

PENDO PLATFORM TERMS OF SERVICE

For an overview of contracting for our Services, please visit the Pendo Contract Center at <https://www.pendo.io/contract-center/>.

Last Updated: 23 February 2026

Welcome to Pendo. These Pendo Platform Terms of Service (the “**Terms**”) govern your purchase and use of Pendo’s Services provided through the Platform.

These Terms, together with any Service-Specific Terms (defined below), applicable Order Forms, SOWs, and any other terms, conditions, agreements, or policies that link to these Terms, are collectively referred to as the “**Agreement**.” The Agreement is a contract between Pendo.io, Inc., a Delaware corporation, on behalf of itself and its Affiliates (“**Pendo**,” “**we**,” or “**us**”), and you or the company, organization, or other legal entity you represent as listed on the Order Form and any of your Affiliates (“**Customer**,” “**you**,” or “**your**”).

The Agreement becomes effective on the Effective Date (as defined below). Capitalized terms used but not defined in these Terms are defined in the “**Definitions**” section.

Pendo may modify these Terms from time to time subject to the Terms.

1. DEFINITIONS.

“**Account**” means the Customer’s account or instance on the Platform through which the Customer and its Users access and use the Services.

“**Affiliate**” means any entity that controls, is controlled by, or is under common control of the entity, where “control” means direct or indirect ownership of more than fifty percent (50%) of the voting securities or other ownership interests of the entity.

“**AI Features**” means functionality or capabilities within the Services, provided by or on behalf of Pendo, that leverage artificial intelligence (“AI”) technologies such as machine learning, natural language processing, computer vision, data analytics, or similar methods to automate, augment, or enable tasks that would otherwise require human intelligence. AI Features may include, without limitation, automated insights, recommendations, content generation, predictive analytics, or other outputs generated or facilitated by such technologies. AI Features may be powered by Pendo’s proprietary models, internal rule-based systems, or third-party LLM providers, and may process Customer Data or user-generated content as described in Pendo’s Documentation and privacy practices.

“**AUP**” means Pendo’s then-current Acceptable Use Policy, which is incorporated by reference into these Terms and available at <https://www.pendo.io/contract-center/>.

“**Beta Services**” means Pendo products, services, integrations, functionality or features that are not generally available to Pendo customers and/or are designated by Pendo as “alpha,” “beta,” “pilot,” “preview,” “limited release,” “developer preview,” “non-production,” or another similar designation.

“**Confidential Information**” means any information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally, in writing, or electronically, that is marked or

reasonably understood to be confidential given its nature and the circumstances of disclosure. Confidential Information includes, but is not limited to: (i) Customer Confidential Information: Customer Data, and Output; (ii) Pendo Confidential Information: Usage Data, non-public technical information, product plans and designs, business and marketing plans, Services (including Beta Services), user interface design and layout, source code, and object code; and (iii) the terms and conditions of this Agreement, including pricing.

"Controller" means the entity that, alone or jointly with others, determines the purposes and means of the Processing of Personal Data.

"Customer" means the entity that is a party to the Agreement and Named Customer Affiliates.

"Customer Credentials" means User passwords, keys, tokens, and other credentials used in connection with the Services.

"Customer Components" means Customer's applications, websites, systems, data sources, SDKs, scripts, and other software or services used in connection with the Services.

"Customer Data" means any data, content, or information that Customer, its Users or End Users provide or make available to Pendo through the Platform or Services, including without limitation: (i) text, files, documents, graphics, images, audio, video, and messages; and (ii) inputs submitted to AI Features ("AI Input").

"Customer Materials" means those materials, information, and resources that Customer expressly provides to Pendo for the limited purpose of performing the Professional Services, as specified in an applicable SOW.

"Deliverables" means deliverables, work product, reports, guidance, templates, code, or other materials as part of the Professional Services.

"Documentation" means published Pendo documents and manuals describing the operation and use of Services, as made available to Pendo's customers.

"DPA" means the then-current Pendo Data Processing Addendum, which is incorporated by reference into these Terms and available at <https://www.pendo.io/contract-center/>.

"Effective Date" means the earliest date on which this Agreement is accepted by Customer, whether by (i) the last signature of the parties, (ii) clicking an "I agree" button or checking a similar acceptance box, (iii) signing an applicable Order Form or otherwise accepting these Terms or any Service-Specific Terms, or (iv) accessing or using the Services.

"End User" means an individual or entity who uses the digital product on which Customer installs Pendo's Software.

"Feedback" means suggestions, comments, feedback, improvements requests, or other assessments which Customer or its Users may provide to Pendo relating to features, functionality or the operation of the Services or Beta Services.

"Fees" means undisputed amounts due and payable to Pendo.

"Free Services" means Services that Pendo makes available to Customer without charging a fee, including any free evaluation or trial of the Services.

"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.

"Licensed Materials" means any software, code, components, modules, libraries, SDKs, APIs, patches, updates, enhancements, or other technical materials provided by Pendo (or its licensors) under this Agreement, whether in source or object form, excluding the Services and Documentation.

"Named Customer Affiliates" means Customer Affiliates named in an applicable Order Form.

"Order Form" means a Pendo ordering document or online purchasing form, governed by this Agreement and signed or accepted by both Pendo and Customer, that specifies the Services purchased by Customer.

"Output" means any reports, analytics, results, or configured data derived from Customer Data and generated by the Services for Customer, but does not include the underlying Software or Services. Output includes **"AI Output"**, which means any content, recommendation, prediction, insight, report, visualization, or other result generated by AI Features from AI Input, whether produced by Pendo's proprietary models, internal systems, or third-party models.

"Platform" means Pendo's proprietary cloud-based software platform, including its applications, features, tools, analytics, guides, feedback, APIs, AI-enabled features, integrations, dashboards, and related components, as made available to Customer under these Terms, including any updates, enhancements, modifications, or new features provided by Pendo from time to time.

"Privacy Policy" means the then-current Pendo Privacy Policy, which is incorporated by reference into these Terms and available at <https://www.pendo.io/contract-center/>.

"Professional Services" means training, consulting, configuration or other professional services provided by Pendo to Customer under an Order Form or SOW.

"Security Exhibit" means the then-current Pendo Security Exhibit, which is incorporated by reference into these Terms and available at <https://www.pendo.io/contract-center/>.

"Services" means the Platform and any related services provided by Pendo to Customer under this Agreement or an applicable Order Form, including any Professional Services.

"Service-Specific Terms" means product-specific supplemental terms that apply to particular Services, features, or functionality made available by Pendo. Service-Specific Terms may describe entitlements, limitations, technical requirements, or additional obligations relating to those Services, and are incorporated into this Agreement by reference. To the extent of any conflict between the Service-Specific Terms and this Agreement, the Service-Specific Terms govern for the applicable Service.

"Software" means Pendo's commercially available downloadable software (including all Updates) included with the Services.

"SOW" or **"Statement of Work"** means a statement of work mutually agreed by Customer and Pendo for the provision of Professional Services and that is governed by this Agreement.

"Taxes" means any form of taxation of whatever nature and by whatever authority imposed, including any interest, surcharges or penalties, arising from or relating to the Agreement or any Services, other than taxes based on the net income, property or employees of Pendo.

"Term" means, with respect to each Order Form, the subscription term for the Services specified in the Order Form, the daily period of use for pay-as-you-go Services, or, for Professional Services, the term set forth in the applicable Order Form or SOW, in each case unless terminated earlier in accordance with this Agreement.

"Third-Party Components" means any third-party software, libraries, or open source software incorporated into the Services.

"Units" means the basis on which fees are established for Services as set forth in the Order Form.

"Updates" means, as applicable, bug fixes, enhancements, upgrades and new releases or versions that are made generally available to Pendo customers.

"Usage Data" means data collected in connection with Customer's use of the Platform, including query logs, object definitions and properties, usage metrics, trends, and other service utilization or statistical data relating to how Customer interacts with the Platform.

"User" means an employee or independent contractor who is authorized by Customer to use the Services purchased by Customer.

2. ACCESS TO SERVICES.

- a. **Access Rights.** Pendo will make the Services available to you during the Term for use by you in accordance with this Agreement and any applicable Documentation. You may authorize Users to access and use the Services in compliance with this Agreement. You are responsible for all User activity, for ensuring User compliance, and for any breach of this Agreement by your Users. Users may not share access credentials.
- b. **Service Integrations.** The Services may provide links and/or access to integrations with third parties, including, without limitation, certain services which may be integrated directly into your account or instance in the Services. If you elect to enable, access, or use such third party services, your access and use of such third party services is governed solely by the terms and conditions and privacy policies of such third party services, and Pendo does not endorse and is not responsible or liable for, and makes no representations as to any aspect of such third party services, including, without limitation, their content or the manner in which they handle data (including Customer Data) or any interaction between you and the provider of such third party services. For the avoidance of doubt, the providers of third party services are not deemed Sub-Processors (as defined in the DPA) for any purpose under the DPA.
- c. **Eligibility and Authority.** By accessing or using the Services, including by creating an Account, you represent and warrant that you are legally permitted to enter into this Agreement and, if you are entering into this Agreement on behalf of an entity, that you have full power and authority to bind such entity to this Agreement.

d. **User Accounts.** To use the Services, Users may be required to register an Account. You are responsible for ensuring that all registration information is accurate and kept current. Users are solely responsible for maintaining the confidentiality of their login credentials and may not share them or create multiple accounts. Pendo is not liable for losses arising from unauthorized use of an Account. You agree to notify Pendo immediately of any unauthorized use.

3. **USE OF THE SERVICES.**

a. **Permitted Use.** Subject to your compliance with this Agreement (including all payment obligations), Pendo grants you a limited, revocable, non-exclusive, non-transferable, and non-sublicensable right to access and use the Services. You remain liable for the acts and omissions of your Affiliates.

b. **Third-Party Components.** The Services may include or incorporate Third-Party Components. Customer's use of any Third-Party Components is subject to the applicable license terms provided with or referenced by such components, which will control in the event of any conflict with these Terms solely with respect to the applicable Third-Party Components. Except as expressly set forth in this Agreement, Pendo makes no warranties and assumes no liability with respect to Third-Party Components.

c. **Free and Beta Services.** If Pendo provides you with any Free Services or Beta Services, Pendo grants you a limited, non-exclusive, non-transferable, and non-sublicensable right to access and use those services in accordance with these Terms. Your access to and use of Free Services and/or Beta Services will end on the earlier of (i) the end date of any predetermined period set forth in the Agreement or (ii) notice from Pendo, which may be given at any time in Pendo's sole discretion. Beta Services may be made available for evaluation or testing purposes only. Pendo may modify, suspend, or discontinue any Free Services or Beta Services at any time, with or without notice. Notwithstanding anything to the contrary in these Terms, Beta Services and any related documentation are provided "AS IS," without support, warranties, or indemnification obligations of any kind, whether express or implied. Except where inconsistent with this Section, all other terms of these Terms apply to Free Services and Beta Services.

d. **Redistribution License.** Subject to the Terms, Pendo hereby grants you a limited, non-exclusive, non-transferable, non-sublicensable right and license to reproduce and redistribute the Licensed Materials only as integrated into your products or services and solely to End Users of those products or services. The Licensed Materials may not be distributed on a standalone basis, and you must ensure that any redistribution does not enable third parties to access or use the Licensed Materials except as part of your product or service. You shall include, where applicable, Pendo's copyright, trademark and attribution notices and any license or notice file that Pendo requires.

e. **Support.** During the Term of the applicable Order Form, Pendo will provide you with Services support for technical information, technical advice and technical consultation regarding your use of the Services. You can submit support inquiries via the Pendo website 24 hours per day. Pendo's standard support hours are 07:00 to 19:00 Eastern Time Monday through Friday.

- f. **Services Update and Packaging Changes.** Pendo may modify, enhance, update, or discontinue the Services or any portion thereof from time to time. In the event of a material reduction or discontinuation of functionality that constitutes a core part of the Services purchased under an applicable Order Form, Pendo will use commercially reasonable efforts to provide comparable or substantially similar functionality and to provide reasonable notice of such material change. Pendo may also make stylistic, structural, or organizational changes to the Platform or Services, including changes to naming conventions, product packaging, bundling, entitlements, or presentation, and may update the structure or description of its pricing, in each case without prior notice, provided that such changes do not materially reduce the functionality of the Services or change the aggregate pricing then in effect for the applicable subscription term. If Pendo makes any updates or enhancements to the Services, you are responsible for implementing any Updates made available by Pendo. Except as expressly stated in this Agreement, the Services are provided “as is,” and Pendo disclaims all warranties related to any changes, updates, or functionality of the Services.
- g. **Usage Limits; Excessive Usage.** Customer’s use of the Services is subject to the usage limits in the applicable Order Form and must align with the quantities and scope of the Units purchased. If Customer’s usage materially exceeds those limits or places an unreasonable burden on Pendo’s systems or infrastructure (including but not limited to excessive events, API calls, data storage, or bandwidth), Pendo may, upon reasonable prior notice, temporarily throttle or limit access to the affected Services to protect service stability and performance.

4. PROFESSIONAL SERVICES.

- a. **Provision of Professional Services.** Pendo may provide Professional Services, as may be set forth in one or more Order Forms and/or SOWs. Any Professional Services will be performed in accordance with this Agreement and any applicable Order Form and/or SOW.
- b. **Customer Access.** You acknowledge that timely access to Customer Materials, systems, personnel, data, equipment, and facilities, as applicable, is necessary for Pendo to perform the Professional Services. You agree to provide such access and to reasonably cooperate with Pendo during the performance of the Professional Services. Pendo will not be responsible for any delays, deficiencies, or failures in performance to the extent caused by your failure to meet your obligations under this Section.
- c. **Customer Materials.** You grant Pendo a limited, non-exclusive, royalty-free right to use Customer Materials solely as necessary to perform the Professional Services. As between the parties, you retain all right, title, and interest in and to the Customer Materials. You represent and warrant that you have all rights necessary to provide the Customer Materials and to grant the rights set forth in this Agreement, and that the Customer Materials do not infringe or misappropriate any third-party rights. Any Customer Materials that constitute Confidential Information will be subject to the confidentiality provisions of this Agreement.
- d. **Access to Customer Data.** Unless expressly required and specified in an applicable SOW, you will not provide Pendo with access to Customer Data in connection with the Professional Services. To the extent access to Customer Data is required under the Order Form or applicable SOW, you are solely responsible for ensuring that the scope, level, and

duration of such access are limited to what is reasonably necessary to perform the applicable Professional Services. Unless otherwise specified in an SOW, such access will be limited to non-production environments and read-only access. Notwithstanding the foregoing, where the Professional Services expressly require hands-on configuration, implementation, or similar services, you may grant Pendo the level of access reasonably necessary to perform those services, including write access and access to production environments, subject to the security and data protection obligations set forth in this Agreement.

- e. **Deliverables.** To the extent Pendo provides Deliverables, such Deliverables are not works made for hire and are part of or derived from Pendo's pre-existing technology, know-how, or methodologies. Subject to the terms of this Agreement, Pendo grants you a limited, non-exclusive, non-transferable, royalty-free license to use the Deliverables internally solely in connection with your authorized use of the Services during the applicable Term. No other rights are granted, whether by implication or otherwise.
- f. **Changes to Professional Services.** You may request changes to the scope of Professional Services under an existing Order Form or SOW. Any changes to fees, timelines, assumptions, or scope must be mutually agreed to in writing by the parties, including via a change order or amendment to the Order Form or SOW. Pendo has no obligation to perform services outside the agreed scope of an Order Form or SOW.

5. CUSTOMER RESPONSIBILITIES.

- a. **Customer Obligations for Use and Security.** During the Term, you are solely responsible for: (i) all activity within your Account and your Pendo environment on the Platform; (ii) promptly accepting, installing, and using any Updates provided by Pendo; (iii) obtaining, maintaining, and securing your own hardware, software, networks, and computer systems, which are not included in the Services; (iv) ensuring that your registration information, Account credentials, passwords, and billing information are complete, accurate, and kept up to date; and (v) implementing reasonable administrative, physical, and technical safeguards to protect the security, confidentiality, and integrity of your systems, access credentials, and any data within the Services, including ensuring that your Users comply with these obligations. If you become aware of any unauthorized access or use of the Services, you must immediately terminate the offending party's access and notify Pendo.
- b. **Restrictions.** You will not (and will not permit any third party to): (i) sell, rent, lease, license, distribute, sublicense, provide access to, or otherwise make the Services (or any Deliverables) available to a third party, except as expressly permitted under the Agreement or Documentation, or as necessary to receive Professional Services; (ii) use the Services to provide, or incorporate the Services into, any substantially similar product or service for the benefit of a third party; (iii) reverse engineer, decompile, disassemble, or otherwise attempt to obtain the source code or non-public APIs of the Services; (iv) remove, alter, or obscure any trademarks, service marks and other marks included in the Services; or (v) use the Services in violation of the AUP.
- c. **Customer Environment.** Customer controls and is solely responsible for Customer Components, including the selection, configuration, security, and maintenance of any integrations or connections with the Services. By enabling or using any integration,

Customer authorizes Pendo to access and process data from the applicable Customer Components solely as necessary to provide and support the Services. Customer is responsible for ensuring that such access and use complies with all applicable laws, licenses, and third-party terms governing the Customer Components and associated data.

6. CUSTOMER DATA.

- a. **Customer Proprietary Rights.** As between you and Pendo, you own all right, title and interest in and to the Customer Data and Output. You hereby grant Pendo a non-exclusive, non-transferable, non-sublicensable, worldwide, royalty-free license to the Customer Data and Output as necessary for Pendo to provide the Services and as permitted under this Agreement, including for customer support purposes and for the purpose of detecting, preventing and responding to fraud and security risks.
- b. **Pendo Use of Customer Data.** Pendo will use Customer Data (i) in order to provide the Services to you, (ii) as otherwise expressly permitted under this Agreement, and (iii) as required by applicable law, regulation or legal process.
- c. **Security.** Pendo will implement and maintain appropriate technical and organizational measures designed to protect Customer Data against accidental or unlawful loss, and against unauthorized access, use, alteration, or disclosure, as further described in the Security Exhibit. Customer is responsible for properly configuring the Services in accordance with the Documentation, enabling single sign-on for Customer accounts if required by Customer's security policies, and safeguarding all Customer Credentials. Customer shall use reasonable efforts to prevent unauthorized access to or use of the Services and shall promptly notify Pendo if Customer becomes aware that (i) any Customer Credentials have been lost, stolen, or compromised, or (ii) an unauthorized third party has accessed or used the Services or Customer Data.
- d. **Data Protection.** The parties agree to comply with their respective obligations under applicable data protection laws. To the extent applicable, the parties will process Personal Data in accordance with Pendo's DPA.

7. PENDO OWNERSHIP AND DATA RIGHTS.

- a. **Pendo IP.** As between the parties, Pendo owns all right, title, and interest (including all Intellectual Property Rights) in and to the Platform, the Services, the Software, the Documentation, and all improvements, enhancements, or Updates thereto. You may not remove or modify any proprietary marking or restrictive legends in the Services.
- b. **Feedback.** You may provide Feedback to Pendo. You hereby grant Pendo an irrevocable, perpetual, sublicensable, royalty-free license to use, incorporate and otherwise fully exercise and exploit any such Feedback without any obligation to compensate you.
- c. **Usage Data and Analytics.**
 - i. **Usage Data Ownership.** Notwithstanding anything to the contrary, Pendo owns all right, title, and interest in and to the Usage Data.
 - ii. **Permitted Use.** Pendo may collect and use Usage Data and administrative account information to operate, support, and improve the Services, including for billing,

compliance, analytics, and product development purposes. Pendo may also use Customer Data for analytics solely on an aggregated and anonymized basis, provided that such data does not identify and cannot reasonably be used to identify Customer, its Users, or its End Users. Pendo will not disclose Customer Data to third parties except in aggregated and anonymized form for the limited purpose permitted under this Section.

iii. **Pendo Processing Role.** To the extent applicable, Pendo may process limited Personal Data (specifically administrative account information) and Usage Data as a Controller in accordance with Pendo's Privacy Policy.

d. **Reservation of Rights.** Except as expressly provided in this Agreement, this Agreement does not grant either party any rights, implied or otherwise, to the other party's content or intellectual property.

8. FEES, PAYMENT AUTHORIZATION, AND TAXES.

a. **Fees.** The price, currency, and available payment method for the Services you are purchasing will be set out in the applicable Order Form(s). You agree to pay all Fees, including any applicable Taxes, in accordance with the payment terms stated in the applicable Order Form. If an Order Form does not specify payment terms, Fees are due within thirty (30) days of the invoice date. Except as otherwise expressly stated in the Agreement, all payment obligations under any and all Order Forms are non-cancellable, and all payments are non-refundable.

b. **Billing Information.** You agree to provide and maintain complete, current, and accurate billing and contact information, including any required purchase order details, and to promptly update Pendo of any changes. Pendo is not responsible for delays or failures in invoicing or delivery of notices caused by your failure to maintain accurate billing information.

c. **Expenses.** To the extent Pendo provides Professional Services hereunder, you agree to pay any pre-approved, reasonable out-of-pocket expenses incurred by Pendo associated with any Professional Services, including for travel, lodging, food and transportation. Such expenses will be due and payable as set forth in the applicable Order Form(s) or SOW.

d. **Taxes.** All Fees are exclusive of Taxes, and you will pay or reimburse Pendo for all Taxes arising out of your purchase of the Services. You agree that you will pay all fees to Pendo without any deduction or set off for withheld taxes or otherwise. If Pendo has the legal obligation to pay or collect Taxes for which you are responsible, the appropriate amount will be invoiced to and paid by you, unless you provide Pendo with a valid tax exemption certificate authorized by the appropriate taxing authority.

e. **Usage Verification.** Pendo reserves the right to verify your usage of the Services to ensure compliance with the terms, including Units purchased, within the applicable Order Form(s). If, during the Term, your usage exceeds the quantity of Units in the Order Form, Pendo may increase Fees based on the applicable Unit pricing. Unless otherwise agreed between the parties, the additional fees will commence on the date you first exceeded the quantity of Units and be prorated for the remainder of the applicable Term.

- f. **Non-Payment and Suspension.** If any undisputed invoice remains unpaid more than thirty (30) days after its original due date, such non-payment will constitute a material breach of this Agreement. Upon such breach, Pendo may immediately suspend the Services without liability until payment is made in full, in addition to exercising any other rights or remedies under this Agreement or applicable law. If the breach is not cured within thirty (30) days of the date of the material breach, Pendo may terminate the Agreement for cause. Upon termination, all remaining fees and committed amounts under the Agreement will become immediately due and payable, and you will reimburse Pendo for reasonable collection costs, including attorneys' fees.
- g. **Payment Disputes.** If you dispute any portion of an invoice, you must notify Pendo in writing within thirty (30) days of the invoice date, providing reasonable detail regarding the basis for the dispute. The parties will work in good faith to resolve the dispute, and you will timely pay all undisputed amounts in accordance with the Agreement. Pendo will not suspend the Services for nonpayment of a disputed amount while the parties are resolving the dispute in good faith; however, if a dispute remains unresolved for more than sixty (60) days from the date Pendo receives notice of the dispute, Pendo may suspend the affected Services upon written notice until the dispute is resolved or payment is made.

9. CONFIDENTIALITY.

- a. **Obligations.** The Receiving Party will use the same degree of care to protect the Disclosing Party's Confidential Information that it uses to protect its own confidential information of like-kind (but not less than reasonable care) including by, except as otherwise authorized by the Disclosing Party, limiting access to the Disclosing Party's Confidential Information to Receiving Party's employees, contractors, Affiliates and agents who have a need to know the Disclosing Party's Confidential Information for purposes consistent with the Agreement and that are subject to confidentiality obligations to the Receiving Party containing protections not materially less protective than those contained herein.
- b. **Exclusions.** Confidential Information does not include information that: (i) is or becomes publicly available through no fault of the Receiving Party; (ii) was known to the Receiving Party without obligation of confidentiality at the time of disclosure; (iii) is received from a third party not under a confidentiality obligation; or (iv) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information.
- c. **Compelled Disclosure.** Nothing in the Agreement will prevent the Receiving Party from disclosing the Confidential Information pursuant to any judicial or governmental order or as otherwise required by law, provided that, where legally permissible, the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure.

10. COMPLIANCE WITH LAW.

- a. **Compliance with Laws.** Each Party agrees to comply with all applicable laws with respect to its performance of its obligations and exercise of its rights under this Agreement.
- b. **Export Controls and Sanctions.** Both parties will comply in all material respects with all laws, regulations, rules, orders and other requirements, now or hereafter in effect, of any governmental authority, applicable to its performance hereunder. The Services and

technical information that Pendo provides under the Agreement may be subject to export laws, rules and regulations of the United States and other jurisdictions ("Controlled Materials"). You agree to comply with all applicable export and import laws, rules and regulations, including any local laws in its jurisdiction, concerning its right to import, export or use Controlled Materials. In addition, you (including your Affiliates) agree that you are not named on any U.S. government denied-party list and will not permit any User to access or use any Services in a U.S.-embargoed country or region or in violation of any U.S. export law, rule or regulation.

11. REPRESENTATIONS AND WARRANTIES; DISCLAIMER.

- a. **Service Warranty.** Pendo warrants that: (i) it has validly entered into this Agreement and has the legal authority to enter into this Agreement; (ii) the Services will materially conform to the applicable Documentation; and (iii) all Professional Services and Deliverables will be performed in a professional and workmanlike manner and substantially in accordance with Documentation and/or the specifications set forth in the applicable SOW. If Pendo is unable to correct any reported non-conformity under this warranty, either party may terminate the applicable Order Form or SOW, and your sole remedy will be a refund of any prepaid, unused Fees for the affected Service(s) or Professional Services. This warranty does not apply to any non-conformity or error resulting from (a) your misuse, improper use, or failure to comply with Documentation; (b) modifications to the Services or Deliverables by Customer or any third party; (c) use of the Services or Deliverables with hardware, software, or services not provided or approved by Pendo; or (d) factors outside Pendo's reasonable control. For Professional Services and related Deliverables, this warranty applies only if you provide written notice of the claim within thirty (30) days after the expiration of the applicable SOW.
- b. **Customer Warranty.** You warrant that: (i) you have obtained and will maintain all consents, permissions, and notices required under applicable law from End Users or other individuals for Pendo to collect, store, process, or otherwise use Customer Data under this Agreement, and you have made all legally required disclosures regarding such use; (ii) you are solely responsible for the legality, accuracy, quality, and content of all Customer Data; (iii) your use of the Services and Customer Data will not infringe, misappropriate, or violate any third-party intellectual property or proprietary rights; and (d) you will not use the Services to transmit malicious code, malware, or other harmful content.
- c. **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, ALL SERVICES, PROFESSIONAL SERVICES, SUPPORT, DELIVERABLES, AND OTHER MATERIALS PROVIDED BY PENDO ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. PENDO MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, AND DISCLAIMS ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. PENDO DOES NOT WARRANT THAT THE SERVICES, DELIVERABLES, OR RESULTS OF THEIR USE WILL: (a) MEET YOUR REQUIREMENTS; (b) OPERATE WITHOUT INTERRUPTION; (c) ACHIEVE ANY INTENDED RESULT; (d) BE ERROR-FREE; OR (e) BE COMPATIBLE WITH OR CONTINUE TO WORK WITH YOUR SYSTEMS, SOFTWARE, OR OTHER COMPONENTS. ANY CHANGES TO YOUR ENVIRONMENT, SYSTEMS, OR

CONNECTIONS, OR YOUR THIRD-PARTY TERMS DURING A TERM, DO NOT AFFECT YOUR OBLIGATIONS UNDER THE APPLICABLE ORDER FORM, SOW, OR THIS AGREEMENT.

12. TERM AND TERMINATION.

- a. **Term.** The Agreement will begin on the Effective Date and continue until terminated under this Agreement or until expiration of the Term.
- b. **Termination.**
 - i. **Termination for Cause.** Either party may terminate this Agreement (in whole or with respect to an applicable Order Form) upon written notice to the other party if: (a) the other party materially breaches this Agreement and, if capable of cure, fails to cure such breach within thirty (30) days following written notice; or (b) the other party enters into compulsory or voluntary liquidation, has a receiver appointed, ceases to carry on business, or takes or suffers any similar action that indicates it may be unable to pay its debts.
 - ii. **Pendo Termination Rights.** Pendo may terminate this Agreement, in whole or with respect to any Order Form, at any time upon written notice to you for any of the following reasons: (a) immediately, if Customer infringes, misappropriates, or otherwise violates Pendo's intellectual property rights; or (b) immediately, in whole or in part, with respect to any Beta Services or Free Services, with or without notice.
 - iii. **Termination upon Expiration.** You further acknowledge that access, use, and any obligation to render Services will automatically terminate upon expiration of the applicable Term.
- c. **Effects of Termination.** The expiration or termination of an individual Order Form or any Services will not impact any other Order Form or Services or the remainder of the Agreement. If the Agreement is terminated in whole, the Agreement and all corresponding Order Forms and SOWs will terminate. You will pay for all Services up to the effective date of termination.
- d. **Access to Customer Data Upon Expiry or Termination.** Upon expiration or termination of the Agreement, Pendo will terminate the applicable Services. You may export your Customer Data prior to such expiration or termination and may request a copy of your Customer Data for up to thirty (30) days thereafter ("Data Retrievability Period"). Such copy will be provided by Pendo to you in an industry-standard format. Subject to the DPA, after expiration of the Data Retrievability Period, Pendo will promptly delete the Customer Data unless otherwise legally prohibited. During the Data Retrievability Period, all Customer Data related provisions of the Agreement will remain in full force and effect.
- e. **Survival.** Provisions that, by their nature, should survive termination of these Terms shall survive termination. By way of example, all of the following will survive termination: any obligation you have to pay Pendo, any indemnification and defense obligations, any limitations on liability, and any terms regarding confidentiality, ownership or intellectual property rights.

13. INDEMNIFICATION.

- a. **Customer Indemnification.** Subject to Section 13(c) below, you will defend and indemnify Pendo and its employees, officers, directors, and agents from and against all claims, actions, demands, and suits by third parties and pay all losses, liabilities, damages, costs, and expenses associated therewith (including reasonable attorneys' fees) to the extent arising from any allegation that (i) you failed to obtain the necessary consents, permissions, or notices required under this Agreement; (ii) any Customer Data infringes the intellectual property, privacy or other rights of any third party; and (iii) you have violated the AUP.
- b. **Pendo Indemnification.** Subject to Sections 13(c) and the exclusions below, Pendo will defend and indemnify you and your employees, officers, directors, and agents from and against all claims, actions, demands, and suits by third parties and pay all losses, liabilities, damages, costs, and expenses associated therewith (including reasonable attorneys' fees) to the extent arising from any allegation that the Services infringe the third party's intellectual property rights. In the event of any such claim hereunder, Pendo will use commercially reasonable efforts to: (i) procure for you the right to continue to use the Services, or (ii) replace or modify the Services to make their use non-infringing. If alternatives (i)-(ii) are not, in Pendo's discretion, commercially reasonable, Pendo may terminate the Agreement or applicable Order Form upon written notice to you, and you may receive a pro rata refund for the remainder of the term for the affected Services. The foregoing states Pendo's entire liability, and your exclusive remedy, with respect to any actual or alleged violation of intellectual property rights by any of the Services or any part thereof or by their use or operation. Notwithstanding anything to the contrary, Pendo will not have any liability or obligations under this Section if the alleged infringement or the claim is based upon or results from: (i) use of the Services: (a) in combination with any other data, materials, programs, products or processes not provided by Pendo to you; or (b) other than as permitted under the Agreement; (ii) Pendo's compliance with designs, specifications or instructions specified by you; or (iii) use of any release of the Services if the infringement would not have occurred through use of a more recent release or after notice by Pendo to discontinue use of the Services.
- c. **Indemnification Procedures.** In the event of an indemnifiable claim under this Section 13, the indemnified party ("Indemnitee") shall promptly notify the indemnifying party ("Indemnitor") in writing of the claim and provide any information in its possession and a reasonable estimate of damages, provided that any delay in notice will not relieve the Indemnitor of its obligations except to the extent materially prejudiced thereby. The Indemnitor shall have sole control of the defense and settlement of the claim, except that the Indemnitor may not enter into any settlement requiring an admission of liability by the Indemnitee without the Indemnitee's prior written consent (not to be unreasonably withheld, conditioned, or delayed). The Indemnitee shall provide reasonable cooperation at the Indemnitor's expense. If a claim includes both indemnifiable and non-indemnifiable matters, the Indemnitor shall be responsible only for losses, damages, costs, and expenses directly attributable to the indemnifiable matters.

14. LIMITATIONS OF LIABILITY.

- a. **EXCLUSIONS AND LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY NOR ITS AFFILIATES, EMPLOYEES, AGENTS, CONTRACTORS, OFFICERS, OR DIRECTORS SHALL BE LIABLE FOR ANY: (i) INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, (ii) LOSS OF REVENUE, PROFITS, BUSINESS, DATA, OR GOODWILL; OR (iii) COST OF PROCURING SUBSTITUTE SERVICES, ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S AGGREGATE LIABILITY FOR ALL CLAIMS ARISING UNDER THIS AGREEMENT SHALL NOT EXCEED THE FEES PAID OR PAYABLE TO PENDO FOR THE SERVICES IN THE TWELVE (12) MONTHS PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. FOR FREE OR BETA SERVICES, PENDO'S AGGREGATE LIABILITY WILL NOT EXCEED ONE HUNDRED US DOLLARS (\$100 USD).
- b. **EXCEPTIONS.** THE EXCLUSIONS AND LIMITATIONS IN SECTION 14(a) WILL NOT APPLY TO: (i) EITHER PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, FRAUD; (ii) EACH PARTY'S INDEMNIFICATION OBLIGATIONS; (iii) CUSTOMER'S PAYMENT OBLIGATIONS; OR (iv) ANY CLAIMS THAT CANNOT BE LIMITED UNDER APPLICABLE LAW.
- c. **NO DOUBLE RECOVERY.** EACH PARTY MAY ASSERT MULTIPLE CLAIMS ARISING FROM THE SAME FACTS, EVENTS, OR CIRCUMSTANCES; HOWEVER, NEITHER PARTY MAY RECOVER MORE THAN ONCE FOR THE SAME DAMAGES OR LIABILITIES. THE PARTIES ACKNOWLEDGE THAT THESE LIMITATIONS ALLOCATE THE RISKS UNDER THIS AGREEMENT AND WERE TAKEN INTO ACCOUNT IN DETERMINING THE FEES AND PENDO'S WILLINGNESS TO PROVIDE THE SERVICES.

15. **DISPUTE RESOLUTION AND GOVERNING LAW.**

- a. **Dispute Resolution.** Prior to initiating any claim or proceeding under, arising out of or in connection with the Agreement, the parties will make a good faith effort to resolve the underlying dispute. Such good faith effort will include: (i) elevating the issue to management personnel of each party who have the power to settle the dispute on behalf of that party and, if such management-level discussions fail after ten (10) business days, further elevating the matter to a vice president level executive for each party to continue good faith efforts to resolve the matter for an additional ten (10) business days; and (ii) reasonably sharing relevant, non-privileged documents, books and records and other materials, as reasonably requested, in connection with the dispute.
- b. **Governing Law.** The Agreement will be interpreted, construed and enforced in all respects in accordance with the laws of the State of Delaware without reference to choice or conflicts of law principles or rules. All claims or proceedings arising under, out of or in connection with the Agreement or subject matter hereof will be submitted to the exclusive jurisdiction of the state or federal courts located in Wilmington, Delaware, and each party irrevocably submits to such venue and the personal jurisdiction of such courts. To the fullest extent permitted by applicable law, each party waives the right to trial by jury in any legal proceeding arising under, out of or in connection with the Agreement or the transactions contemplated hereby.

16. **MISCELLANEOUS.**

- a. **Publicity.** Pendo may identify you as a customer of Pendo (i) as required by law and (ii) in instances including press releases, industry analyst reports, external presentations, on Pendo's website and within Pendo's sales and marketing materials. You hereby grant Pendo a non-exclusive, worldwide, royalty-free and fully paid up right and license to use your name, logo, trademarks and service marks in conjunction with the foregoing and in accordance with your brand guidelines delivered to Pendo, if any.
- b. **Use of Subcontractors.** Pendo may subcontract its obligations, or a portion thereof, under the Agreement to third parties; provided, that, Pendo shall be responsible for the performance of its subcontractors. Pendo shall ensure that each subcontractor is bound to substantially similar obligations and requirements, to the extent applicable and relevant, as those set forth in the Agreement.
- c. **Independent Contractors.** You and Pendo are independent contractors and nothing in the Agreement creates an employment, partnership or agency relationship between the parties or any Affiliate. Each party is solely responsible for supervision, control and payment of its personnel.
- d. **Force Majeure.** Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement (except for payment obligations) if the delay or failure is due to events which are beyond the reasonable control of such party, such as acts of God, strike, blockade, war, act of terrorism, pandemic, riot, natural disaster, failure or diminishment of power or telecommunications or data networks or services, or refusal of a license by a government agency. The affected party shall promptly notify the other party in writing of the force majeure event.
- e. **Assignment.** Neither party may assign, delegate, or otherwise transfer the Agreement or any of its rights, duties or obligations hereunder without the prior written consent of the other party; provided, however, in the event of the sale or transfer of substantially all of its assets, or a sale, merger or change of control, either party may assign any or all rights and obligations contained herein without consent. Both parties will use commercially reasonable efforts to provide notice to the relevant party upon such assignment. Any assignment in violation of the foregoing will be null and void. The Agreement will be binding upon, and inure to the benefit of, the successors and permitted assigns of the parties.
- f. **Waiver.** The waiver by any party of a breach or default by the other party of any provision of the Agreement will not be construed as a waiver by such party of any succeeding breach or default by the other party in the same or other provision, nor will any delay or omission on the part of either party to exercise or avail itself of any right or remedy that it has or may have hereunder operate as a waiver of any such right or remedy.
- g. **Severability.** If any term or provision of the Agreement should be declared invalid by a court of competent jurisdiction or by operation of law, the remaining terms and provisions of the Agreement will be unimpaired, and the invalid term or provisions will be replaced by such valid term or provisions as comes closest to the intention underlying the invalid term or provision.
- h. **Amendments.** Pendo may modify this Agreement from time to time. Unless otherwise specified by Pendo, any modifications will become effective with respect to Customer upon renewal of the then-current Term or upon the effective date of a new Order Form entered

into after the updated version of this Agreement becomes effective. Pendo will use reasonable efforts to notify Customer of such modifications through communications via Customer's Account, email, or other reasonable means. Customer may be required to click to accept or otherwise agree to the modified Agreement in connection with renewing a Term or executing a new Order Form. In any event, Customer's continued use of the Services following the effective date of the updated Agreement will constitute Customer's acceptance of the modified Agreement.

- i. **Notices and Communications.** Any notice or other communications required or permitted in the Agreement will be in English and in writing and will be deemed to have been duly given to a party: (i) upon receipt, if delivered by hand or sent by internationally recognized courier delivery service; (ii) one (1) business day after sending by email or other electronic method that provides for confirmation of transmission (except that notices of termination or with respect to a dispute or indemnifiable claim may not be sent in this manner); or (iii) where both the sender and recipient are located in the United States, three (3) days after mailing by first class certified mail, postage prepaid, in each case, to the following address (or such other address as a party may designate in accordance with this Section):

To Pendo:

Mailing Address: Pendo.io, Inc.
301 Hillsborough Street, Suite 1900
Raleigh, NC 27603, Attn: Legal

Email Address: legal-notices@pendo.io

To You: Your contact's mailing or email address set forth on the applicable Order Form.

- j. **Entire Agreement.** The Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous proposals, negotiations, conversations, discussions and agreements between the parties concerning the subject matter hereof. In the event of a conflict between these Terms and the terms in an Order Form, the Order Form will control. Any terms contained in any other documentation that you deliver to Pendo, including any purchase order or other order-related document (other than an Order Form), are void and will not become part of the Agreement or otherwise bind the parties. There are no representations, agreements, arrangements or understandings between the parties relating to the subject matter of the Agreement that are not fully expressed herein, and each party waives any rights and remedies that may otherwise be available to it based upon any such representations, agreements, arrangements or understandings.
- k. **Execution.** The parties may execute any documents hereunder in counterparts, each of which will be deemed an original and all of which together will be considered one and the same agreement. The parties will be bound by signatures made by hand or electronic means, which may be transmitted to the other party by mail, hand delivery, email and/or any electronic method and will have the same binding effect as any original ink signature.