reflect Docebo's then-current fees, or a ten percent (10.0%) increase over the highest level of annual fees charged during the previous Term or



Renewal Term, whichever is lower, for the applicable Services. Fees for any upcoming Renewal Term shall be set out in the Order Form sent to Customer, at least 60 days prior to the commencement of such Renewal Term. Unless otherwise specified in the Order, to prevent renewal of the Agreement, either Party must give written notice of non-renewal to the other Party at least thirty (30) days prior to the end of the then current Term.

**12.3 Termination.** Without prejudice to any other rights or remedies of each Party hereunder, and in addition to any other termination rights herein, the Parties shall have the right to terminate the Agreement as provided below:

- (a) By either Party if the other Party commits a material breach of this Agreement and such breach remains uncured thirty (30) days after written notice of such breach is delivered to such other Party;
- (b) By either Party if the other Party makes an assignment for the benefit of creditors, or commences or has commenced against it any proceeding in bankruptcy, insolvency, or reorganization pursuant to bankruptcy laws, laws of debtor's moratorium or similar laws;
- (c) By Docebo if any amounts hereunder which are due and owing and not reasonably in dispute remain unpaid for more than fifteen (15) days following written notice of such unpaid amounts being delivered to the Customer;
- (d) by Docebo if Customer is acting as a Reseller without Docebo's express written consent; or
- (e) by Customer if Docebo is in breach of Section 13.10 (Modifications).

**12.4 Effect; Transition**

- (a) Upon expiration or termination of this Agreement for any reason, all rights and licenses granted by Docebo hereunder to the Customer will immediately cease. Upon any expiration or termination of this Agreement, Docebo shall make the Customer's Materials reasonably available to it for a period of thirty (30) days. Upon any duly effected termination of this Agreement by the Customer pursuant to Sections 12.3 12.3(a), 12.3(b), or 12.3(e), Docebo will promptly refund any pre-paid fees for Services not yet received by the Customer.
- (b) Upon any expiration or termination of this Agreement by the Customer pursuant to Sections 12.3 12.3(a) or 12.3(b) of this Agreement, Docebo will continue, upon the Customer's written request, to provide the Services to the Customer, as the Services were provided to the Customer during the most recently completed Term and under the same conditions and applicable fees, for a maximum period of six (6) months ("Transition Services"). The Customer may use the Transition Services to continue operations and for data retrieval and export purposes, and Docebo will provide reasonable migration tools that it generally makes available to its customers for the Customer to retrieve the Customer's Materials and content as a part of providing the Services. In any event where the Customer has elected to receive Transition Services, the Customer represents and warrants that it will work expeditiously and diligently to migrate itself onto an alternative solution.

**12.5 Survival.** Termination of this Agreement or any Order Form or SOW issued hereunder shall not affect Section 5 (Fees and Payment Terms), Section 7 (Confidentiality), Section 10 (Limitations of Liability), Section 11 (Indemnification), and Section 13 (Miscellaneous), all of which shall expressly survive such termination.



## SECTION 13 MISCELLANEOUS

- 13.1 Authority.** Each Party represents and warrants that it has the legal power and authority to enter into this Agreement. When executed and delivered by both Parties, this Agreement will constitute the legal, valid and binding obligations of such Party, enforceable against such Party in accordance with its terms.
- 13.2 Governing Law.** This Agreement and all matters arising out of or relating to this Agreement are governed by, and construed in accordance with the chart appearing below:

Docebo entity entering into the Agreement	Choice of Law	Exclusive Jurisdiction
Docebo Inc.	Laws of Ontario	Toronto, Ontario
Docebo UK Limited	Laws of England and Wales	London, England
Docebo France SAS.	Laws of France	Paris, France
Docebo S.p.A.	Laws of Italy	Milan, Italy
Docebo NA, Inc.	Laws of Delaware	Atlanta, Georgia
Docebo GmbH	Laws of Germany	Munich, Germany
Docebo Australia Pty Ltd.	Laws of Australia	Melbourne, Australia

### 13.3 Dispute Resolution; Waiver of Jury Trial

*(This section 13.3 is only applicable to Agreements signed with Docebo Inc. and Docebo NA, Inc.)*

- (a) In the event that any dispute arises between the Parties with respect to this Agreement, the Parties will first attempt to resolve the dispute, in good faith, through consultation. If consultation is not successful in resolving the entire dispute or is unavailable, any outstanding issues will be submitted to final and binding arbitration, before one (1) arbitrator in accordance with the then prevailing rules of commercial arbitration of JAMS. The arbitrator's award (the "**Award**") will be final, and judgment may be entered upon it by any court having jurisdiction over such matter. Every arbitrator engaged pursuant to this Section 13.3, and all proposed arbitrators, must be at arm's-length from both Parties and shall not have any interest in the dispute. Each arbitrator shall, subject to applicable rules, determine the procedure for hearing the dispute but shall be caused to give written reasons for material findings of fact and a written decision. Each arbitrator shall determine the liability among the Parties to the dispute for the cost of the dispute resolution process and for the payment of the arbitrator. The Parties shall maintain the confidential nature of the arbitration proceeding and the Award, except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as may be necessary in connection with a court application for a preliminary remedy, a judicial challenge to an Award or its enforcement, or unless otherwise required by applicable law.
- (b) EACH PARTY, TO THE FULLEST EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, IRREVOCABLY WAIVES, RELINQUISHES AND FOREVER FORGOES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS AGREEMENT.

- 13.4 International Conventions.** The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply in any respect to this Agreement or the Parties.
- 13.5 Communications; Notices.** All communications and notices which are required or otherwise provided under this Agreement shall be in writing and shall be deemed given when delivered (i) by hand, (ii) by registered or certified mail, postage prepaid, return receipt requested; (iii) by a nationally recognized overnight courier service; or (iv) by electronic mail (with read receipt or other tracking mechanism to confirm receipt), to the respective addresses set forth on the initial Order Form, with a copy which shall not constitute notice to [legal@docebo.com](mailto:legal@docebo.com)
- 13.6 Assignment.** Customer may not assign this Agreement without Docebo's written consent, which consent shall not be unreasonably withheld or delayed, except that Customer may assign or transfer this Agreement in connection with a sale of all or substantially all of Customer's assets (other than to a direct competitor of Docebo and provided that the assignee agrees in writing to be bound by all terms and conditions of this Agreement) by providing Docebo with prompt written notice of such assignment. Any assignment in violation of this Section 13.6 shall be void and of no effect. The Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns
- 13.7 Severability.** In case any one or more of the provisions of this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.
- 13.8 Entire Agreement.** This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes all previous oral or written communications, representations, understandings, agreements, or proposals with respect thereto. For the avoidance of doubt, any purchase order forms, or similar document, issued by the Customer to Docebo, outside of an Order Form or SOW will not be accepted and are expressly rejected by Docebo. All Order Forms, SOWs and Schedules attached to the Agreement or subsequently added hereto by mutual consent of the Parties are incorporated into this Agreement for all purposes.
- 13.9 Waiver.** No failure or delay by a Party to exercise any right or remedy provided under this Agreement, or by law, shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 13.10 Modifications.** No amendment to or modification of this Agreement is effective unless it is in writing, identified as an amendment to or modification of this Agreement and signed by an authorized representative of each Party. Notwithstanding the foregoing, Docebo reserves the right, in its sole discretion, to make any changes to the Services and to the Docebo Software that it deems necessary or useful to: (a) maintain or enhance (i) the quality or delivery of Docebo's services to its customers, (ii) the competitive strength of or market for Docebo's services, or (iii) the Services' cost efficiency or performance; or (b) to comply with applicable law; provided that no such changes have the effect of materially degrading the functionality of the Services.
- 13.11 Force Majeure.** Neither Party will be responsible for any delay or failure in performing any of its obligations hereunder due to causes of force majeure, which are the result of circumstances or events which are not reasonably foreseeable and are beyond such Party's reasonable control, including, without limitation, acts of God, acts of government, flood, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (excluding those involving a Party's employees), computer or telecommunications failures or delays involving hardware or software not within a Party's possession or reasonable control, and network intrusions or denial of service attacks (each



a “**Force Majeure Event**”). The Party affected by a Force Majeure Event will advise the other Party in reasonable detail of the Force Majeure Event as promptly as practicable and keep the other Party reasonably apprised of progress in resolving the Force Majeure Event.

**13.12 No Third-Party Beneficiaries.** The Agreement is personal to the Parties and no third parties shall be considered beneficiaries hereof, for any purposes.

**13.13 Insurance**

- (a) At all relevant times during the performance of Services pursuant to the Agreement, Docebo shall have bound and maintained the following minimum insurance coverages (*all amounts stated are in USD*):
  - (i) Commercial General Liability – \$1,000,000, per occurrence, \$2,000,000, in the aggregate;
  - (ii) Cyber Liability / Technology Errors & Omissions/ Professional Liability – \$5,000,000, in the aggregate.
- (b) Upon reasonable request, Docebo will provide to the Customer customary proof of continuing insurance.
- (c) For the avoidance of doubt, nothing contained in this Section 13.13 shall, in any way, be interpreted as impacting any limitations of liability or indemnification provisions contained in the Agreement.

**13.14 Additional Policy Compliance.** Each of the Parties hereby represents and warrants that they shall comply with all laws, regulations or other requirements relating to business ethics of any Country in which Services are performed or received hereunder. Each Party represents and warrants that it has not taken any action prior to the date hereof that would subject the other to liability under any such laws that are aimed at preventing bribery or corruption and agrees and covenants not to take any action in the course of performing the Agreement that would subject the other Party to the same. Docebo has implemented and complies at all times with a Code of Business Conduct and Ethics, which is available at: [https://s24.q4cdn.com/246292444/files/doc\\_downloads/doc\\_gov/2022/Docebo-Inc.-Code-of-Business-Conduct-and-Ethics-March-9-2022.pdf](https://s24.q4cdn.com/246292444/files/doc_downloads/doc_gov/2022/Docebo-Inc.-Code-of-Business-Conduct-and-Ethics-March-9-2022.pdf)

**13.15 Publicity.** Customer hereby grants to Docebo the express right to use Customer’s company logo and/ or name in its quarterly press releases, related earnings calls, investor presentations and its website to identify Customer as a Docebo customer. Other than as expressly stated herein, neither Party shall use the other Party’s name and/or logos without the prior written permission of the other Party.

*[End of Master Services Agreement]*