



Workspot Cloud Subscription Agreement

Last Updated: June 10, 2021

This Workspot Cloud Subscription Agreement (the “**Agreement**”) is entered into between Workspot, Inc. with its principal place of business at 1901 South Bascom Ave #900, Campbell, CA 95008 USA (“**Workspot**”) and the company identified on the signature page below or on the corresponding Order (“**Company**”). This Agreement establishes the terms and conditions for Company’s subscription to Workspot products and services identified under an Order. If Company registers for an evaluation or trial of Workspot products or services, this Agreement also governs Company’s use of and subscription to those products and services through the end of the evaluation period allowed by Workspot.

Section 1. Definitions

In addition to terms defined elsewhere in this Agreement, the following capitalized terms will have the following specified meanings:

“**Administrative User**” means an End User who is authorized by Company to have administrative access to and use of Workspot Control.

“**Affiliate**” means, with respect to a party, any entity which directly or indirectly controls, is controlled by or is under common control with a party, where “control” means ownership or control, directly or indirectly, of more than fifty percent (50%) of the voting interests of a subject entity.

“**Capacity**” means the configuration and measures for permitted utilization of Workspot Cloud Services designated under an Order, such as the number and type of End Users (and/or End User Devices) allowed access to a Workspot Hosted Virtual Desktop, the maximum number of virtual machines processing the Workspot Platform for Company, the measure for metering Company’s usage of Workspot Cloud Services, the timing calculation of Fees (such as annual, monthly, hourly or by the minute), and/or the Utilized IaaS.

“**Company Content**” means any and all data, information, and/or applications (including External Software, but excluding the Workspot Platform, the Utilized IaaS or Deliverables) utilized, uploaded, processed, or stored through the Workspot Cloud Services by End Users, and data that End Users derive through their use of the Workspot Cloud Services.

“**Concurrent End User**” means an End User who shares a pool of Workspot licenses for access to and use of a Purchased Service with other End Users. Such End User may share such licenses concurrently with such other End Users, but in no case shall the number of End Users concurrently accessing a Purchased Service exceed the number of licenses acquired under by Company pursuant to an Order for the Purchased Service.

“**Deliverables**” means and software, documentation or other tangible deliverable resulting from Professional Services provided by Workspot.

“**Documentation**” means applicable written reference information in electronic form provided or made generally available by Workspot with respect to the Workspot Cloud Services, as updated from time to time by Workspot.



“**Effective Date**” means the date provided as the Effective Date in the signature block below, or if instead initiated under an Order, then the earlier of the date (i) Workspot accepts an initial Order from Company for Workspot Cloud Services; or (ii) Company begins access or use of Workspot Cloud Services and thereby assents to this Agreement.

“**End User**” means an individual authorized and identified by an Administrative User through Workspot Control for access to and use of Purchased Services. End Users may be employees, independent contractors or other personnel of Company or a Company Affiliate. Company is responsible for compliance by each End User with the terms and conditions of this Agreement and the End User Terms, as well as for the payment of any Fees for Workspot Cloud Services attributable to such End Users.

“**End User Activity Data**” refers to the elements of activity captured by Workspot through Workspot Control with regard to active End Users by virtue of such End Users’ interaction with the Workspot Cloud Services, including user name, user email address, user login, user location (if user opts in), user access of a resource, user errors with any access activity (such as account lock out or failure to connect to resources) and other measures of utilization and performance. End User Activity Data is made available to Administrative Users.

“**End User Device**” means the End User device (e.g. laptop, tablet, PC, mobile phone) on which the Workspot Client is installed, or device with a compliant web browser (per the Documentation) capable of accessing Workspot Hosted Virtual Desktop Services, and through which an End User may access and use Workspot Hosted Virtual Desktop Services.

“**End User Terms**” means the terms and conditions for use of Workspot Cloud Services by End Users. End Users are required to assent to the End User Terms for access to and use of the Workspot Hosted Virtual Desktop from an End User Device.

“**External Software**” means software installed, utilized, uploaded, stored or processed by End Users and/or by Company through the Workspot Cloud Service (excluding the Workspot Platform or the Utilized IaaS, but including Microsoft Products other than Microsoft Azure as the Utilized IaaS), as well as any other software, product or service not provided by Workspot that Company or any End User or Company Affiliate installs or uses with the Workspot Cloud Services.

“**Fees**” means the charges applicable for Purchased Services, as stated under the applicable Order for the respective Purchased Services.

“**Google**” means Google LLC with headquarters located at 1600 Amphitheatre Parkway, Mountain View, CA 94043 (and Affiliates of Google who provide GCP for Workspot).

“**Google Cloud Platform**” (or “**GCP**”) means an IaaS service offered by Google which is a Utilized IaaS available from Workspot in conjunction with Workspot Cloud Services.

“**IaaS Provider**” means a provider of a Utilized IaaS, including, by way of example, Microsoft and Google.

“**IaaS Provider Terms**” means the additional terms and conditions provided or referenced in Appendix 1 with respect to a Utilized IaaS included in Purchased Services, which are required to utilize the Utilized IaaS in conjunction with Workspot Cloud Services.



“**Infrastructure as a Service**” (or “**IaaS**”) means scalable, on-demand computing services provided over the Internet for purposes of processing, data storage, application usage, and networking (also known as a form of cloud services).

“**Intellectual Property Rights**” means any and all patent rights, copyrights, moral rights, trademark rights, rights in trade secrets, design rights, database rights, domain name rights, and any other form of intellectual property rights (registered and unregistered) recognized in any jurisdiction worldwide.

“**Laws**” means all applicable laws, regulations, statutes, rules, orders and other requirements of any applicable international, federal, state or local governmental authority.

“**Malicious Code**” means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents programs, or the like.

“**Microsoft**” means the Microsoft Corporation with headquarters located at One Microsoft Way, Redmond, WA 98052 (and Affiliates of Microsoft that provide Microsoft Azure).

“**Microsoft Azure**” means the IaaS services used by Workspot which is a Utilized IaaS available from Workspot in conjunction with Workspot Cloud Services. Workspot resells access and subscription services to the Microsoft Azure as an authorized reseller.

“**Microsoft Customer Agreement**” means the agreement(s) between Microsoft and Company that is used to grant a right for use of the applicable Microsoft Product. The current version of the Microsoft Customer Agreement is provided at <https://www.microsoft.com/licensing/docs/customeragreement>.

“**Microsoft Product**” means the rights to Microsoft online services, including, without limitation, Microsoft Azure and associated software technology, and other products and services of Microsoft utilized by Customer or its End Users through the Workspot Cloud Services. Each Microsoft Product is subject to a Microsoft Customer Agreement.

“**Order**” means a request by Company to order Workspot Services under an Order Form or under a registration with Workspot (as provided under this Agreement) for a free evaluation, or initiated by Company (or its Affiliate or on Company’s behalf by its agent) via an authorized Workspot reseller or online marketplace or store through which Workspot offers subscriptions to Workspot Services, and which is accepted by Workspot. An Order will be deemed effective upon the earlier of Workspot’s written notification to Company of acceptance of such Order, confirmation of acceptance of the Order by the online marketplace or store, or the provision of Purchased Services to Company by Workspot. Orders are subject to, and governed by, the terms and conditions of this Agreement. For Orders initiated through an authorized Workspot reseller or online marketplace or store, the reseller or online marketplace or store, as the case may be, shall be the merchant of record for purposes of such Order.

“**Order Form**” means Workspot’s form of ordering document(s) for Orders for Purchased Services.

“**Professional Services**” refers to services provided by Workspot personnel on a project basis involving technical assistance and/or training, as further described in an Order or under a statement of work.



“**Purchased Services**” means Workspot Services acquired or subscribed by Company or a permitted Affiliate under an Order (other than for Evaluation per Section 2.5). Purchased Services include Workspot Cloud Services as well as any additional services identified under an Order Form, including Professional Services and Premium Support Services, each as further described in Section 2 of this Agreement.

“**Service Description**” means a description and/or specification of Support Services and/or Workspot Add-On Service offerings made generally available by Workspot to its customers.

“**Subscription Term**” means the subscription term for the Workspot Cloud Services specified under an Order or the Evaluation Period for Evaluation per Section 2.5.

“**Support Services**” refers to the technical support services offered by Workspot in conjunction Workspot Cloud Services, as further described in Section 2.4 of the Agreement.

“**Taxes**” means taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction.

“**Third Party Software**” means third party software that is embedded in or otherwise provided with the Workspot Platform, but specifically excluding External Software or a Utilized IaaS.

“**Utilized IaaS**” means an IaaS service utilized by Workspot to provide the Workspot Hosted Virtual Desktop Service and which is bundled and resold as an element of certain Purchased Services as set forth in an Order. The particular Utilized IaaS and IaaS Provider(s) applicable to Customer for Purchased Services will be identified in the Order for the respective Purchased Services or will otherwise be identified in a writing from Workspot.

“**Workspot Add-On Service**” means premium add-on capabilities and/or features for Workspot Cloud Services, such as the Workspot Cloud Disaster Recovery Service and Workspot Cloud Backup Service, offered by Workspot for an additional Fee as a Purchased Service and enabled through Workspot Control. Currently available Add-On Services are described at <https://www.workspot.com/legal/cloudadd-onservices>.

“**Workspot Client**” means Workspot proprietary software made available by Workspot for downloading and installation by Company and/or End Users on, and/or which is accessible via a compatible web browser (per the Documentation) to End Users from, an End User Device and which allows for access and use of Workspot Hosted Virtual Desktop Services functionality from the End User Device.

“**Workspot Cloud Services**” means, collectively, the Workspot Platform, the Workspot Hosted Virtual Desktop Service, the Utilized IaaS and/or other applications or services designated by Workspot, including, without limitation, Workspot mobile and desktop applications.

“**Workspot Control**” means the Workspot proprietary software designed to allow Administrative Users to configure, manage and monitor Workspot proprietary software applications for Purchased Services and to utilize Workspot Add-On Services acquired under an Order.

“**Workspot Hosted Virtual Desktop**” means a user interface individually configured for End User access to the Workspot Hosted Virtual Desktop Service through a unique login identifier. Once configured and



provisioned, the Workspot Hosted Virtual Desktop can be set by Workspot to be “Active” or “Inactive” for purposes of access and use of the Workspot Hosted Virtual Desktop Service.

“**Workspot Hosted Virtual Desktop Service**” refers to the Workspot service that connects End Users to Company Content via the Workspot Hosted Virtual Desktop and instigation of the Workspot Platform.

“**Workspot Platform**” means, collectively: (i) Workspot Control, (ii) Workspot Client; and (iii) other Workspot proprietary software applications required for enabling the Workspot Cloud Services.

“**Workspot Services**” means Workspot Cloud Services, Workspot Add-On Services, Professional Services and/or Support Services.

Section 2. Workspot Offerings. Company’s Purchased Services under this Agreement are specified in the Order(s). Workspot offers the following products and services for purchase and subscription:

2.1 Workspot Cloud Services. Workspot provides access to and subscriptions for Workspot Cloud Services. The Workspot Hosted Virtual Desktop Service is currently offered to operate with Microsoft Azure or GCP as the underlying Utilized IaaS. Workspot reserves the right to contract with alternative IaaS Providers for the Workspot Hosted Desktop Services and to include and/or substitute IaaS features and components based upon then-current availability from the IaaS Provider and as determined by Workspot as appropriate to the operation and performance of the Workspot Cloud Services. Company agrees that it is bound by, and shall fully comply with, and shall require that its End Users comply with, the IaaS Provider Terms applicable to the Utilized IaaS provided with Purchased Services. Workspot may implement, as it deems appropriate for the Capacity subscribed under an Order, power management controls during periods of inactivity for any Workspot Hosted Virtual Desktop, which may result in a short reactivation delay for such virtual desktop when activity resumes. Workspot endeavors to make Workspot Cloud Services generally available 24 hours a day, 7 days a week, except for planned downtime by Workspot or its IaaS Provider and circumstances beyond Workspot’s reasonable control (including force majeure events described in Section 12.7). Workspot’s Service Level Availability Commitment (“**SLA Commitment**”), including its program for service level credits and associated service availability and credit limitations, is posted at (<https://www.workspot.com/legal/cloudSLAC>), as updated by Workspot from time-to-time.

2.2 Workspot Add-On Services. To provide additional features and/or capabilities for Workspot Cloud Services, Workspot makes subscriptions available for access to Workspot Add-On Services (as available for or applicable to the Utilized IaaS) under an Order, including the following current Workspot Add-On Services, as well as such other Workspot Add-On Services offered by Workspot from time-to-time for the Utilized IaaS and as further described in a Service Description:

(a) *Workspot Cloud Disaster Recovery Service.* To provide additional assurance of business continuity for Company and its End Users and to supplement Company’s overall program and procedures for disaster recovery, Company may subscribe (depending on the Utilized IaaS) to the Workspot Cloud Disaster Recovery Service, under which Company may activate, utilize and de-activate the recovery service through Workspot Control, as further described in the Service Description posted at <https://www.workspot.com/legal/cloud-disaster-recovery>, provided that Company has properly configured such service as instructed under the associated Documentation in advance of activation.

(b) *Workspot Cloud Backup Service.* To provide additional capabilities for copying, back-up and recovery of Company Content and to supplement Company's overall program and procedures for copying and business continuity, Company may subscribe (depending on the Utilized IaaS) to the Workspot Cloud Backup Service, under which Company may make copies its Company Content, such as to create a copy for e-Discovery or added backup purposes. The Workspot Cloud Backup Service is further described in the Service Description posted at <https://www.workspot.com/legal/cloudbackup>.

2.3 Professional Services. Subject to the respective Order, Workspot will provide Professional Services with regard to the implementation and/or operation of Workspot Cloud Services, as detailed in such Order or an associated statement of work. By way of example, Professional Services may include management services pertaining to interoperability issues involving the Workspot Platform and/or the Utilized IaaS, implementation services pertaining to the implementation of Workspot Cloud Services, or training services pertaining to the training of Administrative Users to perform administrative functions necessary for the set-up, activation, configuration and maintenance of End Users. Fees for such Professional Services are set forth in the applicable Order.

2.4 Support Services. Workspot makes available Support Services, as further described in the respective Service Description, to assist Company if Company is unable to resolve inquiries initiated by an End User concerning the operation of any Workspot Cloud Services or other incident involving Workspot Cloud Services requiring technical support (each an "**Incident**"). Workspot's "Standard Support Services" are made available to Company as an element of Workspot Cloud Services for no additional Fee. Workspot also offers "Premium Support Services" which are provided for an additional Fee under an Order and on a subscription basis for a Subscription Term concurrent with Company's subscription to Workspot Cloud Services. The elements of and procedures for Standard Support Services and Premium Support Services are described in the Service Description posted at <https://www.workspot.com/legal/supportservices>. For access to Support Services, Company (through an Administrative User) may contact Workspot for Workspot to remotely respond to, and work to resolve, such Incident(s) in accordance with Workspot's then-current service levels and procedures provided under the Service Description applicable to the Support Services subscribed by Customer. Workspot is not responsible for resolving Incidents that it determines in its sole discretion arise from Company Content, External Software or other third party products and/or services (other than a Utilized IaaS) and/or which are not caused by the Workspot Platform.

2.5 Evaluation. If Company is registered with Workspot, whether through an Order, email exchange with an authorized representative of Workspot, or other means designated by Workspot (a "**Registration**") for a free trial or evaluation of Workspot Cloud Services ("**Evaluation**"), Company's use of and subscription to Workspot Cloud Services for the Evaluation shall be governed by the terms and conditions of this Agreement, which are hereby acknowledged and agreed to by Company under the applicable Order or Registration, or its click through agreement to the End User Terms, or by its access to and use of Workspot Cloud Services for Evaluation after Registration. Notwithstanding anything to the contrary in this Agreement, with respect to any Registration by Company for Evaluation: (A) Company's rights under Section 4 for access to and use of Workspot Cloud Services shall apply only for: (i) purposes of the Evaluation and not production use; (ii) a Subscription Term shall apply of up to thirty (30) days ("**Evaluation Term**"); and (iii) the specific Capacity granted by Workspot shall be limited to that provided under the Registration; (B) the Evaluation Term may be terminated by either Company or Workspot at any time, will not automatically renew, may be extended in Workspot's sole discretion and will terminate on the earlier of (1) the expiration of the Evaluation Term,



(2) the effective date of an Order for Purchased Services, or (3) earlier termination of this Agreement; (C) Workspot Services provided for Evaluation are provided on an AS IS basis and without any warranty or indemnity of any kind; and (D) unless migrated to a Purchased Service, all Customer Data will be deleted and inaccessible to Company upon expiration or termination of the Evaluation Term.

Section 3. Company Obligations.

3.1. Implementation of Workspot Cloud Services. Unless separately provided as a Professional Service (as specified under an Order), once activated by Workspot, Company is responsible for implementing the Purchased Services in accordance with the Documentation, including, without limitation, installing the Workspot Client on End User Devices as well as the installation and/or implementation of any other software required for access to and use of the Workspot Cloud Services on the Hosted Virtual Desktops. In addition, Company is responsible for following the best practices identified in the Documentation and by Workspot Support Services personnel for the implementation and operation of the Online Product Service, including, for example, with respect to Company's pre-deployment requirements, deployment, pre-release testing, monitoring, operations and upgrade of any External Software and for updating operating systems (such as Microsoft Windows, MacOS, Android and iOS). Unless separately provided as a Professional Service (as specified under an Order), Workspot is not responsible for any installation of the Workspot Client or for performing any implementation services with respect to third party products and/or services. By way of example and not limitation, unless separately provided as a Professional Service (as specified under an Order), Workspot is not responsible for effectuating integration or interoperability between the Workspot Cloud Services and any software products or services utilized by Company but not provided under this Agreement as a Purchased Service. Workspot will not be responsible for any failure to meet its SLA Commitment (and shall not be liable for any service level credits or other remedies) or for performing Support Services to the extent such failure or requested or required Support Service is attributable to Company's failure to meet obligations of Company under this Section 3.1.

3.2. Training of End Users. Unless separately provided as a Professional Service (as specified under an Order), Company is responsible for the training of End Users and for assuring that such End Users are able to use the Workspot Cloud Services in accordance with the associated specifications and restrictions, as well as for applying best practices for training End Users appropriately concerning operating system updates.

3.3. Compliance with this Agreement. Company is responsible for compliance by End Users and Company Affiliates with the terms and conditions of this Agreement (including, without limitation, the IaaS Provider Terms), the End User Terms, the Microsoft Customer Agreement (as applicable), and all applicable Laws in connection with Workspot Cloud Services, and for all use of the Workspot Cloud Services by its End Users or through End User Devices. Company shall require its End Users to agree to the End User Terms prior to access or use of Workspot Cloud Services. In addition, Company is responsible for maintaining the confidentiality and security of all accounts for End Users and End User Devices and for the associated passwords and access credential. Any violation by End Users or Company Affiliates of this Agreement or End User Terms shall constitute a breach by Company for purposes of Section 11.2 of this Agreement.

3.4. First Response to Incidents. Company is responsible, at its own cost, for all direct support of its End Users. If an Incident is submitted by an End User, Company has the obligation to provide the necessary response or technical support directly to the End User, exercising utmost diligence to readily resolve the Incident(s). If Company attempts and fails to resolve the Incident, Company may escalate and submit the Incident to the next



level of support with Workspot in accordance with the procedures set forth in the Support Services Description.

3.5. Microsoft Customer Agreement and End User License Terms. Company hereby confirms, as of the Effective Date, its agreement to the Microsoft Customer Agreement(s) under which Company or its Affiliates or End Users use, license and/or deploy Microsoft Product(s), regardless of whether or not the Utilized IaaS for Purchased Services is a Microsoft Product. Company agrees that it will abide by, keep in force, and, as between Company and Workspot, be solely and fully responsible for Company's, its Affiliates' and its End Users' compliance with such Microsoft Customer Agreement(s) and any Microsoft end user license agreement or terms and conditions ("**Microsoft EULA**") applicable to the Microsoft Product(s). Company agrees and confirms that all access and use by Company, Company Affiliates and End Users, throughout the Subscription Term, shall comply with the Microsoft Agreement and Microsoft EULA applicable to such Microsoft Product(s). Company shall not use the Microsoft Product(s) in conjunction with the Workspot Platform prior to agreeing to the respective Microsoft Customer Agreement. Company agrees that Workspot may track the utilization by End Users of the Microsoft Product(s) operating through the Workspot Hosted Virtual Desktop and, at Microsoft's written request to confirm Company's compliance with the Microsoft Product Agreement and/or Microsoft EULA, Workspot may provide a report to Microsoft of such utilization by End Users, provided that Workspot provides a written notice to Company of such request from Microsoft and provided further that Company does not provide a written notice to Workspot within ten days after the date of Workspot's notice to Company of Company's objection to the release of such information to Microsoft.

3.6. External Software. Company is fully and solely responsible for any External Software, including any Microsoft Product (other than Microsoft Azure bundled as a Utilized IaaS), that Company or any End User or Company Affiliate (or any other vendor, contractor, representative or agent of Company) installs or uses in conjunction with the Workspot Cloud Services, including, without limitation, any issues involving interference with, or degradation in performance of, the Workspot Cloud Services caused by such External Software. In addition, as between Workspot and Company, Company is fully and solely responsible for compliance with all agreements with, and other requirements or terms of, the providers and/or publishers of such External Software. Workspot shall not, and shall not be obligated to, advise or assist Company in any way with such compliance or any agreements, terms or obligations of Company with regard to External Software. Unless separately provided as a Professional Service (as expressly specified under an Order), Incidents or other issues caused by such External Software are expressly excluded from any obligation of Workspot under this Agreement, including, without limitation, any representation or warranty, indemnification, SLA Commitment and/or Support Services. Company acknowledges and agrees that resolution of performance issues caused by such External Software or Company Content may require that Company subscribe to a higher tier of or additional Workspot Services, which may require an additional Fee. Use of any External Software is governed by the terms of the respective agreement or license between Company (and/or its End User) and the third-party provider or publisher of such software, products or service. Workspot is not a party to, and is not bound by, such separate agreement(s) or license.

3.7. Company Content. Company understands and agrees that it is fully and solely responsible for all maintenance, management, availability, security, accuracy, quality, integrity, accessibility, privacy, backup, and legality with respect to Company Content, as well as compliance with all applicable Laws with respect to such Company Content and for any infringement or violation of any Intellectual Property Rights or other rights of third parties with respect to such Company Content or by Company or its End Users. Company will



secure and maintain all rights in Company Content necessary for Workspot to provide the Purchased Services to Company without violating the rights of any third party or otherwise imposing any obligation or liability on Workspot. Workspot is not responsible for any loss, change or alteration to Company Content and does not and will not assume any obligations with respect to Company Content other than as expressly set forth in this agreement or as required by applicable Law. Workspot acknowledges that it acquires no rights in the Company Content under this Agreement, except to the extent necessary for Workspot to provide the Purchased Services to Company.

(a) *Content Acceptable Use Policy.* Company agrees to comply with, and shall require its End Users to comply with, the then-current Workspot acceptable use policy requirements (“**Workspot Acceptable Use Policy**”), and the then-current acceptable use policy of the IaaS Provider applicable to the Purchased Services (“**IaaS Provider Acceptable Use Policy**”), with regard to the use of Company Content in conjunction with the Workspot Cloud Services. The Workspot Acceptable Use Policy may be found at www.workspot.com/legal/aup, the Google acceptable use policy for GCP may be found at <https://cloud.google.com/terms/aup>, and the Microsoft acceptable use for Microsoft Azure may be found at <https://azure.microsoft.com/en-us/support/legal/subscription-agreement/>.

(b) *Prohibition on Workspot Access to Company Content.* Workspot represents and warrants that Workspot’s access to Company Content in providing Workspot Cloud Services is limited to the items of End User Activity Data. Workspot acknowledges and agrees that, except as necessary to provide the Workspot Cloud Services and to the limited extent permitted with respect to End User Activity Data under Section 6.3 of this Agreement, Workspot’s access and use of Company Content is strictly prohibited. Workspot shall make available the Workspot Cloud Services in such a way that Workspot is not required to, and does not, access Company Content (other than End User Activity Data). Workspot represents and warrants that, except as required to provide the Workspot Cloud Services, Support Services, or Professional Services, its personnel are technically incapable of accessing or using the Company Content through the Workspot Platform. Workspot personnel shall not attempt to access or use Company Content other than as expressly permitted under this Agreement with respect to End User Activity Data. To the extent that Company inadvertently exposes Workspot personnel to Company Content beyond End User Activity, such as in the course of Workspot providing Support Services (e.g. troubleshooting through screen sharing), such Company Content shall not be retained, processed or used by Workspot or its personnel beyond that needed to provide the Support Service, and Company shall limit such exposure to the minimum extent required for Workspot to render the requested service to Company.

(c) *Termination of Company’s Access through Workspot Cloud Services to Company Content.* Upon termination or expiration of a Subscription Term or this Agreement, Company Content will no longer be accessible through Workspot Cloud Services and Company agrees that it is Company’s responsibility to take appropriate measures to retain backup copies of Company Content outside of the Workspot Cloud Services prior to termination or expiration of the applicable Subscription Term or this Agreement. Notwithstanding anything to the contrary in the foregoing, at Customer’s request in conjunction with the termination or expiration of a Subscription Term or this Agreement, Workspot will assist Company, at Company’s expense, which may include, among other charges, Fees for Professional Services, and in collaboration with the IaaS Provider for the applicable Utilized IaaS, with the administrative transfer of access to Company Content through such IaaS Provider products or services.



(d) *Workspot Add-On Services.* Workspot Add-On Services, such as the Workspot Cloud Backup Service and Workspot Disaster Recovery Service, are offered (depending on the Utilized IaaS) on a subscription basis to supplement Customer's business continuity, IT administration and disaster recovery programs and procedures. As such, Company acknowledges that it retains sole responsibility in utilizing such Workspot Add-On Services for maintenance, management, availability, security, accuracy, quality, integrity accessibility, privacy, backup, recovery and legality of Company Content. While Workspot provides Support Services to address technical questions per the procedures indicated in the Support Services Description in support of Company's use and operation of the Workspot Add-On Services, Workspot does not provide any data recovery services. The Workspot Add-On Services are designed to instigate certain features and/or functions of the Utilized IaaS and Workspot is not responsible for any failures or errors attributable to operation or performance of the Utilized IaaS. Workspot is not responsible for any loss, alteration or corruption of Customer Content which may occur in conjunction with or incidental to Company's use of any Workspot Add-On Services.

Section 4. Licenses, Restrictions, and Use Responsibilities

4.1. License Grant.

(a) *Workspot Platform.* Subject to the terms and conditions of this Agreement and End User Terms, the applicable Order and Company's payment of required Fees, Workspot hereby grants to Company, during the Subscription Term, a worldwide, nonexclusive, non-transferable, non-sublicensable, limited, license and subscription, solely for Company's internal business purposes, to permit the number of End Users (or End User Devices), and at the permitted Capacity on the applicable Order, to: (i) download and use the Workspot Client on such End Users' End User Devices; (ii) access and use the Workspot Hosted Virtual Desktop Service, together with associated Workspot proprietary software, for operation with the Workspot Platform and Company Content, as further provided under the applicable Order; and (iii) access and use Workspot Control in connection with the administration of the Workspot Client and other Workspot proprietary software applications, for use of subscribed Workspot Add-On Services, and for use of the Workspot Hosted Virtual Desktop Service by End Users as permitted under this Agreement and the End User Terms. For subscriptions limited to Named End Users, each End User account shall be identified by an individual name designated by the Company and access to Workspot Hosted Virtual Desktop Services through such End User account(s) cannot be shared or used by more than one named individual, with the understanding that each such Named End User account may be reassigned by Company via Workspot Control to a new Named End User, replacing the prior Named End User who shall no longer have access to Workspot Hosted Virtual Desktop Services. For subscriptions allowing for Concurrent End Users, End Users will be assigned to a pool of resources up to the subscribed number of Concurrent End Users, with the understanding that when fully utilized up to the subscribed number of Concurrent End Users, additional End Users will be accommodated only once the busy condition is resolved and access is available or Company increases its subscription for additional Concurrent End Users under an Order. Administrative Users may be permitted to increase the licensed Capacity of End Users (and certain other measures of Capacity) through Workspot Control, which shall serve as an Order issued and authorized by Company for such added Capacity. Such added Capacity will apply concurrent with the then-current Subscription Term and will be invoiced by Workspot accordingly pro-rata based on the time remaining (and/or any other applicable measures) for such Subscription Term.

(b) *Documentation and Deliverables.* Workspot grants Company a limited, revocable, non-transferable, non-sublicensable, non-exclusive license during the Subscription Term to use the Documentation and any



Deliverables for Company's internal business purposes solely in connection with Company's use of the Workspot Cloud Services.

(c) *Rights Reserved.* All rights or licenses not expressly granted by Workspot under this Agreement are reserved.

4.2 *Restrictions.* Company is only permitted to use, and allow its End Users to use, Workspot Cloud Services for Company internal business purposes, and in compliance with all applicable Laws, and Company is expressly not permitted to, and will not allow End Users to: (i) sell, resell, rent, lease, sublicense, distribute, lease, time-share, decompile, reverse engineer or reverse assemble, modify, translate or create derivative works of the Workspot Platform, Workspot Cloud Services or any functionality that is made available through the Workspot Platform; (ii) attempt to discover any source code or underlying ideas or algorithms with respect to the Workspot Platform; (iii) make the Workspot Cloud Services available to any third party that is not a designated End User under this Agreement; (iv) access, transmit, process or store infringing or unlawful material or material which violates the Workspot Acceptable Use Policy (or applicable IaaS Provider Acceptable Use Policy) through the use of Workspot Cloud Services; (v) knowingly transmit, use or store Malicious Code through Workspot Cloud Services; (vi) attempt to gain unauthorized access to, or disrupt or interfere with the integrity or performance of, the Workspot Cloud Services, any part thereof, or the data contained therein; (vii) access or use the Workspot Cloud Services for the purpose of building a competitive product or service or copying its features, functions, graphics or user interface(s) or otherwise using or exploiting any intellectual property rights of Workspot underlying the Workspot Cloud Services in a manner that is not specifically authorized herein; or (viii) use the Workspot Cloud Services, or permit to be used, for purposes of product evaluation, benchmarking or other comparative or competitive analysis intended for publication without Workspot's prior written consent. Company is expressly prohibited from using the Purchased Services in any application or situation where use or failure could lead to death or serious bodily injury of any person, or to severe property or environmental damage ("**High Risk Use**"). Company (and neither Workspot nor the IaaS Provider(s) for the Utilized IaaS), shall bear the liability and risk arising out of or related to any High Risk Use. The Documentation may include additional restrictions or limitations with respect to the use of the Workspot Cloud Services, and Company agrees to comply with any such restrictions or limitations. In the event of a conflict between the Documentation and this Agreement, this Agreement shall control.

4.3. *Use Responsibilities.*

(a) *Use of the Workspot Cloud Services.* Company understands and agrees that it has the right and obligation to configure, manage and monitor the Workspot proprietary software applications which are a part of the Purchased Services, consistent with the terms and conditions of this Agreement, through the operation of Workspot Control. Workspot Control is designed to enable an administration capability allowing Administrative Users to add and delete End User accounts and set, modify associated access and security policies, and activate and de-activate subscribed Workspot Add-On Services, as further described in the associated Documentation. Company is responsible: (i) for creating accounts for those End Users authorized by Company for access and use of Workspot Cloud Services for which Company has paid the applicable Fee; (ii) for administering End User names and passwords and for all activities conducted under such End Users' usernames and passwords; (iii) for End User compliance with this Agreement and the End User Terms for Workspot Cloud Services; (iii) for the content, accuracy, security, quality, accessibility, integrity, privacy, backup, and legality of the Company Content, of the means by which Company acquired the Company



Content, and for any infringement or violation of third party rights with respect to such Company Content; (iv) for using commercially reasonable efforts to prevent unauthorized access to or use of the Workspot Cloud Services and notifying Workspot promptly of any such unauthorized access or use; (v) for any External Software or any other third party products or services used or subscribed by Company in connection with the Purchased Services; and (vi) compliance with the Workspot Acceptable Use Policy and the IaaS Provider Acceptable Use Policy(ies).

(b) Company is responsible to make sure that End Users download the appropriate Workspot Client onto the End User Device(s). Company is further responsible, through the use by its Administrative Users of Workspot Control, for granting access for End Users to the Workspot Hosted Virtual Desktop Service, consistent with the terms and conditions of this Agreement. Such access may be enabled via the Workspot Client on the End User Device after authorization by the Administrative User of the End User's email address under Workspot Control.

4.3. Violations. Workspot reserves the right to suspend Company and its End Users' and Affiliates' access to, and use of, the Workspot Cloud Services if Workspot determines, in its reasonable discretion, that Company (or End Users or Company Affiliates) are violating (or have violated) any provisions of this Agreement or any IaaS Provider Terms. Failure to comply with this Section 4 will constitute a material breach of this Agreement.

Section 5. Fees and Payment

5.1. Fees. Company shall be responsible for the payment of all Fees specified in the applicable Order. Except as otherwise specified herein or in an Order: (a) Fees are quoted and payable in United States dollars; (b) Company's obligation to pay all Fees is non-cancelable; and (c) Fees paid are non-refundable.

5.2. Fee Increases. At the renewal or extension of a Subscription Term, or any addition or upgrade to any Purchased Services, Company shall be responsible for the payment of the then-current Fees for such Purchased Services or the Fees otherwise set forth in the applicable Order. Company acknowledges that Workspot may, from time to time, offer additional services, upgrades, features or functionality to Workspot Cloud Services that Workspot does not make generally available without payment of additional Fees, and that Company's access to and use of such additional services, upgrades, features and functionality (including, without limitation, any Workspot Add-On Services) may require payment by Company of additional Fees pursuant to an Order.

5.3. Invoicing and Payment Terms. All Fees for Purchased Services shall be due and payable in advance of the Subscription Term or other commencement of services, or otherwise in accordance with the payment terms set forth on the respective Order. For payments made to Workspot by credit card, Company shall provide accurate payment card information, and Company hereby authorizes Workspot to charge such credit card for all Fees due under the respective Order, including the initial Subscription Term and any renewal thereof. If Company chooses a non-automatic payment method, Company shall pay all Fees via credit card or by the means specified in the applicable Order within thirty (30) days of the date of the applicable invoice for the Purchased Services or within such period as otherwise specified in the applicable Order. Payment for Workspot Cloud Services shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Order. Company is advised to review invoices carefully and promptly notify Workspot of any invoice discrepancies. Workspot will not be liable to Company for any billing discrepancies that are not reported to Workspot in writing within thirty (30) days after the date of the invoice containing



the discrepancy. If Company has elected to pay Fees to Workspot via credit card and the credit card payment is rejected or charged back to Workspot, or if any Fees invoiced to Company by Workspot are not paid within thirty (30) days of the invoice date, Workspot may: (i) with respect to rejected charges or chargebacks, cease charging Company's credit card and invoice Company for the unpaid Fees, which shall be due and payable within ten (10) days after the invoice date; (ii) accelerate the payment terms for any unpaid Fees for Purchased Services; (iii) immediately suspend the Purchased Services until payment in full is received; (iv) impose a late payment charge of the lower of one and one half percent (1.5%) per month and the highest interest rate permitted by applicable Law; and/or (v) immediately cancel the Order for which Fees were due and/or terminate this Agreement.

5.4. Taxes. Unless otherwise stated in an Order or invoice issued by Workspot, Fees do not include any Taxes. Company is responsible for paying all Taxes (except those based on Workspot's income associated with the Purchased Services), and will pay, indemnify and hold Workspot harmless from, any Taxes and any costs associated with the collection or withholding thereof, including penalties and interest.

5.5. Online Marketplace Fraud. To the extent Company acquires Purchased Services through an online marketplace or store, Company shall not directly or indirectly purchase or otherwise obtain access to such online marketplace or store through: (a) any automated, deceptive, fraudulent or other invalid means; (b) the use of robots or other automated query tools or computer-generated search requests; or (c) the fraudulent use of software or credit cards.

Section 6. Intellectual Property Ownership

6.1. Intellectual Property Ownership. As between the parties and subject to the license grants under this Agreement, Workspot owns and retains all right, title, and interest in and to the Workspot Platform (and all information made available through the Workspot Cloud Services other than Company Content), and all Intellectual Property Rights in and to any of the foregoing. As between Workspot and Company, Deliverables and all Intellectual Property Rights therein are and remain the exclusive property of, and are hereby assigned to, Workspot. As between Microsoft and Company and subject to the license grants under the Microsoft Customer Agreement, Microsoft shall own and retain all right, title, and interest in and to the Microsoft Product (and all information made available through the Microsoft Products (including Microsoft Azure), but excluding Company Content), and all Intellectual Property Rights in and to any of the foregoing. As between the parties and the applicable IaaS Provider(s), Company shall own and retain all right, title and interest in and to the Company Content (and all Intellectual Property Rights therein) and the IaaS Provider(s) shall own and retain all right, title and interests in and to their respective Utilized IaaS (and all Intellectual Property Rights therein).

6.2. Feedback. Company hereby agrees to assign, and hereby does assign, to Workspot all Intellectual Property Rights in and to any suggestions, enhancement requests, recommendations or other feedback provided by Company or its Administrative Users or End Users relating to the Workspot Cloud Services or any aspect thereof.

6.3. Consent to Use of Data. Company grants and agrees to grant Workspot (a) a non-exclusive, royalty-free license during the Subscription Term to use End User Activity Data, including, without limitation, technical information about the End User Devices upon which the Workspot Cloud Services are accessed and elements of End User Activity Data, solely to facilitate the provision of the Purchased Services and provide Professional



Services (if any), Support Services and other services to Company with regard to the Workspot Cloud Services, and (b) a non-exclusive, royalty-free perpetual license to use End User Activity information for statistical, analytical and other internal use in aggregate and de-identified form to benefit, improve and enhance the Workspot Platform and Workspot operations, services and business activities.

Section 7. Representations and Warranties

7.1. Company Warranties. Company represents and warrants that Company: (i) has the full authority to enter into and perform this Agreement; (ii) neither Company nor its End Users shall infringe any Intellectual Property Right of any person or party in its performance of this Agreement or with respect to the External Software or Utilized IaaS, and that the Company Content does not and shall not infringe the Intellectual Property Rights of any person or party; (iii) Company will maintain in force and will comply with all applicable Microsoft Customer Agreements and IaaS Provider Terms at all times during the Subscription Term; and (iv) will comply with all applicable Laws, including, without limitation, in performance of its obligations under this Agreement and with regard to collection, operation, processing of Company Content, use of External Software and the Utilized IaaS, and compliance with privacy and/or data protection laws; and (v) will comply with the Workspot Acceptable Use Policy and IaaS Provider Acceptable Use Policy(ies).

7.2. Workspot Limited Warranties. Workspot represents and warrants that: (i) Professional Services and Support Services will be performed in a professional manner; conforming to general accepted industry standards and practices for similar services; and (ii) the Workspot Platform, when used in accordance with the Documentation and the terms of this Agreement, will perform in material conformance with the applicable Documentation for a period of thirty (30) days from the initial commencement of the Purchased Services.

7.3. Remedies. If Company discovers that Workspot has failed to perform a service as warranted under Section 7.2 and promptly report such failure to Workspot during the applicable warranty period, Company's sole and exclusive remedies, and Workspot's sole and exclusive obligations, for breach of the warranties set forth in Section 7.2 are as follows: (a) with respect to a breach of the warranty set forth in Section 7.2(i), Workspot will promptly re-perform such Professional Services or Support Services, as applicable, at no additional cost to Company, and (b) with respect to a breach of the warranty set forth in Section 7.2(ii), Workspot will either fix the Workspot proprietary software applications to remedy the failure or cancel the applicable Order for the Purchased Service(s) impacted by such failure and (i) if the subscription to the Purchased Service was subscribed directly from Workspot, provide Company with a pro-rata refund of any pre-paid Fees for the remainder of the Subscription Term and (ii) if the subscription for the Purchased Service(s) was purchased through a reseller or online marketplace or store, promptly provide a certification to such reseller or online marketplace or store that Company is qualified to receive a pro rata refund of pre-paid Fees. The limited warranties set forth in Section 7.2 shall not apply to the extent that the Workspot Platform (or any Workspot proprietary software application): (i) fails to perform as warranted as a result of its use with, or any failure of, any External Software, Company Content, or any network, software, hardware or other element not supplied by Workspot; (ii) due to any cause external to the Workspot Platform or beyond Workspot's reasonable control, or (iii) as a result of use for an unintended purpose, inconsistent with the Documentation or this Agreement or other improper or unauthorized use or misuse.

7.4. No Warranty. EXCEPT AS PROVIDED IN THIS SECTION 7, THE PURCHASED SERVICES, ARE PROVIDED ON AN "AS IS" BASIS WITHOUT ANY EXPRESS OR IMPLIED WARRANTY OF ANY KIND. EXCEPT AS EXPRESSLY PROVIDED HEREIN, WORKSPOT MAKES NO WARRANTIES,



REPRESENTATIONS, OR CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR WARRANTIES THAT MAY ARISE BY OPERATION OF LAW. WITHOUT LIMITING THE FOREGOING, WORKSPOT DOES NOT WARRANT THAT THE WORKSPOT SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. Company assumes the responsibility and risk to take adequate precautions against damages to Company or its operations that could be caused by interruptions or errors. Workspot Services are provided on an “as available” basis, and Workspot is not responsible for any loss of Company Content. Workspot makes no representations or warranties whatsoever with respect to the Utilized IaaS, any Microsoft Product or any External Software.

7.5. Microsoft Warranties and External Software Warranties. For warranties concerning the Microsoft Product (including Microsoft Azure), Company should refer to the Microsoft Customer Agreement. Workspot makes no warranty or representation whatsoever with respect to the Microsoft Product or any External Software.

7.6. New Releases of Existing Products. Company acknowledges and agrees that Workspot may from time-to-time release new versions of or changes to Workspot Cloud Services and that IaaS Providers may release new versions of or changes to a Utilized IaaS. In addition, Company acknowledges that Workspot may, at any time, modify, remove, replace, or add new features or functionality with respect to the Workspot Cloud Services made generally available to Workspot customers.

Section 8. Confidentiality; Privacy; Company Data

8.1. Confidentiality. As used herein, “**Confidential Information**” means all confidential and proprietary information of either party, whether oral or written, that is designated or identified as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances surrounding the disclosure, including, without limitation, the terms and conditions of this Agreement, technology comprised in the Workspot Cloud Services, End User mobile device activation key codes, business and marketing plans and designs, technical information, product designs, trade secrets and business processes. 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 without restriction on use or disclosure prior to its disclosure by the receiving party; (iii) was independently developed by the receiving party without breach of any obligation owed to the disclosing party as evidenced by documentation; or (iv) is rightfully received from a third party without restriction on use or disclosure. The Workspot Platform consists of Confidential Information of Workspot.

8.2. The receiving party shall not use or disclose any Confidential Information other than to exercise its rights and/or perform its obligations under this Agreement, except with the disclosing party’s prior written consent or as otherwise required by law or legal process. Notwithstanding the foregoing, the receiving party may disclose Confidential Information to its Affiliates or other agents who have a bona fide need to know such Confidential Information; provided, that each such Affiliate or agent is bound by confidentiality obligations at least as protective as those set forth herein. The receiving party shall protect the confidentiality of the Confidential Information in the same manner that it protects the confidentiality of its own confidential information of like kind (but in no event using less than reasonable care). The receiving party shall promptly notify the disclosing party if it becomes aware of any actual or reasonably suspected breach of confidentiality of Confidential Information. Notwithstanding anything to the contrary in this Agreement, and only to the

extent necessary, either party may disclose the existence and terms of this Agreement to potential investors and acquirers in connection with a bona fide financing or acquisition due diligence.

8.3. The receiving party is permitted to disclose Confidential Information of the disclosing party to the extent so compelled by law or legal process, with the understanding that such receiving party shall provide the disclosing party with prompt written notice prior to such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the disclosing party's expense, if the disclosing party wishes to contest the disclosure.

8.4. If the receiving party discloses (or threatens to disclose) any Confidential Information in breach of this Section 8, the disclosing party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being acknowledged by the parties that any other available remedies may be inadequate.

8.5. Upon any termination of this Agreement, the receiving party shall continue to maintain the confidentiality of the Confidential Information for five (5) years and, upon request, return to the disclosing party or destroy (at the disclosing party's election) all materials containing such Confidential Information, with the exception of information required to be retained by law or for internal archival and procedural purposes, provided that Company's final export of Company Data shall be conducted in accordance with this Agreement. Notwithstanding the foregoing, any Confidential Information relating to a trade secret of a party shall be maintained as confidential by the other party for so long as such Confidential Information remains protected as a trade secret.

8.6 Company understands that information collected, used and disclosed by Workspot is subject to its then-current Privacy Policy (presented to Company at <https://www.workspot.com/privacy-policy/>), with the current version attached hereto as Appendix 2. Company acknowledges and agrees to the terms of such Privacy Policy.

Section 9. Indemnification

9.1. Company Indemnification. Company agrees to defend, indemnify and hold Workspot and its employees, contractors and agents harmless from and against any damages, payments, fines, judgments, settlements, liabilities, losses, costs and expenses (including but not limited to reasonable attorneys' fees) in any actual or threatened unaffiliated third party claim, suit, action or proceeding, arising out of or relating to: (i) Company's breach (or breach by any Company Affiliate or End User) of any obligations under Sections 3 ("Company Obligations"), 4 ("Licenses, Restrictions, and Use Responsibilities"), or 6 ("Intellectual Property Ownership") of this Agreement, the End User Terms, the IaaS Provider Terms, the Content Policy, the IaaS Provider Acceptable Use Policy(ies), or other wrongful act or omission by Company (or any party or person for whom Company is responsible), including, without limitation any breach of any license or subscription granted under this Agreement or breach of obligations due to Workspot under applicable law; (ii) the actual or alleged infringement or violation of any Intellectual Property Rights with regard to Company Content or the transmission, access, or processing thereof through Workspot Cloud Services; (iii) Company's failure to comply with applicable Laws (including without limitation all applicable data privacy and protection Laws) in its

performance of this Agreement; or (iv) violation of the High Risk Use prohibition under Section 4.4 of this Agreement.

9.2. Workspot Indemnification. Workspot agrees to defend, indemnify and hold Company harmless from and against any damages, payments, fines, judgments, settlements, liabilities, losses, costs and expenses (including but not limited to reasonable attorneys' fees) finally awarded by a court of competent jurisdiction in any actual or threatened unaffiliated third party claim, suit, action or proceeding, to the extent based upon an allegation that the Workspot Platform, as furnished and used in accordance with this Agreement, infringes any Intellectual Property Rights of a third party. Notwithstanding the foregoing, Workspot will have no obligation or liability if the alleged or actual infringement is based upon: (i) Company's use of the Workspot Platform, or any part thereof, with software, data products, processes, or materials not provided by Workspot and the infringement could have been avoided through the use of other software, data products, processes, or materials; (ii) modifications to the Workspot Platform made by Company or any third party not authorized by Workspot ; (iii) modifications to the Workspot Cloud Services, undertaken by Workspot at Company's specific direction; (iv) use of the Workspot Cloud Services in a manner for which they were not intended or licensed under this Agreement; or (v) a Utilized IaaS, External Software or Company Content. If Workspot's right to provide any part of the Workspot Platform is enjoined for claims of infringement, or in Workspot's opinion is likely to be enjoined, Workspot may at its option and expense: (a) replace or modify the relevant part of the Workspot Platform, as applicable, so that it no longer infringing; or (b) obtain a license for Company to continue to use the Workspot Platform, in accordance with this Agreement; or if either (a) or (b) are not commercially practical, then (c) immediately terminate this Agreement and any Subscription Term for Purchased Services and if the subscription to the Workspot Cloud Services was purchased directly from Workspot, provide Company with a pro-rata refund of any pre-paid Fees for the remainder of the Subscription Term or if the subscription for the Workspot Cloud Services was purchased through a reseller, promptly provide a certification to such reseller that Company is qualified for a pro rata refund of any pre-paid Fees. The rights granted in this paragraph constitute Company's sole and exclusive remedy for any alleged or actual infringement of any third party intellectual property rights of any kind.

9.3. Procedure. The obligations of each indemnifying party are conditioned upon receiving from the party seeking indemnification: (i) the exclusive right to control and direct the investigation, defense and related settlement of any claims, with the understanding that the indemnified party may appoint its own non-controlling counsel at its own expense; (ii) prompt written notice of the claim (but in any event notice in sufficient time for the indemnifying party to respond without prejudice); and (iii) all reasonable necessary cooperation of the indemnified party. The indemnifying party shall not in any event consent to any settlement requiring the indemnified party to admit liability, pay money, or take (or refrain from taking) any action without the prior written consent of such indemnified party (such consent not to be unreasonably withheld or delayed). For clarity, the indemnifying party's defense obligation under Section 9.1 or 9.2, as applicable, includes an obligation to retain defense attorneys on behalf of the indemnified parties and pay those attorneys' fees and expenses, subject to the conditions and procedures set forth in this Section 9.

Section 10. Limitation of Liability

10.1. Exclusion of Consequential and Related Damages. IN NO EVENT SHALL WORKSPOT HAVE ANY LIABILITY TO COMPANY, ITS AFFILIATES OR END USERS ARISING FROM THIS AGREEMENT FOR ANY LOST PROFITS, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, LOSS OF COMPANY CONTENT (OR ANY DATA RELATED THERETO), LOSS OF REPUTATION, OR ANY INTERRUPTION OF

BUSINESS, OR FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES, HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF ANY NEGLIGENCE OR OTHER FAULT OR WRONGDOING (INCLUDING FUNDAMENTAL BREACH) BY WORKSPOT OR ANY PERSON FOR WHOM WORKSPOT IS RESPONSIBLE, EXCEPT TO THE EXTENT OF WORKSPOT'S FRAUD, GROSS NEGLIGENCE, BAD FAITH OR WILLFUL MISCONDUCT. IN ADDITION, WORKSPOT WILL NOT BE LIABLE FOR ANY DAMAGES WHATSOEVER, WHETHER DIRECT OR INDIRECT IN NATURE, THAT COMPANY MAY SUFFER IF THE WORKSPOT CLOUD SERVICES CEASE TO FUNCTION AS A RESULT OF COMPANY'S FAILURE TO PAY IN A TIMELY MANNER ANY UNDISPUTED FEES OR CHARGES REQUIRED TO PERMIT CONTINUED USE OR AS A RESULT OF ANY OTHER FAILURE BY COMPANY TO COMPLY FULLY WITH THIS AGREEMENT.

10.2. Limitation of Amount. COMPANY AGREES THAT IN NO EVENT WILL WORKSPOT'S LIABILITY UNDER THIS AGREEMENT EXCEED THE AGGREGATE AMOUNTS ACTUALLY PAID BY COMPANY FOR WORKSPOT SERVICES DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO THE CLAIM OR LIABILITY, PROVIDED, HOWEVER, THAT WITH RESPECT TO WORKSPOT'S INDEMNIFICATION OBLIGATION UNDER SECTION 9.2 OF THIS AGREEMENT, WORKSPOT'S LIABILITY SHALL NOT EXCEED THREE TIMES (3X) THE AGGREGATE AMOUNTS PAID BY COMPANY FOR WORKSPOT SERVICES IN THE TWELVE (12) MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO THE CLAIM OR LIABILITY. THIS LIMITATION IS CUMULATIVE, WITH ALL PAYMENTS TO COMPANY FOR CLAIMS OR DAMAGES BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT, THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THIS LIMITATION ON AMOUNT.

10.3 Limitation on Actions. EXCEPT WITH REGARD TO OBLIGATIONS TO PAY FEES OR REIMBURSE WORKSPOT FOR TAXES, ALL DISAGREEMENTS OR CONTROVERSIES OF ANY KIND WHETHER CLAIMED IN TORT, CONTRACT OR OTHERWISE, EITHER CONCERNING THIS AGREEMENT OR ANY OTHER MATTER WHATSOEVER MUST BE BROUGHT WITHIN ONE (1) YEAR AFTER THE ACCRUAL OF THE DISAGREEMENT OR CONTROVERSY.

10.4 THE FOREGOING LIMITATIONS ON LIABILITY AND DAMAGES WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS SET FORTH IN THIS SECTION ARE INTEGRAL TO THE ALLOCATION OF RISK BETWEEN THE PARTIES AND THE AMOUNT OF FEES CHARGED IN CONNECTION WITH MAKING THE SERVICES AVAILABLE TO COMPANY.

Section 11. Term and Termination

11.1. Term of the Agreement. This term of this Agreement shall commence on the Effective Date and continue until all Subscription Terms have expired or have been cancelled in accordance with this Agreement, unless earlier terminated in accordance with Section 11.2 of this Agreement. Except as otherwise specified in an Order, all Subscription Terms shall automatically renew for additional periods equal in duration to the expiring Subscription Term or one (1) year (whichever is shorter) and for the same quantity of licensed End Users or End User Devices, as applicable, as the expiring Subscription Term, unless either party gives the other notice of non-renewal at least thirty (30) days before the end of the relevant Subscription Term.

11.2. Termination for Cause. Either party may terminate this Agreement immediately without further notice if the other party materially breaches this Agreement and does not remedy such breach within thirty (30) calendar days after the date of written notice of such breach to the non-breaching party, provided, however that either party may immediately terminate this Agreement upon written notice to the other party of a material breach of this Agreement which by its nature cannot be cured.

11.3. Termination of Third Party-Related Services. Workspot may terminate Workspot Services dependent on third-party suppliers where the third party terminates or fails to provide the required services to Workspot (including, without limitation, a Utilized IaaS) other than due to a breach of Workspot's obligations under the agreement between Workspot and such third party. In the event of such termination, Workspot will provide notice to Company as promptly as reasonably feasible following its receipt of the third-party's termination notice. Workspot will have no responsibility to Company for any costs or damages resulting from such termination. Notwithstanding anything to the contrary in the foregoing, at Company's request in conjunction with such termination, Workspot will assist Company, at its expense, which may include, among other charges, Fees for Professional Services, and in collaboration with the IaaS Provider, with the administrative transfer of access to Company Content through IaaS Provider products or services.

11.4. Upon Termination. Upon termination or expiration of this Agreement and/or a Subscription Term, (a) Company shall cease all use of Workspot Cloud Services and the Utilized IaaS; and (b) Company shall use its best efforts to uninstall the respective proprietary software applications and respective IaaS Provider software for Workspot Cloud Services from each End User's End User Device on which it is installed and provide a written certification to Workspot that Company has uninstalled the respective Workspot proprietary software applications and the respective IaaS Provider software from each such End User Device in each case, promptly after any termination or expiration of this Agreement.

11.5. Effect of Termination. Upon any expiration or termination of this Agreement: (a) Company's right to use the Workspot Cloud Services shall cease, and Workspot shall have no further obligation to make the Workspot Platform or the Utilized IaaS available to Company; (b) except as otherwise expressly stated herein, all rights and licenses granted to Company under this Agreement will immediately cease; (c) except as expressly provided in this Agreement, Workspot will have no obligation with respect to any Company Content; and (d) Company will pay immediately any, unpaid Fees payable for the remainder of the Subscription Term under any applicable Order in effect prior to the termination date.

11.6 Survival. Any terms and conditions of this Agreement that by their nature extend beyond expiration or termination hereof, shall survive, including, without limitation, Section 1 and Sections 5 through 12 of this Agreement.

Section 12. Miscellaneous

12.1. Reference and Publicity. Company agrees to consider the following upon reasonable request by Workspot: (i) serving as a reference account, (ii) the identity of Company as a customer of Workspot on Workspot's website, marketing materials and other mutually agreed communications, and (iii) collaborating on case studies as Company realizes a return on investment following successful deployment.

12.2. Relationship of Parties. The parties are independent contractors, and no partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties is created hereby. There are no third party beneficiaries to this Agreement.

12.3. Entire agreement, Amendment and language. This Agreement may only be modified upon written acceptance of the modifications by both parties; provided, however, unless otherwise provided under an Order (such as, for example, by a reference to a specific written, fully-executed agreement between the parties), subsequent Orders are subject to the then-current version of the Workspot Cloud Subscription Agreement (or other Workspot form of agreement for the subscription to Workspot Cloud Services), in which case such referenced Workspot form of agreement shall apply to Purchased Services acquired under such Order and also to all then current subscriptions to Purchase Services from any prior Orders. This Agreement shall supersede the terms of any purchase order issued by Company (or any Company Affiliate or agent) and such purchase order shall be of no force or effect. This Agreement and any Orders may be signed in counterparts, including without limitation, by way of facsimile or electronic document transmission, with the same effect as if both parties had signed the same document. This Agreement (including all Orders) represents the entire agreement between the parties, and supersedes all prior or contemporaneous agreements, proposals or representations, written, oral or otherwise, concerning its subject matter. Questions about the Agreement may be addressed to legal@workspot.com.

12.4. No Waiver. No failure or delay in exercising any right hereunder shall constitute a waiver of such right. Except as otherwise provided, remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions shall remain in full force and effect.

12.5. Notice. All notices to Company will be sent to the electronic address in the contact information provided by Company in this Agreement or at the electronic mailing address provided for Company in the applicable Order or at registration for Workspot Services and will be considered received within one business day following dispatch. All notices to Workspot must be sent to legal@workspot.com as well as to the Legal contact for notices set forth in the Order and will be considered received within one business day following dispatch.

12.6. Construction. The section headings of this Agreement are for convenience only and have no interpretive value. Whenever used in this Agreement, regardless of whether specified, the terms “includes,” “including,” “e.g.,” “for example” and other similar terms are deemed to include the term “without limitation” immediately thereafter. For purposes of this Agreement: (i) the word “or” is not exclusive and the word “and/or” is the inclusive “or” and (ii) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole. Any Exhibits, addenda, attachments and the like, referred to herein will be construed with and as an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

12.7. Force Majeure. Neither party shall be liable to the other for any delay or failure to perform hereunder (excluding payment obligations) due to circumstances beyond such party’s reasonable control, including acts of God or public enemy, acts of government in either its sovereign or contractual capacity, flood, fire, earthquakes, pandemic, civil unrest, acts of terror, strikes or other labor problems (excluding those involving such party’s employees), telecommunication, network, Internet or power failures, errors or defects in supplied data, or any other “force majeure” event.



12.8. Assignment. Neither party may assign any rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party, except that Workspot may assign this Agreement without Company's prior written consent in the event of a reorganization, merger, acquisition, or other change of control in which Workspot is a constituent company. Any attempted assignment in breach of this section shall be void. This Agreement shall bind and inure to the benefit of the parties, their respective permitted successors and permitted assigns.

12.9. Governing Law. This Agreement and any claims related thereto shall be governed exclusively by the internal laws of the State of California, without regard to its conflicts of laws rules, and all disputes hereunder shall be subject to the exclusive jurisdiction of the state or federal courts located in Santa C, California. The parties hereby irrevocably consent to the jurisdiction of such courts. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

12.10 Export Control. Company agrees that it is not permitted, and not permitted to allow any other Entity to, export, re-export or release, directly or indirectly, y software, documentation, technology or other technical data, or any products that include or use any of the foregoing, to any country, jurisdiction or Entity to which the export, re-export or release of such (a) is prohibited by applicable Law or (b) without first completing all required undertakings (including obtaining any necessary export license or other governmental approval under any Law, including the US Export Administration Act and its associated regulations. For the purposes of this Section "Entity" means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association or other entity.

12.11 Escalation. Any dispute between the parties relating to this Agreement which is not readily resolved will be submitted to a senior executive of each party. Either party may initiate this proceeding by notifying the other party pursuant to the notice provisions of this Agreement. Within five (5) business days from the date of receipt of the notice, the parties' designated must confer (via telephone or in person) in an effort to resolve the dispute. The decision of the executives (if documented in writing and signed by the Executives) will be final and binding on the parties. In the event the executives are unable to resolve the dispute within twenty (20) days after submission to them, either party may pursue a claim or action as provided under this Agreement to resolve the dispute. Notwithstanding anything to the contrary in this Section 12.11, either party may take immediate steps to secure or protect its Confidential Information and Intellectual Property Rights and Workspot may take immediate steps to enforce and ensure compliance with the licenses granted under this Agreement.

12.12. Order of Precedence. This Agreement supersedes all preceding agreements between the parties, including click-through agreements that Company or an End User may have agreed to during trial or previous subscription services to any Workspot services. In the event of a conflict between this Agreement and an Order, this Agreement shall control unless the Order expressly states otherwise.

APPENDIX 1

IAAS PROVIDER ADDITIONAL TERMS AND CONDITIONS

A. Microsoft

1. In addition to the terms and conditions of this Agreement, Customer's and its End Users' use of Microsoft Azure is governed by the applicable Microsoft Customer Agreement affirmatively entered into by Company with respect to its use of Microsoft Azure.
2. As a condition to granting rights to the Microsoft Product, Microsoft requires, as and to the extent required by Law, that Company notify individual End Users that their data may be processed for purpose of disclosing it to law enforcement or other governmental authorities and Company shall obtain the End User's consent regarding same.
3. Company is responsible to assure that its access to and use of the Microsoft Product (including Microsoft Azure) is in full compliance with the license rights and obligations specified in the respective Microsoft Customer Agreement and any applicable Microsoft end user license terms.
4. Notwithstanding anything to the contrary in the Agreement, modifications which are required under Workspot's service provider and reseller agreement with Microsoft will automatically and immediately become part of this Agreement, provided that in the event that such a modification affects any obligations or liability of or services to Company, Workspot will issue a notice of such modification to Company at the electronic mailing address provided during Company's registration. Company will have the right to refuse such modification and terminate this Agreement. Unless Company refuses the modification and terminates this Agreement in writing within 30 days of receipt of such notice of change of terms, the modified terms will take effect on the date noted in the notice or 30 days following receipt of notice, whichever is later.

B. Google

1. In addition to the terms and conditions of this Agreement, use of GCP by Company and its End Users, whether under a direct subscription with Google or as an element of or in conjunction with Purchased Services, is subject to and governed by the Google Cloud Platform Terms of Service (see <https://cloud.google.com/terms>) ("GCP Terms"). Company agrees that Google is a third party beneficiary of this Agreement and may enforce the GCP Terms directly with Company regardless of whether Company subscribes GCP directly from Google or as an element of or in conjunction with Purchased Services.
2. Company will not, and will not allow End Users to: (a) copy, modify, create a derivative work of, reverse engineer, decompile, translate, disassemble, or otherwise attempt to extract any source code from GCP (except to the extent such restriction is expressly prohibited by applicable law); sell, resell, sublicense, transfer or distribute GCP; or (c) access or use the GCP (i) in a manner intended to avoid

incurring fees for such services; (ii) for materials or activities that are subject to the International Traffic in Arms Regulations (ITAR) maintained by the United States Department of State; (iii) in a manner that breaches, or causes the breach of, export control laws; or (iv) to transmit, store, or process health information subject to United States regulations under the Health Insurance Portability and Accountability Act of 1996, as amended from time to time (“HIPAA”) except as permitted by an executed HIPAA Business Associate Agreement with Google.

3. To the fullest extent permitted under applicable law, Google (a) does not make any warranties of any kind, whether express, implied, statutory, or otherwise, including warranties of merchantability, fitness for a particular use, noninfringement, or error-free or uninterrupted use of GCP and (b) makes no representation about content or information accessible through GCP. GCP is not intended for High Risk Use. Any use of GCP for High Risk Use will be at Company or its End User’s own risk and Company will be solely liable for the results of any failure of GCP when used for High Risk Use.
4. Company and its End User’s will comply with the then-current acceptable use policy for GCP described at <https://cloud.google.com/terms/aup> (“AUP”) and will defend, indemnify and hold Workspot harmless from any violation of the AUP by Company or any End User.
5. Company will not: (a) use, and will not allow End Users to use, GCP to operate or enable any telecommunications service, or to place or receive calls from any public switched telephone network including as part of a program that Company creates or hosts using GCP (“Company Application”), with the understanding that the foregoing restriction shall not apply to Google Meet; or (b) use GCP to provide a hosting, outsourced, or managed services solution to unaffiliated third parties, except as part of a Customer Application that provides value distinct from GCP.
6. Google may update GCP, provided the updates do not result in a material reduction of the functionality, performance, availability, or security of GCP.
7. Google may suspend GCP if (a) necessary to comply with applicable law or protect GCP or Google’s infrastructure supporting GCP or (b) Company or any End User’s use of GCP does not comply with the AUP, and it is not cured following notice from Google.
8. Google provides information to help copyright holders manage their intellectual property online, but Google cannot determine whether something is being used legally without input from the copyright holders. Google will respond to notices of alleged copyright infringement and may terminate repeat infringers in appropriate circumstances as required to maintain safe harbor for online service providers under the U.S. Digital Millennium Copyright Act. If Company believes a person or entity is infringing Company’s or its End User’s copyrights and would like to notify Google, Company can find

information about submitting notices, and Google's policy about responding to notices, at <http://www.google.com/dmca.html>.

9. To the extent that Workspot Cloud Services include any feature or elements that utilize Google Map features or content, the following shall apply:
- a. Use of Google Maps features and content is subject to the then-current versions of the:
 - i. Google Maps/Google Earth Additional Terms of Service at https://maps.google.com/help/terms_maps.html; and
 - ii. Google Privacy Policy at <https://www.google.com/policies/privacy/>.
 - b. Company will not, and will not permit its End Users to:
 - i. Export, extract, or otherwise scrape Google Maps Content for use outside of the Workspot Cloud Services, for example, not:
 1. Download Google Map tiles, Street View images, geocodes, directions, distance matrix results, roads information, places information, elevation values, and time zone details;
 2. Save business names, addresses, or user reviews;
 3. Use Google Maps Content with text-to-speech services; or
 4. Include any Google Maps Content in any electronic or printed documents;
 - ii. Cache Google Maps Content except as expressly permitted under Maps Service Specific Terms (described at <https://cloud.google.com/maps-platform/terms/mps-service-terms>)
 - iii. Create content based on Google Maps Content, for example, not:
 1. Trace or digitize roadways, building outlines, utility posts, or electrical lines from the Maps JavaScript API Satellite based map type;
 2. Create 3D building models from 45° Imagery from Maps Javascript API;
 3. Build terrain models based on elevation values from the Elevation API;
 4. Use latitude/longitude values from the Places API as an input for point-in-polygon analysis;
 5. construct an index of tree locations within a city from Street View imagery; or
 6. convert text-based driving times into synthesized speech results,
 - iv. Create a product or service with features that are substantially similar to or that re-create a Google product or service.
 - v. Use the Google Maps Core Services for High Risk Activities, which includes:
 1. Emergency response services;
 2. Autonomous and semi-autonomous vehicle or drone control;
 3. Vessel navigations; aviation;
 4. Air traffic control; and
 5. Nuclear facilities operation.



APPENDIX 2

WORKSPOT PRIVACY POLICY

Last Updated: May 4, 2020– see <https://www.workspot.com/privacy-policy> for the then-current Workspot Privacy Policy)