

## Workspot Cloud Subscription Agreement

Last Updated: October 3, 2022

This Workspot Cloud Subscription Agreement (the "**Agreement**") is entered into between Workspot, Inc. with its principal place of business at 1999 South Bascom Ave #1000, Campbell, CA 95008 USA ("**Workspot**") and the company identified on the signature page below or on the corresponding Order ("**Customer**"). Workspot and Customer are each a "Party" to this Agreement. This Agreement establishes the terms and conditions for Customer's subscription to Workspot products and services identified under an Order. If Customer registers for an evaluation or trial of Workspot products or services, this Agreement also governs Customer'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 Customer 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.

"**AWS**" means an IaaS offered by Amazon Web Services, Inc. ("**Amazon Web Services**"), which is approved by Workspot to be a Customer Supplied IaaS and may also be offered by Workspot as a Bundled IaaS.

"**Bundled IaaS**" means an IaaS provided by Workspot as an element of a Workspot Cloud Service offering subscribed by Customer under an Order, in which case the Bundled IaaS serves a Utilized IaaS for purposes of the Workspot Cloud Service.

"**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 Cloud PC, the number of Administrative Users, the maximum number of virtual machines processing the Workspot Platform for Company, the measure for metering Customer'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.

"**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 Customer pursuant to an Order for the Purchased Service.

"**Consumption Subscription**" means a subscription to Workspot Cloud Services under an Order that, for purposes of determining the applicable Fee amount, is metered on an annual, monthly, hourly or by the minute basis based upon the actual Capacity utilized per End User or End User Device.

"**Customer 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 Workspot Cloud Services by End Users, and data that End Users derive through their use of the Workspot Cloud Services.

**"Customer Supplied IaaS"** means an IaaS provided by Customer, either by direct subscription with an IaaS Provider (known as a management plane configuration) or via connection to a Hosted IaaS, for utilization with a Workspot Cloud Service. Any Customer Supplied IaaS must be approved by Workspot and identified in an Order to serve as a Utilized IaaS and shall be subject to the limitations and requirements for a Customer Supplied IaaS set forth in this Agreement and the Documentation, Service Descriptions, SLA Commitment referenced hereunder.

**"Deliverables"** means any 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 Online 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 Customer for Workspot Cloud Services; or (ii) Customer 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 Workspot Cloud Services subscribed by Customer under an Order. End Users may be employees, independent contractors or other personnel of Customer or an Affiliate of Customer. Customer 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 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 Workspot Online 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 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 Cloud PC Services, and through which an End User may access and use Workspot Cloud PC Services.

**"End User Terms"** means the terms and conditions for use of the Workspot Client software by an End User(s). End Users are required to assent to the End User Terms for access to and use of the Workspot Client and for access Workspot Cloud Services from an End User Device.

**"External Software"** means software installed, utilized, uploaded, stored or processed by End Users and/or by Customer through a Workspot Cloud Service (excluding the Workspot Platform or a Bundled IaaS, but including any Customer Supplied IaaS), as well as any other software, product or service not provided by Workspot that Customer or any End User or Affiliate of Customer installs or uses with a Workspot Cloud Service.

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

**"Google Cloud Platform"** (or **"GCP"**) means an IaaS offered by Google LLC (**"Google"**) which is offered by Workspot as a Bundled IaaS and is also approved by Workspot to be a Customer Supplied IaaS.

**"Hosted IaaS"** means an IaaS hosted by Customer in its own data processing environment (such as a Customer owned datacenter) and not provided by or through an IaaS Provider.

**"IaaS Provider"** means a third-party provider of an IaaS approved and supported by Workspot to be a Utilized IaaS. The IaaS Provider options available from Workspot exclude, by way of example and not limitation, any provider (whether Customer or a third party) of a Hosted IaaS.

**"IaaS Provider Terms"** means the additional terms and conditions provided or referenced in Appendix 1 which apply to Customer and are part of this Agreement for the Bundled IaaS included with the Workspot Cloud Service subscribed by Customer under an Order. The IaaS Provider Terms do not apply to either Customer Supplied IaaS or Hosted IaaS configurations..

**"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.

**"Marketplace"** means an online marketplace or store through which Workspot offers subscriptions to Workspot Services, such as the online marketplaces operated by Microsoft, Google and AWS.

**"Microsoft Azure"** means the IaaS offered by Microsoft Inc. (**"Microsoft"**) which is offered by Workspot as a Bundled IaaS and also approved by Workspot to be a Customer Supplied IaaS. Workspot resells access and subscription services to the Microsoft Azure as an authorized reseller of Microsoft.

**"Microsoft Customer Agreement"** means the agreement(s) between Microsoft and Customer 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 Workspot Cloud Services. Each Microsoft Product is subject to a Microsoft Customer Agreement.

**"Order"** means a request by Customer to order Workspot Services under an Order Form or under a registration with Workspot (as provided under this Agreement) for a free evaluation, or an order initiated by Customer (or its Affiliate or on Customer's behalf by its agent) via an authorized Workspot reseller or a Marketplace, and which is accepted by Workspot. An Order will be deemed effective upon the earlier of Workspot's written notification to Customer of acceptance of such Order, confirmation of acceptance of the Order by the Marketplace, or the provision of Purchased Services to Customer 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 a Marketplace, the reseller or Marketplace, 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 or the order webpage(s) for placing an Order through a Marketplace.

**"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 Customer or a permitted Affiliate of Customer under an Order (other than for Evaluation per Section 2.5). Purchased Services include Workspot Cloud Services for the Capacity indicated under an Order, as well as any additional services identified under an Order, such as Workspot Add-On Services, 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 term for the subscription to Workspot Services specified under an Order or the Evaluation Period for Evaluation per Section 2.5. The Subscription Term for Workspot Add-On Services and Support Services run concurrent with the Subscription Term for the underlying Workspot Cloud Service.

**"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.

**"Tenant"** means a unique instance of Workspot Cloud Services for access to Customer Content on the Utilized IaaS by instigation of the Workspot Platform.

**"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 utilized by Workspot to provide the Workspot Cloud Services, either as a Bundled IaaS or Customer Supplied IaaS. The Utilized IaaS 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 offered by Workspot for selected configurations of a Utilized IaaS for an additional Fee and enabled through Workspot Control. Currently available Add-On Services and associated limitations and requirements 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 Customer 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 Cloud PC Services functionality from the End User Device.

**"Workspot Cloud Services"** means the Workspot Cloud PC Service, together with any Bundled IaaS, which instigate the Workspot Platform and/or other applications or services designated by Workspot, including, without limitation, Workspot mobile and desktop applications, all as further described in the applicable Documentation..

**"Workspot Control"** means Workspot proprietary software included in the Workspot Platform designed to allow Administrative Users to configure, manage and monitor Workspot Cloud Services, utilize Workspot Add-On Services, and enable access by End Users to Workspot Online Services, as (and to the extent) subscribed by Customer under an Order.

**"Workspot Cloud PC"** means a user interface individually configured for End User access to the Workspot Cloud PC Service through a unique login identifier. Once configured and provisioned, the Workspot Cloud PC can be set by Workspot to be "Active" or "Inactive" for purposes of access and use of the Workspot Cloud PC Service by such End User(s).

**"Workspot Cloud PC Service"** refers to the Workspot service that connects End Users to Customer Content in a Tenant designated for Customer via the Workspot Cloud PC and instigation of the Workspot Platform.

**"Workspot Online Services"** means Workspot Cloud Services and Workspot Add-On Services.

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

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

**Section 2. Workspot Offerings.** Customer'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, either on a bundled basis with a Bundled IaaS or by utilization of a Customer Supplied IaaS. Workspot reserves the right to contract with alternative IaaS Providers for the Workspot Cloud Services and to include and/or substitute IaaS features and components for Bundled IaaS offerings 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. Customer acknowledges and agrees that features and components available for Workspot Cloud Services per the Documentation with a Bundled IaaS may not be available for a Customer Supplied IaaS serving as the Utilized IaaS for such Customer. Customer 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 Bundled 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 Cloud PC, 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. The SLA Commitment is subject to additional requirements and limitations provided therein for applicability to any Customer Supplied IaaS.

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 selected Utilized IaaS) under an Order, as further described in the Service Description for the respective Workspot Add-On Service (see <https://www.workspot.com/legal/cloudadd-onservices>).

2.3 Professional Services. Subject to the respective Order, Workspot will provide Professional Services with regard to the implementation and/or operation of Workspot Online 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 Customer if Customer 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 Customer as an element of Workspot Cloud Services for no additional Fee, subject to the limitations and requirements provided in the Service Description for Support Services, including, without limitation, with respect to any Customer Supplied IaaS. 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 Customer's subscription to Workspot Cloud Services. The elements of and procedures for Standard Support Services and Premium Support Services, as well as applicable limitations and requirements, are described in the Service Description posted at <https://www.workspot.com/legal/supportservices>. For access to Support Services, Customer (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 Customer Content, External Software, a Hosted IaaS, or other third party products and/or services and/or which are not caused by the Workspot Platform or relate to Customer's failure to abide by the Service Description requirements for a Customer Supplied IaaS.

2.5 Evaluation. If Customer 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**"), Customer'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 Customer 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 Customer for Evaluation: (A) Customer'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 of up to thirty (30) days ("**Evaluation Term**"); and (iii) the specific Capacity granted by Workspot under the Registration; (B) the Evaluation Term may be terminated by either Customer 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; (D) Support Services are provided as and to the extent determined by Workspot in its sole discretion; and (E) unless migrated to a Purchased Service, all Customer Content will be deleted and inaccessible to Customer upon expiration or termination of the Evaluation Term.



### Section 3. Customer Obligations.

3.1. Implementation of Workspot Cloud Services. Unless separately provided as a Professional Service (as specified under an Order), once activated by Workspot, Customer is responsible for implementing the Purchased Services in accordance with the Documentation, including, without limitation, (A) installing the Workspot Client on End User Devices, (B) installation and/or implementation of any other software required for access to and use of the Workspot Cloud Services on the Workspot Cloud PC, and (C) in the case of a Customer Supplied IaaS, configuring the Customer's Tenant in accordance with the Documentation. In addition, Customer is responsible for following the best practices identified in the Documentation and by Workspot Support Services personnel for the implementation and operation of the Workspot Online Services, including, for example, with respect to Customer'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 any Customer Supplied IaaS or 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 Online Services and any software products or services utilized by Customer 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 Customer's failure to abide by the requirements and obligations under this Section 3.1 or the SLA Commitment.

3.2. Training of End Users. Unless separately provided as a Professional Service (as specified under an Order), Customer 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. Customer is responsible for compliance by its End Users and Customer Affiliates with the terms and conditions of this Agreement (including, without limitation, the IaaS Provider Terms, as applicable to the Bundled IaaS), the End User Terms, the Microsoft Customer Agreement (as applicable), any agreement between an IaaS Provider and Customer with respect to Customer Supplied IaaS, and all applicable Laws in connection with Workspot Online Services, and for all use of the Workspot Online Services by its End Users or through End User Devices. Customer shall require its End Users to agree to the End User Terms prior to their use of Workspot Client or access or use of Workspot Cloud Services. In addition, Customer 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 Customer Affiliates of this Agreement or End User Terms shall constitute a breach by Customer for purposes of Section 11.2 of this Agreement.

3.4. First Response to Incidents. Customer is responsible, at its own cost, for all direct support of its End Users. If an Incident is submitted by an End User, Customer 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 Customer attempts and fails to resolve the Incident, Customer 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. Customer hereby confirms, as of the Effective Date, its agreement to the Microsoft Customer Agreement(s) under which Customer 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. Customer agrees that it will abide by, keep in force, and, as between Customer

and Workspot, be solely and fully responsible for Customer'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). Customer agrees and confirms that all access and use by Customer, Customer Affiliates and End Users, throughout the Subscription Term, shall comply with the Microsoft Agreement and Microsoft EULA applicable to such Microsoft Product(s). Customer shall not use the Microsoft Product(s) in conjunction with the Workspot Platform prior to agreeing to the respective Microsoft Customer Agreement. Customer agrees that Workspot may track the utilization by End Users of the Microsoft Product(s) operating through the Workspot Cloud PC and, at Microsoft's written request to confirm Customer'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 Customer of such request from Microsoft and provided further that Customer does not provide a written notice to Workspot within ten days after the date of Workspot's notice to Customer of Customer's objection to the release of such information to Microsoft.

**3.6. External Software.** Customer is fully and solely responsible for any External Software that Customer or any End User or Customer Affiliate (or any other vendor, contractor, representative or agent of Customer) 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 Online Services caused by such External Software. In addition, as between Workspot and Customer, Customer 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 Customer in any way with such compliance or any agreements, terms or obligations of Customer 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. Customer acknowledges and agrees that resolution of performance issues caused by such External Software, may require that Customer 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 Customer (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. Customer Content.** Customer 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 Customer Content, as well as compliance with all applicable Laws with respect to such Customer Content and for any infringement or violation of any Intellectual Property Rights or other rights of third parties with respect to such Customer Content or by Customer or its End Users. Customer will secure and maintain all rights in Customer Content necessary for Workspot to provide the Purchased Services to Customer 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 Customer Content and does not and will not assume any obligations with respect to Customer 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 Customer Content under this Agreement, except to the extent necessary for Workspot to provide the Purchased Services to Customer.

(a) **Content Acceptable Use Policy.** Customer 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 Utilized IaaS ("**IaaS Provider Acceptable Use Policy**"), with regard to the use of Customer Content in conjunction with the Workspot Cloud Services. The Workspot Acceptable Use Policy may be found at [www.workspot.com/legal/aup](http://www.workspot.com/legal/aup), the Google acceptable use policy for GCP may be found at <https://cloud.google.com/terms/aup>, the Microsoft acceptable use policy for Microsoft Azure may be found at <https://azure.microsoft.com/en-us/support/legal/subscription->



[agreement/](#); and the [Amazon Web Services acceptable use policy for AWS](#) may be found at <https://aws.amazon.com/aup/>.

(b) *Prohibition on Workspot Access to Customer Content.* Workspot represents and warrants that Workspot's access to Customer 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 Customer 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 Customer 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 Customer Content through the Workspot Platform. Workspot personnel shall not attempt to access or use Customer Content other than as expressly permitted under this Agreement with respect to End User Activity Data. To the extent that Customer inadvertently exposes Workspot personnel to Customer Content beyond End User Activity, such as in the course of Workspot providing Support Services (e.g. troubleshooting through screen sharing), such Customer Content shall not be retained, processed or used by Workspot or its personnel beyond that needed to provide the Support Service, and Customer shall limit such exposure to the minimum extent required for Workspot to render the requested service to Customer.

(c) *Termination of Customer's Access through Workspot Online Services to Customer Content.* Upon termination or expiration of a Subscription Term or this Agreement, Customer Content will no longer be accessible through Workspot Online Services and Customer agrees that it is Customer's responsibility to take appropriate measures to retain backup copies of Customer 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 Customer, at Customer'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 Customer Content through such IaaS Provider products or services.

(d) *Workspot Add-On Services.* Workspot Add-On Services are offered (depending on the Utilized IaaS) on a subscription basis to supplement, by way of example, Customer's business continuity, IT administration and disaster recovery programs and procedures. As such, Customer 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 Customer Content. While Workspot provides Support Services to address technical questions per the procedures indicated in the Support Services Description in support of Customer'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 Customer'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 the End User Terms, the applicable Order and Customer's payment of required Fees, Workspot hereby grants to Customer, during the Subscription Term, a worldwide, nonexclusive, non-transferable, non-sublicensable, limited, license and

subscription, solely for Customer'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 Cloud PC Service, together with associated Workspot proprietary software, for operation with the Workspot Platform and Customer 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 Cloud PC 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 Customer and access to Workspot Cloud PC 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 Customer via Workspot Control to a new Named End User, replacing the prior Named End User who shall no longer have access to Workspot Cloud PC 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 Customer increases its subscription for additional Concurrent End Users under an Order. Administrative Users may be permitted to change the licensed Capacity of End Users (and certain other measures of Capacity), End User Devices, or otherwise alter the configuration of Workspot Cloud Services or initiate Workspot Add-On Services through Workspot Control ("**Customer Added Workspot Services**"). In addition, Customer may have configuration access to provision or initiate additional services directly from a Utilized IaaS (such as added Azure security functionalities or VPN gateways) which are not otherwise included in either the Purchased Services or the services then-subscribed by Workspot from the IaaS Provider for bundling with such Purchased Services ("**Customer Provisioned IaaS Services**"). Any Customer Added Workspot Services and Customer Provisioned IaaS Services shall serve as an Order issued and authorized by Customer for such changes and/or additions. Customer Added Workspot Services and Customer Provisioned IaaS Services shall run concurrent with the then-current Subscription Term for the underlying Workspot Cloud Service, except that Customer may terminate Customer Provisioned IaaS Services through the Utilized IaaS or by written request to Workspot (for a Bundled IaaS) at any time.

(b) *Documentation and Deliverables.* Workspot grants Customer a limited, revocable, non-transferable, non-sublicensable, non-exclusive license during the Subscription Term to use the Documentation and any Deliverables for Customer's internal business purposes solely in connection with Customer's use of the Workspot Online Services.

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

4.2 *Restrictions.* Customer is only permitted to use, and allow its End Users to use, Workspot Online Services for Customer's internal business purposes, and in compliance with all applicable Laws, and Customer 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 Online 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 Online 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 Online Services; (v) knowingly transmit, use or store Malicious Code through Workspot Online Services; (vi) attempt to gain unauthorized access to, or disrupt or interfere with the integrity or performance of, the Workspot Online Services, any part thereof, or the data contained therein; (vii) access or use the Workspot Online 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 Online Service in a manner that is not specifically authorized herein; or (viii) use the Workspot Online 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. Customer 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**"). Customer (and neither Workspot nor the IaaS Provider(s) for a Bundled 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 Online Services, and Customer 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 Online Services.* Customer 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 and as provided under the Documentation. 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. Customer is responsible: (i) for creating accounts for those End Users authorized by Customer for access and use of Workspot Cloud Services for which Customer 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; (ii) 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 Customer Content, of the means by which Customer acquired the Customer Content, and for any infringement or violation of third party rights with respect to such Customer Content; (iv) for using commercially reasonable efforts to prevent unauthorized access to or use of the Workspot Online 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 Customer in connection with the Purchased Services; and (vi) compliance with the Workspot Acceptable Use Policy and the IaaS Provider Acceptable Use Policy(ies).

(b) Customer is responsible to make sure that End Users download the appropriate Workspot Client onto the End User Device(s). Customer is further responsible, through the use by its Administrative Users of Workspot Control, for granting access for End Users to the Workspot Cloud PC 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 Customer and its End Users' and Affiliates' access to, and use of, the Workspot Online Services if Workspot determines, in its reasonable discretion, that Customer (or End Users or Customer 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 and Charges.* Customer shall be responsible for the payment of all Fees and charges specified in the applicable Order or as applicable with respect to Orders for Customer Added Workspot Services and/or Customer Provisioned IaaS Services. Consumption Subscriptions shall be subject to the payment of a minimum Fee commitment for the respective Subscription Term(s) as set forth under the applicable Order ("**Minimum Commitment**"). Customer Provisioned IaaS Services shall be subject to Fees and charges as incurred and as

specifically applicable to the instigated Customer Provisioned IaaS Service(s). Customer is responsible for the direct payment for all amounts charged by a Customer Supplied IaaS, including, without limitation, for the Customer's Tenant and for the IaaS Provider's services as a Utilized IaaS. Any estimate provided by Workspot of possible charges by an IaaS Provider for a Customer Supplied IaaS operating in conjunction with a Workspot Online Service is provided for Customer's general information only and Workspot makes no representation or warranty with regard to the accuracy or completeness of such estimates, and Workspot will have no liability whatsoever with regard to actual amounts charged by the IaaS Provider for the Customer Supplied IaaS regardless of any information supplied by Workspot. Except as otherwise specified herein or in an Order: (a) Fees are quoted and payable in United States dollars; (b) Customer'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, Customer 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. To the extent that a configuration of a Workspot Online Service utilizes External Software (such as, for example, the Microsoft QMTH program utilized by Workspot for hosting Windows virtual machines) and our access to such External Software is suspended or terminated, Workspot will endeavor to continue to provide such Workspot Online Services using alternative technologies, with the understanding that Workspot will provide Customer with a written notice of any increase in Fees due to such technology change ("**Fee Notice**") and Company will pay such additional Fees unless Customer provides a written notice to Workspot within ten (10) days after the date of the Fee Notice of Customer's determination to terminate the Subscription Term for the Workspot Online Service dependent on such External Software, in which case Customer's subscription and access to such Workspot Online Service will terminate. Customer acknowledges that Workspot may, from time to time, offer additional services, upgrades, features or functionality to Workspot Online Services that Workspot does not make generally available without payment of additional Fees, and that Customer'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 Customer 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. Unless otherwise provided under the applicable Order, (i) the Minimum Commitment for Consumption Subscriptions will be invoiced as of the commencement of the Subscription Term and will be applied on a monthly basis against the Fees charged based on your actual usage of the Consumption Subscription; and (ii) once your payment of the Minimum Commitment has been fully satisfied by the Fees paid for your actual usage, you will be invoiced thereafter on a monthly basis through the remainder of the Subscription Term for the Fees incurred during the prior month from your actual utilization of the Consumption Subscription. Customer Added Workspot Services will be invoiced by Workspot pro-rata based on the time remaining (and/or any other applicable measures) for such Subscription Term per the applicable Fees for such Workspot Cloud Services. Customer Provisioned IaaS Services will be invoiced monthly in arrears as Fees and charges are incurred with respect to such services for so long as such Customer Provisioned IaaS Services are provisioned by Customer and not terminated. Unless otherwise provided under an 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. Customer is advised to review invoices carefully and promptly notify Workspot of any invoice discrepancies. Workspot will not be liable to Customer 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. Notwithstanding anything to the contrary in the foregoing, Orders processed through a Marketplace will be paid through the Marketplace to the store merchant per the respective Order. If any Fees invoiced to Customer by Workspot are not paid within thirty (30) days of the invoice date, Workspot may: (i) accelerate the payment terms for any unpaid Fees for Purchased Services; (ii) immediately suspend the Purchased Services until payment in full is received; (iii) 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 (iv) 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. Customer 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 Customer acquires Purchased Services through a Marketplace, Customer 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 Online Services other than Customer Content), and all Intellectual Property Rights in and to any of the foregoing. As between Workspot and Customer, 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, as applicable, the provider of a Bundled IaaS,, Customer shall own and retain all right, title and interest in and to the Customer Content (and all Intellectual Property Rights therein) and the each IaaS Provider 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.* Customer 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 Customer or its Administrative Users or End Users relating to the Workspot Services or any aspect thereof.

6.3. *Consent to Use of Data.* Customer 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 Customer 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. Customer further acknowledges and agrees that End User Activity Data is accessible by and available to Administrative Users.



## Section 7. Representations and Warranties

7.1. *Customer Warranties.* Customer represents and warrants that Customer: (i) has the full authority to enter into and perform this Agreement; (ii) neither Customer 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 Customer Content does not and shall not infringe the Intellectual Property Rights of any person or party; (iii) Customer will maintain in force and will comply with all applicable Microsoft Customer Agreements, IaaS Provider Terms and any agreements between Customer and providers of External Software, 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 Customer 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) for the Utilized IaaS.

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 Cloud Services, when used and implemented by Customer in accordance with the Documentation and the terms of this Agreement, will perform in material conformance with the applicable Documentation during the Subscription Term.

7.3. *Remedies.* If Customer discovers that Workspot has failed to perform a service as warranted under Section 7.2 and promptly reports such failure to Workspot during the applicable warranty period, Customer'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 Customer, and (b) with respect to a breach of the warranty set forth in Section 7.2(ii), Workspot will either correct the Workspot Cloud Services to perform in material conformance with the Documentation at no additional charge to Customer under Standard Support Services, with the understanding that if Workspot is unable or fails to correct such material deficiencies within thirty (30) days after first reported by Customer to Workspot as an "Incident" under the Support Services Description, Customer may elect to terminate the Workspot Cloud Services by written notice to Workspot within five (5) days after expiration of such correction period and (i) if the subscription to the Workspot Cloud Services was subscribed directly from Workspot, Workspot will provide Customer with a pro-rata refund of any pre-paid Fees for the remainder of the Subscription Term; and (ii) if the subscription for the Workspot Cloud Service(s) was purchased through a reseller or Marketplace, Workspot will promptly provide a certification to such reseller or Marketplace that Customer is qualified to receive a pro rata refund of any pre-paid Fees for the remainder of the Subscription Term. The limited warranties set forth in Section 7.2 shall not apply: (A) to the extent that the Workspot Cloud Services: (i) fail to perform as warranted as a result of use with, or any failure of, any External Software, Customer Content, or any service, 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 of Workspot Cloud Services for a purpose for which it was not intended, in violation of Workspot Acceptable User Policy, inconsistent with the Documentation or this Agreement, or other improper or unauthorized use or misuse; or (B) attributable to any Customer Content or Customer Supplied IaaS.

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. Customer assumes the responsibility and risk to take adequate precautions against damages to Customer 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 Customer 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), Customer 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.* Customer 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, Customer 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; Customer Content**

*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 Workspot 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. Obligations.* 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. Compelled Disclosures.* 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. *Injunctive Relief.* 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. *Termination.* 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 Customer's final export of Customer Content 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 *Privacy Policy.* Customer understands that information collected, used and disclosed by Workspot is subject to its then-current Privacy Policy (presented to Customer at <https://www.workspot.com/privacy-policy/>), with the current version attached hereto as Appendix 2. Customer acknowledges and agrees to the terms of such Privacy Policy.

## **Section 9. Indemnification**

9.1. *Company Indemnification.* Customer 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) Customer's breach (or breach by any Customer Affiliate or End User) of any obligations under Sections 3 ("Customer 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), any agreement(s) between Customer and a provider(s) of External Software, or other wrongful act or omission by Customer (or any party or person for whom Customer 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 Customer Content or the transmission, access, or processing thereof through Workspot Cloud Services; (iii) Customer'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 Customer 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) Customer's use of the Workspot Platform, Workspot Online Services, 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 Customer or any third party not authorized by Workspot; (iii) modifications to the Workspot Cloud Services, undertaken by Workspot at Customer'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 Customer 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 Customer 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 Customer 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 Customer is qualified for a pro rata refund of any pre-paid Fees. The rights granted in this paragraph constitute Customer'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 CUSTOMER, ITS AFFILIATES OR END USERS ARISING FROM THIS AGREEMENT FOR ANY LOST PROFITS, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, LOSS OF CUSTOMER 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 CUSTOMER MAY SUFFER IF THE WORKSPOT CLOUD SERVICES CEASE TO FUNCTION AS A RESULT OF CUSTOMER'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 CUSTOMER TO COMPLY FULLY WITH THIS AGREEMENT.

*10.2. Limitation of Amount.* CUSTOMER AGREES THAT IN NO EVENT WILL WORKSPOT'S LIABILITY UNDER THIS AGREEMENT EXCEED THE AGGREGATE AMOUNTS ACTUALLY PAID BY CUSTOMER 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 CUSTOMER 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 CUSTOMER 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 CUSTOMER.

## **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 Customer as promptly as reasonably feasible following its receipt of the third-party's termination notice or Workspot becomes aware of such termination. Workspot will have no responsibility to Customer for any costs or damages resulting from such termination. Notwithstanding anything to the contrary in the foregoing, at Customer's request in conjunction with such termination, Workspot will assist Customer, 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 Customer Content through IaaS Provider products or services.

*11.4. Upon Termination.* Upon termination or expiration of this Agreement and/or a Subscription Term, (a) Customer shall cease all use of Workspot Cloud Services and the Bundled IaaS; and (b) Customer 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 Customer 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) Customer's right to use the Workspot Online Services shall cease, and Workspot shall have no further obligation to make the Workspot Platform or the Utilized IaaS available to Customer; (b) except as otherwise expressly stated herein, all rights and licenses granted to Customer under this Agreement will immediately cease; (c) except as expressly provided in this Agreement, Workspot will have no obligation with respect to any Customer Content; and (d) Customer 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.* Customer agrees to consider the following upon reasonable request by Workspot: (i) serving as a reference account, (ii) the identity of Customer as a customer of Workspot on Workspot's website, marketing materials and other mutually agreed communications, and (iii) collaborating on case studies as Customer 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 Customer (or any Customer 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](mailto: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 Customer will be sent to the electronic address in the contact information provided by Customer in this Agreement or at the electronic mailing address provided for Customer 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](mailto: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 Customer'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 County, 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.* Customer agrees that it is not permitted, and not permitted to allow any other Entity to, export, re-export or release, directly or indirectly, any 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 for resolution. 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 executive 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 Customer 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 TERMS

#### 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 Customer 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 Customer notify individual End Users that their data may be processed for purpose of disclosing it to law enforcement or other governmental authorities and Customer shall obtain the End User's consent regarding same.
3. Customer is responsible to assure that its access to and use of the Microsoft Products (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 for purposes of these IaaS Provider Terms for Microsoft, provided that in the event that such a modification affects any obligations or liability of or services to Customer, Workspot will issue a notice of such modification to Customer at the electronic mailing address provided during Customer's registration. Customer will have the right to refuse such modification and terminate this Agreement. Unless Customer 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.
5. To the extent that Customer requests that Workspot enable Azure Disk Encryption and/or Azure Key Vault services ("**Azure Key Services**") to support customer-managed keys, as documented under an Order or other writing, the encryption keys stored by Customer thereunder ("**Keys**") shall be considered Customer Content and subject to the responsibilities and liability of Customer as provided under the Agreement, including, without limitation, these IaaS Provider Terms for Microsoft. By way of further understanding and not limitation: (i) Customer shall be responsible for all management, maintenance, security and loss of any Keys stored or processed by or on behalf of Customer under Azure Key Services; (ii) after the Azure Key Services have been enabled and prior to commencement of Customer's production ("live") use of the Workspot Cloud Services, Workspot will disable all permissions for it to access or manage the Azure Key Services and any Keys; (iii) At Customer's written request, Workspot will provide to Customer access to or a copy of Azure access logs and/or other similar written documentation or assurances to confirm that the Key access controls implemented to prevent Workspot from having access to the Azure Key Services or to Keys have been continuously in place throughout Customer's production use of the Services; (iv) Workspot will have no responsible or liability whatsoever for any incident involving the Azure Key Services or the Keys, including, without limitation, any data loss, loss of access, or security issues; (v) Workspot's Service Commitment and the calculation of Unavailability under

the SLA Commitment will exclude any downtime or loss of access to the Workspot Cloud PC Service attributable to or arising out of any incident involving the Azure Key Services; (vi) if Customer wishes to engage Workspot services to address any management of or incidents involving the Azure Key Services, the engagement will document under a mutually agreed Statement of Work for Professional Services and any Workspot access to or management of the Azure Key Services will be conducted with full visibility and concurrent involvement of Customer so as to allow Customer to confirm that Key access controls are operating properly at all times; and (vii) Customer may request that Workspot to participate from time-to-time in an audit or security review involving the Azure Key Services and/or the Keys through a mutually agreed Statement of Work for Professional Services.

## **B. Google**

1. In addition to the terms and conditions of this Agreement, use of GCP by Customer 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**"). Customer agrees that Google is a third party beneficiary of this Agreement and may enforce the GCP Terms directly with Customer regardless of whether Customer subscribes GCP directly from Google or as an element of or in conjunction with Purchased Services.
2. Customer 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 Customer's 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. Customer 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 Customer or any End User.



5. Customer 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 Customer creates or hosts using GCP ("Customer 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) Customer's 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 Customer believes a person or entity is infringing Customer's or its End User's copyrights and would like to notify Google, Customer 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](https://maps.google.com/help/terms_maps.html); and
    - ii. Google Privacy Policy at <https://www.google.com/policies/privacy/>.
  - b. Customer 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.

**C. Amazon Web Services**

1. Customer's and its End Users' use of AWS is governed by the AWS Customer Agreement (<https://aws.amazon.com/agreement/>) or such other written agreement entered into between Amazon Web Services and Customer with respect to AWS.

APPENDIX 2

WORKSPOT PRIVACY POLICY

See <https://www.workspot.com/privacy-policy> for the then-current Workspot Privacy Policy)