

SOFTWARE MAINTENANCE & SUPPORT AGREEMENT

This Software Maintenance & Support Agreement (hereinafter “Agreement”) is by and between you (hereinafter “Licensee”) and the Innovyze entity (hereinafter “Innovyze”) set forth in the applicable Innovyze Quotation/Invoice (hereinafter “Quotation”) and shall apply to the provision of maintenance and support services for the licensed software listed in the Quotation (hereinafter “Software”).

1. Definitions.

1.1. “Effective Date” shall mean the date set forth in the Quotation approved by Licensee.

1.2. “Updates” refers to releases in the Software that improve usability (identified by a version change two points to the right of the decimal point, e.g., 2.1.1 to 2.1.2) which are generally an accumulation of maintenance changes to the Software.

1.3. “Upgrades” refers to releases of the original Software (identified by a version change one point to the right of the decimal point, e.g., 2.1 to 2.2), which add functionality.

2. Term. This Agreement shall commence on the Effective Date and shall continue for a twelve (12) month period or such other period as may be defined in the Quotation (“Term”), unless cancelled as set forth below.

3. Software Updates and Maintenance. During the term of this Agreement, Innovyze may make available or deliver support, maintenance, Updates, and Upgrades (“Maintenance and Support”) for the Software during the Term. Maintenance and Support will only apply to unmodified Software and the most recently released and updated version of the Software. During the Term, Innovyze will use commercially reasonable efforts to correct any functions in the Software which fail to perform as specified in the supporting documentation. Updates or Upgrades issued by Innovyze for the Software also may include enhancements or new features.

4. Software Support. Licensee may contact the Innovyze support team. The contact information can be found at <https://innovyze.com/support-and-learning/> (or at any successor site as designated by Innovyze). Innovyze support staff will be available during normal business hours to assist Licensee regarding the operation of the Software within a reasonable time.

5. Annual Maintenance Fees. Licensee agrees to pay Innovyze the annual maintenance fees set forth in the Quotation (“Annual Maintenance Fees”) within thirty (30) days of receipt of an invoice from Innovyze.

6. Late Payment. If Licensee fails to pay the Annual Maintenance Fees within thirty (30) days of the due date, this Agreement will automatically terminate without written notice. Failure to make payment will result in Licensee receiving no Maintenance and Support as described herein, including but not limited to, the reactivation of the Software in connection with its transfer to another computer or server. If Licensee wishes to renew this Agreement after it has been terminated for non-payment, Licensee shall pay a reinstatement fee equal to all Annual Maintenance Fees Licensee would have paid had the Agreement not been terminated, plus 25% on the total amount.

7. Training. No software training is provided hereunder.

8. **Data.** Any data or information provided by Licensee to assist Innovyze in the provision of Maintenance and Support hereunder shall remain Licensee’s sole and exclusive property. Innovyze shall have no liability for the accuracy or correctness of such data or information.
9. **Limitation of Liability.** The parties agree, to the fullest extent permitted by law, to limit the aggregate liability of Innovyze, its parents, subsidiaries and affiliates, and their respective directors, officers, employees and agents, to the Annual Maintenance Fees as set forth in the Quotation. This limitation of liability shall apply to all suits, claims, actions, losses, costs and damages of any nature arising from or related to this Agreement and without regard to the legal theory under which such liability is imposed.

Under no circumstances shall Innovyze be liable for any, incidental, special, or consequential damages of any kind (including, but not limited to, damages for loss of revenue or profit, business interruption, or loss of business information) arising out of the provision of Maintenance and Support under this Agreement or the use, or inability to use, the Software, even if Innovyze has been advised of the possibility of such damages.

NOTHING IN THIS AGREEMENT RESTRICTS OR EXCLUDES INNOVYZE’S LIABILITY FOR (I) DEATH OR PERSONAL INJURY CAUSED BY INNOVYZE’S WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, OR (II) LICENSEE’S DAMAGES OR LOSSES CAUSED BY INNOVYZE’S FRAUD. ALSO, INNOVYZE DOES NOT SEEK TO LIMIT LICENSEE’S WARRANTIES, LICENSEE’S OTHER RIGHTS AND REMEDIES, OR THE LIABILITY OF INNOVYZE FOR DAMAGES OR LOSSES TO THE EXTENT THE LIMITS ARE NOT PERMITTED BY APPLICABLE LAW (SUCH AS STATUTORY WARRANTIES, CONDITIONS, REMEDIES, OR LIABILITIES THAT CANNOT BE EXCLUDED BY APPLICABLE LAW).

10. **Innovyze Party, Governing Law.** Depending on where the Licensee’s place of business is, (or, if Licensee is an individual, where Licensee is a resident), the governing law for this Agreement, including any rights, obligations and claims of the parties, will be as specified below. The laws of such jurisdictions shall govern without regard to choice of laws principles. Similarly, any dispute or claim arising out of or relating to this Agreement, including the breach, performance, termination, enforcement, interpretation, or validity of this Agreement (and whether under contract, tort, including strict liability, competition law, or otherwise), will be finally determined under the law and in the location specified below. Each party irrevocably submits to the jurisdiction of such proceeding and waives any and all objections to jurisdiction and venue that it may have under any other law:

Licensee’s location is in:	References to “Innovyze” means the following Innovyze entity:	Governing law is:	Exclusive Jurisdiction/forum for dispute resolution
United States and Canada	Innovyze LLC	(i) State of California, and (ii) to the extent controlling, federal laws of the United States	(i) United States District Court for the Northern District of California in San Francisco, or (ii) courts of the State of California, County of San Francisco.
Mainland China, Hong Kong, and	Innovyze Pty Limited	Singapore	Arbitration administered by the Singapore

Macau			International Arbitration Centre (“SIAC”) in accordance with the Arbitration Rules of the SIAC as in effect when the notice of arbitration is submitted. The seat of the arbitration will be Singapore.
Australia	Innovyze Pty Limited	(i) State of New South Wales, and (ii) to the extent controlling, federal laws of Australia	Courts of New South Wales
Asia, Oceania, and the Asia-Pacific region, other than Mainland China, Hong Kong, and Macau	Innovyze Pty Limited	Singapore	Courts of Singapore
Europe, the Middle East, and Africa	Innovyze Ltd	England & Wales	Courts of England & Wales
Worldwide (unless in a country or region described above), including Mexico, South America, Central America, Caribbean region, and Antarctica	Innovyze LLC	(i) State of California, and (ii) to the extent controlling, federal laws of the United States	(i) United States District Court for the Northern District of California in San Francisco, or (ii) courts of the State of California, County of San Francisco.

11. Termination. If Licensee fails to comply with any of the terms and conditions of this Agreement, Innovyze may terminate this Agreement and the Maintenance and Support provided hereunder without notice.
12. Complete Agreement. This Agreement constitutes the entire agreement between the parties concerning the Maintenance and Support provided hereunder and supersedes all prior or contemporaneous understandings or agreements, whether written or oral. This Agreement may not be

amended except by a writing signed by an authorized representative of both parties. Under no circumstances will the terms, conditions or provisions of any purchase order, invoice or other administrative document issued by Licensee in connection with this Agreement be deemed to modify, alter or expand the rights, duties or obligations of the parties or otherwise modify, this Agreement, regardless of any failure of Innovyze to object to such terms, provisions, or conditions.

13. Binding Effect and Assignment. The terms of this Agreement shall bind and inure to the benefit of the parties and their respective successors and assigns. Innovyze may assign this Agreement, or any right or obligation hereunder, without the prior written consent of Licensee.
14. Parties in Interest. Nothing in this Agreement, express or implied, is intended to confer on any third party or person any right or remedy under or by reason of this Agreement.
15. Severability. The invalidity or unenforceability of any term of this Agreement shall not affect the other terms, and this Agreement shall be construed in all respects as if any invalid or unenforceable term were omitted.
16. Notice. All notices under this Agreement must be delivered in writing by courier, certified or registered mail, to the other party and will be effective upon receipt or three (3) business days after being deposited in the mail, whichever occurs sooner.
17. Waiver. Any waiver, either express or implied, by either party of any term of this Agreement shall not constitute or be construed as a waiver of any subsequent breach or other default.
18. Governmental Entity Licensees. This Section 18 of the Agreement applies to Licensee if Licensee is a United States federal or other Governmental Entity. "Governmental Entity" means any nation or government, including the United States federal government, any state, municipality, or other political subdivision thereof, and any entity, body, agency, commission, department, board, bureau, or judicial body pertaining to government, and any employee or official thereof. The terms of this Agreement apply to a Licensee who is a Governmental Entity except to the limited extent Licensee is prohibited by the laws of Licensee's jurisdiction from accepting any provisions of this Agreement. If and to the extent any provision of this Agreement is so prohibited, such provision will be deemed modified only to the extent reasonably necessary to conform to applicable law but to give maximum effect to the provision as written.
19. Australia Specific Terms. Notwithstanding the other provisions of the Agreement, if the Licensee's principal place of business is in (or, if the Licensee is an individual, the Licensee is a resident of) Australia or New Zealand, the terms set forth below will apply to the Licensee. For the purpose of this provision, Australian Consumer Law means The Australian Consumer Law as embodied in Schedule 2 to the Competition and Consumer Act 2010 (Cth). Nothing in the Agreement is intended to exclude any non-excludable statutory rights Licensee may be entitled to at law, including as a consumer under Australian Consumer Law:
 - a) **Liability of Innovyze**. Notwithstanding Section 9 (Limitation of Liability), 12 (Complete Agreement) and 17 (Waiver) above, such sections will not exclude Innovyze's liability to Licensee for: (1) misrepresentations in voluntary statements about the Maintenance and Support made by Innovyze to Licensee that Licensee relied on in purchasing the Maintenance and Support; (2) failure to provide pre-contract information regarding the Maintenance and Support that Innovyze is required by the law of the country where Licensee resides to provide to Licensee before purchasing the Maintenance and Support; (3) if applicable, Innovyze's breach of implied terms that cannot be excluded or restricted under applicable law (including implied terms relating to satisfactory quality of, fitness for a particular purpose of, conformance to pre-contractual information relating to, or

Innovyze's right to supply, digital content); or (4) if applicable, consequential or indirect losses that cannot be excluded or restricted under Australian law.

- b) **Limitation of Liability.** Nothing in this Agreement restricts or excludes Innovyze's liability for fraudulent misrepresentation.
- c) **Limited Warranty, Disclaimers, Limitations on Liability:** CERTAIN LEGISLATION, INCLUDING THE AUSTRALIAN CONSUMER LAW, MAY LIMIT THE ABILITY TO EXCLUDE LIABILITY OR MAY IMPLY WARRANTIES OR CONDITIONS OR IMPOSE OBLIGATIONS WHICH CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED EXCEPT TO A LIMITED EXTENT.

DESPITE ANYTHING ELSE IN THE AGREEMENT, WHERE A SERVICE SUPPLIED IN CONNECTION WITH THIS AGREEMENT IS SUBJECT TO THE MANDATORY WARRANTIES OR GUARANTEES OF THE COMPETITION AND CONSUMER ACT (CTH) OR OTHER APPLICABLE LAW IN AUSTRALIA OR NEW ZEALAND ("THE "LAW"), AND SUCH LAW PERMITS INNOVYZE TO LIMIT ITS LIABILITY FOR BREACH OF THESE WARRANTIES OR GUARANTEES, THEN INNOVYZE'S ENTIRE LIABILITY AND LICENSEE'S EXCLUSIVE REMEDY FOR BREACH OF ANY SUCH WARRANTY OR CONDITION IS LIMITED (AT INNOVYZE'S OPTION) TO THE REPAIR, REPLACEMENT OR REPERFORMANCE (OR THE COST OF DOING SO) OF THE RELEVANT GOOD OR SERVICE.

- d) Innovyze services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, Licensee is entitled:
 - (i) to cancel Licensee's service contract with Innovyze; and
 - (ii) to a refund for the unused portion or to compensation for its reduced value.
- e) If a failure with the service does not amount to a major failure, Licensee is entitled to have the failure rectified in a reasonable time. If this is not done, Licensee is entitled to cancel the contract for the service and obtain a refund of any unused portion. Licensee is also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the service.
- f) The warranty provided above is provided by Innovyze Pty. Ltd, or the Innovyze subsidiary or affiliate indicated on Innovyze Quotation. Please use the address and contact details set out on the Quotation, or contact Innovyze Pty. Ltd, at 470 St Pauls Terrace, Fortitude Valley, QLD 4006 Australia (phone: + 61 (0) 7 3708 1470, email: infocareAPAC@innovyze.com) to make a claim under the warranty provided above. Please have details of the services, place of purchase, details of the defect and Customer's return contact details prior to contacting us. The warranty provided above is in addition to other rights and remedies you have at law.
- g) **Changes to Terms.** If Innovyze modifies any of the terms in the Agreement (whether needed to comply with applicable law or regulation, or for justified commercial, technical, security or operational reasons), Innovyze will provide reasonable notice of such modifications to Licensee in advance of their effective date.
 - (i) Licensee may reject any such modifications (except those required by law or regulation) by providing notice of rejection via email (within 30 days of the effective date) to Licensee Innovyze account manager, or in any other manner, specified in the notice of modification. If Licensee does not provide notice of rejection within such time period, Licensee is deemed to have consented to any noticed modifications, unless Licensee's explicit consent is required under the laws applying to Licensee.

(ii) If Licensee does not agree with such modifications, Licensee may terminate the Agreement before the notice effective date and receive a refund for the prorated portion of any prepaid fees applicable to the remaining Maintenance and Support Term.

- h) **Changes to Maintenance and Support.** Licensee acknowledges that Innovyze may change (including suspend or withdraw) Maintenance and Support to which Licensee has subscribed from time to time, including when needed to comply with applicable law or regulation, for justified commercial, technical, security, or operational reasons, or to make any improvements to Licensee's Maintenance and Support. For existing Maintenance and Support, any such changes will be made without additional cost to Licensee, and Innovyze will provide reasonable advance notice of any such changes, in a clear and comprehensible manner, where required under applicable law. If Licensee does not agree with such changes, Licensee may terminate Licensee's Maintenance and Support to the changed Maintenance and Support within 30 days of the later of (1) Licensee's receipt of the notice of Maintenance and Support change or (2) the effective date of the change, and Licensee will receive a pro-rata refund for the remaining Maintenance and Support Term.
- i) **Assignment.** If the Licensee's location is in Australia or New Zealand, in the event Innovyze assigns or otherwise transfers the Agreement, Innovyze will notify Licensee of such transfer in advance and ensure that such transfer does not prejudice Licensee's rights under the Agreement. Licensee may terminate the Agreement within thirty (30) days of receipt of such notice of transfer, and, if a resident of Australia, receive a refund for the prorated portion of any prepaid fees applicable to the remaining Maintenance and Support Term. If Licensee wishes to assign or otherwise transfer the Agreement (and Licensee's rights and obligations under the Agreement) to another entity, Licensee must deliver written notice to Innovyze requesting consent to such transfer. Innovyze's consent to such transfer is subject to (1) Licensee demonstration that the transferee will comply with the Agreement, (2) Licensee's agreement to remain responsible for the transferee's compliance, (3) Licensee's agreement to no longer access or use the Maintenance and Support subject to the Agreement, and (4) any other conditions deemed reasonable by Innovyze.
- j) **Return for Refund.** The terms relating to refund and cancellation included in the Quotation do not preclude the additional statutory rights Licensee may be entitled to as a consumer under the Australian Consumer Law, and similar legislation.
- k) **Effect of Termination of Maintenance and Support.** At Innovyze's request, unless required to be maintained by applicable law or statute, Licensee will destroy any and all copies of materials related to the Maintenance and Support (including any related documentation or other material from Innovyze) or return them to Innovyze or the party from which Licensee acquired the Maintenance and Support.