

ThoughtSpot End User License Agreement (GSA Version)

This ThoughtSpot End User License Agreement (“Agreement”) are the commercial supplier agreement terms of ThoughtSpot, Inc. (“ThoughtSpot”), with its principal place of business at 910 Hermosa Court, Sunnyvale, California 94085. The terms reflected herein apply to Order Forms (defined below) (e.g., Purchase Orders or Statements of Work, or similar documents) executed by Carahsoft, as an Authorized Partner, and a Customer for ThoughtSpot products and services under Carahsoft’s GSA Multiple Award Schedule (MAS) Contract. This Agreement governs the Customer’s use of the ThoughtSpot Software and the ThoughtSpot Documentation made available for use with such software, as well as ThoughtSpot Professional Services. “You” and “Customer” mean the customer who, under the GSA MAS Program, is the “Ordering Activity,” defined as an “entity authorized to order under GSA Schedule Contracts”. Below references to the Reseller Purchase Agreement include Carahsoft’s GSA MAS Contract.

This End User License Agreement (“**Agreement**”) governs your use as an end user (“**you**” and “**your**”) of the licensed Software (as defined below). If you are an agency of the U.S. Federal Government, this Agreement will bind the agency as the end user but will not operate to bind an agency employee or person acting on behalf of agency in his or her personal capacity.

1. Definitions.

- 1.1. “**Affiliate**” means, with respect to a party, any legal entity (such as a corporation, partnership, or other legal entity) that controls, is controlled by, or is under common control with such party. For purposes of this definition, “control” means the legal power to direct or cause direction of the general management of the corporation, partnership, or other legal entity. Affiliates of ThoughtSpot are “**ThoughtSpot Affiliates**.”
- 1.2. “**Authorized Partner**” means a third-party reseller authorized by ThoughtSpot to sell Software licenses and related Professional Services.
- 1.3. “**Confidential Information**” means: **(a)** the Software (which is ThoughtSpot’s Confidential Information); and **(b)** any information of a party that is disclosed in writing or orally and designated confidential at time of disclosure (and, for oral disclosures, summarized in writing within 30 days of initial disclosure and delivered in written summary form to receiving party), or that, due to the nature of the information or circumstances of disclosure, receiving party should reasonably understand to be disclosing party’s confidential information. Confidential Information specifically excludes Your Data.
- 1.4. “**Documentation**” means the then-current, published installation and operating instructions, user manuals, and help files made available by ThoughtSpot to you intended for use in connection with the Software.
- 1.5. “**Effective Date**” means the date of your first Order Form or the initial delivery date of the Software (whichever is earlier).
- 1.6. “**Intellectual Property Rights**” or “**IPR**” means all intellectual property or other proprietary rights worldwide, including patent, trademark, service mark, copyright, trade secret, know-how, moral right, and any other intellectual and intangible property rights, including all continuations, continuations in part, applications, renewals, and extensions of any of the foregoing, whether registered or unregistered.
- 1.7. “**Law**” means all applicable laws, rules, statutes, decrees, decisions, orders, regulations, judgments, codes, and requirements of any government authority (federal, state, local, or international) having jurisdiction.
- 1.8. “**License Term**” means the period of authorized use of the Software as set forth in an Order Form.
- 1.9. “**Order Form**” means an ordering document signed by you and ThoughtSpot or an Authorized Partner that specifies: **(a)** Software licenses purchased, their prices, and their License Term; and **(b)** the scope and price of Professional Services purchased (if any).
- 1.10. “**Professional Services**” means consulting, implementation, configuration, integration, or training services provided by ThoughtSpot or its authorized service providers.
- 1.11. “**Software**” means any computer code provided by ThoughtSpot to you under this Agreement as described in an Order Form.
- 1.12. “**SOW**” means a statement of work that describes the scope of Professional Services signed by you and ThoughtSpot or an Authorized Partner.
- 1.13. “**Support**” means technical support and maintenance for the Software, as set forth in the Support Guide.
- 1.14. “**Support Guide**” means the ThoughtSpot Support and Maintenance Program Guide at <http://www.thoughtspot.com/legal/>.
- 1.15. “**Your Data**” means all data (including all text, sound, video, image files, and other content of any kind or nature) that is loaded on, or copied to, any hardware running the Software by or on behalf of you.

2. Orders.

- 2.1. **ThoughtSpot Orders.** Prices stated in each Order Form are final, and Professional Services are separately ordered from (and not required for use of) Software.

2.2. **Reseller Orders.** If you received Software under an Order Form and agreement with an Authorized Partner (“**Reseller Purchase Agreement**”) your use of the Software is subject to any additional terms in the Reseller Purchase Agreement, including any limitations on use of the Software in conjunction with third-party applications, including the payment to the Authorized Partner of all the fees agreed in the Reseller Purchase Agreement associated with the Software licensed and any Professional Services purchased. You have no direct payment obligations to ThoughtSpot for such purchase. Any licensing, support, warranty, and other terms provided by ThoughtSpot for the Software and Professional Services will be as stated in this Agreement, and any additional or conflicting terms offered by the Authorized Partner will be between you and the Authorized Partner.

3. Support and Maintenance.

3.1. **Program.** During the License Term, ThoughtSpot will provide Support for the Software pursuant to the Support Guide.

3.2. **No Data Processing.** To enable ThoughtSpot to provide technical assistance in connection with Support, you may elect to provide ThoughtSpot with temporary remote access to view your Software environment pursuant to instructions you provided to ThoughtSpot and subject to the confidentiality provisions of Section 6 (*Confidentiality*) of this Agreement. The parties agree that ThoughtSpot does not want or need, and you will not transmit to ThoughtSpot or require that ThoughtSpot receive, Your Data.

4. License; Permitted Use; Restrictions.

4.1. **Software.** Subject to the terms and conditions of this Agreement and payment of all fees due, ThoughtSpot grants to you a limited, revocable, non-exclusive, non-sublicensable, non-transferable, worldwide license to install and execute Software on a hardware device authorized by ThoughtSpot in the Documentation (or in a separate writing provided by ThoughtSpot to you), to use and execute the Software only to the extent expressly specified in the applicable Order Form (including with regard to number of copies of the Software and permitted memory cache), solely during the License Term and solely for your internal business operations. Notwithstanding the foregoing, to the extent that Software is identified in an Order Form as “non-production,” “beta,” “test,” “pre-release,” “sandbox,” or any other non-production designation, then such Software will be used solely in a non-production environment.

4.2. **Restrictions.** You and your Affiliates will not (and have no license to): **(a)** use the Software or Documentation, or the output of the Software, except as permitted in this Agreement; **(b)** disassemble, decompile, port, reverse compile, reverse engineer, translate, or otherwise attempt to separate any of the components of the Software or reconstruct any Software, or attempt to derive or obtain any source code, structure, algorithms, processes, techniques, technologies, know-how, or ideas embodied by, underlying, or contained in the Software; **(c)** sell, license, sublicense, rent, lease, encumber, lend, distribute, transfer, or provide a third party with access to the Software, on a hosted basis, as a managed service provider, or otherwise (except as expressly set forth in an Order Form); **(d)** alter, modify, or create derivative works of the Software (including the underlying source code) in any way, including through customization, translation, or localization; or **(e)** remove or alter any trademark, logo, copyright, or other proprietary notices, legends, symbols, or labels in the Software or Documentation. You will not cause, encourage, or permit any other person or entity under its control from taking any actions that you are prohibited from taking under this Agreement.

4.3. **Open Source Software.** Software may use or include one or more of the open source software components listed in the ThoughtSpot open source attribution file, which ThoughtSpot will make available to you on request. The open source attribution file contains open source license disclosures and pertinent terms.

5. Intellectual Property.

5.1. **Ownership.** As between the parties, ThoughtSpot, ThoughtSpot Affiliates, and its and their suppliers and licensors own all right, title, and interest in and to all IPR in (and in all copies of) the Software and Documentation, regardless of the form or media in or on which the original or other copies may subsequently exist. Except for the limited licenses expressly granted in this Agreement, ThoughtSpot reserves all, and does not grant any other, rights (express, implied, by estoppel, through exhaustion, or otherwise). The Software is licensed and not sold.

5.2. **Feedback.** ThoughtSpot encourages you to provide suggestions, proposals, ideas, recommendations, or other input regarding the Software (collectively, “**Feedback**”). To the extent that you provide such voluntary Feedback to ThoughtSpot, ThoughtSpot may use it for any purpose without obligation of any kind.

6. Confidentiality.

6.1. **Use of Confidential Information.** For the term of this Agreement, and surviving expiration or termination of this Agreement for up to three (3) years after disclosure of the Confidential Information, the party receiving Confidential Information (the “**receiving party**”) from the other party (the “**disclosing party**”) will use it solely to perform the rights and obligations provided under this Agreement, and not for any other purpose without the disclosing party’s prior written consent. Subject to Section 6.2 (*Exceptions*), the receiving party will hold in confidence, and not disclose to any third party, any of the disclosing party’s Confidential Information. The receiving party will use at least the same degree of care in handling the disclosing party’s Confidential Information as it uses to protect its own Confidential Information, but no less than reasonable care. The receiving party will notify disclosing party immediately on becoming aware of any unauthorized use or release of the disclosing party’s Confidential Information. The receiving party may disclose the disclosing party’s Confidential Information to those of its Affiliates, directors, advisors, employees, or contractors (collectively, “**Representatives**”) who have a need to know such Confidential Information to perform under or in relation to this Agreement, but only if such Representatives are subject to a binding, written agreement no less protective of disclosing party than the confidentiality terms of this Agreement. The receiving party will, at the disclosing party’s request or on termination

of this Agreement, return all originals, copies, and summaries of Confidential Information and other tangible materials and devices provided to receiving party as Confidential Information, or at the disclosing party's option, certify destruction of same (although nothing in this sentence may be construed to require ThoughtSpot to purge archived backup media). Nothing under this Agreement or trade secret Law may be construed to restrict or limit ThoughtSpot's right to perform (or assign any personnel to perform) Professional Services for any other party or to use any information incidentally retained in the unaided memories of its personnel providing Professional Services.

- 6.2. **Exceptions.** The receiving party's obligations under this Section 6 (*Confidentiality*) will not apply, and the receiving party will have no further obligations, with respect to any of the disclosing party's Confidential Information that is: **(a)** generally known to the public at time of disclosure or becomes generally known through no wrongful act of receiving party; **(b)** rightfully in the receiving party's possession, or otherwise rightfully known by the receiving party, at time of disclosure by the disclosing party and not subject to a confidentiality obligation; **(c)** required to be disclosed by the receiving party to comply with Law, but only if the receiving party promptly notifies disclosing party to enable the disclosing party to seek a protective order or other appropriate remedy, and takes commercially reasonable and lawful actions to avoid or minimize the extent of, and to obtain confidential treatment for, any such disclosure; or **(d)** independently developed by the receiving party without use of, reference to, or reliance on the disclosing party's Confidential Information. If you are an agency of the U.S. Federal Government, ThoughtSpot recognizes that the Freedom of Information Act applies and may potentially require your release of Confidential Information in your possession.
- 6.3. **Publicity.** ThoughtSpot may reference you as a customer of ThoughtSpot, subject to your trademark and logo usage guidelines provided by you. Provided the foregoing, neither party will issue any press releases or announcements, or any marketing, advertising, or other promotional materials, related to this Agreement or referencing the other party without the other party's prior written approval. If you are an agency of the U.S. Federal Government ordering under a Partner GSA Schedule, pursuant to GSAR 552.203-71, ThoughtSpot will not refer to you in commercial advertising or similar promotions in such a manner as to state or imply that the Software or Professional Services provided are endorsed or preferred by the White House, the Executive Office of the President, or any other element of the Federal Government, or that the Software or Professional Services are considered by these entities to be superior to other products or services. Any advertisement, including price-off coupons, that refers to a military resale activity will contain the following statement: "***This advertisement is neither paid for nor sponsored, in whole or in part, by any element of the United States Government.***"

7. Warranties.

- 7.1. **Software.** ThoughtSpot warrants that the Software will, under normal use, substantially conform to the specifications in the Documentation for 90 consecutive days from the effective date of the corresponding Order Form. To submit any warranty claim, you must request Support and reference this Section 7.1. ThoughtSpot, at its option, will then use reasonable efforts within a reasonable time to: **(a)** cause the Software to conform to the specifications in the Documentation; or **(b)** replace the non-conforming Software. Notwithstanding the foregoing, this warranty will not apply to: **(i)** use of the Software other than as described in the Documentation; **(ii)** modification or use of an unsupported version of the Software by anyone but ThoughtSpot; or **(z)** failure caused by a product not provided or expressly approved by ThoughtSpot or its agents. **This Section 7.1 sets forth your exclusive rights and remedies (and ThoughtSpot's entire liability) in relation to the warranties in this Section 7.1.**
- 7.2. **Professional Services.** ThoughtSpot warrants that it will perform Professional Services in a professional manner using reasonable care and skill in accordance with industry standards. You will notify ThoughtSpot of any material breach within 30 days after performance of the non-conforming Professional Services. On receipt of such notice, ThoughtSpot will use commercially reasonable efforts to re-perform the Professional Services in substantial conformance with these warranty requirements. **This Section 7.2 sets forth your exclusive rights and remedies (and ThoughtSpot's entire liability) in relation to the warranties in this Section 7.2.**
- 7.3. **Disclaimers.** EXCEPT FOR THE LIMITED WARRANTIES UNDER SECTIONS 7.1 (*SOFTWARE*) AND 7.2 (*PROFESSIONAL SERVICES*) AND TO THE MAXIMUM EXTENT PERMITTED UNDER LAW, THOUGHTSPOT (ON ITS OWN BEHALF AND ON BEHALF OF ITS SUPPLIERS AND LICENSORS) AND THOUGHTSPOT AFFILIATES: **(A)** DO NOT MAKE, AND EXPRESSLY DISCLAIM, ANY AND ALL REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE SOFTWARE AND SERVICES (EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE), INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE (EVEN IF THOUGHTSPOT KNOWS OR SHOULD HAVE KNOWN SUCH PURPOSE), PERFORMANCE, AND NON-INFRINGEMENT; **(B)** PROVIDE THE SOFTWARE AND PROFESSIONAL SERVICES "AS IS" AND "AS AVAILABLE"; AND **(C)** WITHOUT LIMITING THE FOREGOING CLAUSES (A) AND (B), MAKE NO (AND EXPRESSLY DISCLAIM) ANY WARRANTY THAT THE SOFTWARE, PROFESSIONAL SERVICES, AND ANY USE OF EITHER, WILL BE UNINTERRUPTED, ACCURATE, RELIABLE, COMPATIBLE WITH ANY PARTICULAR ENVIRONMENT, OR FREE FROM DEFECTS, VIRUS, OR ERRORS (OR THAT ANY ERRORS WILL BE CORRECTED).

8. Limitations of Liability.

- 8.1. **Limitation of Liability.** TO THE EXTENT PERMITTED BY LAW, EACH PARTY'S TOTAL, CUMULATIVE LIABILITY ARISING IN ANY WAY OUT OF OR RELATED TO THIS AGREEMENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, WILL BE LIMITED TO DIRECT DAMAGES INCURRED IN REASONABLE RELIANCE IN AN AMOUNT NOT EXCEEDING: **(A)** FOR ANY GIVEN CLAIM, THE AMOUNTS PAID OR PAYABLE BY YOU UNDER THIS AGREEMENT FOR THE SOFTWARE AND PROFESSIONAL SERVICES GIVING RISE TO THE CLAIM DURING THE 12-MONTH PERIOD IMMEDIATELY PRIOR TO THE MOST RECENT

EVENT GIVING RISE TO THE LIABILITY; AND **(B)** FOR ALL SUCH CLAIMS IN THE AGGREGATE, US\$ 500,000. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS SECTION SHALL BE DEEMED TO IMPAIR THE U.S. GOVERNMENT'S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF, OR RELATED TO, THIS AGREEMENT UNDER ANY FEDERAL FRAUD STATUTE, INCLUDING THE FALSE CLAIMS ACT, 31. U.S.C. §§ 3729-3733.

- 8.2. **Exclusions.** TO THE EXTENT PERMITTED BY LAW, NEITHER THOUGHTSPOT NOR YOU WILL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR ANY SPECIAL, PUNITIVE, MULTIPLE, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR OTHER INDIRECT DAMAGES, OR FOR DAMAGES RELATING TO: **(A)** LOSS OR INACCURACY OF, OR DAMAGE TO, DATA; **(B)** LOST REVENUE OR PROFITS; **(C)** LOSS OF BUSINESS; **(D)** DAMAGE TO GOODWILL; **(E)** WORK STOPPAGE; **(F)** IMPAIRMENT OF OTHER ASSETS; OR **(G)** INDIRECT DAMAGES OF ANY TYPE HOWEVER CAUSED AND WITHOUT REGARD TO THE LEGAL THEORY UNDER WHICH THEY ARE SOUGHT, WHETHER BY BREACH OF WARRANTY, BREACH OF CONTRACT, IN TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION, FORESEEABLE OR NOT, AND WITHOUT REGARD TO WHETHER A PARTY HAS BEEN ADVISED SUCH DAMAGES ARE POSSIBLE.
- 8.3. **Applicability.** The provisions of Sections 8.1 (*Limitation of Liability*) and 8.2 (*Exclusions*) do not apply to: **(a)** infringement, misappropriation, or other violation by a party of the other party's IPR; **(b)** breach by a party of its obligations under Section 6 (*Confidentiality*); or **(c)** payments to a third party arising from obligations under Section 9 (*Third-Party Claims*). These limitations and exclusions do, however, apply to and protect ThoughtSpot Affiliates and their suppliers and licensors.
- 8.4. **Gross Negligence; Willful Misconduct.** As provided by Law, nothing in this Agreement is intended or may be construed to limit a party's liability in an action in tort (separate and distinct from a cause of action for a breach of this Agreement) for a party's gross negligence or willful misconduct.

9. Third-Party Claims.

- 9.1. **Obligation.** Subject to the limitations in this Section 9 (*Third-Party Claims*), if a Claim is brought against you, or your subsidiaries, Affiliates, agents, licensees, or successors, or any agents, directors, officers, or employees of any of them, ThoughtSpot will defend the Claim (including by paying litigation costs and reasonable attorneys' fees) and pay any settlement or any adverse final judgment to the extent arising from the Claim. "**Claim**" means any suit, claim, action, or demand, in each case solely to the extent brought by an unaffiliated third party that, if true as alleged, reflects that: **(a)** the Software provided under, and used in accordance with, this Agreement, infringes any IPR of such third party; or **(b)** ThoughtSpot's personnel, when onsite at your premises, caused death, bodily harm, or damage to tangible personal property due to their negligence or willful misconduct.
- 9.2. **Mitigation.** If any Claim alleges any part of the Software infringes any third-party IPR, ThoughtSpot may: **(a)** contest the Claim; **(b)** obtain permission from the claimant for your continued Software use; **(c)** avoid such Claim by replacing or modifying the Software with substantially similar software; or, if ThoughtSpot determines in its sole discretion (after the exercise of commercially reasonable efforts to perform in accordance with the foregoing options (a), (b), or (c)) that options (a), (b), and (c) are not commercially practicable, then **(d)** terminate your license to the affected Software on 60 days' prior notice and refund to you any prepaid license fees covering that part of the applicable License Term for such Software remaining after the effective date of termination.
- 9.3. **Limitations.** Notwithstanding the above, ThoughtSpot will have no obligation or liability for any Claim to the extent arising in whole or in part from: **(a)** any Software that: **(i)** is or was in accordance with your written specifications or instructions, each to the extent set forth or referenced in a SOW, and such specifications or instructions are the source of the alleged infringement; **(ii)** was modified by any party other than ThoughtSpot (including you), if the alleged infringement relates to such modification; **(iii)** is or was combined or integrated with other products (hardware or software), processes, or materials (including your Data or other products provided by you or any third party) where the alleged infringement relates to, and would not have arisen but for, such combination; or **(iv)** is an unsupported version; **(b)** your continued use of the Software after expiration or termination of this Agreement or the corresponding Order Form (or continued use of the original Software after ThoughtSpot's provision of a replacement software under Section 9.2(c) (*Mitigation*)); or **(c)** a claim based on IPR owned by you or your Affiliates.
- 9.4. **Process.** ThoughtSpot's obligations under Section 9 (*Third-Party Claims*) are expressly conditioned on you: **(a)** notifying ThoughtSpot promptly of any actual or threatened Claim; **(b)** giving ThoughtSpot sole control of the defense of such Claim and any related settlement negotiations; and **(c)** cooperating and, at ThoughtSpot's reasonable request and expense, assisting in such defense. ThoughtSpot will not stipulate, acknowledge, or admit fault or liability on your behalf, or publicize any settlement, without your prior written consent (which will not be unreasonably withheld or delayed). Notwithstanding the foregoing, if you are an agency of the U.S. Federal Government, the United States Department of Justice has the sole right to represent the United States in any such action in accordance with 28 U.S.C. 516, and will be solely responsible for determining whether to avail itself of indemnification by ThoughtSpot pursuant to this provision. **This Section 9 (*Third-Party Claims*) states ThoughtSpot's entire liability and your exclusive remedy for third-party claims and third-party actions.**

10. Term and Termination.

- 10.1. **Term and Termination.** This Agreement begins on the Effective Date and continues until terminated or completed under its terms.
- 10.2. **Effect.** On termination or completion of this Agreement for any reason: **(a)** all licenses granted by ThoughtSpot immediately terminate; **(b)** you will immediately discontinue use of all Software; **(c)** you will destroy all copies of Software and Documentation in its possession, custody, or control; and **(d)** if requested, you will certify such return or destruction to ThoughtSpot in writing.

Within 30 days after the effective date of proper termination for ThoughtSpot's material breach, ThoughtSpot will refund any prepaid fees received by ThoughtSpot covering that part of the License Term for the affected Software, if any, remaining after such effective date.

- 10.3. **Survival.** Except as otherwise provided in this Agreement, the following will survive termination or completion of this Agreement: Sections 1 (*Definitions*), 4.2 (*Restrictions*), 5 (*Intellectual Property*), 6 (*Confidentiality*), 7.3 (*Disclaimers*), 8 (*Limitations of Liability*), 9 (*Third-Party Claims*), 10 (*Term and Termination*), 11 (*Proper Conduct*), and 12 (*General*).

11. Proper Conduct.

- 11.1. **Compliance with Law.** Each party will comply with all Law in its performance of this Agreement.
- 11.2. **Responsibility for Data Integrity.** The Software will be executed by you in your own datacenter environment. You are solely responsible for adequately duplicating, documenting, and protecting Your Data, and ThoughtSpot assumes no liability for your failure to do so.
- 11.3. **Export Compliance.** Each party will comply with local and foreign export control Law, including U.S. export control Law. The Software is subject to U.S. Export Administration Regulations ("**EAR**") and you will comply with EAR. Without limiting the foregoing, you represent and warrant that: **(a)** you are not located in, and will not use any Software from, any country subject to U.S. export restrictions (currently including Cuba, Iran, North Korea, Sudan, Syria, and Crimea Region); **(b)** you will not use the Software in the design, development, or production of nuclear, chemical, or biological weapons, or rocket systems, space launch vehicles, sounding rockets, or unmanned air vehicle systems; and **(c)** you are not prohibited from participating in U.S. export transactions by any federal agency of the U.S. government. In addition, you are responsible for complying with any local Law that may impact your right to import, export, or use the Software or any of them.
- 11.4. **U.S. Federal Government Use.** The Software provided under this Agreement is commercial computer software developed exclusively at private expense. U.S. Federal Government agency use of Software and Documentation, including any upgrades, updates or derivatives thereof, are subject to the license rights and restrictions in this Agreement.
- 11.5. **Remote Deployment Review.** ThoughtSpot, or its authorized agent or representative, including Authorized Partner, may, upon reasonable notice to you, verify your use of the Software solely in a manner authorized herein. ThoughtSpot may conduct no more than one review in any 12-month period, reviews will be conducted during normal business hours, and ThoughtSpot will use commercially reasonable efforts to minimize the disruption of your normal business activities. ThoughtSpot will not access your computing devices in connection with any such review without your prior written consent. You will reasonably cooperate with ThoughtSpot and ThoughtSpot will notify you of any discrepancies in your licensed use revealed by such review and, if warranted, ThoughtSpot (or an Authorized Partner) will invoice you for any unlicensed use. Further, such inspection shall be contingent upon adherence to your security requirements, including any requirement for personnel to be cleared prior to accessing sensitive facilities. Authorized Partner, on behalf of ThoughtSpot shall give you notice of any ThoughtSpot requested audit. If your security requirements are not met, then upon ThoughtSpot's request, you will run a self-assessment with tools provided by, and at the direction of ThoughtSpot to verify your compliance with the terms of this Agreement.

12. General.

- 12.1. **Waiver; Amendment.** No delay or failure by either party to exercise any right under this Agreement will waive that or any other right. A waiver of any breach of this Agreement is not a waiver of any other breach. Any waiver must be in writing and signed by an authorized representative of the waiving party. Any amendment to this Agreement must be in writing and signed by authorized representatives of both parties.
- 12.2. **Notices.** All notices and other communications under this Agreement will be: **(a)** in writing; **(b)** in English; and **(c)** deemed given when delivered (or the first business day after delivery with confirmation of receipt, for notices permitted by email). Notices under this Agreement will be sufficient only if: **(i)** personally delivered; **(ii)** delivered by a major commercial rapid delivery courier service with tracking capabilities; **(iii)** mailed by certified or registered mail, return receipt requested, to a party at the address stated in this Agreement (or at such address as the recipient has notified the other party of, before notice was sent); or **(iv)** sent via email, if the recipient's email address is provided in this Agreement (but email will not be sufficient for notices regarding a Claim or alleged breach). All notices except for ordinary business communications will be cc'd to the address stated in this Agreement.
- 12.3. **Applicable Law and Venue.** If you are an agency of the U.S. Federal Government, this Agreement will be governed by U.S. Federal law and venue. If you are not an agency of the U.S. Federal Government, this Agreement and performance under it will be governed by the substantive laws of the State of California, disregarding its conflict of law rules, and the parties consent to exclusive jurisdiction and venue in San Francisco, California, and the prevailing party may recover its reasonable attorney's fees, costs, and other expenses, including those on appeal or in a bankruptcy action.
- 12.4. **Relationship.** The parties are independent contractors. Nothing in this Agreement will be construed to create a partnership, joint venture, agency, or other relationship. Neither party has any right or authority to assume or create any obligation of any kind, express or implied, in the other party's name or on its behalf. There are no third-party beneficiaries to this Agreement. ThoughtSpot's licensors will have no liability of any kind under this Agreement. ThoughtSpot's liability with respect to any third-party software embedded in the Software will be subject to Section 8 (*Limitations of Liability*).
- 12.5. **Severability.** If any part of this Agreement is held by a court or other tribunal of competent jurisdiction to be unenforceable, that part will be deemed reformed to effectuate the parties' intentions, and the rest of this Agreement will remain in full force and effect.

12.6. **Entire Agreement.** This Agreement sets forth the complete and exclusive agreement relating to its subject matter and supersedes all prior oral and written agreements, understandings, and communications (including any requests for quote, requests for information, requests for proposal, or the like), click-through agreements and embedded end-user license agreements, regarding its subject matter.