



BETTERUP ENTERPRISE
SOFTWARE-AS-A-SERVICE AGREEMENT

This BetterUp Enterprise Software-as-a-Service Agreement, including all exhibits attached hereto, (this “**Agreement**”) is made and entered into as of the **Order Effective Date** by and between the company listed in the Order and its Affiliates (“**Company**”) and BetterUp, Inc. (“**BetterUp**”) (each a “**Party**” and collectively “**Parties**”). In consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

For purposes of this Agreement, “**Affiliates**” means, with respect to the Company, any entity that, directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under Common control with, the Company. “**Control**” (including the terms “**Controlled by**” or “**under common Control with**”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

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General Terms and Conditions

1. Subscription and Services

- 1.1. **BetterUp Services.** BetterUp offers leadership, development and performance coaching through a variety of behavioral techniques and methods on its mobile application and online platform (“**BetterUp Platform**”), pursuant to the applicable Order (defined below) (“**BetterUp Services**”). BetterUp provides the Company with the right to access BetterUp Platform and to enable its employees who choose to register to use the BetterUp Platform (each, a “**User**” and collectively, “**Users**”) with BetterUp Services for specified periods (each, a “**Subscription Term**”).
- 1.2. **Subscriptions and Subscription Terms.** Company and its Affiliates may subscribe to BetterUp Services by executing order forms (each, an “**Order**”). Each Order will include a description of the type of BetterUp Services licensed, the applicable Subscription Term, and the associated fees and payment terms. Each Order will be deemed incorporated into this Agreement by reference and made an integral part of this Agreement when each such Order has been signed by both Parties. In the event of a conflict between this Agreement and an Order, the Order will control
- 1.3. **Provision of the Services.** BetterUp will comply with all laws applicable to BetterUp’s role as a software-as-a-service provider. BetterUp will use commercially reasonable efforts to make the BetterUp Platform available in accordance with the Support and Service Level Agreement set forth in Exhibit A. BetterUp may modify or update the BetterUp Platform or BetterUp Services from time to time, provided such changes will not materially reduce Company’s enjoyment of the BetterUp Platform or BetterUp Services.
- 1.4. **Support and Service Level Agreement.** BetterUp will ensure that the BetterUp Platform is available at certain service levels and will provide Company with reasonable technical support regarding use of the BetterUp Services as outlined in Exhibit A. In addition, BetterUp may provide implementation and/or other professional services upon Company’s request and mutually agreed upon terms. BetterUp is not responsible for issues resulting from misuse, non-BetterUp systems or equipment, Third-Party tools, general internet problems, or force majeure events.



- 1.5. **Subcontractors.** BetterUp may use the services of subcontractors to provide the BetterUp Platform and permit them to provide the BetterUp Services. BetterUp agrees that it will remain fully responsible for the performance of all subcontractors.
- 1.6. **Third-Party Coaches.** BetterUp may use the services of Third-Party Coaches, where a “Third-Party Coach” means an individual person retained by BetterUp as an independent contractor to provide BetterUp Services to Users. BetterUp agrees that it will remain fully responsible for the performance of all Third-Party Coaches and for their compliance with this Agreement.
- 1.7. **Responsibility for Systems.** Each party will retain sole responsibility for such party’s information technology infrastructure, including computers, servers, software, databases, electronic systems (including database management systems) and networks, whether operated directly by such party or through the use of third-party services.
- 1.8. **User Accounts.** Parties acknowledge and agree that Users enter into a direct relationship with BetterUp regarding their individual account. User accounts and User interactions with BetterUp in connection with the BetterUp Services are subject to the BetterUp Acceptable Use Policy (found at <http://www.betterup.com>).
- 1.9. **BetterUp Analytics.** As part of the services provided on the BetterUp Platform, BetterUp will, during the term of this Agreement, provide Company with access to reports outlining (a) which Users have activated with BetterUp, (b) sessions completed, (c) coaching start and end dates, and (d) aggregated and anonymous statistics regarding the BetterUp Services the Users received, such as (i) metadata and data related to usage (e.g., average session length, frequency of use), (ii) composition of development plans (e.g., top skills chosen by Users, popular learning activities), and (iii) User-generated data from learning activities (e.g., results from psychometric assessments) (collectively, “BetterUp Analytics”). BetterUp Analytics will not include User specific coaching content. Company may only use the BetterUp Analytics for its internal business purposes, in compliance with all applicable laws. Upon termination of this Agreement, Company may retain and continue to use of all BetterUp Analytics provided by BetterUp to Company prior to the effective date of termination or expiration of this Agreement.

2. Term and Termination

- 2.1. **Term of Agreement.** This Agreement commences upon the Order Effective Date and will continue in effect until the later of: (i) three years, or (b) the expiration of all Orders (the “Term”).
- 2.2. **Termination for Cause.** Each Party will have the right to terminate this Agreement upon written notice to the other Party solely in the event of: (i) a material breach by such other Party; provided, however, that the breaching Party will have a period of thirty (30) days from receipt of written notice by the non-breaching Party to cure such material breach; (ii) the other Party becomes the subject of a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, composition, or comparable proceeding or any assignment for the benefit of creditors (to the extent permissible by law); or (iii) the other Party becomes the subject of an involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation, composition, or comparable proceeding or any assignment for the benefit of creditors, if such petition or proceeding is not dismissed within ninety (90) days of filing (to the extent permissible by law).
- 2.3. **Suspension for Non-Payment.** BetterUp may suspend performance of its obligations under this Agreement in the event of Company’s non-payment upon ten (10) days prior written notice.
- 2.4. **Effects of Termination.** If this Agreement is terminated or expires, but at least one Order remains in effect, then the terms of this Agreement will continue to apply to any such Orders. Upon any expiration or termination of an Order: (i) BetterUp will cease providing the BetterUp Services under that Order; and (ii) Company and the Users will cease any access to the BetterUp Platform under such Order. If Company terminates this Agreement for cause, BetterUp will issue a pro-rated refund for fees paid for services not rendered after the effective date of termination. If BetterUp terminates this Agreement for cause, Company will not be entitled to any refunds and no refunds will be issued.
- 2.5. **Survival.** Notwithstanding anything to the contrary, all Sections, which by their nature must survive termination or expiration of this Agreement, including, without limitation, if applicable, the entirety of the DPA, survive any termination or expiration of this Agreement.



3. Use of the Services.

- 3.1. **Acceptable Use and Restrictions.** User's access is subject to compliance with BetterUp's Acceptable Use Policy (found at www.betterup.com). Company acknowledges non-compliance may result in the termination of a User's account. Company will not and will not allow anyone else to: (i) rent, lease, copy, disclose, provide access to or sublicense the BetterUp Platform; (ii) use the BetterUp Platform for the benefit of, or to provide any service to, a third party; (iii) reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, know-how, or algorithms related to the BetterUp Platform or BetterUp Services (except to the extent this restriction is prohibited by applicable law); (iv) modify, translate, or create derivative works based on the BetterUp Platform or BetterUp Services; (v) remove any proprietary notices or labels from the BetterUp Services; (vi) perform or attempt to perform any actions that would interfere with the proper working of the BetterUp Platform, prevent access to or use of the BetterUp Platform by BetterUp's other customers, including without limitation upload or introducing malicious code; (vii) access or use the BetterUp Platform or BetterUp Services to develop or sell a competing product or service, or for purposes that are competitive with BetterUp; or (viii) publicly disseminate information regarding the performance of the BetterUp Platform without BetterUp's prior written consent.
- 3.2. **Authorized Users; Accounts; Company Responsibilities.** Company is responsible for all actions and inactions by its Users or by any third party that Company or a User permits to access or use the Services. Company is responsible for all activities that occur on or through Company's Users' accounts. Company will not, and will not permit Users to, share User account credentials. Each User must use a unique identity to access and use the Services, and may access the Services only to the extent purchased by Company and in accordance with the applicable Order. Company will provide accurate, current and complete information required to enable its Users to access and use the Service and will maintain the accuracy of such information.
- 3.3. **Eligibility Data.** Company may provide BetterUp with a list of its employees and contact details ("**Eligibility Data**") to verify eligibility to use the BetterUp Platform through Company's relationship with BetterUp.

4. License Grant; Ownership of Intellectual Property.

- 4.1. **License and Restrictions.** Subject to the terms of this Agreement, BetterUp grants to Company a worldwide, limited, non-exclusive, non-transferable right during each Subscription Term to access the BetterUp Platform and receive the BetterUp Services solely for Company's internal business purposes and not for resale or further distribution. Company's right to use the BetterUp Platform is limited by all terms and conditions herein. Except for this license granted to Company, BetterUp and its licensors retain all right, title and interest in and to the BetterUp Platform and BetterUp Services, including all related intellectual property rights. The BetterUp Platform is protected by applicable intellectual property laws, including U.S. copyright law and international treaties. Company is encouraged to establish its own policies (if any) with Users as to what information is appropriate to share as part of the BetterUp Services.
- 4.2. **Trademarks.** BetterUp's name, BetterUp's trademarks, BetterUp's logos, and any other BetterUp product, service name, or slogan included in the Services are property of BetterUp and may not be copied, imitated, or used (in whole or in part) without BetterUp's prior written consent. The look and feel of the BetterUp Services, including all custom graphics, button icons, and scripts constitute service marks, trademarks, or trade dress of BetterUp and may not be copied, imitated, or used (in whole or in part) without BetterUp's prior written consent. All other trademarks, registered trademarks, product names, and company names or logos mentioned in BetterUp Services or on the BetterUp Platform ("**Third Party Trademarks**") are the property of their respective owners, and the use of such Third Party Trademarks inures to the benefit of each owner. The use of such Third Party Trademarks is intended to denote interoperability and does not constitute an affiliation by BetterUp and its licensors with such company or an endorsement or approval by such company of BetterUp or its licensors or their respective products or services.
- 4.3. **User Data.** BetterUp may only use information collected during a User's interactions with the BetterUp Service ("**User Data**") in accordance with the terms of this Agreement (including all privacy commitments), and for its internal business purposes. For avoidance of doubt, Company's access to the BetterUp Platform under this Agreement does not include access to User Data but may include access to BetterUp Analytics as defined below.
- 4.4. **Ownership.** As between the Parties and subject to the grants expressly set forth in this Agreement, BetterUp owns all right, title and interest in and to: (i) the BetterUp Services and BetterUp Platform; (ii) anonymous/aggregate data



collected from User Data for BetterUp's internal business purposes; (iii) any feedback, comments, or suggestions concerning the BetterUp Services, Company; and (iv) any and all patent rights, copyrights, trademark rights, trade secret rights and other intellectual property rights embodied in or related to the foregoing. BetterUp will not sell anonymous/aggregated data collected under this Agreement. No ownership rights in BetterUp's intellectual property rights are transferred to Company by this Agreement.

5. Payment, Fees and Taxes.

- 5.1. **Fees.** The applicable fees to each Subscription will be as specified in an Order. Fees are due and payable as Specified in the Order. Except as otherwise specified: (i) fees are based on access rights acquired and not actual usage; (ii) unless otherwise specified, payment obligations are non-cancelable and non-refundable; and (iii) access rights purchased for the number of Users cannot be decreased during the relevant Subscription Term.
- 5.2. **Invoicing and Payment.** All fees due hereunder (except fees subject to good faith dispute submitted in writing to BetterUp within fifteen (15) days of receipt) will be due and payable as set forth in the applicable Order. If the Order does not specify when fees are due and payable, Fees are due and payable in full within thirty (30) days of Company's receipt of an invoice. If Company requires a purchase order ("PO"), Company will promptly provide a PO to BetterUp (but Company's failure to provide a timely PO will not affect the payment timing). Company will provide BetterUp with complete and accurate billing and contact information including a valid email address. Upon BetterUp's request, Company will make payments via electronic bank transfer. Interest on any late payments will accrue at the rate of 1.5% per month, or the highest rate permitted by law, whichever is lower, from the date such amount is due until the date such amount is finally paid in full.
- 5.3. **Taxes.** BetterUp's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). Company is responsible for paying all Taxes associated with its purchases hereunder. If BetterUp has the legal obligation to pay or collect Taxes for which Company is responsible under this Section, BetterUp will invoice Company and Company will pay that amount unless Company provides BetterUp with a valid tax exemption certificate authorized by the appropriate taxing authority. Company will not be liable for taxes imposed on BetterUp based on BetterUp's income.
- 5.4. **User Limits.** The BetterUp Services and BetterUp Platform are subject to User limits specified in the Order. Company may exceed the User limits for additional fees. In the event Company exceeds a contractual User limit, the parties will promptly execute a new Order for the additional Users.

6. Confidential Information

- 6.1. **Definition of Confidential Information.** As used herein, "Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other Party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Notwithstanding the foregoing, with the exception of Personal Information (as defined below), which is not subject to the following exclusions, Confidential Information will not include any information to the extent that it can be established by written documentation by the Receiving Party that such information: (i) is or becomes generally known to the public without breach of any obligation of confidentiality by the Receiving Party; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) is received from a third party without breach of any obligation owed to the Disclosing Party and who has a legal right to disclose such information; or (iv) was independently developed by the Receiving Party without the use of the Disclosing Party's Confidential Information. The Parties agree that, during the Term, including any extensions thereto, and for three (3) years thereafter, the Receiving Party will keep confidential and will not publish or otherwise disclose or use for any purpose other than as provided for in this Agreement the Confidential Information of the Disclosing Party.
- 6.2. **Protection of Confidential Information.** The Receiving Party will use the same degree of care that it uses to handle, treat, store, access (or limit access), and otherwise protect (including with encryption, as applicable) the confidentiality of its own Confidential Information of like kind (but in no event less than reasonable care). The Receiving Party: (i) will not use any Confidential Information of the Disclosing Party for any purpose outside the scope of, or as permitted by, this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, will limit access to



Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who are bound by obligations to the Receiving Party consistent with this Agreement.

- 6.3. Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law or regulatory process to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted and practicable (e.g., there is sufficient time to provide such notice) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.
- 6.4. Return or Destruction of Confidential Information.** Upon written request, The Receiving Party will return to the Disclosing Party or destroy all Confidential Information received from the Disclosing Party during the Term of this Agreement except digital backup copies created through automated system processes provided that such backup copies are protected as Confidential Information by the Receiving Party for as long as the information is retained.
- 6.5. Ownership of Confidential Information.** The Receiving Party acknowledges that, except as otherwise provided herein, (a) the Disclosing Party is the exclusive owner of and has all rights to its Confidential Information, including all intellectual property rights therein, such as patents, copyrights, trade secrets, trademarks, moral rights and similar rights of any type under the laws of any governmental authority (collectively, "Intellectual Property Rights"); and (b) no right, title, interest or license to the Receiving Party is either granted or implied under any Intellectual Property Rights by the disclosure of Confidential Information hereunder.

7. Data Privacy and Security

- 7.1. Data Privacy Addenda.** To the extent the BetterUp Platform stores or processes Personal Information (as defined by applicable data protection law and indicated below) or Company transfers personal information outside the European Economic Area or Switzerland to any country not deemed by the European Commission as providing an adequate level of protection for personal data, or derived from California residents or consumers, the terms of the most recent Data Processing Addendum executed between the parties will apply to such Personal Information, and be incorporated into the Agreement. In the event the parties have not executed a Data Processing Addendum, the BetterUp Data Processing Addendum (found at <http://www.betterup.com>) will apply and hereby be incorporated by reference. "Personal Information" means any User Data processed or collected by BetterUp pursuant to the Agreement, relating to an identified or identifiable natural person or household; where an "identifiable natural person" means an individual who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to the individual's physical, physiological, mental, economic, cultural or social identity.
- 7.2. Hosting and Processing.** User Data is hosted and stored by BetterUp or its service providers in the United States or elsewhere as otherwise agreed to, in writing, by the Parties. In providing the BetterUp Platform, BetterUp or its service providers may process User Data, including, without limitation, any associated Personal Information, within the European Economic Area, the United States and in other countries and territories.
- 7.3. Compliance with Laws.** Each party agrees to comply with all applicable privacy, data protection, and consumer protection laws and regulations in connection with Company's offering of the BetterUp Services and access to the BetterUp Platform, including without limitation, as applicable, requirements of proper notice and consent to send Personal Information to BetterUp and compliance with the General Data Protection Regulations.
- 7.4. Data Rights.** BetterUp does not sell, lease, rent or otherwise share for consideration any User Data. BetterUp will share User Data only as described in its Privacy Policy and only as necessary to perform a business purpose pursuant to applicable privacy laws.
- 7.5. Security.** BetterUp will maintain appropriate security measures designed to prevent unauthorized access to User Data. BetterUp will ensure an independent audit is performed of its operations and information security controls in line with SSAE 16 SOC2 Type II, ISO 27001, and/or or similar standard.



8. Warranties; Disclaimers

- 8.1. Mutual Warranties.** Each party represents and warrants to the other that: (i) this Agreement has been duly executed and delivered and constitutes a binding agreement enforceable against the executing party in accordance with its terms; (ii) no authorization or approval from any third party is required in connection with the execution, delivery, or performance of this Agreement by the executing party; and (iii) it will fulfill its obligations under this Agreement in accordance with all applicable laws. Each Party further represents and warrants that its performance of obligations and satisfaction of responsibilities in connection with this Agreement does not violate: (i) any proprietary rights of third parties including without limitation, patents, copyrights, or trade secrets; and/or (ii) any contractual obligations or confidential relationships that it may have to/with any third party.
- 8.2. BetterUp Warranties.** BetterUp warrants that during the applicable Subscription Term: (i) the BetterUp Services will be provided in a good and workmanlike manner; (ii) the BetterUp Services do not and will not infringe any copyright, patent, trademark, trade secret or other intellectual property right of any third party; and (iii) the BetterUp Platform will be free of, and will not distribute or transfer, any viruses, Trojan horses, logic bomb, worms, authorization strings and other similar malicious code.

In the event BetterUp breaches any warranty in this Section BetterUp will, at its expense, either: (i) modify the BetterUp Services to correct the non-conformance; or (ii) terminate the impacted BetterUp Services and issue a prorated refund to Company any Subscription fees paid for BetterUp Services not provided. The remedies provided in this Section are Company's exclusive remedies with respect to claims for breach of this Section.

- 8.3. Company Warranties.** Company represents and warrants that: (i) Company has the necessary and appropriate rights and consents to validly authorize and permit BetterUp to use and otherwise process the Eligibility Data in accordance with this Agreement; (ii) BetterUp's use of Eligibility Data does not and will not infringe or violate any third-party right, including any Intellectual Property Right or privacy right; and (iii) Company will use the Services in compliance with applicable law.
- 8.4. Disclaimer.** EXCEPT AS SET FORTH ABOVE, BETTERUP MAKES NO WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. COMPANY AGREES AND ACKNOWLEDGES THAT IT HAS NOT RELIED ON THE FUTURE AVAILABILITY OF ANY FEATURE, FUNCTIONALITY, OR PRODUCT. COMPANY ALSO AGREES THE BETTERUP PLATFORM IS PROVIDED "AS-IS." COACHING DOES NOT CONSTITUTE MEDICAL ADVICE OR THERAPY. BETTERUP WILL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF BETTERUP.

9. Indemnification

- 9.1. BetterUp Indemnification.** BetterUp will indemnify, defend, and hold harmless Company and its officers, directors, employees, and Affiliates and Users against any and all third-party claims, actions or proceedings arising out of or in connection with, and to the extent caused by any infringement by the BetterUp Services against any patent, copyright, or trademark, or the misappropriation of any trade secret. If the BetterUp Services become, or, in BetterUp's opinion, is likely to become, the subject of any claim of infringement, BetterUp may, at its sole option: (i) obtain for the Company the right to continue using the BetterUp Services, (ii) replace or modify the affected BetterUp Services so that it becomes non-infringing while providing substantially equivalent functionality, or (iii) if such remedies are not available on commercially reasonable terms as determined by BetterUp, terminate the license to use the affected portion of the BetterUp Services, and promptly issue a prorated refund any pre-paid subscription fees for the affected portion of the BetterUp Services. Notwithstanding any terms contained in this Section, BetterUp will have no liability for infringement claims if the alleged infringement is based on or arises from (i) the combination or use of the BetterUp Services with software or other materials not provided or approved for use by BetterUp, (ii) the modification of the BetterUp Services by anyone other than BetterUp, or at BetterUp's direction, or (iii) the use of the BetterUp Services not in accordance with any provided documentation or the Agreement. The remedies provided in this Section will be the Company's exclusive remedy with respect to claims for infringement.
- 9.2. Company Indemnification.** Company will indemnify, defend, and hold harmless BetterUp and its officers, directors, employees, and Affiliates against any and all third-party claims, actions or proceedings arising out of or in connection



with, and to the extent caused by: (i) violation of law or privacy rights attributable to Eligibility Data; and (ii) any violation of the BetterUp Acceptable Use Policy.

- 9.3. Indemnification Procedure.** Any party entitled to indemnification under this Section (the “Indemnified Party”) will comply with the following conditions in order to enjoy the benefit of indemnification: (i) prompt written notice by the Indemnified Party to the indemnifying party (“Indemnifying Party”) of any third party claim for which indemnity may be sought under this Section (provided, however, that any failure or delay in providing such notice will not relieve the Indemnifying Party of its obligations except to the extent that the failure or delay actually and materially prejudices the Indemnifying Party’s defense of such third party claim); (ii) sole control of the defense and settlement thereof by the Indemnifying Party; and (iii) reasonable cooperation of Indemnified Party, at the Indemnifying Party’s expense, to facilitate such defense or settlement. Notwithstanding the foregoing, the Indemnifying Party will not consent to the entry of any judgment or enter into any compromise or settlement with respect to a third party claim for which it is defending an Indemnified Party hereunder without the prior written consent of such Indemnified Party unless such judgment, compromise or settlement: (i) provides for the payment by the Indemnifying Party of money as sole relief for the party making a claim; (ii) results in the full and general release of the Indemnified Party from all liabilities arising from or relating to, or in connection with, such third party claim; and (iii) involves no finding or admission of any violation of law, regulation or the rights of any person and no effect on any other claims.

10. Limitation of Liability

- 10.1. Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL (A) EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT; AND (B) EITHER PARTY’S ENTIRE LIABILITY TO THE OTHER PARTY EXCEED THE AMOUNT ACTUALLY PAID BY COMPANY TO BETTERUP UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRECEDING THE MONTH IN WHICH THE EVENT GIVING RISE TO THE CLAIM OCCURRED. THIS LIMITATION OF LIABILITY DOES NOT APPLY TO CLAIMS ARISING OUT OF: (I) A PARTY’S WILLFUL MISCONDUCT OR GROSS NEGLIGENCE; (II) MISAPPROPRIATION OF THE OTHER PARTY’S INTELLECTUAL PROPERTY; (III) EITHER PARTY’S INDEMNIFICATION OBLIGATIONS; OR (IV) BREACHES OF CONFIDENTIALITY. IN THE EVENT OF A BREACH OF DATA SECURITY, NEITHER PARTY’S LIABILITY WILL EXCEED THREE TIMES (3X) THE AMOUNT ACTUALLY PAID BY COMPANY TO BETTERUP UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRECEDING THE MONTH IN WHICH THE EVENT GIVING RISE TO THE CLAIM OCCURRED.

11. General

- 11.1. Governing Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of California applicable to agreements made and to be entirely performed within the State of California, without resort to its conflict of law provisions. The state or federal court in San Francisco County, California will be the jurisdiction in which any suits should be filed if they relate to this Agreement.
- 11.2. Publicity.** Company consents to (a) BetterUp’s use of Company’s name and logo identifying Company as a customer of BetterUp; and (b) describing Company’s use of BetterUp’s products and services.
- 11.3. Third-Party Tools.** Company acknowledges and agrees that Users may choose to utilize certain third-party videoconferencing, communications tools, and other services outside of the BetterUp Platform in connection with BetterUp Services, e.g., Skype or FaceTime (“**Third-Party Tools**”). While User Data provided to BetterUp through Third-Party Tools remains subject to the BetterUp Privacy Policy, use of Third-Party Tools themselves is subject to the terms and conditions of the Third-Party Tool providers. BetterUp Analytics may be diminished or unavailable if third-party tools are used in connection with BetterUp Services where those third party tools have not been integrated into the specific product offering. BetterUp is not responsible for the operation of or any changes to the Third-Party Tools or the acts or omissions of Third-Party Tool providers.
- 11.4. Excusable Delays/Non-Performance.** Any delay or failure in performance will be excused to the extent caused by an extraordinary event or occurrence beyond the reasonable control of the non-performing party, including without limitation, fires, floods, windstorms, explosions, strikes, walk outs, riots, natural disasters, mechanical breakdowns, power outages, interruptions in telecommunications, material shortages, acts of terrorism, wars and changes in law, policy or inflationary pressure that render performance of Services commercially impracticable. The affected party will



give the other party prompt notice of the delay or failure and the reason thereof and will exert commercially reasonable efforts to remove the causes or circumstances of non-performance with reasonable dispatch.

- 11.5. Assignment.** Neither this Agreement nor any right or duty under this Agreement may be transferred, assigned or delegated, by operation of law or otherwise, without the prior written consent of the non-assigning Party, and any attempted transfer, assignment or delegation without such consent will be void and without effect. Notwithstanding the above, either Party may freely transfer, assign or delegate this Agreement or its rights and duties under this Agreement without the consent of the non-assigning party to an Affiliate, as part of a change of control, or to a successor in interest to all or substantially all of its business or assets. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the Parties and their respective representatives, heirs, administrators, successors and permitted assigns.
- 11.6. Independent Contractor; Benefit.** The relationship between the Parties is solely that of independent contractors. This Agreement is for the benefit of the Parties. There are no intended third party beneficiaries to this Agreement.
- 11.7. Modern Slavery.** In performing its obligations under this Agreement, BetterUp will: (i) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes, including but not limited to the Modern Slavery Act 2015; (ii) not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4 of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and (iii) include in its contracts with its subcontractors and suppliers anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause. BetterUp represents and warrants that neither it nor any of its officers or employees has been convicted of any offence involving slavery and human trafficking, or has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking. BetterUp will promptly notify the Company if it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Agreement.
- 11.8. Anti-Bribery and Anti-Corruption.** Parties are bound by all applicable anti-corruption and anti-bribery laws and regulations, including but not limited to, the United States Foreign Corrupt Practices Act (FCPA) and United Kingdom Bribery Act. Each Party represents, warrants and covenants that it will not cause the other Party to be in breach of their responsibilities through any act. In performing its obligations hereunder, each Party (i) agrees that it has not and will not, directly or indirectly, offer to make, promise, authorize or accept any payment or anything of value, including bribes, gifts and/or donations to or from any public official, regulatory authorities or anyone else for the purpose of influencing, inducing or rewarding any act, omission or decision in order to secure an improper advantage, including to obtain or retain business; and (ii) will comply with all applicable anti-corruption and anti-bribery laws and regulations. Each Party will notify the other Party or its representatives or agents immediately upon becoming aware of any breach under this Section.
- 11.9. Import and Export Regulations.** The BetterUp Services are subject to U.S. export controls, specifically the Export Administration Regulations. Both parties will comply with all relevant import and export regulations, including those adopted by the Bureau of Industry and Security of the U.S. Department of Commerce. Company will not transfer, export or re-export, directly or indirectly, the Services to any Prohibited Entity, and Company affirms that it is not a Prohibited Entity or acting on behalf of any Prohibited Entity (as defined under U.S. laws and regulations).
- 11.10. Notices.** Any Notices required under this Agreement will be sent to the email listed below. Notices will be deemed given as of the day they are received by email, messenger, delivery service, or U.S. mail (postage prepaid, certified or registered, return receipt requested), and addressed as set forth below, or to such other address as the Party to receive the notice so designates by notice.
- BetterUp Email for Notices: contracts@betterup.co
Company Email for Notices will be either the Contact Info Email or Billing Email in the applicable Order, or other contact as provided by Company.
- 11.11. Waiver and Severability.** A Party's delay or failure to exercise a right or remedy will not result in a waiver of that right or remedy. If a court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid or unenforceable under the governing law, the remaining provisions will remain in full force and effect, and will be construed so as to most nearly reflect the Parties' intent with respect to such provision.



11.12. Survival. Notwithstanding anything to the contrary, all Sections, which by their nature must survive termination or expiration of this Agreement, including, without limitation, if applicable, the entirety of the DPA, survive any termination or expiration of this Agreement.

11.13. Headings. Headings to paragraphs or sections in this Agreement are for the purpose of information and identification only and will not be construed as forming part of this Agreement.

11.14. Miscellaneous. This Agreement, including all Orders, constitutes the entire agreement between the Parties and supersedes all previous or contemporaneous agreements between the Parties, relating to its subject matter, and any change to its terms must be in writing and signed by the Parties. The parties expressly reject any additional terms and conditions included in any purchase order, or similar documentation, and a party's signature on a purchase order will not be considered consent to be bound to any additional terms included therein. In the event of a conflict in the terms and conditions between documents, the order of precedence will be as follows: (i) if applicable, any privacy or security agreements; (ii) any Order; (iii) this Enterprise Service Agreement; (iv) any other signed documents. Except as otherwise expressly provided to the contrary in this Agreement, this Agreement may only be changed or modified by a mutually executed amendment signed by both Parties. The Parties may execute this Agreement in counterparts, including facsimile, PDF and other electronic copies, which taken together will constitute one instrument.



EXHIBIT A

Support and Service Level Agreement

BetterUp will provide e-mail support twenty-four (24) hours a day, seven (7) days a week for assistance in identifying and resolving Errors in accordance with the priority levels and response times set forth in this Exhibit. BetterUp will be available to answer questions related to the operational use of the BetterUp Platform.

1. Definitions

For purposes of this Exhibit, the following definitions apply:

- 1.1 **“Actual Quarterly Uptime Percentage”** means the sum of the Total Quarterly Time (“A”) minus the Unavailable Quarterly Time (“B”) and plus the Excluded Quarterly Time (“C”), which is then divided by the Total Quarterly Time. Alternatively stated, $(A-B+C)/A$.
- 1.2 **“Error”** means a defect in the BetterUp Platform that prevents the BetterUp Platform from performing according to Agreement and the applicable Order. Errors include operation and functionality defects, security defects, viruses and bugs.
- 1.3 **“Excluded Quarterly Time”** means the total number of minutes in the applicable calendar quarter during which the BetterUp Platform and/or Services, as applicable, were unavailable for use due to an excluded event as described in Section 4 Excluded Quarterly Times below.
- 1.4 **“Initial Response”** means a written or electronic response from BetterUp to Company or User regarding a reported or discovered Error acknowledging receipt and priority assignment. An automated response is not considered an initial response.
- 1.5 **“Quarterly Uptime Percentage Threshold”** means the percentage listed in Section 2 Service Commitments below under the heading, “Service Commitments”.
- 1.6 **“Resolution”** means best efforts by BetterUp to implement and incorporate a fix into the BetterUp Platform to restore functionality caused by an Error.
- 1.7 **“Service Credit”** means the number of service days that BetterUp will credit to a Company’s applicable subscription if the Actual Quarterly Uptime Percentage is less than the Quarterly Uptime Percentage Threshold as described in Section 2 Service Commitment. Any days of service will be added to the end of the applicable service term, at no charge to Company.
- 1.8 **“Total Quarterly Time”** means the total number of minutes in the applicable calendar quarter.
- 1.9 **“Unavailable Quarterly Time”** means the number of minutes in the applicable calendar quarter during which the BetterUp Platform and/or Services, as applicable, were unavailable for use.

2. Service Commitments:

BetterUp will make the BetterUp Platform available at a Quarterly Uptime Percentage Threshold of **99.9%** of the time each quarter. If BetterUp’s Actual Quarterly Uptime Percentage is below the Quarterly Uptime Percentage Threshold in a given calendar quarter, then Company will receive a Service Credit as described in the table below. Alternatively, if BetterUp’s Actual Quarterly Uptime Percentage is below 95.0% in any given calendar quarter, then Company may terminate any impacted Order by providing thirty (30) days advance written notice and BetterUp will issue a prorated refund for Services not rendered. Company must deliver any such termination notice within fourteen (14) days of the close of such calendar quarter. This Section describes Company’s sole remedy for BetterUp’s failure to meet the Quarterly Uptime Percentage Threshold.

| Actual Quarterly Uptime Percentage | Days of Service Credit |
|------------------------------------|------------------------|
| < 99.9% - >= 99.0% | 3 |
| < 99.0% - >= 95.0% | 7 |
| < 95.0% | 15 |



Availability of the BetterUp Platform is continuously measured and the availability monitoring service reports are accessible at <https://status.betterup.co/>. BetterUp may adjust the measure of availability to account for any exclusions applicable to such period.

3. Support Plan:

BetterUp will provide all necessary resources to support troubleshooting and implementation of the BetterUp Platform. When Company or a User reports to BetterUp an Error with the BetterUp Platform, BetterUp will assign the Error a priority level and provide the Company or User an Initial Response and Resolution as set forth in the table below.

| Priority | Level | Initial Response Time | Resolution Time |
|------------|-------------------|-----------------------|-----------------|
| Priority 1 | Business Critical | Within 2 hours | 72 hours |
| Priority 2 | Degraded Services | Within 4 hours | 72 hours |
| Priority 3 | General Issues | Within 12 hours | - |
| Priority 4 | Low Priority | Within 24 hours | - |

Priority 1 - Business Critical: This status only applies to applications that are in production. It represents a complete loss of service or a significant feature that is completely unavailable, and no workaround exists. Does not include development issues or problems in non-production environments.

Priority 2 - Degraded Service: Includes intermittent issues and reduced quality of service. A workaround may be available. Does not include development issues or problems in non-production environments.

Priority 3 - General Issue: Includes product questions, time sensitive user requests, and development issues.

Priority 4 - Low Priority: Includes non-time sensitive user and feature requests.

4. Excluded Quarterly Times:

Notwithstanding any provision in this Agreement to the contrary, Excluded Quarterly Time will be deemed to have occurred if downtime:

- 4.1 is caused by factors outside of BetterUp's reasonable control, including, without limitation, telecommunications provider-related problems or issues, internet access or related problems occurring beyond the point in the network where BetterUp maintains access and control over the Services;
- 4.2 results from any actions or inactions of Company or any third-party (except for BetterUp's agents and subcontractors);
- 4.3 results from the Company's equipment, software or other technology, add-on services, or third-party equipment, software or other technology (except for equipment within BetterUp's direct control);
- 4.4 occurs during BetterUp's scheduled maintenance for which BetterUp will provide at least forty-eight (48) hours prior notice;
- 4.5 occurs during BetterUp's emergency maintenance (maintenance that is necessary for purposes of maintaining the integrity or operation of the Services), regardless of the notice provided by BetterUp;
- 4.6 results from any alpha, beta, developer preview, development test bed environments, descriptions of similar import or not otherwise generally available BetterUp features or products; or
- 4.7 periods of Unavailable Quarterly Time that are less than five (5) minutes of continuous unavailability in duration.