



MASTER SUBSCRIPTION AGREEMENT

This MASTER SUBSCRIPTION AGREEMENT (“**Agreement**”), is made and entered into on _____ (“**Effective Date**”) by and between Zoho Corporation a California corporation, having its principal place of business at 4141 Hacienda Drive, Pleasanton, CA 94588 including its parent company Zoho Corporation Private Limited (“**Zoho**”) and Gestion d’objets distants CMO Cloud Monitored Objects Inc, a M2M solution integration company having its principal place of business at 3026 Rue Anderson, Bureau 201, Terrebonne, Qc, J6Y 1W1 (“**Subscriber**”)

Zoho and Subscriber are each a “party,” and together are “parties,” to this Agreement.

NOW THEREFORE the parties, intending to be legally bound, agree as follows:

1. **Definitions.**

- 1.1. **“Affiliate”** shall mean any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity.
- 1.2. **“On-Demand Service(s)”** shall mean one or more of the hosted software services listed in Exhibit A.
- 1.3. **“On-Demand Website”** shall mean the website identified by the uniform resource locator <http://ondemand.manageengine.com>.
- 1.4. **“Terms of Service”** shall mean the terms and conditions available at <http://ondemand.manageengine.com/terms.html> and any additional terms and conditions as modified from time to time.
- 1.5. **“Privacy Policy”** shall mean the privacy policy statement available at <http://ondemand.manageengine.com/privacy.html> and any additional privacy policy statements stating Zoho's privacy practices and commitments, as modified from time to time.
- 1.6. **“Security Policy”** shall mean the security policy statement available at <https://www.manageengine.com/security-policy.html> and any additional security policy statements stating Zoho's security practices and commitments, as modified from time to time.
- 1.7. **“Confidential Information”** shall mean all 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. Confidential Information of each party shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing 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, or (iv) was



independently developed by the Receiving Party.

1.8. **“Service Defect(s)”** shall mean any deviation in the actual performance, utility and functionality of the On-Demand Service from the performance, utility, and functionality of the On-Demand Services as represented in the documentation corresponding to the On-Demand Service. Service Defect(s) does not include requests for enhancement or additional features.

1.9. **“Subscription Period(s)”** shall mean, in respect of the On-Demand Services, the duration of validity of fee-based subscription plan purchased by Subscriber.

1.10. **“Usage Limits”** shall mean the limits on the use of each of the On-Demand Services corresponding to the fee-based subscription plan purchased by Subscriber.

2. **License Grant.** Zoho hereby grants Subscriber a worldwide, non-exclusive, non-transferable license to access and use On-Demand Services, including installable components which form part and parcel of the Subscription to the On-Demand Service, during the Subscription Period and subject to Usage Limits, provided that Subscriber shall not:

- (i) permit any third party to access or use On-Demand Services except when access of On-Demand Services by a third party is required in order for Subscriber to effectively use a communication or collaboration mechanism that forms part of one or more On-Demand Services;
- (ii) use any Application Programming Interface provided as part of the On-Demand Services for developing or providing any service to third parties without obtaining Zoho's prior consent for such use;
- (iii) use the installable component as a standalone application or in any other manner not explicitly permitted herein.
- (iv) share the user licenses other than by way of reassigning the user license to a new user;
- (v) send or store material containing software viruses, worms, or other harmful computer codes, files, scripts or programs;
- (vi) interfere with the On-Demand Services or disrupt the integrity of the data contained therein; or
- (vii) use On-Demand Services in violation of Terms of Service unless such use is expressly permitted by this Agreement.

3. **Pricing, Payments and Refund.**

3.1. Payments for Subscription Periods of less than one (1) year shall be made through Zoho online store using a credit card. Other payment options are available to Subscriber only if the Subscription Period is equal to or greater than one (1) year.

3.2. If a purchase order raised by Subscriber is accepted by Zoho, the payment must be made by Subscriber within fifteen (15) days from the date of receipt of an accurate invoice by email. Zoho may suspend or cancel the subscription if payment is not received within fifteen (15) days from the date of receipt of the invoice.

3.3. Fees for On-Demand Services are based on purchase of services and not on actual



usage. The Subscription Period will commence only upon receipt of payment or a purchase order acceptable to Zoho.

- 3.4. Subscriber understands that payment obligations are non-cancellable and payments received are non-refundable, unless otherwise specifically stated in this Agreement.
- 3.5. Zoho reserves the right to unilaterally determine and modify its pricing for its On-Demand Services without any prior notice to the Subscriber. When a purchase order is in effect, the pricing for On-Demand Services shall remain as agreed for the term specified in such purchase order.

4. **Availability and Technical Support.**

- 4.1. On-Demand's service availability commitment, Zoho's policy for scheduling of downtime for maintenance and the remedies available to Subscriber in the event of Zoho's failure to meet the service availability commitment are provided in Exhibit B.
- 4.2. Zoho undertakes to acknowledge and resolve Service Defects reported by Subscriber according to the timeframe specified in Exhibit C.

5. **Privacy and Security.**

- 5.1. Zoho shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Subscriber's Data as provided in the Security Policy. Zoho shall also adhere to its commitments in the Privacy Policy.
- 5.2. Zoho may modify its Privacy Policy upon notice to Subscriber at any time through a service announcement or by sending email to Subscriber's primary email address. If Zoho makes significant changes to the Privacy Policy that affect Subscriber's rights, Subscriber will be provided with at least 30 days advance notice of the changes by email to Subscriber's primary email address. Subscriber may terminate use of Zoho Services by providing Zoho notice by email within 30 days of being notified of the availability of the modified Privacy Policy if the Privacy Policy is modified in a manner that substantially affects Subscriber's rights in connection with use of Zoho Services. In the event of such termination, Subscriber will be entitled to prorated refund of the unused portion of any prepaid fees. Subscriber's continued use of Zoho Services after the effective date of any change to the Privacy Policy will be deemed to be Subscriber's agreement to the modified Privacy Policy.
- 5.3. Zoho shall not (a) modify Subscriber's data, (b) disclose Subscriber's data except as compelled by law in accordance or as expressly permitted in writing by Subscriber, or (c) access Subscriber's data except to provide the Services or prevent or address service or technical problems, or at Subscriber's request in connection with customer support matters.

6. **Applicability of Terms of Service.**

- 6.1. All terms and conditions of the Terms of Service are applicable to Subscriber to the extent such terms and conditions are not contrary to this Agreement.
- 6.2. Zoho may modify its Terms of Service upon notice to Subscriber at any time through a service announcement or by sending email to Subscriber's primary email address. If Zoho makes significant changes to the Terms of Service that affect Subscriber's rights,



Subscriber will be provided with at least 30 days advance notice of the changes by email to Subscriber's primary email address. Subscriber may terminate use of Zoho Services by providing Zoho notice by email within 30 days of being notified of the availability of the modified Terms of Service if the Terms of Service are modified in a manner that substantially affects Subscriber's rights in connection with use of Zoho Services. In the event of such termination, Subscriber will be entitled to prorated refund of the unused portion of any prepaid fees. Subscriber's continued use of Zoho Services after the effective date of any change to the Terms of Service will be deemed to be Subscriber's agreement to the modified Terms of Service.

7. Confidentiality.

- 7.1. Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) the Receiving Party shall 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 have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.
- 7.2. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

8. Warranties.

- 8.1. Zoho warrants that the On-Demand Services will perform materially in accordance with the documentation.
- 8.2. Zoho warrants that except in case of deprecation, Zoho will not materially decrease the functionality of On-Demand Services. Zoho will announce deprecations at least three months before such deprecations are effective and provide clear instructions for migration. Subscriber may terminate this Agreement with immediate effect during the three months period following announcement of deprecation and be entitled to refund of subscription fee proportionate to the unused portion of the Subscription Period. Zoho also warrants that upon request, Subscriber will be provided complete export of data in order to facilitate migration.
- 8.3. Warranty Disclaimer. SUBSCRIBER UNDERSTANDS AND AGREES THAT THE USE OF THE ON-DEMAND SERVICES IS AT SUBSCRIBER'S SOLE RISK. EXCEPT FOR WARRANTIES SPECIFIED IN THIS AGREEMENT, ZOHO DISCLAIMS WARRANTIES OF ALL KINDS, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF



MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, UNINTERRUPTED USE AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE. NO ADVICE OR INFORMATION OBTAINED BY SUBSCRIBER FROM ZOHO OR FROM ANY THIRD PARTY SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. THE FOREGOING EXCLUSIONS AND LIMITATIONS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

9. **Limitation of Liability.** UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER TORT, CONTRACT, PRODUCT LIABILITY, NEGLIGENCE, OR OTHERWISE, SHALL EITHER PARTY BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES. EXCEPT AS PROVIDED IN THIS AGREEMENT, ZOHO WILL NOT BE LIABLE FOR ANY LOSS RESULTING FROM SUBSCRIBER'S USE OR INABILITY TO USE ON-DEMAND SERVICES EVEN IF ZOHO SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS. IN NO EVENT SHALL THE LIABILITY OF EITHER PARTY TO THE OTHER FOR ANY CLAIM OR ACTION ARISING OUT OF THIS AGREEMENT EXCEED THE AGGREGATE OF ALL AMOUNTS PAID BY SUBSCRIBER TO ZOHO IN THE TWELVE (12) MONTHS PRECEDING INITIATION OF SUCH CLAIM OR ACTION.

10. **Indemnification.**

10.1. Indemnification by Zoho. Zoho shall defend Subscriber against any claim, demand, suit, or proceeding ("Claim") made or brought against Subscriber by a third party alleging that the use of On-Demand Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party, and shall indemnify Subscriber for any damages finally awarded against, and for reasonable attorney's fees incurred by, Subscriber in connection with any such Claim; provided, that Subscriber (a) promptly gives Zoho written notice of the Claim; (b) gives Zoho sole control of the defense and settlement of the Claim (provided that Zoho shall not settle any Claim unless the settlement unconditionally releases Subscriber of all liability); and (c) provide to Zoho all reasonable assistance, at Zoho's expense. The above shall constitute Zoho's sole liability for and Subscriber's sole remedy against Zoho for claims that use of On-Demand Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party.

10.2. Indemnification by Subscriber. Subscriber shall defend Zoho against any Claim made or brought against Zoho by a third party alleging that Subscriber's Data, or Subscriber's use of the Services in violation of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law, and shall indemnify Zoho for any damages finally awarded against, and for reasonable attorney's fees incurred by, Zoho in connection with any such Claim; provided, that Zoho (a) promptly gives Subscriber written notice of the Claim; (b) gives Subscriber sole control of the defense and settlement of the Claim (provided that Subscriber shall not settle any Claim unless the settlement unconditionally release Zoho of all liability); and (c) provides to Subscriber all reasonable assistance, at Subscriber's expense. The above shall constitute Subscriber's sole liability for and Zoho's sole remedy against Subscriber for the type of claims listed



above.

11. Term and Termination.

- 11.1. This term of this Agreement shall commence on the Effective Date and continue until all subscriptions granted in accordance with this Agreement have expired or been terminated.
- 11.2. A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 11.3. Upon any termination for cause by Subscriber, Zoho shall refund Subscriber any prepaid fees covering the unused portion of the Subscription Period. Upon any termination for cause by Zoho, Subscriber shall expedite all payments due to Zoho.
- 11.4. Upon Termination of this Agreement by either party, Zoho shall provide Subscriber to export the data stored in the On-Demand Services in a suitable format.
- 11.5. Sections 7, 8.3, 9, 10, 11.3, 11.4 and 12 shall survive termination of this Agreement.

12. General

- 12.1. Entire Agreement. This Agreement, including the attached exhibits, constitutes and contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes any and all prior agreements, negotiations, correspondence, understandings and communications between the parties, whether written or oral, concerning the subject matter hereof.
- 12.2. Governing Law and Jurisdiction. This Agreement shall be governed by and construed strictly in accordance with the laws of the State of California (excluding the rules governing conflict of laws). Any dispute arising out of or resulting from this Agreement shall be subject to the exclusive jurisdiction of courts in Northern California to the exclusion of all other courts.
- 12.3. Waiver of Jury Trial. Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.
- 12.4. Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.
- 12.5. Amendment. No changes, modifications or amendment of any nature made to this Agreement shall be valid unless evidenced in writing and signed for and on behalf of both parties by the respective authorized representatives.
- 12.6. Severability. If any provision in this Agreement is found or held to be invalid or unenforceable, then the meaning of such provision shall be construed, to the extent feasible, so as to render the provision enforceable, and if no feasible interpretation would save such provision, it shall be severed from the remainder of this Agreement which shall



remain in full force and effect. However, if the severed provision is essential and material to the rights or benefits received by either party, the parties shall use their best efforts to negotiate, in good faith, a substitute, valid and enforceable provision or Agreement which most nearly approximates to their intent in entering into this Agreement.

- 12.7. Assignment. Subscriber shall not assign, lease, rent, delegate or otherwise transfer its licenses and other rights as well as duties under this Agreement except with the prior written consent of Zoho. Any assignment in derogation of this provision will be void.
- 12.8. Waiver. Any waiver of any obligation of the either party arising out of this Agreement shall not take effect unless agreed to in writing by both the parties to this Agreement.
- 12.9. Counterparts. This Agreement may be executed, either physically or electronically, in one or more counterparts, all of which shall be considered original and constituting one and the same agreement.
- 12.10. No Third Party Beneficiaries. Nothing contained in this Agreement shall be construed so as to confer any right, benefit or remedy upon any third party to this Agreement.
- 12.11. Interpretation -This Agreement has been independently negotiated between the parties. Accordingly, no provision of this Agreement shall be construed against one party by reason of such party being deemed the "author" of the Agreement. Section headings are not to be considered a part of this Agreement or to be a full and accurate description of the contents hereof. The terms of this Agreement shall be considered as confidential information of both the parties and both parties shall be bound to maintain the confidentiality of the terms of this Agreement.

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR RESPECTIVE DULY AUTHORIZED OFFICERS AS OF THE DATE FIRST WRITTEN ABOVE.

Zoho Corporation

Subscriber

Division: ManageEngine

Sign: _____

Sign: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



Exhibit A

On-DEMAND SERVICES

Mobile Device Manager plus on demand

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Exhibit B

SERVICE LEVEL TERMS AND CONDITIONS

"Downtime" shall mean inability to access On-Demand Service due to a Qualifying Fault. Downtime is measured based on availability of the individual On-Demand Service as measured by Zoho's application monitoring tool.

"Qualifying Fault" shall mean and include server side errors and reachability errors attributable to On-Demand Service.

"Downtime Period" shall mean ten or more consecutive minutes of Downtime. Intermittent Downtime for a period of less than ten minutes will not be counted towards any Downtime Periods.

"Monthly Uptime" shall mean total number of minutes in a calendar month minus the number of minutes of Downtime suffered from all Downtime Periods in a calendar month.

"Monthly Uptime Percentage" shall mean the percentage calculated by dividing Monthly Uptime by the total number of minutes in a calendar month.

"Scheduled Downtime" shall mean unavailability of On-Demand Service about which Subscriber is informed at least forty eight (48) hours in advance. A Schedule Downtime will not constitute a Qualifying Fault.

"Service Credit" shall mean days added to the end of the Subscription Period at no additional cost as compensation for Zoho's failure to meet the monthly uptime commitment.

Planning of Scheduled Downtime. Zoho will ensure that Scheduled Downtime is planned on weekends between 9:00 pm to 6:00 am (Pacific Time in the United States).

Monthly Uptime Commitment. On-Demand Service will have a Monthly Uptime Percentage of 99.9%.

Calculation of Service Credit:

Uptime	Compensation for Downtime (No. Of Days of Service Credit)
99.5% to 99.9%	7
99% to 99.5%	15
<99%	30

Request for Service Credit. In order to receive any of the Service Credits described above, Subscriber must notify Zoho within thirty (30) days from the time Subscriber becomes eligible to receive a Service Credit. Failure to comply with this requirement will result in forfeiture of Subscriber's right to receive a Service Credit.

Maximum Service Credit. The aggregate maximum number of Service Credits to be issued by Zoho to



Subscriber for any and all Downtime Periods that occur in a single calendar month shall not exceed thirty days of Service added to the end of subscription term. Service Credits may not be exchanged for, or converted to, monetary compensation.

Sole and Exclusive Remedy. Subscriber's sole and exclusive remedy for Zoho's failure to meet the uptime commitment is to receive Service Credit.

SLA Exclusions. The SLA does not apply to any performance and availability issues: (i) caused by factors outside of Zoho's reasonable control; (ii) that resulted from any actions or inactions of Subscriber; or (iii) that resulted from Subscriber's equipment and/or third party equipment that are not within Zoho's reasonable control. It is hereby clarified that performance and availability issues caused by factors within Zoho's control and attributable to Zoho or its vendors are not excluded.

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Exhibit C

SUPPORT TERMS AND CONDITIONS

Severity Level 1: The On-Demand Service does not function without a fix being applied and the problem has significant effect on the revenues or business operations of Subscriber.

Severity Level 2: The On-Demand Service can function. However, the On-Demand Service functions providing incorrect results or its performance is inconsistent with the performance described in the documentation.

Severity Level 3: The functionality of the On-Demand Service is not affected by the problem or can be achieved by using other features of the On-Demand Service.

Acknowledgement, Problem Determination and Resolution/Restoration Timeframe

Severity Level	Acknowledgement	Problem Determination	Resolution/Restoration
1	6 hours	24 hours	48 hours
2	15 hours	3 days	8 days
3	24 hours	7 days	14 days

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