

SPIFFWORKS

TERMS OF SERVICE AGREEMENT

Last Modified: May 30, 2025

Effective Date: May 30, 2025

1. Overview.

1.1. Introduction. This SpiffWorks Terms of Service Agreement (this “*Agreement*”) is an agreement between you (referred to in this Agreement as “*you*” or “*your*”) and Sartography LLC (d/b/a SpiffWorks), a Virginia limited liability company (referred to in this Agreement as “*SpiffWorks*”, “*Sartography*”, “*we*”, “*us*”, or “*our*”), the owner and operator of an online service known as SpiffWorks (the “*SpiffWorks Service*” or the “*Service*”) that provides a Python based BPMN (Business Process Model and Notation) workflow orchestration engine, which can be accessed at <https://spiff.works> and <https://www.spiffworkflow.org> (collectively, together with any subdomains of spiff.works and spiffworkflow.org, the “*SpiffWorks Websites*”), together with related services. **You agree to read this Agreement carefully.**

1.2. Your Company. If you sign up for the SpiffWorks Service or create a SpiffWorks Account (as defined below) on behalf of another person or entity (“*Your Company*”), you represent and warrant to us that you have the authority and authorization to bind Your Company to this Agreement, and in that case: (i) in Section 1.1 above, the term “*you*” refers both to you and Your Company, and (ii) in every other section of this Agreement except for Section 1.1 above, this Section 1.2, and Section 2 below, the terms “*you*” and “*your*” refer to Your Company. If you do not have such authority and authorization, or if you or Your Company do not agree to all of the provisions of this Agreement, neither you nor Your Company are permitted to access or use the SpiffWorks Service.

1.3. Binding Contract. This Agreement is a legally binding contract between you and SpiffWorks, and you acknowledge that this Agreement governs your access to and use of the SpiffWorks Service. In this Agreement, you and SpiffWorks are referred to individually as a “*party*” and collectively as the “*parties*”, and “*User*” (or “*user*”) refers to a person who accesses or uses the SpiffWorks Service, and “*Person*” (or “*person*”) means any individual, business entity, governmental entity, legal entity, or any legal person.

1.4. Important Provisions. This Agreement includes important provisions affecting your legal rights and obligations, including, for example, a disclaimer of warranties and limitation of liability by SpiffWorks (see Section 15), dispute resolution provisions that include a waiver of the right to a jury, a waiver of the right to participate in a class action or similar proceeding, a limitation of the period of time for bringing a claim against us, and an agreement that any court or arbitration proceedings will take place only in the City of Staunton, Virginia (see Section 17), and an obligation for you to pay any expenses and liabilities (such as damages, costs, or legal claims) that the SpiffWorks Parties (as defined below) suffer as a result of your violation of any of the provisions of this Agreement (see Section 14). The previous examples are not comprehensive, and you are responsible for reading and agreeing to all of the provisions of this Agreement as a condition of your access and use of the SpiffWorks Service.

2. Children. You may only create or use a SpiffWorks Account or use the SpiffWorks Service if you are (a) at least eighteen (18) years old, and (b) allowed by law to enter into a binding contract. If you are not at least eighteen (18) years old, you must not access or use the SpiffWorks Service.

3. Privacy Policy. Our Privacy Policy, located at <https://spiff.works/legal/privacy> (our “*Privacy Policy*”), explains how we collect and use your information and the choices you have related to your information. You agree to read our Privacy Policy. You acknowledge and agree that the provisions of our Privacy Policy are made a part of this Agreement and are binding upon you and SpiffWorks.

4. Updates to this Agreement. As technology changes and as our business grows and develops, we may modify this Agreement (and our Privacy Policy) from time to time. When we modify this Agreement, we will give you notice by posting the amended Agreement on the SpiffWorks Websites and, if the changes meaningfully affect your rights or obligations, by e-mail (if you have provided us with your e-mail address as part of your Account Information). The amended Agreement will include an effective date, and the amended Agreement will be effective on that date. However, any changes to the governing law or dispute resolution provisions set forth in Sections 16 and 17 will not apply to any disputes for which SpiffWorks and you have received actual notice on before such effective date. If you continue to access or use the SpiffWorks Service after this Agreement is amended, you agree to be bound by the revised Agreement. If you do not agree with the updated Agreement, you agree that you will promptly (1) discontinue your use of the SpiffWorks Service, and (2) contact us at info@spiff.works to request that your SpiffWorks Account be closed.

5. Definitions. In addition to any terms defined elsewhere in this Agreement, as used in this Agreement:

5.1. “*Admin Account*” means an account for the SpiffWorks Service that allows a user to use the SpiffWorks Service, to manage a SpiffWorks Account, and to manage the associated Team Member Accounts, if any.

5.2. “*Authentication Credentials*” means the usernames, e-mail addresses, passwords, API keys, multi-factor authentication tokens, security keys, and other credentials used to access a SpiffWorks Account or a User Account, whether directly or through a Login Provider.

5.3. “*External Service*” (collectively, “*External Services*”) means a service (including, for example, data processing, data retrieval, data storage, and authentication) that is external to the SpiffWorks Service.

5.4. “*External Service Provider*” (collectively, “*External Service Providers*”) means the provider of an External Service, whether you or a third party, but excluding SpiffWorks.

5.5. “*External Uses*” means to display, perform, distribute, make available, transfer, sell, lease, or sublicense the SpiffWorks Service (or any part or features thereof) or any of the SpiffWorks Materials (in whole or in part) to any third party.

5.6. “*Integration*” (collectively, “*Integrations*”) means a connection between an External Service and a SpiffWorks Account or Process Model.

5.7. “*Login Provider*” (collectively, “*Login Providers*”) means a service provided by you or by a third party that provides user authentication and identity verification services, allowing users to access a User Account using Authentication Credentials associated with such service.

5.8. “*Operational Metrics*” means usage statistics for the SpiffWorks Services and its features, including, but not limited to: (a) number of Process Model executions, (b) number of outgoing API calls, (c) number of incoming API calls, (d) network traffic per Process Model, and (e) number of users interacting with a Process Model.

5.9. “*Personal Data Protection Laws*” means laws, regulations, rules, orders, and legal requirements relating to the acquisition, protection, access, use, processing, transfer, disclosure, storage, retention, disposal, deletion, or security of Personal Information or of any other data or information relating to individuals. Personal Data Protection Laws include, without limitation, the EU General Data Protection Regulation (GDPR), the California Consumer Privacy Act of 2018 (CCPA) (as amended by the California Privacy Rights Act of 2020 (CPRA)), the Colorado Privacy Act, the Connecticut Data Privacy and Online Monitoring Act, the Delaware Personal Data Privacy Act, the Indiana Consumer Data Protection Act, the Iowa Consumer Data Protection Act, the Kentucky Consumer Data Protection Act, the Maryland Online Data Privacy Act, the Minnesota Consumer Data Privacy Act, the Montana Consumer Data Privacy Act, the Nebraska Data Privacy Act, New Hampshire Revised Statutes Chapter 507-H, New Jersey P.L. 2023 Chapter 266, the Oregon Consumer Privacy Act, the Rhode Island Data Transparency and Privacy Protection Act, the Tennessee Information Protection Act, the Texas Data Privacy and Security Act, the Utah Consumer Privacy Act, the Virginia Consumer Data Protection Act, and any other applicable state, federal, or foreign laws.

5.10. “*Personal Information*” means any data or information that identifies, relates to, describes, could be used to identify, locate, or contact, or is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular individual or household. As used in the previous sentence, “*household*” means a group, however identified, of individuals who cohabitate with one another at the same residential address. Personal Information includes, without limitation, any data or information that is subject to any applicable Personal Data Protection Laws.

5.11. “*Privacy Rights*” means (a) the rights of individuals under any applicable Personal Data Protection Laws or Data Broker Laws, and (b) any other applicable privacy rights.

5.12. “*Process Model*” (collectively, “*Process Models*”) means a visual representation of a process that defines the sequence of activities, decisions, and interactions required to achieve a particular goal.

5.13. “*Third Party Cloud Service Providers*” (each, a “*Cloud Service Provider*”) means Amazon Web Services (AWS), Google Cloud Platform, Microsoft Azure, Oracle Cloud, IBM Cloud, Alibaba Cloud, DigitalOcean, Akamai, OVHcloud, and other cloud infrastructure providers used by the SpiffWorks Service from time to time.

5.14. “*Third Party Data*” means, data, information, records, or materials owned or provided by a third party.

5.15. “*Third Party Personal Information*” means the Personal Information of a third party.

5.16. “*SpiffWorks Materials*” means all data, content, and materials displayed, transmitted, performed, included, or provided on or through the SpiffWorks Service or the SpiffWorks Websites, including without limitation all text, titles, photos, graphics, logos, designs, audio and video transmissions and recordings, and other data or content, but excluding Third Party Data and Your Content.

5.17. “*Team Member*” (collectively, “*Team Members*”) means an individual authorized by you to access and use the SpiffWorks Service through your SpiffWorks Account using a separate Team Member Account.

5.18. “*Team Member Account*” means an account for the SpiffWorks Service that allows a Team Member to use the SpiffWorks Service through an associated SpiffWorks Account.

5.19. “*User Account*” (collectively, “*User Accounts*”) means an Admin Account or a Team Member Account.

5.20. “*Your Internal Business Purposes*” means the use of SpiffWorks Service and the SpiffWorks Materials by you for your internal purposes in your ordinary business or personal purposes, but specifically excluding: (a) any External Uses, (b) any illegal or unlawful purposes or uses, including without limitation stalking, harassing, or intimidating any person or engaging in any fraudulent, misleading, or deceptive conduct, or (c) for the purpose of creating or improving any software, solutions, tools, or services that are similar to, or competitive with, the SpiffWorks Service.

5.21. “*Your Integration*” (collectively, “*Your Integrations*”) means an Integration that is connected to your SpiffWorks Account or to one or more of Your Process Models.

5.22. “*Your Process Models*” (each, “*Your Process Model*”) means the Process Models associated with your SpiffWorks Account.

6. Description of the SpiffWorks Service. The SpiffWorks Service provides a Python based BPMN (Business Process Model and Notation) workflow orchestration engine, which allows you to create, edit, and execute Process Models. The SpiffWorks Service allows you to use Integrations to connect your SpiffWorks Account or Your Process Models to External Services. The specific features of the SpiffWorks Service available to you depend on the Subscription Plan to which you subscribe. The SpiffWorks Service may contain links to third party websites or advertisements or promotions for third party products and services. We are not responsible for any content, products, or services provided by others. The inclusion of any link to such sites or advertisements or promotions of such products or services does not imply endorsement by SpiffWorks or its Affiliates (as defined in Section 14 below).

7. Your SpiffWorks Account and User Content.

7.1. Registration. In order to use the SpiffWorks Service, you must register with us and create an account (a “*SpiffWorks Account*”). Each SpiffWorks Account must have at least one Admin Account. In order to create your SpiffWorks Account and to create or activate your

Admin Account, our registration process typically requires you to complete a signup form and create a password and/or configure other Authentication Credentials for your Admin Account. We may permit or require you to provide additional information in order to use the SpiffWorks Service or certain features of the SpiffWorks Service. As used in this Agreement, “*Account Information*” means all information associated with your SpiffWorks Account (including each Admin Account and Team Account) other than Your Content. You agree to update your Account Information, as necessary, to ensure that it remains current, accurate, and complete. You authorize us to verify your Account Information at any time. If any of your Account Information is untrue, inaccurate, incomplete, or not current, we retain the right, in our sole discretion, to suspend or terminate your SpiffWorks Account and access to the SpiffWorks Service by you and your Team Members.

7.2. Login Providers. The SpiffWorks Service may give you the ability to configure your SpiffWorks Account to enable authentication to your Admin Account or Team Accounts using one or more Login Providers. We reserve the right to add, change, suspend, or discontinue the availability of any Login Provider at any time without prior notice. You acknowledge and agree that we are not responsible for the security, privacy, or availability of any Login Provider and that you and your Team Members are solely responsible for maintaining the security of the accounts and Authentication Credentials for any Login Providers associated with your SpiffWorks Account. Depending on the Login Provider used, the Login Provider may share with us certain information about you, your Team Members, or the associated account with the Login Provider, in which case such information shared with us will be part of your Account Information.

7.3. User Content. As used in this Agreement, “*Your Content*” means your Account Information, Your Process Models, and all content (including without limitation, text, photos, graphics, audio, video, and other data and materials) you upload, post, send, submit, transmit, or otherwise transfer to or through the SpiffWorks Service, whether directly or through Your Integrations, and all content generated by Your Process Models. You acknowledge and agree that we do not prescreen and are not responsible for Your Content. Nevertheless, we may at any time, with or without notice to you, block, interrupt, delete, or otherwise remove, disable or restrict access to, or refuse to display or transmit any of Your Content.

7.4. Use of Your Content. We value and respect your privacy, and we will not use or share Your Content except as permitted by this Agreement and our Privacy Policy. You retain any ownership rights you have in Your Content, and nothing in this Agreement limits your right to use Your Content outside of the SpiffWorks Service. In order for us to provide the SpiffWorks Service to you, you grant us a worldwide, royalty-free, non-exclusive, sublicensable, and transferable license to use, copy, modify, adapt, store, host, publish, distribute, and transmit Your Content for the purpose of providing the SpiffWorks Service. You represent and warrant to the SpiffWorks Parties: (a) that you have the right (and have obtained any and all necessary permissions, consents, and authorizations) to grant us the foregoing license and to grant all other rights and licenses granted in this Agreement, and (b) that the use of Your Content and the exercise of the foregoing license by the SpiffWorks Parties (and their sublicensees) will not infringe the Intellectual Property Rights, Privacy Rights, or other rights of any person. You understand and agree that we may transfer, process, maintain, and store Your Content in any country (or in multiple countries), including countries other than your country of residence or the

country or countries where you use the SpiffWorks Service. You acknowledge and agree that we may use third party service providers to host the SpiffWorks Service.

7.5. Operational Metrics. You acknowledge and agree that (a) we may collect Operational Metrics associated with your use of the SpiffWorks Service, which we may use and disclose for various purposes, including to ensure the stability and performance of the SpiffWorks Service, to improve the user experience, and to track the usage of the features of the SpiffWorks Service, and (b) Operational Metrics do not constitute part of Your Content.

8. Using the SpiffWorks Service.

8.1. Permission to Use the SpiffWorks Service. Subject to your compliance with this Agreement, we grant you permission to access and use the SpiffWorks Service and the SpiffWorks Materials for Your Internal Business Purposes. You expressly agree that you will not use the SpiffWorks Service or the SpiffWorks Materials in any way other than for Your Internal Business Purposes. The permission for you to use the SpiffWorks Service and the SpiffWorks Materials is further conditioned on the following: (a) you will not permit any person, other than a Team Member that is your employee, independent contractor, or agent, to access or use the SpiffWorks Service through your SpiffWorks Account; (b) you will not publish, disclose, or share any of the SpiffWorks Materials; (c) you will not attempt to reverse engineer, alter, or modify any part of the SpiffWorks Service; and (d) you will comply with all of the provisions of this Agreement. If you violate this Agreement, your permission to use the SpiffWorks Service and the SpiffWorks Materials will automatically terminate, and you will not be entitled to any refund of payments made to us. Your permission to access and use the SpiffWorks Service and the SpiffWorks Materials is personal, non-exclusive, non-assignable, non-sublicensable, and may be limited or revoked by us at any time. We reserve the right, in our sole discretion, to refuse service, to suspend or terminate your SpiffWorks Account, and/or to require you to purchase a new or different SpiffWorks Subscription in order to continue using some or all of the features of the SpiffWorks Service.

8.2. Account Responsibility. You are responsible for maintaining the confidentiality of the Authentication Credentials used to access your SpiffWorks Account (including each User Account), whether directly or through a Login Provider. You acknowledge and agree that you are responsible for any activities that occur through your SpiffWorks Account (including through any User Accounts or through any Integrations), whether or not authorized by you or by any Team Member. You agree to immediately notify us of any security breach associated with the Authentication Credentials for your SpiffWorks Account or any of your User Accounts and of any unauthorized use of your SpiffWorks Account. We will not be liable for your losses caused by any unauthorized use of your SpiffWorks Account (including through any User Accounts or Integrations), and you acknowledge and agree that you may be liable for the losses of the SpiffWorks Parties or others due to such unauthorized use. You acknowledge and agree that (a) you are responsible for the acts and omissions of your Team Members with respect to the SpiffWorks Service and the SpiffWorks Materials, and (b) all acts or omissions of your Team Members with respect to the use of the SpiffWorks Service, the SpiffWorks Materials, your SpiffWorks Account, or Your Content (including any Third Party Personal Information contained therein) shall be deemed to be your acts or omissions for purposes of this Agreement.

9. Subscription Plans and Paid Services.

9.1. Subscription Plans. We require each SpiffWorks Account to be subscribed to one of our Subscription Plans (each, a “*Subscription Plan*”), which may include (a) a free plan with limited features (a “*Free Plan*”), or (b) a free trial plan or a paid plan (a “*Paid Plan*”). When you create a SpiffWorks Account, you will be required to select and subscribe to a Subscription Plan for your SpiffWorks Account (your “*SpiffWorks Subscription*”). We may allow you to subscribe to a Subscription Plan on a free trial basis, subject to all of the terms and conditions of this Agreement. The features and prices for our Subscription Plans are described on the SpiffWorks Websites at: <https://spiff.works/pricing>. We may revise our Subscription Plans from time to time.

9.2. Paid Services. Our Paid Plans and certain options, upgrades, features, and other components of the SpiffWorks Service (each, a “*Paid Service*”, collectively, “*Paid Services*”) are available only to users who have purchased subscriptions or agreed to purchase such Paid Services (“*Purchased Services*”) and have paid the applicable fees. If you choose to purchase any Paid Services, you are granted permission to use the applicable Purchased Services in connection with your use of the SpiffWorks Service as part of your SpiffWorks Subscription. We may change the fees for our Paid Services at any time, but no such fee changes will apply to your Paid Plan until it is renewed.

9.3. Subscription Period. The term of this Agreement (the “*Subscription Period*”) will commence on the date your SpiffWorks Account is created, and, unless otherwise sooner terminated as provided in this Agreement, will continue until the earlier of (a) the expiration or termination of your SpiffWorks Subscription, or (b) the closure, deletion, or termination of your SpiffWorks Account or this Agreement.

9.4. Payment.

9.4.1. Generally. If you purchase any Paid Services, you acknowledge and agree that you will provide and maintain complete and accurate billing contact and payment information as requested by SpiffWorks (your “*Payment Information*”). You may be required to pay for a Paid Service by credit card, and you authorize us to charge any credit card(s) that you include as part of your Payment Information for all payments owed for such Paid Service. Subject to our Privacy Policy, your Payment Information may be transmitted to and stored by a third party payment processor. We currently use Stripe, Inc. (“*Stripe*”), a third party payment processor, to bill you for the Paid Services. Your Payment Information collected through the SpiffWorks Websites is transmitted directly to Stripe and is not stored by SpiffWorks. You acknowledge and agree that the processing of payments for Paid Services is subject to the Stripe Terms of Service (<https://stripe.com/us/terms>) and the Stripe Privacy Policy (<https://stripe.com/us/privacy>) and that we are not responsible for any acts or omissions of Stripe.

9.4.2. Fees. You are responsible for making full and complete payment for all of your Purchased Services. Except as otherwise stated in the terms of any specific Paid Service, you will pay SpiffWorks for all Paid Services when you order the Paid Service. You may be required to pay for a Paid Service by credit card, and you authorize us to charge any credit card(s) that you include as part of your Payment Information for all payments owed for such Paid Services. In no event are we responsible for any failure to process payment for or renewal of any Paid Services. In the event of a charge back by a credit card company, or any similar action by a

payment provider or payment processor (a “*Charge Back*”), you agree that we may suspend, cancel, close, or terminate your Paid Services, your SpiffWorks Subscription, and/or your SpiffWorks Account. If, within five (5) days of the Charge Back, you pay our then current reinstatement fee and all other payments due to us for your Paid Services, we will reinstate your Paid Services, your SpiffWorks Subscription, and your SpiffWorks Account. However, we reserve the right, for any reason, to refuse to reinstate your Paid Services, your SpiffWorks Subscription, and your SpiffWorks Account, in which case we will not accept your payment of the reinstatement fee.

9.4.3. Taxes. Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, “*Taxes*”). You are responsible for paying all Taxes associated with the Paid Services. If SpiffWorks has the legal obligation to pay or collect Taxes for which you are responsible under this Section 9.4.3, we will charge you for that amount, and you will pay such Taxes as and when required. For clarity, SpiffWorks is solely responsible for taxes assessable against it based on its income, property, and employees.

9.5. Expiration and Renewal. Each Paid Service will automatically terminate on its expiration date unless we receive and accept full payment from you for renewal before such expiration date. Paid Services may be renewed by payment of the then current renewal fee for the applicable Paid Service. You acknowledge and agree that it is your responsibility to keep and maintain your own records and reminders regarding when your Paid Services are scheduled to expire. As a convenience to you, we may send you a reminder notice informing you when the renewal fees for your Paid Services are due, but we have no obligation to do so. Unless you turn off the auto renew option, you agree that we may (but are not obligated to) attempt to renew each Paid Service within a reasonable period of time before its expiration date using the Payment Information (if any) associated with your SpiffWorks Account at our then current fee for such Paid Service.

9.6. Cancellations and Refunds. All purchases of Paid Services are final. You may disable a Paid Service or close your SpiffWorks Account at any time, but we will not issue you a refund. We reserve the right to cancel any of your Paid Services at any time and for any reason, including without limitation for your violation of any provision of this Agreement (including our Privacy Policy). If we cancel any of your Paid Services for any reason other than for a violation of this Agreement, we will issue you a pro-rata refund for the remaining, unused portion of your Paid Services, which will be your sole and exclusive remedy in the event of such cancellation or termination.

10. Third Party Personal Information.

10.1. Compliance with Laws and Consumer Privacy Rights. You acknowledge and agree that we are not responsible for any Third Party Personal Information that may be part of Your Content, and we do not monitor Your Content for the presence of Third Party Personal Information. We respect the Privacy Rights of individuals and require that our users take appropriate measures to enable individuals to exercise their Privacy Rights. You expressly agree that you will comply with all applicable Personal Data Protection Laws and that you will comply with all obligations, if any, SpiffWorks is required by such laws to impose upon users who

process Third Party Personal Information through the SpiffWorks Service. You agree that you will timely respond to all requests by individuals to exercise their Privacy Rights, including requests made directly to you or made to SpiffWorks. In the event that SpiffWorks receives a request from an individual to exercise any of their Privacy Rights, you will fully cooperate with SpiffWorks to timely comply the applicable request, which may (a) require you to limit or cease your use, processing, or sharing of specified Third Party Personal Information, (b) require you to report, correct, or delete specified Third Party Personal Information, (c) require you to take other actions (or refrain from taking actions) with respect to such Third Party Personal Information and the protection thereof. The provisions of this Section 10.1 will continue to apply even if you stop using the SpiffWorks Service and will survive the expiration, cancellation, or termination of this Agreement.

11. Feedback. We encourage you to send us messages, feedback, or data, including, for example, ideas, comments, suggestions, or questions about the SpiffWorks Service or any other product or service (collectively, “*Feedback*”). You agree not to send us any information or ideas that are sensitive or confidential, and you agree that any Feedback we receive from you will not be considered confidential. You grant us a worldwide, royalty-free, non-exclusive, transferable, sublicensable, perpetual, and irrevocable license to record, use, practice, copy, modify, adapt, create derivative works of, store, host, publish, publicly perform, publicly display, distribute, communicate, and transmit your Feedback in any and all media or distribution methods (now known or later developed), to exercise all Intellectual Property Rights in and to your Feedback. We will be entitled to use the Feedback for any commercial or other purpose whatsoever (including, for example, developing, improving, producing, providing, or marketing products and services) without compensation to you or any other person sending the Feedback, and we will not be under any obligation to tell you if and how we use the Feedback. The provisions of this Section 11 will continue to apply even if you stop using the SpiffWorks Service and will survive the expiration, cancellation, or termination of this Agreement.

12. Intellectual Property Rights.

12.1. Generally. You acknowledge and agree that except as otherwise expressly stated in this Agreement, and except for Your Content and Third Party Data, SpiffWorks (or its third party licensors) own all Intellectual Property Rights in and to the SpiffWorks Service and the SpiffWorks Materials. Except as otherwise expressly provided in this Agreement, we retain all rights in and to the SpiffWorks Service and the SpiffWorks Materials. As used in this Agreement, “*Intellectual Property Rights*” means intellectual property rights or other rights arising from or in respect of the following, whether protected, created or arising under the laws of the United States or any other jurisdiction: (a) fictional business names, trade names, company and corporate names, trademarks and service marks (whether registered or unregistered, including any applications for registration of any of the foregoing), logos, Internet domain names, and trade dress rights, together with the goodwill associated with any of the foregoing (collectively, “*Marks*”); (b) inventions, patent applications, and patents issued therefrom in the United States and in all other countries, including all continuations, divisionals, continuations-in-part, inventions registrations, re-examinations, registrations, renewals, utility models, reissues and the like corresponding thereto (collectively, “*Patents*”); (c) copyrights and registrations and applications therefor (collectively, “*Copyrights*”); (d) proprietary and confidential information which constitute trade secrets, such as proprietary and confidential know-how, inventions,

discoveries, concepts, ideas, methods, processes, designs, formulae, technical data, drawings, specifications, and data bases in each case excluding any of the foregoing to the extent the rights therein comprise or are protected by Copyrights or Patents (collectively, “*Trade Secrets*”); (e) publicity rights, including without limitation the right to use a person’s name, image, photo, portrait, voice, sound-alike, likeness, and persona for advertising, marketing, promotional, trade, business, and commercial purposes (collectively, “*Publicity Rights*”); and (f) moral rights and Privacy Rights.

12.2. Our Trademarks. The name SpiffWorks and the graphics, icons, logos, service names, designs, and layouts associated with the SpiffWorks Service are the trademarks, service marks, or trade dress of SpiffWorks in the United States and/or other countries. You acknowledge and agree that you will not use any of our Marks (including as part of other Marks and/or Internet domain names) in connection with any product or service in any manner that is likely to cause confusion or dilution of our Marks or in connection with any advertisement (including as keywords for any advertising campaign). All other Marks are the property of the respective owners.

13. Claims of Intellectual Property Infringement.

13.1. Generally. We respect the Intellectual Property Rights of others, and we require you and each of our users to do the same. We take claims of infringement of Intellectual Property Rights seriously, and we reserve the right, in our sole discretion, to block, interrupt, delete, or otherwise remove, disable or restrict access to, or refuse to display or transmit (collectively, “*Remove*” or “*Removing*”) any content (including without limitation, text, photos, graphics, audio, video, and other materials) you or any other person uploads, posts, sends, submits, transmits, or otherwise transfers to or through the SpiffWorks Service (collectively, “*User Content*”). In appropriate cases and in our sole discretion, we may Remove User Content if properly notified that such User Content infringes a third party’s Intellectual Property Rights or Privacy Rights. It is our policy, in appropriate circumstances, to disable and/or close SpiffWorks Accounts (as defined in our Privacy Policy) of users who are repeat infringers. Without limiting any of our rights to take other action described in this Agreement, including without limitation, immediately Removing or modifying Infringing Content (as defined below) without notice, we will, within a reasonable period of time following our receipt in writing of a final, non-appealable court order finding that specific User Content infringes a third party’s Intellectual Property Rights (“*Infringing Content*”), Remove or modify such Infringing Content in the jurisdictions to which such order applies.

13.2. Reporting Claims of Copyright Infringement.

13.2.1. Digital Millennium Copyright Act (DMCA) Notice Procedures. SpiffWorks will respond to notices of alleged copyright infringement that comply with applicable law. If you believe any materials accessible on or through the SpiffWorks Service infringe your copyright, you may request removal of those materials (or access thereto) from the SpiffWorks Service by submitting written notification to the SpiffWorks Intellectual Property Agent (designated below). In accordance with the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act (17 U.S.C. § 512) (the “*DMCA*”), the written notice (the “*DMCA Notice*”) must include substantially the following:

- Your physical or electronic signature;
- Identification of the copyrighted work you believe to have been infringed or, if the claim involves multiple works on the Service, a representative list of such works;
- Identification of the material you believe to be infringing in a sufficiently precise manner to allow us to locate that material;
- Adequate information by which we can contact you (such as your name, mailing address, telephone number, and, if available, an e-mail address);
- A statement that you have a good faith belief that use of the copyrighted material is not authorized by the copyright owner, its agent or the law;
- A statement that the information in the written notice is accurate; and
- A statement, under penalty of perjury, that you are authorized to act on behalf of the copyright owner.

SpiffWorks's designated Intellectual Property Agent to receive DMCA Notices is:

Dan Funk
 PO Box 2003
 Staunton, Va 24402
 540-457-0024
info@spiff.works

If you fail to comply with all of the requirements of Section 512(c)(3) of the DMCA, your DMCA Notice may not be effective.

Please be aware that if you knowingly materially misrepresent that material or activity on the SpiffWorks Service is infringing your copyright, you may be held liable for damages (including costs and attorneys' fees) under Section 512(f) of the DMCA.

13.2.2. DMCA Counter-Notification Procedures. If you believe that your User Content was removed or access to it was disabled by mistake or misidentification, you may file a counter-notification with SpiffWorks (a "*DMCA Counter-Notice*") by submitting written notification to the SpiffWorks Intellectual Property Agent (identified above). Pursuant to the DMCA, the DMCA Counter-Notice must include substantially the following:

- Your physical or electronic signature;
- Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access disabled;
- A statement under penalty of perjury by you that you have a good faith belief that the material identified above was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled;
- Your name, address, and telephone number (and if you wish to facilitate our ability to contact you, your e-mail address); and

- A statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which your address is located (or if your address is outside of the United States, for any judicial district in which SpiffWorks may be found), and that you will accept service of process from the person who provided us with the DMCA Notice at issue.

The DMCA allows SpiffWorks to restore the removed content if the party filing the original DMCA Notice does not file a court action against you within ten business days of receiving the copy of your DMCA Counter-Notice.

Please be aware that if you knowingly materially misrepresent that material or activity on the SpiffWorks Service was removed or disabled by mistake or misidentification, you may be held liable for damages (including costs and attorneys' fees) under Section 512(f) of the DMCA.

13.3. Reporting Claims of Other Intellectual Property Infringement. If you believe any User Content accessible on or through the SpiffWorks Service infringes your Intellectual Property Rights (other than your copyrights), you may request removal of the User Content (or access thereto) from the SpiffWorks Service by submitting written notification to the SpiffWorks Intellectual Property Agent (designated above). The written notice (an "*Infringement Notice*") must include all of the following:

- Your physical or electronic signature.
- Identification and description of the Intellectual Property Rights you believe to have been infringed. If you are reporting a claim of trademark infringement, your written notice must identify the exact trademark, service mark, or other mark (and if the mark is anything other than standard characters, you must include a copy of the mark), a description of the goods or services for which you believe you have trademark rights, the registration number and office of registration (if applicable), and a description of the reason why you believe the User Content ("*Alleged Infringing Content*") causes a likelihood of confusion with or dilution of your mark.
- Identification of the Alleged Infringing Content you believe to be infringing in a sufficiently precise manner to allow us to locate it. Adequate information by which we can contact you (such as your name, mailing address, telephone number, and, if available, an e-mail address).
- A statement that you have a good faith belief that use of the Alleged Infringing Content is not authorized by the owner of the Intellectual Property Rights, the owner's agent, or the law.
- A statement that the information in the written notice is accurate.
- A statement, under penalty of perjury, that you are the authorized owner of the Intellectual Property Rights or that you are authorized to act on behalf of the owner of the Intellectual Property Rights.

Upon receipt of an Infringement Notice, we may act in any manner that we deem reasonable and appropriate, including without limitation, temporarily or permanently Removing the Alleged

Infringing Content described in such Infringement Notice. However, we will generally endeavor to provide a copy of the Infringing Notice to the user who is responsible for the applicable Alleged Infringing Content (the “*Responsible Party*”) and request that such Responsible Party provide a written response to the party alleging infringement (the “*Asserting Party*”) or to us, in which case we will forward such response to the Asserting Party, together with the Responsible Party’s contact information (name, address and e-mail address). If the Responsible Party’s response is not satisfactory to the Asserting Party, or the Responsible Party fails to respond within ten (10) business days of the date we forward the Infringement Notice, we may disclose, if known, the name, address, e-mail address, and other contact information of such Responsible Party to the Asserting Party, in which case, such Responsible Party and such Asserting Party shall communicate directly to resolve the matters alleged in such Infringement Notice. Thereafter, but without limiting our rights to take any other action that we deem appropriate or reasonable (including Removing the Alleged Infringing Content), we shall Remove or otherwise act with respect to the Alleged Infringing Content upon a written direction from both the Asserting Party and the Responsible Party or in accordance with Section 13.1 above.

SPIFFWORKS HAS NO RESPONSIBILITY OR LIABILITY TO ANY PERSON FOR REMOVING ANY USER CONTENT OR OTHER CONTENT OR MATERIALS. YOU AND EACH USER EXPRESSLY AND FOREVER WAIVE ALL CLAIMS AGAINST THE SPIFFWORKS PARTIES ARISING OUT OF OR RELATING TO THE TEMPORARY OR PERMANENT SUSPENSION OR REMOVAL OF ANY USER CONTENT OR OTHER CONTENT OR MATERIALS.

You agree that if you knowingly materially misrepresent that User Content or activity on the SpiffWorks Service is infringing Intellectual Property Rights, you will be held liable for (and will reimburse and pay the SpiffWorks Parties for) costs and fees (including attorneys’ fees) and other damages incurred by SpiffWorks in reviewing, investigating, addressing, and responding to your written notice and the claims made in such notice.

14. Indemnification. As used in this Agreement, “*Affiliate*” (collectively, “*Affiliates*”) means, with respect to a person, any other person directly or indirectly controlling, controlled by or under common control with the subject person, and “*SpiffWorks Parties*” means SpiffWorks, its Affiliates, and the officers, directors, shareholders, members, managers, employees, attorneys, and agents of any of the foregoing. You agree to indemnify, defend, and hold harmless the SpiffWorks Parties from, against, and with respect to any and all liabilities, claims, losses, damages (including without limitation property damage and all incidental, consequential, punitive, special, and exemplary damages), injuries (including without limitation personal injury, sickness, and death), interest, fines, taxes, premiums, assessments, penalties, costs, and expenses (collectively, “*Claims*”), including without limitation any and all attorneys’ fees, paraprofessionals’ fees, and expenses incurred in the defense of Claims (whether or not a suit is instituted and, if so instituted, through all trial and appellate levels), arising out of or related to: (a) your use of and access to the SpiffWorks Service or the SpiffWorks Materials, including any use of the SpiffWorks Service or the SpiffWorks Materials by any of your Team Members; (b) the use of your SpiffWorks Account, including through any Admin Account or Team Member Account, whether by you or any other person; (c) your breach or violation of any provision of this Agreement; (d) our exercise of any rights or licenses granted by you to us (including the use of Your Content and Feedback); (e) any inaccuracy in or breach of any of the

representations or warranties made by you; (f) your violation or alleged violation of any law (including without limitation any applicable Personal Data Protection Laws) or infringement of any third party right, including without limitation any Intellectual Property Rights or Privacy Rights; (g) any Third Party Personal Information that is part of Your Content; (h) the use, processing, or disclosure of any Third Party Personal Information by you or your Team Members or by any person to whom you or any of your Team Members disclose Third Party Personal Information; (i) the negligence, recklessness, or willful misconduct of you or any of your Team Members; (j) any claim that your use of the SpiffWorks Service or the SpiffWorks Materials (including any such use by any of your Team Members) caused damage to a third party, or (k) any claim that Your Content violates or infringes the Intellectual Property Rights, Privacy Rights, or other rights of any third party. SpiffWorks will have the exclusive right: (1) to select legal counsel to defend Claims, (2) to direct the defense or settlement of Claims, (3) to make, accept, or reject any offers of settlement of Claims, (4) to enter into any settlement, and (5) to admit or deny fault or liability. Your obligations under this Section 14 will continue even if you stop using the SpiffWorks Service and will survive the end of the Subscription Period and the deletion, closure, expiration, or termination of your SpiffWorks Account or this Agreement.

15. Disclaimers and Limitation of Liability - PLEASE READ CAREFULLY: This Section 15 limits the liability of the SpiffWorks Parties. The provisions of this Section apply to the maximum extent permitted under applicable law. Some jurisdictions do not permit the limitation of liability in contracts or the disclaimers of implied warranties, so some or all of the provisions of this Section 15 may not apply to you.

15.1. You understand that we cannot and do not guarantee or warrant that content or materials available for downloading from the Internet or transmitted through or linked to from the SpiffWorks Service will be free of viruses, malware, or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus and anti-malware protection and for maintaining a means for any reconstruction of any lost data. WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES, MALWARE, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT, DAMAGE, OR DELETE YOUR DEVICES OR DATA DUE TO YOUR USE OF THE SPIFFWORKS SERVICE OR YOUR ACCESSING THE SPIFFWORKS WEBSITES, ANY SPIFFWORKS MATERIALS, ANY THIRD PARTY DATA, OR OTHER MATERIALS AVAILABLE ON OR THROUGH THE SPIFFWORKS SERVICE OR LINKED TO FROM THE SPIFFWORKS WEBSITES.

15.2. While we will make reasonable efforts to provide accurate and timely information and content on the SpiffWorks Service, you should not assume that any content or information provided through the SpiffWorks Service (including any SpiffWorks Materials or Third Party Data) is up-to-date, accurate, or complete, or that the SpiffWorks Service, the SpiffWorks Materials, or Third Party Data contains all of the relevant information available. We make no representations, warranties, or assurances as to the accuracy, currency, or completeness of the SpiffWorks Service or of any SpiffWorks Materials or Third Party Data, and we disclaim any and all responsibility or liability related thereto. Your use of, and reliance upon, any SpiffWorks Materials or Third Party Data is at your sole risk.

15.3. We will not be deemed in violation of this Agreement if we are delayed or prevented from performing any of our obligations under this Agreement by reason of any of the following (each, a “*Force Majeure Event*”): acts of God; fire, earthquake, tsunami, volcanic eruption, windstorm (including tornado or hurricane), solar flares, geomagnetic storms, or other natural disasters; epidemics, pandemics, or other outbreaks of disease; war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, or explosion; government order or law; actions, embargoes or blockades; action by any government authority; national, state, or local emergency; strikes, labor stoppages or slowdowns or other industrial disturbances; disruptions or shortages of adequate utility services or transportation facilities; Internet, telecommunications, or Third Party Cloud Service Provider slow-downs, disruptions, delays, defects, failures, or malfunctions; defects, failures, or malfunctions in any devices, equipment, software, or services owned or maintained by you or your Team Members, or by any third parties; any other events or circumstances which are not within our reasonable control. The provisions of this paragraph apply to any Force Majeure Event, whether in effect now or occurring at any time in the future, and regardless of whether such Force Majeure Event was known or was foreseeable.

15.4. TO THE FULLEST EXTENT PERMITTED BY LAW, WE HAVE NO LIABILITY OF ANY KIND TO YOU OR OTHERS AS A RESULT OF ANY LOSS, THEFT, DELETION, DESTRUCTION, ALTERATION, OR CORRUPTION OF, DAMAGE, UNAUTHORIZED ACCESS TO, OR FAILURE TO TRANSMIT, STORE, SAVE, BACKUP, EXPORT, DOWNLOAD, OR ENCRYPT ANY ACCOUNT INFORMATION, YOUR CONTENT, YOUR PROCESS MODELS, OR ANY DATA OR FILES STORED ON ANY DEVICE USED TO ACCESS THE SPIFFWORKS SERVICE OR STORED IN ANY EXTERNAL SERVICE OR ANY ACCOUNT CONNECTED TO YOUR SPIFFWORKS ACCOUNT.

15.5. YOUR USE OF THE SPIFFWORKS SERVICE, THE SPIFFWORKS MATERIALS, THIRD PARTY DATA, INTEGRATIONS, EXTERNAL SERVICES, AND ALL CONTENT AND INFORMATION THAT IS PROVIDED OR CAN BE ACCESSED USING THE SPIFFWORKS SERVICE IS AT YOUR OWN RISK AND ALL OF THE FOREGOING ARE PROVIDED “**AS IS**”, “**WITH ALL FAULTS**” AND “**AS AVAILABLE**”, AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED.

15.6. THE SPIFFWORKS PARTIES HEREBY DISCLAIM ALL WARRANTIES OF ANY KIND RELATING TO THE SPIFFWORKS SERVICE, THE SPIFFWORKS MATERIALS, THIRD PARTY DATA, INTEGRATIONS, EXTERNAL SERVICES, EXTERNAL SERVICE PROVIDERS, THIRD PARTY CLOUD SERVICE PROVIDERS, AND ALL CONTENT AND INFORMATION THAT IS PROVIDED OR CAN BE ACCESSED USING THE SPIFFWORKS SERVICE, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR PARTICULAR PURPOSE. NONE OF THE SPIFFWORKS PARTIES MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, COMPLETENESS, APPROPRIATENESS, LEGALITY, SAFETY, OR AVAILABILITY OF THE SPIFFWORKS SERVICE, THE SPIFFWORKS MATERIALS, THIRD PARTY DATA, INTEGRATIONS, EXTERNAL

SERVICES, EXTERNAL SERVICE PROVIDERS, OR ANY CONTENT OR INFORMATION THAT IS PROVIDED ON, OR WHICH CAN BE ACCESSED USING, THE SPIFFWORKS SERVICE. WITHOUT LIMITING THE FOREGOING, NONE OF THE SPIFFWORKS PARTIES REPRESENTS OR WARRANTS THAT THE SPIFFWORKS SERVICE, THE SPIFFWORKS MATERIALS, THIRD PARTY DATA, INTEGRATIONS, EXTERNAL SERVICES, EXTERNAL SERVICE PROVIDERS, OR ANY CONTENT OR INFORMATION THAT IS PROVIDED ON, OR WHICH CAN BE ACCESSED USING, THE SPIFFWORKS SERVICE WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT THE SPIFFWORKS SERVICE OR THE SERVERS THAT MAKE THEM AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE SPIFFWORKS SERVICE, THE SPIFFWORKS MATERIALS, SEARCH RESULTS, THIRD PARTY DATA, OR ANY CONTENT OR INFORMATION THAT IS PROVIDED, OR WHICH CAN BE ACCESSED USING, THE SPIFFWORKS SERVICE WILL OTHERWISE MEET ANY OF YOUR NEEDS OR EXPECTATIONS.

15.7. TO THE FULLEST EXTENT PERMITTED BY LAW, NONE OF THE SPIFFWORKS PARTIES WILL HAVE ANY LIABILITY FOR LOST PROFITS, LOST OPPORTUNITIES, REDUCTION IN PORTFOLIO VALUE, INCIDENTAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES SUFFERED BY YOU OR ANY OTHER PERSON ARISING OUT OF, RELATED TO, OR ASSOCIATED WITH (A) THE USE OF THE SPIFFWORKS SERVICE OR THE SPIFFWORKS MATERIALS, THIRD PARTY DATA, INTEGRATIONS, EXTERNAL SERVICES, OR EXTERNAL SERVICE PROVIDERS BY YOU OR ANY OTHER PERSON, OR (B) THE OPERATION OR MALFUNCTION OF THE SPIFFWORKS SERVICE, REGARDLESS OF WHETHER OR NOT THE SPIFFWORKS PARTIES (OR ANY OTHER PERSONS) HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

15.8. TO THE FULLEST EXTENT PERMITTED BY LAW, THE LIABILITY OF THE SPIFFWORKS PARTIES TO YOU OR ANY OTHER PERSON FOR ANY REASON AND UPON ANY CAUSE OF ACTION (WHETHER BASED IN TORT, CONTRACT, OR ON ANY LEGAL OR EQUITABLE GROUND OR THEORY OF RECOVERY) ARISING OUT OF OR RELATING TO YOUR USE OF THE SPIFFWORKS SERVICE, THE SPIFFWORKS MATERIALS, THIRD PARTY DATA, INTEGRATIONS, EXTERNAL SERVICES, EXTERNAL SERVICE PROVIDERS, AND/OR ANY OTHER SPIFFWORKS PRODUCTS OR SERVICES, WILL BE LIMITED TO THE LESSER OF YOUR ACTUAL DIRECT DAMAGES OR THE TOTAL FEES PAID BY YOU TO SPIFFWORKS PURSUANT TO THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING SUCH LIABILITY. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING, WITHOUT LIMITATION, TORT, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, NON-INFRINGEMENT, AND OTHER CAUSES OF ACTION OR ALLEGATIONS.

15.9. You and SpiffWorks acknowledge that the disclaimers and limitations of liability in this Section 15 represent the bargained for allocations of risk, and that the consideration received by SpiffWorks from you under this Agreement represents such allocations of risk. You acknowledge and agree: (a) that neither SpiffWorks nor any person or entity acting, or purporting

to act, on behalf of SpiffWorks has made any representations to you other than those representations expressly made by SpiffWorks in this Agreement, and (b) that in connection with your acceptance of this Agreement, you have not relied upon any representations made by SpiffWorks or any person or entity acting, or purporting to act, on behalf of SpiffWorks other than those representations and warranties expressly made by SpiffWorks in this Agreement.

15.10. SOME JURISDICTIONS EITHER DO NOT ALLOW OR OTHERWISE LIMIT THE PERMISSIBLE SCOPE OF DISCLAIMERS AND LIMITATIONS SUCH AS THOSE APPEARING IN THIS SECTION 15. ACCORDINGLY, SOME OF THE LIMITATIONS AND DISCLAIMERS APPEARING IN THIS SECTION MAY NOT APPLY TO YOU. THE PROVISIONS OF THIS SECTION 15 WILL CONTINUE TO APPLY EVEN IF YOU STOP USING THE SPIFFWORKS SERVICE AND WILL SURVIVE THE END OF THE SUBSCRIPTION PERIOD AND THE DELETION, CLOSURE, EXPIRATION, OR TERMINATION OF YOUR SPIFFWORKS ACCOUNT OR THIS AGREEMENT.

16. Governing Law and Interpretation. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Virginia and the applicable federal laws of the United States, without regards to the conflicts of law provisions of any jurisdiction. Without limiting the foregoing provision, the parties agree that the Virginia Uniform Computer Information Transactions Act, Virginia Code §§ 59.1-501.1 *et seq.* (“UCITA”), is expressly excluded from this Agreement and that any and all terms contained in UCITA will have no force and effect on any portion of this Agreement. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. If any ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by SpiffWorks and you, and no presumptions or burden of proof will arise favoring or disfavoring SpiffWorks or you by virtue of authorship of any of the provisions of this Agreement. We retain all rights at law and in equity to enforce the provisions of this Agreement in accordance with applicable laws.

17. Dispute Resolution – *PLEASE READ CAREFULLY: This Section 17 includes important provisions that affect your legal rights, including a waiver of the right to a jury, a limitation of the period of time for bringing a claim against us, a waiver of the right to participate in a class action or similar proceeding, and an agreement that any court proceedings will take place only in the City of Staunton, Virginia.*

17.1. Injunctive Relief. You acknowledge and agree that any violation of this Agreement may cause irreparable harm to the SpiffWorks Parties, for which monetary damages would not be an adequate remedy. Therefore, you agree that: (a) SpiffWorks will be entitled to immediate injunctive relief to enjoin any actual, suspected, threatened, or potential violation by you of this Agreement; (b) SpiffWorks will be entitled to such injunctive relief without any obligation (i) to post a bond or other security, or (ii) to prove actual damages or to prove that monetary damages will not provide an adequate remedy; and (c) you will not oppose or otherwise challenge the appropriateness of injunctive relief or the entry by a court of competent jurisdiction of an order granting injunctive relief.

17.2. Time Period for Bringing Claims. YOU MUST COMMENCE OR FILE ANY CLAIM OR ACTION ARISING OUT OF OR RELATING TO (A) THIS AGREEMENT, (B) THE SPIFFWORKS SERVICE, THE SPIFFWORKS MATERIALS, THIRD PARTY

DATA, INTEGRATIONS, EXTERNAL SERVICES, AND/OR EXTERNAL SERVICE PROVIDERS (OR THE USE OF ANY OF THE FOREGOING BY YOU OR ANY OTHER PERSON), (C) THE PERFORMANCE OR NON-PERFORMANCE BY SPIFFWORKS OF ANY OF OBLIGATIONS UNDER THIS AGREEMENT, OR (D) ACTUAL OR ALLEGED INFRINGEMENT BY ANY OF THE SPIFFWORKS PARTIES, THE SPIFFWORKS SERVICE, THE SPIFFWORKS MATERIALS, THIRD PARTY DATA, OR INTEGRATIONS OF ANY INTELLECTUAL PROPERTY RIGHTS, PRIVACY RIGHTS, OR OTHER RIGHTS WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CLAIM OR CAUSE OF ACTION IS PERMANENTLY BARRED. YOU EXPRESSLY WAIVE THE RIGHT TO COMMENCE OR FILE ANY SUCH CLAIM OR ACTION UNDER ANY LONGER STATUTE OF LIMITATIONS.

17.3. Service of Process. To the fullest extent permitted by law, if your Account Information does not contain your current and accurate physical address (or if we are unable, after reasonable efforts, to effect service of process on you at such physical address), you hereby irrevocably agree to accept service of process by any means of communication associated with your SpiffWorks Account or through any contact information in your Account Information, including without limitation, service by U.S. mail, e-mail, SMS, push notifications, or alerts displayed or sent to you through the SpiffWorks Service, and you waive any objections to service of process by such methods.

17.4. Venue. Any and all claims and disputes arising out of or relating to (a) this Agreement, (b) the SpiffWorks Service, the SpiffWorks Materials, Third Party Data, Integrations, and/or any other SpiffWorks products or services (or the use of any of the foregoing by you or any other person), (c) the performance or non-performance by you or SpiffWorks of any of obligations under this Agreement, or (d) actual or alleged infringement by you, any of the SpiffWorks Parties or Affiliates, the SpiffWorks Service, or the SpiffWorks Materials of any Intellectual Property Rights, will be commenced and maintained only in a state or federal court of competent subject matter jurisdiction situated or located in the City of Staunton, Virginia. YOU AND SPIFFWORKS BOTH CONSENT TO THE EXCLUSIVE PERSONAL JURISDICTION OF AND VENUE IN ANY SUCH COURT (AND IN ANY OF THE APPROPRIATE APPELLATE COURTS THEREFROM) AND IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION (INCLUDING WITHOUT LIMITATION ANY OBJECTION BASED ON INCONVENIENT FORUM) WHICH YOU OR SPIFFWORKS MAY NOW OR HEREAFTER HAVE TO VENUE IN ANY SUCH COURT.

17.5. Waiver of Jury Trial. YOU AND SPIFFWORKS IRREVOCABLY AND UNCONDITIONALLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT YOU OR SPIFFWORKS MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO (A) THIS AGREEMENT, (B) THE SPIFFWORKS SERVICE, THE SPIFFWORKS MATERIALS, THIRD PARTY DATA, INTEGRATIONS, AND/OR ANY OTHER SPIFFWORKS SERVICES (OR THE USE OF ANY OF THE FOREGOING BY YOU OR ANY OTHER PERSON), (C) THE PERFORMANCE OR NON-PERFORMANCE BY YOU OR SPIFFWORKS OF ANY OF OBLIGATIONS UNDER THIS AGREEMENT, OR (D) ACTUAL OR ALLEGED

INFRINGEMENT BY YOU, ANY OF THE SPIFFWORKS PARTIES OR AFFILIATES, THE SPIFFWORKS SERVICE, THE SPIFFWORKS MATERIALS, THIRD PARTY DATA, OR INTEGRATIONS OF ANY INTELLECTUAL PROPERTY RIGHTS, PRIVACY RIGHTS, OR OTHER RIGHTS. YOU CERTIFY AND ACKNOWLEDGE THAT: (1) NONE OF THE SPIFFWORKS PARTIES HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SPIFFWORKS WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION; (2) YOU HAVE CAREFULLY CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (3) YOU ARE MAKING THIS WAIVER KNOWINGLY AND VOLUNTARILY; AND (4) YOU HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS IN THIS SECTION.

17.6. Class Action Waiver and Right to Opt-out.

17.6.1. SPIFFWORKS AGREE THAT WE MAY BRING CLAIMS AGAINST YOU, AND YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST THE SPIFFWORKS PARTIES, ONLY IN YOUR OR OUR INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION. YOU AND WE EXPRESSLY WAIVE ANY RIGHT TO ASSERT ANY CLAIMS AGAINST YOU OR AGAINST ANY OF THE SPIFFWORKS PARTIES AS A REPRESENTATIVE OR MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION, EXCEPT WHERE SUCH WAIVER IS PROHIBITED BY LAW OR DEEMED BY A COURT OF LAW TO BE AGAINST PUBLIC POLICY. Unless both you and SpiffWorks agree, no judge or court may consolidate more than one person's claims or otherwise preside over any form of a representative or class proceeding. The judge or court may award injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim.

17.6.2. You have the right to opt-out of the above class action waiver provision by completing and submitting the Opt-out Notice form located at <https://spiff.works/legal/optout> within sixty (60) days after the date you first created a SpiffWorks Account. In order for the Opt-out Notice to be valid and effective, it must be completed in its entirety and submitted by you, and you understand and agree that you are responsible for retaining proof of completion and submission. If you exercise your option to opt out as provided in this paragraph, then Section 17.6.1 above will not apply and will not be considered a part of this Agreement.

17.6.3. If (a) you exercise your opt-out right pursuant to Section 17.6.2 above, or (b) you or we are permitted by law or by any court to proceed with a class or representative action against you or against any of the SpiffWorks Parties, then you and we agree that, notwithstanding any other provision in this Agreement, the prevailing party will not be entitled to recover attorneys' fees or costs associated with pursuing the class or representative action.

18. Acceptable Use Policy.

18.1. Excessive Resources. If your use of the SpiffWorks Service uses or requires substantially more bandwidth, RAM, storage resources, or API calls than the average SpiffWorks customer, we reserve the right, upon notice to you, to require you to pay additional usage fees, to

limit or throttle your access to the SpiffWorks Service and/or to suspend or close your SpiffWorks Account.

18.2. Safety and Rights of Others. You represent, warrant, and agree that you will not:

18.2.1. Transmit spam, junk mail, chain letters, pyramid schemes, or the like to or through the SpiffWorks Service;

18.2.2. Transmit to or through the SpiffWorks Service any other person's Third Party Personal Information except in compliance with all applicable Personal Data Protection Laws;

18.2.3. Transmit to or through the SpiffWorks Service any content that is obscene, defamatory, libelous, slanderous, threatening, harassing, abusive, embarrassing, hateful, or racially or ethnically offensive to any other person, or that is unlawful or encourages conduct that would be considered a criminal offense, give rise to civil liability, violate any law, violate any person's Privacy Rights, or is otherwise inappropriate;

18.2.4. Use Your Content or any information or materials processed through the SpiffWorks Services (a) to defame, libel, slander, threaten, harass, abuse, or embarrass any other person, or (b) in connection with any activity or conduct that would be considered a criminal offense, give rise to civil liability, violate any person's Privacy Rights, violate any law, or is otherwise inappropriate;

18.2.5. Use the SpiffWorks Service to impersonate any person; or

18.2.6. Upload, post, send, submit, transmit, process, or otherwise transfer to or through the SpiffWorks Service, whether directly or through Your Integrations, any content that infringes, misappropriates, or violates the Intellectual Property Rights.

18.3. No Disruptive Activities. We want all of our users to enjoy a high quality experience when using the SpiffWorks Service. You represent, warrant, and agree that you will not:

18.3.1. Process or send any content or materials to or through the SpiffWorks Service that do not comply with this Agreement;

18.3.2. Access or use the SpiffWorks Service using the SpiffWorks Account of another person;

18.3.3. Circumvent, compromise, or undermine the security or integrity of the SpiffWorks Service, or attempt to do so;

18.3.4. Probe, scan, or test the vulnerability of the SpiffWorks Service, or any systems, networks, servers, computers, devices, or equipment owned or controlled by any of the SpiffWorks Parties, any Data Providers, or our users;

18.3.5. Attempt to gain unauthorized access to, interfere with, damage, or disrupt any part of the SpiffWorks Service, or any server, network, computer, device, system, or database

owned or controlled by any of the SpiffWorks Parties (or any SpiffWorks user) or related to, associated with, or connected to the SpiffWorks Service;

18.3.6. Use any automated device, process, or means (such as scripts, robots, or spiders) that have not been designed or approved by us to access or use the SpiffWorks Service for any purpose, including monitoring or copying any SpiffWorks Materials;

18.3.7. Attack the SpiffWorks Service via a denial-of-service or distributed denial-of-service attack;

18.3.8. Use the SpiffWorks Service in any manner that we believe could disable, overburden, damage, impair, or interfere with the proper operation of the SpiffWorks Service;

18.3.9. Interfere with or disrupt the performance or integrity of the SpiffWorks Service or any data transmitted by or through the SpiffWorks Service;

18.3.10. Engage in any other conduct that, in our determination, restricts or inhibits anyone's use or enjoyment of the SpiffWorks Service or that may harm any of the SpiffWorks Parties or our users or expose the SpiffWorks Parties or our users to liability; or

18.3.11. Transmit any viruses, Trojan horses, worms, malware, or other material which is malicious or technologically harmful through the SpiffWorks Service.

19. Termination. You acknowledge and agree that we may, at any time, without any liability to you, discontinue (and stop providing and supporting) the SpiffWorks Service. We reserve the right, without any liability to you, to modify, suspend, disable, delete, close, or terminate your SpiffWorks Account or Your Content (in whole or in part) or any User Account, and to suspend or terminate your permission to access and use the SpiffWorks Service for violation of this Agreement, or for any other reason. If you wish to end your relationship with us, you may request the closure of your SpiffWorks Account at any time by contacting us at info@spiff.works. This Agreement and all rights and permission granted by SpiffWorks to you will automatically terminate upon the closure, deletion, or termination of your SpiffWorks Account. Any termination, cancellation, or expiration of this Agreement notwithstanding (and notwithstanding the closure, deletion, or termination of your SpiffWorks Account or your stopping using the SpiffWorks Service), Sections 7.4, 7.5, 10, 11, 12, 14, 15, 16, 17, and 18, and any other provisions which are by their terms intended to survive and continue will so survive and continue.

20. Miscellaneous.

20.1. Relationship Between You and SpiffWorks; No Third-Party Beneficiaries. Nothing in this Agreement will be construed as creating any partnership, joint venture, franchise, employment relationship, or agency relationship in any way between you and any of the SpiffWorks Parties. You will not have apparent or actual authority to bind any of the SpiffWorks Parties to any debt, contract, or other arrangement. Nothing in this Agreement is intended, nor will be deemed, to confer any rights or remedies upon any person other than the SpiffWorks Parties and you.

20.2. Further Assurances. You agree to execute, acknowledge, and deliver all such further documents, and take such further action, as may be reasonably required to carry out and consummate the transactions contemplated by this Agreement.

20.3. Non-Waiver; Severability. The failure of you or SpiffWorks to exercise or enforce any right or provision of this Agreement will not operate as a waiver of your or our right to do so later. If any provision of this Agreement is finally determined to be void, unenforceable, invalid, or otherwise contrary to law or equity, you and SpiffWorks agree to reform (or as necessary, authorize the arbitrator(s) or court to reform) this Agreement to the extent necessary to cure (or if necessary, delete) such provision, and that the remainder of this Agreement that can be given effect without the benefit of such provision will be given effect.

20.4. No Assignment. This Agreement is personal to you. Neither this Agreement nor any of your rights or obligations may be sold, transferred, delegated, or assigned by you without our prior written consent, and any attempt to do so without such consent will be void, and no rights will devolve by operation of law or otherwise upon any assignee, receiver, liquidator, trustee, or other person. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties and their respective successors, assigns, and legal representatives.

20.5. Headings. The descriptive headings in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

20.6. Entire Agreement. This Agreement contain the entire agreement and understanding between you and us with respect to the transactions contemplated hereby, and this Agreement supersedes and replaces any other prior or contemporaneous agreements, terms, or conditions applicable to the subject matter of this Agreement.

21. Contacting Us. If you have any questions about this Agreement (including our Privacy Policy), the SpiffWorks Service, or your SpiffWorks Account, you may contact us by email at info@spiff.works.