General Terms & Conditions

THIS AGREEMENT IS ENTERED INTO AS OF THE EFFECTIVE DATE AND IS THE COMPLETE AND EXCLUSIVE AGREEMENT BETWEEN YOU AND CLOUD JUMPER REGARDING THE SUBJECT MATTER ADDRESSED HEREIN, AND SUPERSEDES AND REPLACES ANY PRIOR AGREEMENT, UNDERSTANDING, OR COMMUNICATION, WHETHER WRITTEN OR ORAL. YOU AGREE TO BE BOUND BY THIS AGREEMENT.

1. General Purpose. The parties are mutually interested in entering into a business relationship, whereby you may purchase Services on a wholesale basis from Cloud Jumper to resell to your Customers. This Agreement shall govern all purchases of Services by you.

2. Definitions. Any term defined in this section shall be assumed to have the meaning ascribed, regardless of whether the first letter is capitalized, unless context clearly calls for a different meaning. The singular shall include the plural, and the plural shall include the singular, unless context clearly calls for a different meaning.

   (a) “Agreement” means the terms and conditions set forth in this document, including any attachments, exhibits, and schedules attached hereto, which are all hereby incorporated by reference.

   (b) “Bona Fide Billing Dispute” means a billing dispute that can be clearly substantiated through objective records, data and materials, or where a miscalculation or misstatement of fees is clearly evident on an invoice.

   (c) “Customer” means any individual or entity that purchases a Service from you, including but not limited to end-users, affiliates, agents, brokers, and/or resellers of yours.

   (d) “Default” means any of the following: (i) a party becomes or is declared insolvent or bankrupt (or files a petition related thereto), is the subject of any proceedings related to its liquidation, insolvency or the appointment of a receiver or similar officer for it, or makes an assignment for the benefit of all or substantially all of its creditors; (ii) you fail to pay any undisputed fees or charges due under this Agreement; (iii) any material misrepresentation by you on an application, report or other document; (iv) you fail to comply with any of the terms of this Agreement; or (v) a breach of any other material term or condition of this Agreement.

   (e) “Effective Date” means the date you accept this Agreement as described in Section 3 hereof.

   (f) “Cloud Workspace® Control Panel” means the account management tool provided by Cloud Jumper that allows you to add, delete, remove and otherwise modify your Services, without going through the traditional Service Order process.

   (g) “Parties” means both you and us, jointly.

   (h) “Party” means either you or us, as context requires.

   (i) “Regulatory Requirement” means a rule, regulation, law, or other order issued by the FCC, a state regulatory body, a court of competent jurisdiction, any legislature, or any other governmental or quasi-governmental body having jurisdiction over the Services, which has the effect of canceling, changing, or superseding any material term or provision of this Agreement.

   (j) “Service Order” refers to a standard form that details the rates, terms, Services ordered, and any other information reasonably requested by Cloud Jumper to process and provision an order. Each Service Order shall constitute an agreement separate and distinct from this Agreement, and from any other Service Order. NOTWITHSTANDING the foregoing, every Service provided to a Customer, whether provisioned through the Control Panel or a Service Order, shall remain subject to and governed by the terms of this Agreement. A Service Order is not valid until accepted by Cloud Jumper.

   (k) “Services” means one or more of the services offered by us.

   (l) “Term” means the period specified in Section 6.

   (m) “You” or “your” means the person or entity that is entering into this Agreement with us.

   (n) “We”, “us”, “our”, and “Cloud Jumper” all refer to both Cloud Jumper Corporation and/or any of its affiliated entities.

3. Agreement & Acceptance. This Agreement incorporates by reference and you agree to be bound by the following, in this order of priority, including any changes or amendments thereto:

   (a) This Agreement;

   (b) Any applicable product specific terms and conditions;

   (c) Any applicable Service Orders;

   (d) Any relevant click-through agreement for the Services;

   (e) The Service Level Agreement posted at www.CloudJumper.com/Legal (if applicable to the service);

   (f) The Acceptable Use Policy posted at www.CloudJumper.com/Legal; and

4. Billing/Fees. You agree to pay us all Fees owed when due and without setoff, notice or demand. If you are a tax exempt, you shall provide Cloud Jumper with, and shall maintain, valid properly executed certificate(s) of exemption for taxes, as applicable. If you lose your tax exempt status, you shall immediately notify us of that change. The rates to be charged for the Services shall be our then published rates unless otherwise mutually agreed by the parties.

We reserve the right to terminate or change the Services offered, or the Fees associated therewith, at any time upon sixty (60) days written notice (which notice may be provided electronically or through our website).

We will invoice you for all monies owed under the terms of this Agreement. The initial invoice shall include all non-recurring charges for installation and setup, a prorated amount for the initial month of service, and an amount for the first full month of service. Thereafter, all recurring charges will be billed one month in advance. Other than the prorated initial month, Services are provided in minimum increments of one (1) month and shall not be prorated upon termination, suspension, or disconnection. Unless special arrangements are made, bills are sent to the email address provided for the Billing Contact specified in this Agreement. A $2.25 monthly fee will be charged if you request a mailed, printed invoice.

We reserve the right to back-bill you for Services actually provided but not previously billed.

Payment in full is due no later than the due date indicated on your bill. If you fail to tender your payment in full by the due date specified, we may impose an interest charge of 0.05% per day (or the maximum amount permitted by law, if lower) on any unpaid sums owed. Returned checks, payment by phone, paper bills and other fees due to your choice of payment method or billing receipt may also be subject to fees. If a payment tendered or authorized by you is declined by your financial institution, you agree to pay all costs and fees associated with that transaction, including but not limited to a service charge imposed by us not to exceed the highest amount authorized by law, and any attorney fees and court costs we incur: (a) for overdraft/non-sufficient funds charges imposed on us because of you, and (b) to collect any unpaid balance owed by you.

Payments shall be made via ACH, check or credit card. ACH customer accounts will be debited and credit card charges will be processed approximately fifteen (15) days following the invoice date printed on your invoice, and no additional notice or consent is required before the account is debited or the credit card charged for all amounts due to us for any reason.

NOTWITHSTANDING anything herein to the contrary, we may seek recourse for any unpaid monies owed in the Johnson County District Court, Johnson County, Kansas (the “Court”). You irrevocably submit to venue and jurisdiction, both personal and subject matter, in that Court, for that purpose.

5. Reserved.

6. Term. The term of this Agreement shall commence as of the date for the first Service you order, and continue thereafter for three (3) years. This Agreement shall automatically renew for successive two (2) year terms unless otherwise terminated as provided herein.

7. Termination. Notwithstanding anything herein to the contrary, either party may terminate this Agreement: (i) with written notice tendered one (1) year prior to the end of the then current term; or (ii) pursuant to Section 19 of this Agreement.

8. Ordering Procedure. You are solely responsible for ordering all Services required using the Cloud Workspace® Control Panel or Partner Portal, unless said order is atypical and may only be placed with the assistance of Cloud Jumper personnel. By way of example and not limitation, atypical orders would include those that contain requests for items or services which cannot be found within the Cloud Workspace® Control Panel.

Unless otherwise expressly agreed, all Services ordered shall be rendered on a month-to-month basis, and all such orders shall be strictly subject to the terms and conditions specified in this Agreement. If you have an order that cannot be placed through the Cloud Workspace® Control Panel, you shall send an email to partnerorders@CloudJumper.com with reasonable detail of the assistance needed and your telephone number so our support personnel may contact you. NOTWITHSTANDING anything herein to the contrary, we reserve the right to require orders be submitted using our then current Service Order, in our sole discretion.

9. Customer Relationship/Obligations. As it relates to the Services, you shall completely own the customer relationship and be solely responsible for managing every aspect thereof, including without limitation all training, technical support, customer billing, and any ancillary responsibilities that arise related to the foregoing. Aside from providing the Services requested, we shall have no responsibility for the Customer under the terms of this Agreement. If a Customer contacts our
technical support needing assistance, we will redirect them directly to your support personnel. If your support personnel need assistance in resolving any issue, they may contact our support staff at (888) 696-4369 or support@CloudJumper.com.

You shall comply with all terms and conditions set forth in this Agreement, including but not limited to its payment obligations, regardless of your ability to collect payments or fees from your Customers.

10. Customer Data. We acknowledge that all Customer data is exclusively the property of the Customer, and we make no claim of ownership therein. In the event of the expiration or proper termination of this Agreement, we agree to return the Customer’s applications and data in a commercially reasonable manner, at your sole cost. In the event we become insolvent or bankrupt, Customer will be granted access to its licensed software and data. You are solely responsible for all hardware, software and IT support necessary for the return of your Customer’s applications and data, setup of such applications and data, and the continued maintenance thereof. We shall not be liable for any lost data or interruption of service.

You understand that the personal data we collect from You and your Customers and their end users may be processed, accessed or stored in a country or territory other than the country or territory in which the information was originally collected and which does not offer the same level of protection of personal data as may be enjoyed within your or your Customer’s home country or territory. By submitting personal data to us, you agree to this processing. You will not sell our Services for High Risk Activities where the use or failure of the Services could lead to death, personal injury or environmental damage, such as the operation of nuclear facilities, air traffic control, or life support systems. Also, unless otherwise agreed in writing by Cloud Jumper, you will not sell the Services so that it creates obligations under HIPAA, and Cloud Jumper makes no representation that the Services satisfy HIPAA requirements. “HIPAA” means the Health Insurance Portability and Accountability Act of 1996 as it may be amended from time to time, and any regulations issued thereunder.

You agree to procure (or cause your Customers to procure) any applicable governmental approvals and licenses and to comply with any other governmental requirements and procedures, including but not limited to governmental restrictions on data encryption and the import or export of technical data. Without limiting the generality of the foregoing provisions, you shall comply with all export, re-export, and import laws of applicable countries, obtain all applicable export, re-export, and import licenses, and pay all tariffs, import duties, export fees, and any other levies, impoists, charges, taxes, and assessments of any kind and nature.

11. Line of Business Applications. To the extent you have requested that Cloud Jumper manage your Customer’s licensed software on our servers, this paragraph shall apply. You agree that you are paying a monthly recurring charge to, in part, lease all or a portion of a server or servers on a month-to-month basis as necessary to manage the software. You represent and warrant that your Customer has paid all necessary and appropriate licensing fees, and has a valid license for any software being hosted by us. You acknowledge that Cloud Jumper is not renting, sublicensing, assigning, loaning, reselling, transferring or distributing the software in violation of any third party’s intellectual property rights. You also represent and warrant that, if Cloud Jumper is accused of violating some third party’s intellectual property rights in connection with providing Services to your Customer, you shall indemnify, defend, and hold Cloud Jumper harmless from any liability associated therewith.

12. Litigation Hold. You acknowledge that we have no obligation to store or avoid the destruction of data pursuant to the Federal Rules of Civil Procedure, including but not limited to Rule 26 thereof, or any other similar state law, rule or regulation. If you or your Customer feel data preservation is necessary, you shall submit a request for such service pursuant to the notice provisions of Section 29. You shall be responsible for all costs related thereto. If we deem your data preservation request to be too burdensome, we shall have the right to terminate this Agreement, or any individual Customer’s Services, immediately and without liability to you or the Customer in question.

13. Regulatory Changes. Subject to notice being provided (which may be provided electronically or through our website), we shall have the right to modify this Agreement as necessary to comply with any Regulatory Requirement imposed. Any such modification shall not constitute a basis for the termination of this Agreement unless said modification has a significant negative material impact on the value of this Agreement to you.

14. Disputed Bills. You must review bills in a timely manner. To dispute a bill, you must comply with the dispute resolution provisions in Section 30 and submit your Bona Fide Billing Dispute, in writing with all supporting documentation, within 60 days after the date on the bill. You shall not withhold payment of any undisputed amounts simply because you have a Bona Fide Billing Dispute. You accept all charges on your bill not disputed within the period provided above, and irrevocably waive any right to dispute or otherwise disclaim your liability for those charges.

15. Relationship of Parties. You shall be an independent contractor of ours for all purposes, and shall not be an employee or agent of ours for any purpose, including, without limitation, entitlement to employment benefits or the withholding, or payment of, taxes to be paid on income earned pursuant to this Agreement. You have no authority to enter into contracts or agreements on our behalf, and you are not authorized to bind us in any way.
16. Conditions for Service. Our obligation to provide Services to you is expressly subject to the following conditions:

(a) The order is accepted by Cloud Jumper;
(b) You provide us all information or data reasonably requested;
(c) All Services are subject to availability;
(d) You represent and warrant that the Services will only be used for lawful purposes;
(e) That you will comply with all applicable international and national export laws and cross border data transfer laws that apply to the Services, including without limitation the underlying components, including all U.S. Export Administration, and/or Israeli Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments.

(f) You agree to, and agree to bind all of your Customers to, the terms specified in Schedule A, verbatim with no modification, if they are using a Service that incorporates a Microsoft product;

(g) You agree to, and agree to bind all of your Customers to, the terms specified in Schedule B and product specific terms and subscription agreements, as applicable, or terms that provide equivalent protections to both us and our vendors; and

(h) In case of network emergency, unlawful usage by you or your Customers, or for routine maintenance (in which case we will provide reasonable advanced notice, which may be delivered electronically or via our website), we may suspend any affected Services without liability.

(i) You agree that Cloud Jumper shall not be responsible for any failure of any data center or other infrastructure provider for any reason, including the protection of the security, confidentiality and integrity of Customer Data.

17. Representations & Warranties. You represent and warrant the following to us:

(a) You are 18 years of age, or older, and have the right and authority to enter into this Agreement on your own behalf, or if you are entering into this Agreement on behalf of your company, organization or educational institution, and that you have the right to legally bind said entity;

(b) You will comply with all federal, state, and local laws, ordinances, regulations and rules now or hereafter in effect, relating to your acts of commission and omission, and that of your employees, agents, contractors, and associates;

(c) You will not act in any manner which conflicts or interferes with any existing commitment or obligation you may have, and no agreement previously entered into by you will interfere with your performance of your obligations under this Agreement;

(d) You have had sufficient opportunity and access to any and all information you deem necessary to ascertain whether entering into this Agreement is in your best interests;

(e) You have not solicited, accepted or received any accounting, tax or legal advice from us or our affiliates, owners, directors, officers, employees, agents or otherwise.

(f) You will not engage in any activity that would tend to induce any person or entity to not become or remain an employee, representative, consultant or customer of ours.

(g) You will not engage in any fraudulent, deceptive, illegal and/or unethical activity that would tend to disparage or diminish our reputation or cause us to be in violation of any law.

You acknowledge and agree that the foregoing representations and warranties are all a material inducement for us to enter into this Agreement.

18. Remedies for Default. If there is a Default, the aggrieved party shall tender written notice, as specified in Section 29, to the defaulting party specifying the nature of the Default.

With the exception of any default for nonpayment of undisputed Fees, the defaulting party shall have thirty (30) days to cure, as reasonably determined in the aggrieved party’s sole discretion, measured from the date the defaulting party receives the notice of Default. If a Default is declared based on your failure to pay undisputed Fees, you shall have ten (10) days to cure the Default. If you fail to cure your Default in a timely manner, you will be deemed to have automatically assigned, with no further action required, your interest in your Customer relationships to Cloud Jumper, and Cloud Jumper shall immediately take control of those relationships for purposes of continuing to provide our Services. We will thereafter provide Services directly to those Customers, will bill and collect all monies owed directly from them for those Services, and you will no longer be entitled to bill or otherwise earn any fee or commission related to the Customers using our Services.

NOTWITHSTANDING anything herein to the contrary, in addition to any other remedies available under this Agreement, Cloud Jumper at its sole option, may do any of the following if a Default persists past the specified cure period: (i) cease accepting or processing all new or pending orders; (ii) suspend any or all Services without liability; (iii) terminate any or all Services; (iv) cease all electronically and manually generated information, records and reports; (v) terminate this Agreement or any Service; or (vi) pursue such other legal or equitable remedy or relief as may be appropriate.

19. Intellectual Property. Except as otherwise set forth in this Agreement, neither party may use the name, logo, trade name, service marks, trademarks, or printed materials of the other party, for any reason, without the other party’s express prior written consent, which may be withheld without reason.

You also acknowledge that all title and intellectual property rights in and to our Services (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text, and “applets” incorporated into the Service) are owned by us or our vendors, which include Microsoft Corporation and others. Therefore, unless otherwise authorized by applicable law, you are not permitted to: (1) attempt to decompile, disassemble, reverse engineer, or otherwise attempt to discern the source code incorporated into the
Services, or their individual components; (ii) sell, resell, rent, lease, or distribute the individual components of the Services; (iii) remove, obscure, or obfuscate any copyright, trademark or other proprietary notice, label or marking on the Services or its individual components; or (iv) modify, translate, or sublicense the individual components of the Services.

20. Publicity. Notwithstanding anything herein to the contrary, you expressly consent to allowing us to use your name and the existence of this Agreement, including without limitation the nature of our relationship, for marketing and public relations purposes. All other details of our relationship with you shall remain subject to the confidentially obligations set forth herein.

21. Acknowledgement. You acknowledge that this Agreement is not an exclusive arrangement and shall not limit or restrict us in any manner, including without limitation limiting us in marketing, hosting, recommending, referring or selling products that are competitive to your products, or entering into similar agreements with third parties.

22. Privacy. You authorize us to monitor and record any communication with us regarding your Services or account, regardless of who initiated the communication, for purposes of quality assurance or otherwise.

23. Special Requests. You may request any additional services you desire. If, in our sole discretion, we elect to provide the specific services requested, we will do so on the terms and rates communicated to you at that time. We are under no obligation to perform or honor any additional service requests tendered by you.

24. Changes. We may change the terms of this Agreement, including any change in any charge or fee, or the imposition of a new charge or fee, at any time if we give you notice of the change (which may be provided electronically or through our website). If we make a change to these terms that is material and you do not wish to accept such material change, you may terminate the affected Service by giving us thirty (30) days’ prior notice, measured from the date you first receive notice of the proposed change. You will, however, still be responsible for all charges for Services provided before you terminated this Agreement, or the specific services in question. A material change is ONLY a change that (a) terminates or substantially reduces the availability of a Service for you or your Customer, or (b) results in the increase of any charge by more than 10% of the MRCs for that Service. Material changes in your Service DO NOT include an increase in, or imposition of: (1) any charge required to be collected by any governmental authority, such as taxes or surcharges; or (2) any charge not prohibited by any governmental authority to recoup our expense incurred to comply with a governmental requirement.

25. LIMITATION OF LIABILITY. YOU AGREE THAT THE PRICING OF OUR SERVICES REFLECTS THE INTENT OF BOTH YOU AND US TO LIMIT OUR LIABILITY AS PROVIDED HEREIN. THEREFORE, YOU AGREE THAT IN NO EVENT, REGARDLESS OF WHETHER THE CLAIM IS ASSERTED BY YOU OR YOUR CUSTOMER, SHALL CLOUD JUMPER, ITS AFFILIATES, ITS SUBSIDIARIES, ITS OWNERS, ITS DIRECTORS, ITS OFFICERS, ITS EMPLOYEES, ITS CONTRACTORS, ITS AGENTS, ITS VENDORS, OR ITS PARTNERS BE LIABLE FOR ANY DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, OUR SERVICES, INCLUDING BUT NOT LIMITED TO ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, TREBLE, OR PUNITIVE DAMAGES, OR LOST PROFITS OR REVENUE RESULTING FROM LOST DATA, DELAY, OR INTERRUPTION IN SERVICES OR DAMAGES RESULTING FROM PERSONAL INJURY OR PROPERTY DAMAGE, WHETHER OR NOT CLOUD JUMPER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. YOUR EXCLUSIVE REMEDY FOR ANY BREACH OF THIS AGREEMENT IS LIMITED TO SERVICE OUTAGE CREDITS AS OUTLINED IN THE APPLICABLE SERVICE LEVEL AGREEMENT (“SLA”).

TO THE EXTENT CLOUD JUMPER IS FOUND LIABLE FOR MONETARY DAMAGES, THE PARTIES AGREE THAT CLOUD JUMPER’S LIABILITY SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY YOU TO CLOUD JUMPER IN THE THREE MONTHS IMMEDIATELY PRECEDEING THE DATE THE CLAIM AROSE, REGARDLESS OF WHETHER THE CLAIM IS BASED IN TORT, CONTRACT, STRICT LIABILITY, OR SOME OTHER LEGAL THEORY.

26. Indemnification. You shall indemnify, defend and hold us, and our affiliates, subsidiaries, owners, directors, officers, employees, contractors, agents, vendors, and partners (collectively “Indemnitees”) harmless from and against any and all claims, losses, liabilities, damages, costs and expenses, including without limitation, attorney’s fees, to which such Indemnitees may be subject to that arise out of: (i) any misrepresentation or breach of this Agreement by you; or (ii) your Customer’s use of, inability to use, a Service.

Cloud Jumper shall, except in the case where it is hosting your or your Customer’s software and the claim is related to that software, indemnify, defend and hold you, and your affiliates, subsidiaries, owners, directors, officers, and employees harmless from and against any and all claims, losses, liabilities, damages, costs and expenses, which they may be subject to that arise out of any third party claim that our standard Services violate any patent or other intellectual property right.

27. DISCLAIMER OF WARRANTIES. OUR SERVICES ARE PROVIDED ON AN “AS-IS” AND “AS-AVAILABLE” BASIS WITHOUT WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE OR NON-INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WARRANTY ARISING BY COURSE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE, ANY WARRANTY THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR ANY WARRANTY REGARDING THE QUALITY, CONTENT, ACCURACY OR VALIDITY OF THE INFORMATION OR DATA RESIDING ON OR PASSING THROUGH OR OVER OUR NETWORK. ALL SUCH WARRANTIES ARE HEREBY
28. Notices. Unless otherwise expressly provided in the Agreement, all notices shall be in writing and shall be considered given upon receipt when sent by certified mail, return receipt requested, postage prepaid, or sent via a major domestic overnight carrier with verification of such delivery to the most current address that we have for you in our records, or to us at: 381 Cleveland Crossing Dr., Suite 133, Garner, NC 27529. Attn: President, with a copy to 8837 Bond Street, Overland Park, KS 66214, Attn: Legal.

29. Dispute Resolution. You agree to follow the dispute resolution procedures. Both parties, you and us, agree to waive any right to a trial by jury in a court of general jurisdiction and any right to participate in a class action or consolidated action regarding a dispute as defined below. Specifically both parties, you and us, agree to waive any right to pursue a dispute by joining a disputed claim with the disputed claim of any other person or entity or to assert a disputed claim in a representative capacity on behalf of anyone else in any lawsuit, arbitration or other proceeding.

Instead, if the parties have a dispute, we agree to use due diligence and use our best efforts to work together to implement this Agreement and amicably resolve any differences. However, both of us understand that issues and conflicts may arise where we reach an impasse. We both acknowledge a desire to reach a working solution by using good faith attempts to resolve such issues and conflicts. Any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("Dispute"), will be resolved on a confidential basis, according to the following process, which either of us may start by delivering to the other a written notice describing the Dispute and the amount involved ("Demand").

After receipt of a Demand, authorized representatives of both parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved 30 days after receipt of the Demand, either of us may start binding arbitration in Overland Park, Kansas. Both parties will use their best efforts to conclude the arbitration as expeditiously as possible but in no event later than 60 days following commencement of any proceeding, provided there is no interim relief or court action sought that would delay the parties from resolving the Dispute within such 60 day period. If such interim relief or court action is sought, then both parties will use their best efforts to conclude the arbitration within 60 days following the final decision of the court in such action. The arbitration will be before a three-arbitrator panel. Each party will select one partial arbitrator, in its sole discretion, to represent its interest at its sole expense. The partial arbitrator may be an employee, director, officer or principal of the party. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators fail to select an impartial arbitrator, either of us may apply to a court of law to have a judge select an impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they deem efficient and appropriate for making the determinations submitted to them for adjudication, and the parties agree that no court shall have the power to interfere with the proceedings and judgments of the arbitrators. No statements by, or communications between, the parties during negotiation or mediation, or both, will be admissible for any purpose in the arbitration or any other hearing. Each party shall bear its internal expenses and its attorney’s fees and expenses, and jointly share the cost of the impartial arbitrator. No interest shall be applied to any arbitration award. It is the intent of the parties to first allow the arbitrators an opportunity to meet and negotiate a decision. However, if an agreement cannot be reached through negotiation, then the decision(s) of a majority of the arbitrators shall be final and binding on the parties.

Notwithstanding the foregoing, either of us may resort to a court by applying for interim relief, with the requirement to post a bond or security, if such party reasonably determines that such relief is necessary because claims for money are not adequate to prevent irreparable injury to it or to a third party.

In the event any of the provisions herein are deemed unenforceable or void as a matter of law, both parties IRREVOCABLY waive to the fullest extent permitted by applicable law, any right to a trial by jury with respect to any litigation directly or indirectly arising out of, under or in connection with this agreement, or the Services provided by us.

30. Confidentiality. Each party agrees that all information furnished to it by the other party, or to which it has access under this Agreement, specifically including this Agreement and any pricing, shall be deemed the confidential and proprietary information or trade secrets of the party disclosing the information ("Proprietary Information") and shall remain the sole and exclusive property of the party disclosing the information ("Disclosing Party") and the other party referred to as the “Receiving Party”). Each party shall treat the Proprietary Information in a confidential manner and, except to the extent necessary in connection with the performance of its obligations under this Agreement, neither party may directly or indirectly disclose the same to anyone other than its employees on a need to know basis and who agree to be bound by the terms of this Section, without the written consent of the Disclosing Party.

The confidentiality obligations of this Section do not apply to any portion of the Proprietary Information which is (i) or becomes public knowledge through no fault of the Receiving Party; (ii) in the lawful possession of Receiving Party prior to disclosure to it by the Disclosing Party (as
confirmed by the Receiving Party’s records); (iii) disclosed to the Receiving Party without restriction on disclosure by a person who has the lawful right to disclose the information; or (iv) disclosed pursuant to the lawful requirements or formal request of a governmental agency. If the Receiving Party is requested or legally compelled by a governmental agency to disclose any of the Proprietary Information of the Disclosing Party, unless prohibited by law, the Receiving Party agrees that it will provide the Disclosing Party with prompt written notice of such requests so that the Disclosing Party has the opportunity to pursue its legal and equitable remedies regarding potential disclosure.

Each Party acknowledges that the breach or threatened breach of this Section 31 may cause the Disclosing Party irreparable harm which would not be adequately compensated by monetary damages. Accordingly, in the event of any such breach or threatened breach, the Receiving Party agrees that equitable relief, including temporary or permanent injunctions, is an available remedy in addition to any legal remedies to which the Disclosing Party may be entitled. No bond is required in the event of an action seeking injunction pursuant to this Section 31.

31. **Choice of Law.** This Agreement and our provision of Services to you shall be subject to and governed by (a) the laws of the State of Kansas, without regard to any conflicts of law provisions therein, and (b) any applicable federal laws including, but not limited to the Federal Arbitration Act, 9 U.S.C. § 1 et seq. In the event of an inconsistency between any governmental requirement and these terms regarding the provision of a Service that is subject to the governmental requirement, the governmental requirement will apply to the extent necessary to avoid the inconsistency.

32. **Force Majeure.** Except for a failure to remit all Fees owed when due, neither party shall be liable for any delay or failure in performance of any part of this Agreement resulting from acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, or unusually severe weather. In the event of any such excused delay in the performance of a party’s obligations under this Agreement, the due date for the performance of the original obligation(s) shall be extended by a term equal to the time lost by reason of the delay or by an extended time period mutually agreed to by the parties if more time is needed to complete the work.

33. **Assignment:** We may assign this Agreement to another entity without any advance consent from or notice to you. You may not assign this Agreement without our prior written consent.

34. **No Waiver, Severability:** If we do not enforce any right or remedy available under this Agreement, that failure is not a waiver. If any part of this Agreement is held invalid or unenforceable, the remainder of this Agreement will remain in force.

35. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all other prior and contemporary agreements, understandings, and commitments between the parties regarding the subject matter hereof, whether oral or in writing. Except as otherwise expressly provided in the Agreement, this Agreement may not be modified or amended except by a written instrument executed by the parties.

36. **Drafting.** Both parties and their respective counsel have had a full and fair opportunity to negotiate and review the terms and conditions of this Agreement. This Agreement shall not be construed more strictly against one party than the other.

37. **Survivability.** The following paragraphs shall survive the termination of this Agreement: 3, 4, 9, 12, 15 - 20, 23, and 26 - 39.

38. **Headings.** Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

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**Schedules**

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<th>Schedule</th>
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<td>Schedule A</td>
<td>Microsoft Licensing</td>
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<td>Schedule B</td>
<td>Miscellaneous Vendor Requirements</td>
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<tr>
<td>Schedule C</td>
<td>Intellectual Property Right</td>
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Software Business Terms Agreement

PLEASE NOTE THAT THE TERMS OF THIS BUSINESS TERMS AGREEMENT SHALL GOVERN YOUR USE OF THE SOFTWARE, AND SHALL SUPERSede ANY TERMS THAT APPEAR ON ANY SOFTWARE DOCUMENTATION OR STATEMENTS MADE DURING THE SOFTWARE INSTALLATION PROCESS.

ANY PERSON (AS AN INDIVIDUAL OR LEGAL ENTITY) AGREES THAT BY CLICKING THE “ACCEPT” BUTTON, HE/SHE/IT (“Customer”) IS BOUND BY THE TERMS OF THIS BUSINESS TERMS AGREEMENT (the “Agreement”), and that if any term of this Agreement is unacceptable, then the user MUST NOT ACCESS THE SOFTWARE BY ANY MEANS. IF THE SOFTWARE HAS BEEN INSTALLED ON COMPUTER SYSTEM UNDER THE CONTROL OF THE LICENSEE, THE LICENSEE SHALL PERMIT CLOUDJUMPER CORPORATION (hereinafter “CLOUDJUMPER”) TO ACCESS ALL SYSTEMS INCLUDING COPIES, BACKUPS, SNAPSHOTS OR OTHER ARCHIVE RESOURCES, FOR THE PURPOSE OF REMOVING THE SOFTWARE.

ARTICLE 1. SOFTWARE LICENSE AGREEMENT:

1.1 Customer hereby acknowledges and agrees that it is entering this Agreement in connection with its entering the Software License Agreement (the “SA”) set forth at https://cloudjumper.com/legal/ as the same may change from time to time as determined by CloudJumper. The Miscellaneous Terms set forth in the SA are incorporated herein by reference. The definition of capitalized terms in this Agreement shall have the meaning ascribed to them in the SA, unless specifically defined herein.

ARTICLE 2. OBLIGATIONS OF CUSTOMER:

2.1 Customer covenants and agrees to:

(a) strictly abide by the terms and conditions of the SA, this Agreement and any related addendums;

(b) comply with any and all laws and regulations applicable to the performance of its obligations under the SA, this Agreement and any related addendums, and bear all costs associated with said compliance;

(c) refrain from copying, modifying, or distributing any and all CloudJumper software or code not otherwise covered by the SA, if any, or any part of thereof, and not to directly or indirectly, reverse engineer or attempt to extract software code without express written permission of CloudJumper, which may be withheld at CloudJumper’s sole and unfettered discretion;

(d) take no action inconsistent with this acknowledgement that title to all CloudJumper proprietary and intellectual property rights, including but not limited to CloudJumper trademarks, copyrights, patents and all material supplied to Customer by CloudJumper shall remain the sole and exclusive property of CloudJumper (unless CloudJumper’s use is subject to a third party license to it, and in such case, it shall be the sole and exclusive property of said third party); and

(e) not issue a news release, public announcement, advertisement, statement in an annual report, or any other form of publicity concerning the SA, this Agreement or any related addendums without obtaining prior written approval from CloudJumper.

(f) deploy Not-For-Resale (“NFR”) licenses for internal use within a single tenant approved by CloudJumper. CloudJumper reserves the right to issue, audit, and revoke NFR licenses at its sole discretion at
ARTICLE 3. PAYMENT TERMS.

3.1 **Initial purchase and term.** Customer hereby agrees to purchase a minimum of 10 licenses (starting at $12 per User, per month) for 12 months – after that, the agreement converts to month to month. Minimum license count is removed after 12 months. This initial purchase term is different than the terms of this agreement. Note: initial billing date and term begins 30 days after the successful deployment of the initial SDDC or after 30 days. Any public cloud infrastructure/service consumption is charged as it is consumed.

3.2 **Payment and Invoicing.** Customer hereby agrees to make payment to CloudJumper on a monthly basis, based on the pricing agreed to in any addendum.

3.3 **Timing of Payment.** All invoicing by CloudJumper to Customer shall be based on peak utilization from the previous month, charged on a monthly basis, and all invoices issued, for whatever purpose, shall be due and payable upon receipt by Customer (the “Due Date”). Payments not received within fifteen (15) days of the Due Date shall be subject to a surcharge equal to 1.5% of the amount invoiced for each five (5) day period that the payment is overdue. In the event that payment is late for two (2) consecutive months, or late three (3) times in any consecutive six month period, CloudJumper is hereby authorized to convert the manner of payment set forth in Section 3.4 below to ACH/EFT payment, or alternatively, may suspend the License granted to Licensee under the SA for a duration determined at CloudJumper’s sole discretion.

3.4 **Manner of Payment.** All Licensees shall provide CloudJumper with, and maintain, current ACH information or current credit card information to be kept on file at CloudJumper. For Licensees granted 1,000 licenses or less (excluding NFR and Evaluation licenses), all payments shall be by ACH or credit card on file with CloudJumper. For Licensees granted 1,001 licenses or more (excluding NFR and Evaluation licenses), all payments may be remitted by Credit Card, Check, ACH/EFT, Certified Funds or Money Order. All payments shall be in United States Dollars (USD) and drawn on a United States bank.

3.5 **Good Faith Bill Dispute.** If Customer has a good faith dispute related to an invoice, it shall provide notice to CloudJumper describing in reasonable detail the basis for the dispute, and pay all amounts otherwise owed to CloudJumper which are not in dispute. CloudJumper will use reasonable efforts to resolve a dispute within fifteen (15) days after its receipt of notice from Customer. Customer and CloudJumper each agree to cooperate in resolving all disputes. If a dispute is not resolved within the fifteen (15) day period, then at Customer’s request the dispute may be referred to a senior executive of CloudJumper. If a dispute is resolved in favor of CloudJumper, Customer shall promptly pay the full amount due. If a dispute is resolved in favor of Customer, CloudJumper shall credit to Customer within ten (10) days the amount to which Customer is entitled.

3.6 **Effect of Non-Payment.** If Customer fails to pay any invoice as set forth in Sections 3.3 and 3.4, then, in addition to the remedies set forth in Section 3.3, CloudJumper may hold all pending orders, suspend further shipments and/or customer access to the Software under any agreement between CloudJumper and Customer until CloudJumper receives all payments due under this Agreement. If CloudJumper chooses the action set forth in the prior sentence, it does not waive any other rights or remedies it may possess including: the application of fees to be paid by Licensee, License suspension and/or termination as set forth in Sections 3.3 and 4.1, or the pursuit of any other remedy available to CloudJumper under this Agreement, the SA or
otherwise available to it in law or equity; including but not limited to the right to suspend Licensees’ use of Cloud Workspace, Cloud Workspace API or Cloud Workspace Solution pursuant to Section 7.4 of the SA.

ARTICLE 4. TERM & TERMINATION.

4.1 **Term.** This Agreement shall commence on the Licensee’s download, installation or initial use of the Software, whichever is earliest in time, and continue thereafter for three (3) years. This Agreement shall automatically renew for successive two (2) year terms unless otherwise terminated as provided herein.

4.2 **Termination for Breach.** Each party shall have the right to terminate this Agreement for any breach by the other party that is not cured within thirty (30) days after written notice of such breach is delivered by the non-breaching party. Suspension of the License under Section 3.3 above shall be considered written notice under the foregoing sentence and shall support termination for breach thirty (30) days after the date on which the suspension begins.

4.3 **Events Allowing for Immediate Termination by Either Party.** Either party may terminate this Agreement immediately upon: (a) any act acknowledging the insolvency or bankruptcy of the other party; (b) any assignment for the benefit of creditors; (c) the filing of any bankruptcy reorganization or insolvency proceedings, either voluntarily or involuntarily; or (d) the appointment of a receiver for the other party which is not removed within thirty (30) days of such filing or appointment.

4.4 **Transactions after Notice of Termination.** During the interim period following issuance of a notice of termination under this ARTICLE 4 and the termination date, the parties shall conduct themselves and operate in a manner which does not adversely affect the reputation or goodwill of the other party. The termination of this Agreement shall not relieve Customer of its payment obligations under this Agreement, or for any fees or amounts that are, become or accrue during the period between a notice of termination and the termination date. Further, Licensee shall comply with Sections 8.3 and 8.4 of the SA in a commercially reasonable amount of time.

4.5 **Non-Waiver of Breach.** In the event the parties shall be entitled to terminate this Agreement pursuant to the provisions in this ARTICLE 4 but shall fail to do so or fail to object to a breach of these terms in writing, such failure shall not be considered a waiver of the right of the party to so terminate this Agreement for any subsequent breach.

ARTICLE 5. CONFIDENTIALITY.

5.1 **Confidential Information.**

(a) The term “Confidential Information” means any and all information regarding one party delivered by or on behalf of that party (the “Disclosing Party”) to the other party (the “Receiving Party”) or any of its directors, officers, employees, subcontractors, consultants, agents and other representatives (individually a “Representative” and collectively “Representatives”) including, without limitation, any information, communication, technical data or know-how, including, but not limited to, proprietary ideas, patentable ideas, copyrights and/or trade secrets, existing and/or contemplated products and services, software, schematics, research and development, production, costs, profit and margin information, finances and financial information or projections, customers, clients, marketing, current or future business plans and models, concepts, markets, inventions, processes, designs, drawings, engineering, hardware, configuration information, or information relating to such party that, by its nature, is proprietary or confidential; and further the term Confidential Information shall include without limitation, all of the Receiving Party’s copies, extracts or other reproductions of such Confidential Information, and any written material, memoranda, notes and other writings or recordings containing, in whole or part (or in summary fashion) of the Disclosing Party.
Notwithstanding anything herein to the contrary, the term “Confidential Information” does not include information which:

i. was in the public domain at the time it was communicated to the Receiving Party by the Disclosing Party;

ii. entered the public domain subsequent to the time it was communicated to the party receiving such communication other than by a breach of this Agreement or any other agreement or obligation of confidentiality;

iii. was in the Receiving Party’s possession free of any obligation of confidence at the time it was communicated to it;

iv. was rightfully communicated to the Receiving Party free of any obligation of confidence subsequent to the time it was communicated;

v. was developed independently without reference to any other Confidential Information by the Receiving Party;

vi. was disclosed in a court of law or official legal proceeding in order to establish the rights of the Disclosing Party under this Agreement; or

vii. was disclosed pursuant to a written authorization by the Disclosing Party.

5.2 **Confidentiality Covenants.**

(a) **Confidentiality.** All Confidential Information furnished to the Receiving Party (i) shall be deemed confidential, (ii) shall not be disclosed by the Receiving Party, and (iii) shall be kept and maintained by the Receiving Party and its Representatives under appropriate safeguards to preserve the confidential nature of such Confidential Information. Each party, as a Receiving Party, shall protect the other party’s Confidential Information by using the same degree of care each party uses to protect and to prevent the unauthorized use, disclosure, dissemination, or publication of its own confidential information (but never less than a reasonable degree of care).

(b) **Restrictions.** The Receiving Party shall disclose the Confidential Information only to its Representatives who have a need-to-know such Confidential Information. The Receiving Party shall ensure that each Representative having access to any Confidential Information is contractually obligated to comply with the restrictions of this ARTICLE 5. Each party, as a Disclosing Party agrees that that the Receiving Party may currently or in the future be developing information internally, or receiving information from other parties that may be similar to Disclosing Party’s information. Accordingly, nothing in this ARTICLE 5 will be construed as a representation or inference that Receiving Party will not develop products, or have products developed for it, that, without violation of this Agreement, compete with the products or systems contemplated by the Disclosing Party’s Confidential Information.

5.3 **Responsibility for Representatives.** Each party hereto agrees and shall remain and be responsible for breaches of this Agreement arising from the acts of their Representatives.

5.4 **Return or Destruction.** Each Receiving Party upon request from the Disclosing Party, or upon termination of this Agreement, shall promptly return or certify destruction of all copies of the Disclosing Party’s Confidential Information.
5.5 Notification of Confidentiality Breach. Each party hereto shall inform the other party promptly of, but, in any event, no less than 72 hours after, obtaining knowledge of an actual or suspected breach of this ARTICLE 5.

5.6 Mandated Disclosure. In the event that the Receiving Party or its Representative is involved in a legal action requiring disclosure of the Disclosing Party’s Confidential Information, then the Receiving Party (and/or its Representative) shall promptly notify the Disclosing Party and reasonably assist it in obtaining a protective order from such disclosure.

5.7 Disclaimer. This ARTICLE 5 does not require either party to disclose any Confidential Information. Any and all Confidential Information disclosed by either party is disclosed on an “AS IS” basis. Neither party will be liable for any damages.

5.8 No License. Neither this ARTICLE 5 nor the disclosure of any Confidential Information shall be construed as creating, conveying, transferring, granting or conferring upon the either party any rights, license or authority in or to the Confidential Information of the other.

5.9 Non-Solicitation. Customer agrees that, for a period of two years after the expiration date of this Agreement, it will not, directly or through any affiliate or intermediary: (a) solicit, persuade or attempt to influence any person who is currently employed by or provides consulting services to CloudJumper to leave the employ of, or discontinue providing consulting services to, CloudJumper; or (b) offer an employment or a consulting relationship to any person who is currently employed by CloudJumper. However, the foregoing restrictions shall not preclude Customer from employing any employee of CloudJumper who responds to a general solicitation for employment not specifically directed towards employees of CloudJumper.

5.10 Remedies under Article 5. The parties agree that the obligations provided herein this ARTICLE 5 are necessary and reasonable to protect each party and its business, and the parties expressly agree that monetary damages would be inadequate to compensate the Disclosing Party for any breach by the Receiving Party of any terms contained herein. Accordingly, the parties hereto agree that any violation or threatened violation of this Agreement will cause irreparable harm to the Disclosing Party and that, in addition to any other remedies that may be available in law or in equity, it shall be entitled to obtain injunctive relief against the Receiving Party (and/or its Representatives), without the necessity of proving actual damages. If any action is brought against a party to this Agreement to enforce any terms of this Agreement, the prevailing party shall be entitled to be reimbursed by the non-prevailing party for the prevailing party’s costs of such action, including reasonable attorneys’ fees.

ARTICLE 6. LIMITED WARRANTY AND DISCLAIMERS.

TO THE MAXIMUM EXTENT ALLOWED BY LAW, IN NO EVENT WILL CLOUDJUMPER OR ITS AFFILIATES BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, BUSINESS INTERRUPTION, LOSS OF DATA, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, PRODUCT LIABILITY, OR OTHERWISE. CLOUDJUMPER’S AND ITS AFFILIATES’ LIABILITY UNDER THIS AGREEMENT WILL NOT, IN ANY EVENT, REGARDLESS OF WHETHER THE CLAIM IS BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, EXCEED THE AMOUNT SET FORTH IN THE LIMITATION OF LIABILITY/SOLE REMEDY PROVISION OF THE SA. THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF WHETHER CLOUDJUMPER OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. CUSTOMER MAY NOT BRING A CLAIM UNDER THIS AGREEMENT LATER THAN EIGHTEEN (18) MONTHS AFTER THE CAUSE OF ACTION ARISES.
ARTICLE 7. GENERAL INDEMNIFICATION.

7.1 **Indemnification of CloudJumper by Customer.** Customer shall indemnify, defend and hold CloudJumper harmless and pay all reasonable costs, damages and expenses (including any legal costs, costs of settlement, awards and judgments) which may be assessed against CloudJumper to the extent that a lawsuit, complaint, petition, demand, cause of action, or claim or other legal action (collectively, a “Claim”) concerns, alleges, arises from or relates to: (a) any failure by Customer to comply with any term, condition, covenant or agreement set forth in the Agreement; (b) breach by Customer of any agreement with a User; (c) any false or misleading statements or representations or any deceptive or unfair practices by Customer; (d) any allegation that Customer has infringed on a third-party’s intellectual property or misappropriates a third-party’s trade secrets; (e) any conduct, act or omission of Customer in the marketing, use, support, maintenance or otherwise relates to the performance of the Agreement or SA or arises in the context of using, marketing or providing services, which results in potential liability to CloudJumper for damages or injuries to persons and/or property; or (f) any conduct, act or omission of Customer which results in potential liability to CloudJumper for damages or injuries to persons and/or property.

7.2 **CloudJumper Notice & Cooperation.** In connection with any Claim CloudJumper will: (a) notify Customer of the Claim within ninety (90) days after such notice is received; (b) cooperate with Customer in the defense or settlement of the Claim; and (c) provide all information and assistance which Customer may reasonably require to defend the Claim.

7.3 **CloudJumper’s Defense.** CloudJumper will take steps necessary to protect its own interests and pay costs of its own defense until Customer assumes the defense of CloudJumper and may continue to pay costs to the extent that CloudJumper retains legal counsel in addition to the appointment of counsel by Customer. Customer’s counsel shall represent, in cooperation with CloudJumper counsel, if any, CloudJumper’s interest in any defense made, and Customer shall be solely responsible for the fees, costs and expenses of said representation. The settlement of any Claim which may, directly or indirectly, affect CloudJumper must first be approved in writing by CloudJumper.

7.4 **Survival of Article 7.** The rights of indemnification set-out in this Article shall survive any termination of this Agreement and, notwithstanding such termination, shall continue in full force-and-effect for the benefit of CloudJumper in accordance with the terms hereof.

ARTICLE 8. MISCELLANEOUS TERMS. In addition to any Miscellaneous Terms set forth in the SA (https://cloudjumper.com/legal/), which are incorporated herein by reference, the Customer and CloudJumper shall abide by the following:

8.1 **Waiver.** Except as provided elsewhere in this Agreement, no waiver or consent by either party hereto of any breach in the performance by the other party of any term, condition, covenant, agreement, representation or warranty contained in this Agreement shall be effective unless given by written instrument which is executed and delivered by the party giving the waiver or consent. Any such waiver or consent shall not constitute a consent to or waiver of any other or subsequent breach of such term, condition, covenant, agreement, representation or warranty unless expressly stated in such waiver or consent.

8.2 **Reformation and Severability.** In the event that any provision of this Agreement is declared unenforceable under any applicable law, the offending provisions shall be reformed in the manner consistent with such law to the minimum extent required while continuing to reflect the intent, risk allocation and obligations of the parties. Such reformation shall not impair or affect the validity of any other provision of the Agreement and all such other provisions shall remain valid and in full-force and effect.
8.3 **Counterparts; Signatures.** This Agreement may be executed in separate counterparts, each of which shall be deemed an original, and all of which shall be deemed one and the same instrument. Digital, faxed or scanned signatures shall be binding and effective.

8.4 **Microsoft Personal and Confidential Data.** You agree that your Personal data (including name, email, phone number, Azure account information, CSP account information and/or Customer tenant information) may be used for the duration or the term, or at least as long as is required to deliver services. Microsoft Confidential Data is not under this agreement.
Schedule A

Licensee Responsibility (Tier 1 & 2)

- Help Desk / SLA / Customer Support System
  - Industry-standard Help Desk (incl. SLA)
  - Monitor customer satisfaction and feedback
- All End User or Subscriber End Point Support
  - Local device break fix
  - Local device connection to local network / local ISP
  - Local device operating system support
  - Local device application installation
- Cloud Workspace Support
  - New User Orientations
  - New Customer migration support
  - User Authentication Issues – subscriber is unable to authenticate to the Licensee services
  - Browser/CW Launcher Support – subscriber has issues with installing CW launcher or accessing services through browser as required to access Licensee services
  - Application usage and troubleshooting
  - Email integration and access
  - Peripheral connectivity services – e.g. assisting user with local peripheral connectivity to service, or printer issues related to Cloud Workspaces
- All application licensing, installations, updates and upgrades
- Cloud Workspace (CW) - Perform all support functions for clients
- Reporting - Create and maintain all client required audit reports
- Data Transfer, Backup & Recovery
  - Any/all data transfer for new clients
  - Any/all data transfer for existing clients
  - Any/all data transfer for clients
  - Nightly data backups & archival for clients
  - File or data recovery from backup / archive for clients
- Support for Connectivity Issues- examples but not limited to:
  - Managing Customer networking and IP addresses
  - Performance Issues: Service appears slow or unresponsive, user experience issue when running applications
  - Connectivity Issues: Subscriber unable to connect to service, certificate/security issues
- Software Defined Data Center
White Label Partner Agreement

○ Manage Load Balancers
○ Manage Firewalls & Port Assignment
○ Manage Customer requested/specific VPNs
○ Hypervisor System Maintenance and Management
○ Host Systems Maintenance and Management
○ Storage System Maintenance, Management, Scaling
○ Guest OS Maintenance, including Windows Updates and Vulnerability Patching
○ Maintain Anti – Virus/Malware software on all virtual machines
○ Maintain systems monitoring as desired by Licensee on all virtual machines
○ Storage Fabric Networking
○ Host Systems Networking
○ Internet Connectivity and ISP management /trouble shooting

**CloudJumper Responsibility (Tier 3)**

- Provide tier 3 email and phone support for CWMS troubleshooting
- Assist in initial build and deployment of SDDC and Cloud Workspace Orchestration Software
- Troubleshoot inability to connect due to CWMS Software problems
- Advise/assist initial build of provisioning templates
- Software defects and updates (Cloud Workspace Management Suite)
- Maintain / Monitor Global Control Plane Infrastructure and SaaS platform

End of Document
Schedule A | Microsoft Licensing

This section applies to any Microsoft software, which includes computer software provided to you by us as described below, and may include associated media, printed materials, and “online” or electronic documentation (individually and collectively, “Software Products”). We do not own the Software Products and the use thereof is subject to certain rights and limitations of which we need to inform you. Your right to use the Software Products is subject to your Agreement with us, and to your understanding of, compliance with and consent to the following terms and conditions, which we do not have authority to vary, alter or amend.

A. Definitions.
   i. “Client Software” means software that allows a Device to access or utilize the services or functionality provided by the Server Software.
   ii. “Device” means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, smart phone, or other electronic device.
   iii. “Server Software” means software that provides services or functionality on a computer acting as a server.
   iv. “Redistribution Software” means the software described in subparagraph d (“Use of Redistribution Software”) below:

B. Ownership of Software Product. The Software Products are licensed to us from an affiliate of Microsoft. All title and intellectual property rights in and to the Software Products (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text, and "applets" incorporated in the Software Products) are owned by Microsoft or its suppliers. The Software Products are protected by copyright laws and international copyright treaties, as well as other intellectual laws and treaties. Your possession, access, or use of the Software Products does not transfer any ownership of the Software Products to you.

C. Use of Client Software. You may use Client Software installed on your Devices by us only in accordance with these instructions, and only in connection with the services provided by us. This paragraph permanently and irrevocably supersedes the terms of any Microsoft End User License Agreement which may be presented in electronic form during your use of the Client Software.

D. Use of Redistributed Software. In connection with the service provided to you by us, you may have access to certain “sample”, “redistributed”, and/or software development (“SDK”) code and tools (individually and collectively “Redistribution Software”). YOU MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS YOU EXPRESSLY AGREE TO AND COMPLY WITH CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS (“SPUR”) APPLICABLE TO US, WHICH TERMS MUST BE PROVIDED TO YOU BY US. Microsoft does not permit you to use any Redistribution Software unless you expressly agree to and comply with such additional terms, as provided to you by us.

E. Copies. You may not make copies of the Software Products; provided, however, that you may (a) make one (1) copy of the Client Software on your Device as expressly authorized by us; and (b) you may make copies of certain Redistribution Software in accordance with subparagraph d (Use of Redistribution Software) above. You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your Agreement with us, upon notice from us, or upon transfer of your Device to another person or entity, whichever occurs first. You may not copy any printed materials accompanying the Software Products.

F. Limitations on Reverse Engineering, DE compilation and Disassembly. You may not reverse engineer, decompile or disassemble the Software Products, accept and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.

G. No Rental. You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the Software Products to any third party, and you may not permit any third party to have access to and/or use the functionality of the Software Product.

H. Termination. Without prejudice to any other rights, we may terminate your rights to use the Software Products if you fail to comply with these terms and conditions. In the event of termination or cancellation, you must stop using and/or accessing the Software Products, and destroy all copies of the Software Products and all of its component parts.

I. NO WARRANTIES, LIABILITIES, OR REMEDIES BY MICROSOFT. ANY WARRANTIES, LIABILITY FOR DAMAGES AND REMEDIES, IF ANY, ARE PROVIDED SOLELY BY US AND NOT BY MICROSOFT OR ITS AFFILIATES OR SUBSIDIARIES.

J. Product Support. Any product support for the Software Products is provided to you by us and is not provided by Microsoft or its affiliates or subsidiaries.

K. NOT FAULT TOLERANT. THE SOFTWARE PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE SOFTWARE PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.

L. Export Restrictions. The Software Products are of U.S. origin for purposes of U.S. Export control laws. You agree to comply with all applicable international and national laws that apply to the Software Products, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see http://microsoft.com/exporting.
Schedule B | Miscellaneous Vendor Requirements

You must agree to be bound by, and you must bind all of your Customers, to the following, at a minimum:

1. Prohibit all users and resellers from removing, modifying, or obscuring any copyright, trademark, or other proprietary rights notices that are contained in or on the software, unless the proposed change has been approved by the software developer in writing.

2. Prohibit all users and resellers from reverse engineering, decompiling, or disassembling any software related to the Service, except and only to the extent that such activity is expressly permitted by applicable law.

3. Disclaim, to the extent permitted by applicable law, all warranties by us, the underlying software vendors, and all third party suppliers, whether express or implied, and liability by us, the vendors, and all affiliates or suppliers for any damages, whether direct, indirect, or special, consequential, or incidental arising from the use of the Services.

4. Prohibit the exportation, re-exportation or other distribution of any software related to the Services, to any prohibited destination country under EAR, U.S., and/or Israeli regulations or in contravention of any applicable export controls.

5. Restrict access to products to only users that are bound by the applicable End-User License Agreement governing the individual products in question.
Schedule C | Intellectual Property Rights

1. You may, subject to our prior approval, display the Cloud Jumper name, trademarks, service marks, logos, and other identifying information on your website.

2. Cloud Jumper may, subject to your prior approval, display your name, trademarks, service marks, logos, and other identifying information on its website.

3. Cloud Jumper will provide you sample collateral that you may repurpose and use as templates. You acknowledge that, except for any of your trademarks, service marks, logos, and other identifying information included in the repurposed collateral, Cloud Jumper will retain and own all rights related to the collateral and Cloud Jumper is merely granting you a nontransferable and revocable license to use and distribute the documentation for your own purposes.

4. The parties shall exchange relevant intellectual property in a format to be agreed upon by the parties.

5. Both parties agree to stop distributing, publicly referencing, and displaying the intellectual property of the other party at any time, upon the other party’s written request.