



SUBSCRIPTION SERVICE AGREEMENT

BETWEEN: TIME TO REPLY LTD, (Company Number: 08747889), a company with its registered address at 34a Cote Green Lane, Marple Bridge, Stockport, England, SK6 5EB ("timetoreply")

AND: _____, (Company Number: _____), a company with its registered address at _____

("the Customer")

WHEREAS, timetoreply is engaged in the business of providing email performance optimisation, response time tracking and analytics services, more specifically described in this Agreement;

WHEREAS, the Customer wishes to receive the services being provided by timetoreply subject to the terms of this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

- 1.1. "Agent" means the user of a Designated Mailbox;
- 1.2. "Agreement" means this Subscription Service Agreement;
- 1.3. "API" means an application programming interface used by timetoreply to allow the Licensed Software to interact with Third-Party Email Services (or other third party hosted software applications and related services) to provide the Service;
- 1.4. "Confidential Information" means all present and future confidential or proprietary information held or controlled and disclosed by one Party ("Disclosing Party") to another ("Receiving Party") pursuant to this Agreement, including, without limitation, know-how, trade secrets, customer and supplier lists, pricing policies, operational methods, information relating to products, processes, services and other business and financial affairs and information as to customers or other third parties;
- 1.5. "Designated Mailbox" means the electronic mailbox(es) designated by the Customer to be tracked and analysed by the Customer through its use of the Service;

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- 1.6. "Documentation" means the user manual, security document, and other documents found on our website relating to your use of the Service and/or the Licensed Software;
- 1.7. "Header Information" means, in relation to an email, information relating to the transmission and receipt of that email, but not to its contents or any of its attachments, which includes but is not limited to: a) TO, FROM, CC; b) Subject line; c) Timestamps; d) Message ID, Conversation ID used to link conversations; and e) other non-sensitive metadata;
- 1.8. "Intellectual Property" means any creation of mind that is recognised and/or capable of being protected by law from use by another other person, whether in terms of local or foreign intellectual property law, including but not limited to Confidential information, know-how, inventions, designs, trademarks, the Service, Licensed Software or Documentation, including code, databases, user interfaces, dashboards, reports, logs, analytic metrics and data, text, images or any other original works incorporated in or associated with the Service, Licensed Software and Documentation and any other copyrightable works, whether registered, registrable and all statutory intellectual property;
- 1.9. "Licensed Software" means the proprietary software applications used by timetoreply to supply the Service;
- 1.10. "Onboarding Fee" means the once off fee payable by the Customer to timetoreply which shall be determined by timetoreply based on the number of onboarding sessions required by the Customer to effectively utilise the Service.
- 1.11. "Service" means the email response tracking and analytics service supplied by timetoreply;
- 1.12. "Signature Date" means the date the Customer signs this Agreement;
- 1.13. "Subscription Fees" means the fees payable by the Customer to timetoreply for using the Service, which are calculated on a per mailbox / per month basis payable either monthly or annually in advance depending on which payment chosen by the Customer;
- 1.14. "Support Services Policy" means timetoreply's policy for providing support relating to the use of the Service and/or the Licensed Software, which is available at <https://www.timetoreply.com/support-policy>;
- 1.15. "Third Party Services" means any services or software supplied by a third-party service provider, including email services such as Office 365, Gmail/G-suite, Nylas.com, Amazon Web Services, and Mimecast.



2. TERM OF THE AGREEMENT

- 2.1.** The Agreement shall commence from the Signature Date and shall continue to be in force for a period of _____ unless terminated earlier in accordance with the provisions of this Agreement. At the expiration of the stipulated term, the Agreement may be renewed at the option and consent of both Parties and subject to the terms of this Agreement.

3. USE AND AVAILABILITY OF THE SERVICE

- 3.1.** timetoreply grants to the Customer and its authorised users a limited, non-exclusive, non-transferable right to use the Service, subject to the terms of this Agreement.
- 3.2.** The Customer shall not license, sell, rent, or otherwise transfer your rights under this Agreement to any person (other than to the authorised users).
- 3.3.** timetoreply undertakes to use reasonable efforts to make the Service available 24/7 with minimum disruptions, but it cannot and does not warrant or guarantee such availability and the Service may become unavailable during planned and unscheduled maintenance performed by it or its service providers from time to time. timetoreply will make reasonable efforts to notify the Customer about any expected downtime in advance.
- 3.4.** timetoreply shall not be held liable for any loss caused to the Customer or any other person for any damages suffered by the non-availability or disrupted availability of the Service.
- 3.5.** It is the Customer's responsibility to ensure that its network and systems comply with the relevant specifications for the use of the Service. The Customer is solely responsible for the maintenance of its network connections and electronic communications links from its own systems to timetoreply's data centres. timetoreply shall not be held liable for any loss or damage suffered arising from any delays, interruptions, delivery failures, or any other failure of the Service caused by problems relating to the Customer's own network connections or electronic communications links, including the Internet.
- 3.6.** The Customer authorises timetoreply to act on any request or instruction given by it and/or which purports to have been sent by the Customer or its representative, even if that request or instruction was fraudulently submitted by someone else unless the Customer has already notified timetoreply of that fraudulent activity before it acted on the request or instruction. In any event, timetoreply shall not be held liable for any loss or damages suffered as a result of the fraudulently submitted instructions.
- 3.7.** The Customer may request additional or enhanced support services from timetoreply or its resellers. Such services will be charged at the current rates, available on request.



4. ACCOUNT REGISTRATION

- 4.1. The Customer will need to create an account with timetoreply to access and use the Service. The instructions to create an account can be found in the User Manual.
- 4.2. The Customer must ensure that the username and password created to access the account is kept secure at all times. timetoreply shall not be held liable for any unauthorised access to or use of the account. If there is any unauthorised activity on the Customer's account, timetoreply must be notified immediately.

5. FEES AND PAYMENT

- 5.1. The Customer shall be liable to pay the Subscription Fees on the due date.
- 5.2. The Subscription Fees will be paid according to the rates published on timetoreply's website or otherwise separately quoted and accepted by the Customer.
- 5.3. In addition to the Subscription Fees referred to in paragraph 5.1, the Customer shall be liable to pay a once off Onboarding Fee. The Onboarding Fee shall be calculated after a reasonable determination is made by a representative of timetoreply on the number of onboarding sessions the Customer requires in order to effectively utilise the Service. **The Onboarding Fee shall be disclosed to the Customer during the trial period, alternatively prior to the acceptance of the terms of this Agreement.**
- 5.4. The Onboarding Fee shall be paid by the Customer as follows:
 - 5.4.1. Once the Customer has added its card details to timetoreply's billing system, irrespective of whether the Customer has an annual or monthly subscription, the Onboarding Fee will automatically be deducted from the Customer's nominated bank account, to which the Customer authorises and consents thereto; or
 - 5.4.2. In the event that the Customer has elected to pay via bank transfer, the Onboarding Fee will be added as a charge on the invoice which must be paid on the prescribed due date.
- 5.5. timetoreply reserves the right to reasonably modify the rates published on its website from time to time and without formal written notification to the Customer.
- 5.6. timetoreply is entitled to increase the Subscription Fees payable in respect of any additional mailboxes added to the Customer's account after registration.
- 5.7. The Subscription Fees are exclusive of value added tax or any other sales tax which shall be added to the Subscription Fees payable at the relevant statutory rate in force at that time.
- 5.8. In the event that the Customer is paying by credit card, the Customer shall provide timetoreply with a valid, updated and complete credit card details (including expiration date) and the Customer hereby authorises timetoreply to automatically charge all Subscription Fees to that credit card on the date when such Subscription Fees are due.

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- 5.9.** All annual Agreements that are renewed by the Customer are subject to a 7% annual increase. timetoreply will use its reasonable endeavours to provide the Customer with 45 days' written notice prior to the next renewal date of any price increase. If you continue to use the Service after the fee change takes place the Customer will be deemed to (i) agree to the increase in the fees and (ii) authorise timetoreply (or your Reseller, as applicable) to collect the new fees amount using the agreed payment method.
- 5.10.** If the Customer has entered into an annual Agreement, whether hosted on timetoreply's platform, on the Customer's private cloud or on premise, timetoreply may not increase the licence fees more than once in any given calendar year.
- 5.11.** Should the Customer fail to make payment of any amount which is due, timetoreply reserves the right, without prejudice to any other rights and remedies it may hold, to disable access to the Service until such time that all outstanding amounts have been settled in full.
- 5.12.** timetoreply shall be entitled, but not obliged, to charge interest on any overdue amount at an annual rate equal to 5% over the current base lending rate of its Bankers in the United Kingdom.
- 5.13.** For customers who pay via credit card monthly, the subscription fees payable will be reduced accordingly if any mailboxes are removed from the system. If the customer is paying annually either via credit card or by invoice, the customer will be committed to pay for the licences (mailboxes) that it decided to purchase for the term of the Agreement.



6. WARRANTIES BY TIMETOREPLY

6.1. timetoreply warrants as follows:

- 6.1.1.** It shall perform the Service and its obligations in terms of this Agreement diligently;
- 6.1.2.** It shall observe the terms of this Agreement in good faith;
- 6.1.3.** It shall promptly address and attempt to resolve any complaint in respect of the Service in a timely manner;
- 6.1.4.** To provide standard customer support services during normal business hours in accordance with the Support Policy;
- 6.1.5.** It has and will maintain all necessary licences, consents and permissions necessary for performance of its obligations under this Agreement.

7. WARRANTIES BY THE CUSTOMER

7.1. The Customer warrants as follows:

- 7.1.1.** It shall provide accurate information that timetoreply requires for the performance of its obligations in terms of this Agreement;
- 7.1.2.** All information provided by the Customer to timetoreply is correct, current and complete;
- 7.1.3.** The Customer and/or its representative has the necessary rights and authority to enter and perform its obligations in terms of this Agreement.
- 7.1.4.** It shall make payment to timetoreply on time and in accordance with the Agreement.
- 7.1.5.** It shall agree to post 2 reviews (Capterra and G2) assuming that it has been fully satisfied with timetoreply and its Service. Timetoreply is happy to draft these reviews for sign off, and posting by the Customer.



8. BREACH AND TERMINATION

- 8.1.** timetoreply is entitled but not obliged to terminate or suspend this Agreement at its discretion in the event that:
- 8.1.1.** the Customer fails to make payment of any amount due and owing to timetoreply on the due date;
 - 8.1.2.** events beyond timetoreply's reasonable control, including acts of God, force majeure events, technical failures or service interruptions (including third party services) prevents timetoreply from continuing to make the Service available for a period of 60 (sixty) days or more;
 - 8.1.3.** the Customer commits a material breach of the Agreement or an action or inaction is taken by the Customer or its affiliates or representative which is regarded as an abuse of the Service;
 - 8.1.4.** the Customer admits to its inability to pay, is liquidated, placed under business rescue or curatorship, is declared insolvent or files a voluntary petition for bankruptcy or has a petition for bankruptcy filed against it;
 - 8.1.5.** timetoreply reasonably suspects that any unauthorised activity is taking place on the Customer's account.
- 8.2.** Upon termination of the Agreement, the Customer shall immediately stop using the Services and will be afforded a reasonable period of time, not exceeding 7 (seven) days, to download and export any data that remains on timetoreply's system. Once the aforementioned period has lapsed, all data that remains on timetoreply's system will be deleted.
- 8.3.** In the event that the Customer breaches the Agreement, timetoreply may, without prejudice to any other rights it may have in law, including its right to claim damages, either enforce the relevant provisions of this Agreement or cancel this Agreement.
- 8.4.** In the event that timetoreply commits a material breach of this Agreement, the Customer shall provide timetoreply written notice of such material breach and afford it the opportunity to remedy the breach within 14 (fourteen) days. In the event that timetoreply fails to remedy the breach, the Customer may terminate the Agreement. In the event of the termination of the Agreement based on a material breach committed by timetoreply, no refunds will be paid to the Customer for Subscription Fees already paid.
- 8.5.** The Customer can elect to cancel the Agreement at any time if it has entered into a month-to-month Agreement. If the Customer has entered into an annual Agreement, the Customer shall only be entitled to terminate the Agreement at the end of term period.



9. CHANGES IN FUNCTIONALITY

- 9.1.** The method and means of providing the Service shall be under timetoreply's exclusive control, management, and supervision.
- 9.2.** timetoreply has sole discretion to change certain features and functionality of the Service and/or the Licensed Software.
- 9.3.** timetoreply shall publish notice of any expected changes on its website and / or customer communication channels and the Customer is responsible for checking whether any changes have been made before using the Service. If the Customer objects to any changes made to the Service, the Customer may terminate this Agreement and cease any further use of the Service. The Customer shall not be entitled to claim any compensation from, or repayment of any amounts already paid to timetoreply.
- 9.4.** If timetoreply improves or increases the features or functionality of the Service or the Licensed Software through changes that are made, the Customer is entitled to enjoy the benefit of such changes at no additional charge, unless the new feature is introduced as a premium feature that requires an additional payment in order to gain access to the feature.
- 9.5.** The Customer acknowledges and agrees that timetoreply owns and retains all rights, title and interest in any and all feature requests, which shall be deemed to be licensed to Customer by timetoreply under this Agreement. timetoreply reserves the right to accept or reject any feature request made by the Customer.

10. THIRD PARTY SERVICES

- 10.1.** In the course of performing the Service, timetoreply's systems will interact with the Third Party Services designated by the Customer. The Customer acknowledges that timetoreply does not have any control over the functioning of such Third Party Services and that timetoreply shall not be held liable in relation to the use of any such Third Party Services when the Customer accesses and uses the Service.
- 10.2.** Any contract entered into, and any transaction completed by the Customer with any provider or supplier of a Third Party Service is between the Customer and the relevant third party, and timetoreply will not be a party to that contract and will not owe any obligations to that provider or third party.



11. INFORMATION SECURITY AND DATA PROTECTION

- 11.1.** timetoreply only views and stores the Email Header Information of emails tracked by the Service. It does not access, view, or store the body or attachments of any email sent or received by you or your users. The Service operates by ingesting email Header Information and processing it to produce email reply time reports and other email performance metrics.
- 11.2.** Header Information once gathered is stored on servers hosted by Amazon Web Services, which are not accessible via the public internet. The transmission of data via our API's between our servers and Third Party Services is secured using SSL.
- 11.3.** timetoreply undertakes to reasonably keep all the Customer's data both private and secure through a multi-layered physical and network-level security hierarchy. The Customer can see details of the platform security procedures and processes in the Security Document.
- 11.4.** timetoreply undertakes to only collect, use, store or process your data (including any personal information about any identifiable individual) in compliance with the GDPR and all applicable laws, and only where it is necessary for the purposes of performing the Service or complying with any of our obligations under this Agreement. The Customer may refer to timetoreply's Privacy Notice for more details.

12. CONFIDENTIALITY

- 12.1.** The Parties shall keep in strict confidence all Confidential Information of the other Party.
- 12.2.** The Parties shall not use any such Confidential Information for any purpose other than to perform its obligations as envisioned by, or under this Agreement or unless required by law.
- 12.3.** The Parties may only disclose confidential information to its requisite employees, officers or permitted sub-contractors to the extent strictly necessary for the performance of this Agreement.
- 12.4.** Each Party will take all reasonable steps to ensure that the other's Confidential Information is not disclosed or distributed in violation of this Agreement.

13. INTELLECTUAL PROPERTY PROTECTION

- 13.1.** The Customer acknowledges that all right, title and interest in and to the Intellectual Property vests in timetoreply and the Customer and/or its affiliates shall not have any claim of any nature in and to the Intellectual Property.
- 13.2.** Nothing in this Agreement shall be construed as the Intellectual Property as vesting any of the Intellectual Property or conferring upon the Customer a licence to the Intellectual Property whether express, implied or by conduct and subject to the terms of this Agreement and the Customer acknowledges that any infringement of the Intellectual Property will result in substantial loss and/or damages to timetoreply.

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- 13.3. The intellectual property rights of the Customer's data vest with the Customer. However, timetoreply is granted a non-exclusive, royalty-free, perpetual, irrevocable license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, and display any Header Information solely for the performance and effective operation of the Service and the presentation of its results.
- 13.4. timetoreply is entitled to use the Customer's logo on its website under the customer selection that shows which customers have used the Service both presently and in the past and in sales and marketing material.
- 13.5. This clause shall survive the termination of this Agreement.

14. DISCLAIMERS AND LIABILITY

- 14.1. timetoreply does not make any representations or warranties, express or implied, as to the correctness or suitability of the Service, Licensed Software, Documentation or any related information for the Customer's purposes and it is the Customer's sole responsibility to determine that the Service is suitable and correct for the purposes of its intended use.
- 14.2. timetoreply, its officers, directors, employees, suppliers, service providers or affiliates shall not be held liable for any damage, loss or liability incurred by the Customer or any other person which results from or is connected with the inability to use the Service, Licensed Software, Documentation or relation information.
- 14.3. timetoreply shall not under any circumstances be held liable for any loss or damages, including but not limited to consequential damages, special or otherwise, loss of business and loss of profits, whether foreseeable or not.
- 14.4. timetoreply shall not be liable for any claim of whatsoever nature (whether contract or delict) including any claim for incidental, indirect or punitive made by the Customer or any other person due to or arising out of or in connection with its use of the Service unless gross negligence has been committed by timetoreply.

15. NOTICES (ELECTRONIC COMMUNICATION)

- 15.1. For purposes of this Agreement, including the giving of notices and the serving of any demands or legal processes, the Parties select the email addresses below:
 - 15.1.1. For timetoreply:
 - 15.1.2. For the Customer:
- 15.2. Any notice required or permitted to be given in terms of this Agreement shall be deemed to be received if sent by e-mail to the Customer at its chosen email address, on the 1st day following the day it was sent.



15.3. Any communication sent by the Customer to the timetoreply website or directly to timetoreply shall be deemed to be received once acknowledged in writing.

16. GENERAL

- 16.1.** This document contains the entire Agreement between the Parties as to the subject matter hereof.
- 16.2.** No agreement to vary, add or cancel these terms and conditions shall be of any force or effect unless reduced to writing and signed on behalf of both Parties.
- 16.3.** The Customer may not cede any of its rights, delegate or sub-license any of its obligations under these terms and conditions without the prior written consent of timetoreply.
- 16.4.** No failure by timetoreply to enforce any provision of these terms and conditions shall constitute a waiver of such provision or affect in any way its right to require performance of any such provision at any time in the future, nor shall the waiver of any subsequent breach nullify the effectiveness of the provision itself.
- 16.5.** If any part of this Agreement is found to be partially or fully unenforceable, for whatever reason, this will have no effect on the enforceability of the rest of this Agreement.
- 16.6.** Neither party has the authority to bind the other to any third person, or to otherwise act in any way as the representative of the other, or to incur any liability on behalf of the other, or to pledge the credit of the other party unless otherwise agreed upon in writing between us.
- 16.7.** This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with, the laws of England and Wales. The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).



SIGNED AT _____ ON THIS THE _____ DAY OF _____ 2024

FOR AND ON BEHALF OF TIMETOREPLY
HE/SHE BEING DULY AUTHORISED HERETO

SIGNED AT _____ ON THIS THE _____ DAY OF _____ 2024

FOR AND ON BEHALF OF CUSTOMER
HE/SHE BEING DULY AUTHORISED HERETO