

ZOOM

MARKETPLACE DEVELOPER AGREEMENT

This Zoom Marketplace Developer Agreement (this “**Agreement**”), dated as of **Jan 1, 2021** (the “**Effective Date**”), is made and entered into by and between Zoom Video Communications, Inc. (“**Zoom**”), and the developer identified below (“**Developer**”). Certain capitalized terms are defined in Section 11 and others are defined elsewhere in this Agreement.

ZOOM VIDEO COMMUNICATIONS, INC.

Signature: *Tim Slagle*

Print Name: Tim Slagle

Print Title: Manager of Developer Advocacy

Notice Address:

55 S Almaden Blvd

San Jose, CA

Attn: Legal

Email: marketplace-support@zoom.us

DEVELOPER:

Signature: 

Print Name: Christopher Thomas

Print Title: Software Developer

Notice Address: 38b Hagley Park Road

Attn: Legal

Email: info@itsourceproviders.com

Company: IT Source Providers

App Name: Institution Attendance Tracker

Zoom and Developer agree as follows:

1. Access to Marketplace APIs. Subject to the terms and conditions of this Agreement, during the Term, Developer may access and use the Zoom APIs solely to (a) perform the Integration Activities, (b) retrieve Customer Data on behalf of Customers and (c) provide such Customers the services they request from Developer through the Developer Application. Developer’s rights are non-exclusive, non-sublicensable, and non-transferable. Developer shall use the Zoom APIs only in accordance with the API Documentation, including any referenced use rules, quotas, rate limits, and the [Zoom API License and Terms of Use](#). If applicable, Developer will follow any registration or credentialing requirements established by Zoom for access to the Zoom APIs.

2. Developer Responsibilities.

a. Support Services. Developer shall maintain and support, and continue providing to Customers, the Developer Application for use in connection with Marketplace for a minimum period of three (3) years after the date of the Final Acceptance. Developer shall provide the services levels with respect to the Developer Application set forth in Attachment 1. Developer is solely responsible for supporting Developer Applications directly with Customers and Zoom will not provide any support activities.

b. Marketplace API Policies. Developer shall, at all times, comply with the Marketplace Terms of Use and the [Zoom API License and Terms of Use \(https://zoom.us/legal\)](https://zoom.us/legal), which are incorporated by this reference into the Agreement. If a provision in the Marketplace Terms of Use or the API Terms of Use conflicts with any provision of the Agreement, the Agreement will control to the extent of the conflict.

c. Use of Publishable URL for Apps. Developer may request a uniform resource locator (“URL”) that permits Zoom users outside of the Developer’s own Zoom Account to install and use the respective Developer Application (“Publishable URL”). A Publishable URL may be assigned to Developer at Zoom’s

sole discretion. Developer shall not (i) use this Publishable URL to distribute the Developer Application publicly or (ii) make public the Publishable URL on any public resource, without express written permission of Zoom. This Publishable URL is strictly for use by Developers to conduct private beta tests of their application.

d. Developer Applications; Direct Relationship with Customers. Developer is solely responsible, at its own expense, for the Developer Application(s) (including their distribution, operation and support) and its own relationships and agreements with Customers regarding their use of Developer Applications.

e. Use and Maintenance of Customer Data. The Developer Application and Developer's applicable terms and conditions must make clear to Customers how the Developer Application functions and uses Customer Data. Developer will ensure that all Customer Data is collected, processed, transmitted, maintained and used in accordance with (i) Developer's agreement with the Customer, a legally adequate privacy policy, and appropriate notices to and consents from Customers and (ii) all Laws. Developer will establish and maintain diligent safeguards (no less than industry standard) that protect against the destruction, loss, disclosure or alteration of any Customer Data accessed by Developer or in Developer's possession. Developer shall not, itself or through the Developer Application(s) or any third party, place any Customer Data on the Marketplace platform without the applicable Customer's express prior written consent. Developer will comply with Acceptable Use Policy, and will not encourage or enable Customers to violate the Acceptable Use Policy or their agreements governing use of Marketplace.

i. Deactivation of Developer Application. When Zoom or a Customer de-authorizes, deactivates, uninstalls or otherwise terminates a Developer's Application or any connector to the Marketplace, the Developer will receive a de-authorization notification event, via a Webhook (HTTP POST Request, sent to the App's "Deauthorization URL" as designated by the Developer). Within ten (10) calendar days of receiving this notification, the Developer must either:

2.e.i.1. Permanently delete all Customer Data and any meta-data that was collected, transmitted, created or received by the Developer Application through Customer's uses or installation of the Developer Application; or

2.e.i.2. Obtain express, written consent from Customer to retain Customer Data longer than ten (10) days. Customer may give Developer this consent during uninstallation of the Developer Application from the Zoom App Marketplace, provided such consent is clear and explicit. In the event Developer retains Customer Data, Developer must continue to maintain the Customer Data according to the Developer's privacy policy and terms of service with the Customer and continue to maintain any security measures that were in effect at the time of collection. Customer Data must be deleted at any time a Customer withdraws their consent to the collection and use of the Customer Data. Developer must notify Zoom of Data Compliance, by using the Zoom Data Compliance API, of compliance with Customer Data deletion requests or when further consent is obtained from Customer.

f. Developer's Representations and Warranties. Developer represents and warrants that (i) Developer has full power and authority to enter into and perform this Agreement without violating any other agreement; (ii) the Developer Applications, the application name, and their use will not violate any Laws or third party rights (including intellectual property rights and rights of privacy and publicity); (iii) all information Developer provides to Zoom is and will be true, accurate, and complete; (iv) the Developer Applications do not contain, and will not transmit to Zoom, any viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs. Developer shall not suggest any affiliation with Zoom or any third party, including any suggestion that Zoom or a third party sponsors, endorses or guarantees the Developer Applications, except for the API integration relationship expressly contemplated in this Agreement. Developer shall not make any representations, warranties or commitments regarding Marketplace, the Marketplace APIs or on behalf of Zoom.

g. Indemnification. Developer will indemnify, defend (at Zoom's request) and hold harmless Zoom and its Affiliates and their respective directors, officers, employees, agents, contractors, Customers and licensees from and against any claims, losses, costs, expenses (including reasonable attorneys' fees),

damages or liabilities brought by third parties based on or arising from (i) the Developer Applications, (ii) Developer's relationships or interactions with any Customers or third party distributors of the Developer Applications, or (iii) Developer's breach or alleged breach of this Agreement. Zoom may at its own expense participate in the defense and settlement of any claim with its own counsel, and Developer may not settle any claim without Zoom's prior written consent (not to be unreasonably withheld or delayed).

3. Use of Marks.

a. License. Subject to the terms and conditions of this Agreement, each party hereby grants to the other party a non-exclusive, non-transferable, royalty-free, fully paid-up, worldwide right, during the Term, to use the licensing party's Marks solely to refer to the licensing party and its products and services (i) in order to promote the Developer Applications' availability for use with Marketplace (and, for Zoom, to promote Marketplace generally) and (ii) for any mutually agreed marketing activities. This includes rights for each party to identify Developer as a "Marketplace Development Partner" (or similar designation provided by Zoom).

b. Usage. Each use of a party's Marks will be subject to the licensing party's reasonable brand use guidelines provided in writing. Any use of a party's Marks not permitted in its brand use guidelines requires such party's prior written approval. Each party may revoke any use of its Marks, or require new Marks be used, if any, going forward, upon notice to the other party. Each party agrees to provide samples of its use of the other party's Marks upon request. Developer agrees not to register, or attempt to register, any trademark or domain name containing "Zoom", or anything confusingly similar. All goodwill arising out of use of the Marks will inure to the benefit of the licensing party.

c. Materials Release. Developer hereby grants to Zoom a non-exclusive, non-transferable, royalty-free, fully paid-up, worldwide right, during the Term, to incorporate any of the materials identified in Attachment 2 hereto (including any modifications thereto) into Marketplace, and to use, distribute, reproduce, perform and display, and create derivative works of, such materials, and any excerpts thereof, in any format or medium, in any language. Zoom is not obligated to use such materials in any manner.

4. Intellectual Property Rights.

a. Developer. As between the parties, Developer retains its rights in Developer's Marks and the Developer Applications, excluding the Zoom Marketplace and APIs. Developer will not (and will not allow any third party to) modify or create any derivative works of the Marketplace APIs. Developing Developer Applications which add substantial additional value to the Marketplace APIs will not be deemed the creation of a derivative work of the Marketplace APIs in violation of the preceding sentence.

b. Zoom. Zoom and its licensors retain all right, title and interest (including all intellectual property rights) in and to the Marketplace APIs, Marketplace, any and all related and underlying technology, and any derivative works, modifications or improvements to any of the foregoing created by or on behalf of Zoom, including based on Feedback. If Developer submits any comments, questions, suggestions or other feedback relating to Marketplace or Zoom's other products or services (collectively "**Feedback**"), Zoom may freely use and exploit such Feedback in any manner in connection with any products or services of it or its Affiliates, without obligation or compensation to Developer. Zoom will not publicly associate such Feedback with Developer without Developer's consent. Zoom may collect certain data and information regarding Developer's use of the Marketplace APIs, including data about API requests, Developer Applications and the Customer user accounts that Developer accesses, and may use such data in connection with operating, improving and supporting the Marketplace APIs and Marketplace.

c. No Brand Infringement. Notwithstanding the licenses granted to Developer herein, Developer may not include the name "Zoom" or any other third-party Mark in its application name, materials, website or marketing, except to show compatibility with the Developer Application. Developer may not register a domain with the Mark "Zoom" or any other third-party Mark contained in it. Developer must follow and abide by all brand use guidelines of Zoom or any third-party.

5. **Confidentiality**. Zoom may provide certain information to Developer that is confidential or proprietary ("**Confidential Information**"). Zoom's Confidential Information includes (a) any non-public

elements of the APIs or any pre-release information about Marketplace, (b) any API access keys or credentials and (c) anything identified or marked as “confidential” or that Developer should reasonably understand to be confidential or proprietary under the circumstances. Developer may use Confidential Information only for the purposes of this Agreement. Developer may not disclose any Confidential Information to third parties, other than its employees, agents and advisors with a need to know and for whom it agrees to remain responsible under this Agreement.

6. Term and Termination. This Agreement commences on the Effective Date and remains in effect until terminated as provided in this Section (the “Term”).

a. Termination for Breach. Either party may terminate this Agreement, upon written notice to the other Party, in the event the other Party is in material breach of an obligation under this Agreement and fails to cure such breach within thirty (30) days after receipt of notice thereof.

b. Termination for Milestone Failures. Zoom may terminate this Agreement, upon written notice to Developer, in the event Developer is assigned, or instructed to achieve, a Milestone by a Completion Date and Developer fails to achieve the Milestone by the Completion Date. Both the Milestone and the Completion Date will be defined for Developer in a notice from Zoom given at least ten (10) days prior to the Completion Date.

c. Termination for Modifications to APIs. Zoom may terminate this Agreement, upon thirty (30) days written notice to Developer, in the event Developer fails to modify the applicable Developer Applications as necessary to incorporate any modifications made by Zoom to the Marketplace APIs into such Developer Applications and integrate the applicable Developer Applications with Marketplace within ninety (90) days after Developer’s receipt from Zoom of a notice specifying the modifications made by Zoom to the Marketplace APIs.

d. Termination or Suspension by Zoom. Notwithstanding any termination provision otherwise contained herein, and without limiting its other rights under this Agreement, Zoom may terminate this Agreement at any time, upon at least twenty-four (24) hours’ notice, if, in its sole discretion, it determines (i) to discontinue access to or availability of the Marketplace, (ii) that Developer has failed to comply with any policy or requirement under this Agreement, (iii) that it is required to do so by Law, (iv) it is necessary to prevent or address security issues, or (v) such action is required to avoid harm to Zoom or its products, services, reputation, or Customers. In its sole discretion, Zoom may suspend or limit Developer’s use of the Marketplace APIs immediately and without notice, in lieu of termination, for the reasons above.

e. Termination by Developer. Developer may request to terminate this Agreement at any time, which request will be reviewed by Zoom, and approval will not be unreasonably withheld. In the event of a termination by Developer, Zoom requires a 90 day wind-down period for Customers using the Developer Application and will work with Developer to determine if adjustments are necessary to the wind-down period and procedures in order to protect the Customer experience. In the event of a wind-down, the Agreement will not be finally terminated until the wind-down is completed to Zoom’s satisfaction.

f. Effect of Termination. Upon any termination or expiration of this Agreement, (i) Developer’s rights to use Marketplace APIs (including related access keys and credentials) will immediately terminate and Developer will cease all such use, (ii) Developer will have no further access to any Zoom developer website or to any data or content that Developer submitted to Zoom relating to the Marketplace APIs and (iii) each party will promptly cease all use of the other party’s Marks. Section 2 (Developer Responsibilities), including 2(d)(i), the restrictions in Section 3(b) (Usage), and Section 4 (Intellectual Property Rights) through Section 8 (Limitation of Liability), Section 10 (General) and Section 11 (Definitions) will survive any termination or expiration of this Agreement.

7. Disclaimer of Warranties. EACH PARTY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. ZOOM DOES NOT GUARANTEE THAT THE MARKETPLACE APIS OR MARKETPLACE WILL BE UNINTERRUPTED OR ERROR-FREE. DEVELOPER DOES NOT GUARANTEE THAT THE DEVELOPER APPLICATIONS WILL BE UNINTERRUPTED OR ERROR-FREE.

8. Limitations of Liability. EXCEPT FOR BREACHES OF SECTION 2 (DEVELOPER RESPONSIBILITIES) AND SECTION 5 (CONFIDENTIALITY) AND VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE: (A) FOR ANY LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS OR LOST DATA), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE OR (B) IN ANY EVENT, FOR ANY DAMAGES OR LIABILITIES EXCEEDING ONE THOUSAND U.S. DOLLARS (\$1,000). Each party acknowledges and agrees that this Section 8 reflects a reasonable allocation of risk and that each party would not enter into this Agreement without these liability limitations. This Section 8 will survive notwithstanding any limited remedy's failure of essential purpose.

9. Support, Changes and Custom Development. Upon execution of this Agreement, Zoom shall provide to Developer the applicable Marketplace APIs and the API Documentation. From time-to-time during the Term, Zoom may provide to Developer feedback on Developer's performance, including with respect to Developer's Integration Activities and service level obligations. Zoom has no obligation to provide any support or maintenance for the Marketplace APIs or to fix any errors or defects. Zoom may modify or discontinue the Marketplace APIs or the features they enable, or may impose limits on their usage, without notice or liability to Developer. Developer shall modify the applicable Developer Applications as necessary to incorporate any such modifications to the Marketplace APIs into such Developer Applications and integrate the applicable Developer Applications with Marketplace no later than ninety (90) days after Developer's receipt from Zoom of a notice specifying the modifications made by Zoom to the Marketplace APIs.

10. General. This Agreement will be governed by and construed in accordance with California law (without regard to the conflicts of laws provisions thereof) and each party agrees to submit to the exclusive jurisdiction of the courts in Santa Clara County, California for all purposes relating to this Agreement. This Agreement is the parties' entire agreement and supersedes any prior or contemporaneous agreements relating to its subject matter. The words "including" and similar terms are to be construed without limitation. Failure to enforce any provision of this Agreement is not a waiver, and all waivers must be in writing. Amendments to this Agreement must be in writing and signed by both parties. The foregoing does not limit Zoom's rights to make changes to the Marketplace APIs, API Documentation, API Terms of Use, Marketplace Terms of Use, and Acceptable Use Policy. If any provision is found to be unenforceable it (and related provisions) will be interpreted to best accomplish its intended purpose. Neither party may assign or transfer this Agreement, or any of its rights or obligations hereunder, without the prior written consent of the other party, except that either party may assign or transfer this Agreement, and its rights and obligations hereunder, without such consent, to any of its Affiliates or in connection with a merger, acquisition, corporate restructuring, change in control, or similar such transaction, or transfer of all or substantially all of its assets or voting securities related to this Agreement. There are no third party beneficiaries to this Agreement. Notices must be in writing to the addresses above and will be deemed given when delivered; operational notices may be given by email at the email addresses above, and legal notices must be given in writing at the addresses set forth above. Each party is responsible for its own costs of performing under this Agreement. The parties are independent contractors and this Agreement does not create any agency, partnership, or joint venture. Neither party will be liable to the other party for any delay or failure to perform any obligation under this Agreement if the delay or failure is due to unforeseen events that are beyond its reasonable control. No presumption shall be drawn against either party based on its drafting of any particular provision hereof. This Agreement may be executed in counterparts (including electronic copies and PDFs), each of which will be deemed an original, with all counterparts constituting one Agreement. The parties agree that electronically transmitted signatures shall have the full force and effect of an original signature.

11. Definitions.

"**Acceptable Use Policy**" "**API Terms of Use**" and "**Marketplace Terms of Use**" mean the rules for use of Zoom Marketplace found at www.zoom.us/legal as may be modified by Zoom from time to time.

"**Affiliate**" means an entity that directly or indirectly owns or controls, is owned or is controlled by or is under

common ownership or control with a party, where “control” means the power to direct the management or affairs of an entity, and “ownership” means beneficial ownership of 50% (or, if the applicable jurisdiction does not allow majority ownership, the maximum amount permitted under such law) or more of the entity’s voting equity securities or equivalent voting interests.

“**API Documentation**” means the documentation for use of the Marketplace APIs at <https://marketplace.zoom.us/docs>, as may be modified by Zoom from time to time.

“**Customer**” means a bona fide Marketplace customer.

“**Customer Data**” means any data, content or information in a Customer’s Marketplace account that Developer accesses or retrieves using the Marketplace APIs.

“**Developer Application(s)**” means the Developer application(s) set forth on Attachment 3 hereto that use the Marketplace APIs, including any improvements, enhancements, developments, integrations or other modifications or updates to the foregoing, whether performed under a statement of work to this Agreement for a given Customer or not.

“**Laws**” means any laws, rules, regulations or orders, including those relating to data privacy, data transfer, international communications or the export of technical or personal data.

“**Marks**” means the trademarks, service marks, names, logos and other images, marketing materials or descriptions provided or designated by the licensing party for use here under.

“**Marketplace**” means the Marketplace service generally made available by Zoom, including any related Zoom websites, apps, online services and tools, as may be modified by Zoom from time to time.

“**Marketplace API(s)**” means the Marketplace API(s) set forth in Attachment 4 hereto and/or as otherwise specified by Zoom. Except where otherwise noted, references to Marketplace APIs include the API Documentation and any API access keys or related Marketplace platform elements made available by Zoom.

ATTACHMENT 1

SERVICE LEVELS

1. Uptime. Developer will make the Developer Application available to Customers through Marketplace 24 hours a day, 7 days a week, 365 days a year, except for downtime attributable to: (i) scheduled downtime (provided that Developer provides to Zoom notice of such downtime no later than 30 days prior to such scheduled downtime), and (ii) an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, Internet service provider failure or delay, or denial of service attack.
2. Response Time. Developer will respond to an issue with respect to the Developer Application no later than 1 hour after Zoom or a Customer notifies Developer of an issue with respect to the Developer Application. Developer's response shall include either a resolution to the issue or an estimated time for resolving the issue.
3. Resolution Time. Developer will use commercially reasonable efforts to resolve an issue with respect to the Developer Application no later than 24 hours after Zoom or a Customer notifies Developer of an issue with respect to the Developer Application.
4. Support Line. Developer will provide a valid, monitored, and operational email and/or telephone number for Zoom and Customers to use in order to notify Developer of any issues with respect to the Developer Application.

ATTACHMENT 2
DEVELOPER MATERIALS

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ATTACHMENT 3
DEVELOPER APPLICATIONS

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ATTACHMENT 4

MARKETPLACE APIS

Marketplace Platform comprises APIs leveraged from Zoom platform, including but not limited to the following:

- APIs and Webhooks - <https://marketplace.zoom.us/docs/api-reference/introduction>
- Zoom SDKs - <https://marketplace.zoom.us/docs/sdk>