BeyondCore for Office Click-through License Terms and Conditions

Customer and BeyondCore hereby agree as follows:

1. **Scope.** These Terms and Conditions shall govern Customer's use of BeyondCore's business intelligence and advanced analytics services accessible through the BeyondCore for Office (the "Services") and identified in the applicable online order form ("Order"). These Terms and Conditions and all Orders (collectively referred to as the "Agreement") represent the parties' entire understanding regarding the Services and supersede all proposals, understandings or communications between the parties, oral or written, regarding its subject matter, unless Customer and BeyondCore have executed a separate agreement governing use of the Services.

2. **Right to Use the Services.**

▪ 2.1   The Services are provided by BeyondCore on a hosted basis from a data center facility to which Users (defined below) have remote access via the Internet. Each Order defines specific usage rights ("Usage Rights"), and Customer shall at all times ensure that its use does not exceed its Usage Rights.

▪ 2.2 During the Subscription Term set forth in an Order, BeyondCore grants to Customer a nontransferable, nonexclusive, worldwide right to permit those individuals authorized by Customer or on Customer's behalf, and who are Customer's employees, agents or contractors ("Users"), to access and use the Services subject to the terms of the Agreement. Customer is responsible for the security of each authorized User's credentials and will not share (and will instruct each authorized User not to share) such credentials with any other person or entity or otherwise permit any other person or entity to access or use the Services.

▪ 2.3 Customer shall be solely responsible for obtaining and maintaining appropriate equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, computers, computer operating system and web browser (collectively, "Equipment"). Customer shall ensure that Equipment complies with all configurations and specifications set forth in BeyondCore's published documentation.

▪ 2.4 Customer may access and use the Services solely through the BeyondCore for Office and solely for Customer's internal business purposes and solely by no more than the number of authorized Users and for the maximum number of rows and columns of data per analysis specified in Exhibit A hereto (or as otherwise specified in the applicable Order).

3. **Usage Restrictions and Representations.**

▪ 3.1 Customer shall not, directly or indirectly: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Services or any software, documentation or data related to or provided with the Services ("Software"); (ii) modify, translate, or create derivative works based on the Services or Software; or copy (except for archival purposes), rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to the Services or Software; (iii) use or access the Services to build or support, and/or assist a third party in building or supporting, products or services competitive to BeyondCore; or (iv) remove any proprietary notices or labels from the Services or Software. Customer shall use the Services and Software only for its own internal business operations, and not for the operation of a service bureau or timesharing service.

- 3.2 Customer shall not knowingly or willfully use the Services in any manner that could damage, disable, overburden, impair or otherwise interfere with BeyondCore's provision of the Services. Customer shall be responsible for maintaining the security of the Equipment and Customer's account access passwords. Customer and BeyondCore agree to make every reasonable effort to prevent unauthorized third parties from accessing the Services. Customer shall be liable for all acts and omissions of its Users.

- 3.3 Customer represents and warrants that Customer will use the Services only in compliance with all applicable laws and regulations.

- 3.4 BeyondCore may immediately suspend Customer's password, account, and access to the Services if (i) Customer fails to make payment due within ten business days after BeyondCore has provided Customer with notice of such failure; or (ii) Customer violates Section 2, 3, or 9 of these Terms and Conditions. Any suspension by BeyondCore of the Services under the preceding sentence shall not relieve Customer of its payment obligations under the Agreement.

- 3.5 BeyondCore will follow its standard archival procedures for Customer Data. In the event of any loss or corruption of Customer Data, BeyondCore will use its commercially reasonable efforts to restore the lost or corrupted Customer Data from the latest backup of such Customer Data maintained by BeyondCore. BeyondCore will not be responsible for any loss, destruction, alteration, unauthorized disclosure or corruption of Customer Data caused by any third party. BeyondCore's efforts to restore lost or corrupted customer data pursuant to this section 3.5 will constitute BeyondCore's sole liability and Customer's sole and exclusive remedy in the event of any loss or corruption of Customer Data in connection with the Services.

4. **Ownership.**

- 4.1 BeyondCore owns or has rights to all intellectual property rights in and to the Services and Software (including all derivatives or improvements thereof). All suggestions, enhancements requests, feedback, recommendations or other input provided by Customer or any other party relating to the Services or Software shall be owned by BeyondCore, and Customer hereby does and shall make all assignments and take all reasonable acts necessary to accomplish the foregoing ownership. Any rights not expressly granted herein are reserved by BeyondCore.

- 4.2 Customer owns any data, information or material originated by Customer that Customer submits, collects or provides in the course of using the Services ("Customer Data"). BeyondCore has no ownership rights in or to Customer Data. Customer shall be solely responsible for the accuracy, quality, content and legality of Customer Data, the means by which Customer Data is acquired and the transfer of Customer Data outside of the BeyondCore Services. Customer Data shall be deemed to be Customer Confidential Information pursuant to Section 9 below. Customer hereby grants to BeyondCore a non-exclusive license to use the Customer Data as is necessary to provide the Services hereunder.

5. **Billing and Payment.**

- 5.1 Customer shall pay all fees set forth in an Order. All fees are non-cancelable and nonrefundable, except as expressly specified in Section 7.2. All fees are exclusive of taxes, levies, or duties imposed by taxing authorities, and Customer shall be responsible for payment of all such taxes, levies, or duties (excluding taxes based on BeyondCore's income), even if such amounts are not listed on an Order. Customer shall pay all fees in U.S. Dollars or in such other currency as agreed to in writing by the parties.

- 5.2 All fees set forth in an Order are due and payable as specified in the Order. Unpaid fees that are not the subject of a written good faith dispute are subject to a finance charge of 1.5% per month on any

outstanding balance, or the maximum permitted by law, whichever is lower, plus all reasonable expenses of collection.

▪ 5.3 If at any time BeyondCore determines that Customer is exceeding the Usage Rights, BeyondCore shall notify Customer and Customer shall bring its usage within the limits of such Usage Rights. If Customer fails to do so within 30 days of receipt of BeyondCore's notice, BeyondCore reserves the right to charge and Customer agrees to pay BeyondCore's then-current usage fees for such overage.

6. **Term and Termination.**

▪ 6.1 The Agreement shall commence as of the date set forth in the first Order and, unless earlier terminated as set forth below, shall remain in effect through the end of the Subscription Term in any current Order. All sections of the Agreement which by their nature should survive termination will survive, including without limitation, accrued rights to payment, use restrictions and indemnity obligations, confidentiality obligations, warranty disclaimers, and limitations of liability.

▪ 6.2 In the event of a material breach by either party, the non-breaching party shall have the right to terminate the applicable Order for cause if such breach has not been cured within 30 days of written notice from the non-breaching party specifying the breach in detail. If BeyondCore terminates an Order for Customer's material breach, all fees set forth on such Order are immediately due and payable.

▪ 6.3 Upon any termination or expiration of an Order, Customer's right to access and use the Services covered by that Order shall terminate. Notwithstanding the foregoing, at Customer's request if received within 30 days of termination of the Order, BeyondCore will permit Customer to access the Services solely to the extent necessary for Customer to retrieve a file of Customer Data then in BeyondCore's possession. Customer acknowledges and agrees that BeyondCore has no obligation to retain Customer Data and that BeyondCore will irretrievably delete and destroy Customer Data after 30 days following the termination of the Agreement.

7. **Representations, Disclaimer of Warranties, Indemnities.**

▪ 7.1 Each party represents and warrants to the other party that it has the power and authority to enter into the Agreement. BeyondCore warrants to Customer that it will use commercially reasonable efforts to (a) perform the Services substantially in accordance with its documentation under normal use; and (b) provide the Services in a manner consistent with generally accepted industry standards. Customer must notify BeyondCore of any warranty deficiencies within 30 days from performance of the relevant Services in order to receive warranty remedies.

▪ 7.2 For breach of the express warranty set forth above, Customer's exclusive remedy shall be the re-performance of the deficient Services. If BeyondCore cannot re-perform such deficient Services as warranted, Customer shall be entitled to recover a pro-rata portion of the fees paid to BeyondCore for such deficient Services, and such refund shall be BeyondCore's entire liability.

▪ 7.3 The Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, or because of other causes beyond BeyondCore's reasonable control, but BeyondCore shall use commercially reasonable efforts to provide advance notice in writing or by e-mail of any scheduled unavailability of the Services.

▪ 7.4 BeyondCore shall defend, indemnify and hold Customer harmless from and against any loss, damage or costs (including reasonable attorneys' fees) awarded against Customer in a final non-appealable judgment or that are agreed to in settlement, to the extent based on claims, demands, suits, or proceedings ("Claims") made or brought against Customer by a third party alleging that the use of the Services as contemplated hereunder infringes the intellectual property rights of a third party; provided, that Customer

27265/00100/DOCS/3494929.3

(a) promptly gives written notice of the Claim to BeyondCore; (b) gives BeyondCore sole control of the defense and settlement of the Claim (provided that BeyondCore may not settle or defend any Claim unless it unconditionally releases Customer of all liability); and (c) provides to BeyondCore, at BeyondCore's cost, all reasonable assistance. Customer shall defend, indemnify and hold BeyondCore harmless from and against any loss, damage or costs (including reasonable attorneys' fees) awarded against BeyondCore in a final non-appealable judgment or that are agreed to in settlement, to the extent based on Claims made or brought against BeyondCore by a third party alleging that Customer Data, or Customer's use of the Services in violation of the Agreement, infringes the intellectual property rights of, or has otherwise harmed, a third party or violates any law or regulation; provided, that BeyondCore (a) promptly gives written notice of the Claim to Customer; (b) gives Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle or defend any Claim unless it unconditionally releases BeyondCore of all liability); and (c) provides to Customer, at Customer's cost, all reasonable assistance.

- 7.5 Except for the express warranties set forth herein, BeyondCore and its third party providers hereby disclaim all express or implied warranties with regard to the Services, including but not limited to any implied warranties of merchantability, fitness for a particular purpose, title, non-infringement and quality. BeyondCore and its third party providers make no representations or warranties regarding the reliability, availability, timeliness, suitability, accuracy or completeness of the Services or the results Customer may obtain by using the Services. Without limiting the generality of the foregoing, BeyondCore and its third party providers do not represent or warrant that (a) the operation or use of the Services will be timely, uninterrupted or error-free; or (b) the quality of the, Services will meet Customer's requirements. Customer acknowledges that neither BeyondCore nor its third party providers controls the transfer of data over communications facilities, including the internet, and that the Services may be subject to limitations, delays, and other problems inherent in the use of such communications facilities. BeyondCore is not responsible for any delays, delivery failures, or other damage resulting from such problems. Except where expressly provided otherwise by BeyondCore, the Services are provided to Customer on an "as is" basis.

8. **Limitation of Liability.** Except for a breach of a party's confidentiality obligations under Section 9 herein, neither party shall be liable under any contract, negligence, strict liability or other theory, for any indirect, exemplary, incidental, special, punitive or consequential damages (including loss of data, business or profits) arising out of or in connection with this Agreement or the use, operation or performance of the Services, whether or not either party has been advised of the possibility of such loss or damage. Neither party shall be liable under any contract, negligence, strict liability or other theory, for any amounts that, together with amounts associated with all other claims, exceed the lesser of $500,000 or the fees paid by Customer in the preceding 12 months.

9. **Confidential Information.** Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose information relating to the Disclosing Party's business (hereinafter referred to as "Confidential Information" of the Disclosing Party). Confidential Information of Customer includes, without limitation, Customer Data, information related to Customer's login identifiers and credentials for Accounts and the nature and performance of Customer's marketing programs. Confidential Information of BeyondCore includes, without limitation, the Services. The terms of this Agreement constitute Confidential Information of both parties. The Receiving Party agrees: (i) to take reasonable precautions to protect such Confidential Information; and (ii) not to use (except as

27265/00100/DOCS/3494929.3

expressly permitted in Section 10 below) or divulge to any third person any such Confidential Information. The Disclosing Party agrees that the foregoing shall not apply with respect to Confidential Information after five years following the termination of the Agreement or any Confidential Information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it by a third party; or (d) was independently developed without use of any Confidential Information of the Disclosing Party. The disclosure restrictions of this Section 9 will not restrict either party from disclosing Confidential Information pursuant to the order or requirement of a court, administrative agency, or other governmental body; provided that the party required to make such a disclosure gives reasonable notice to the other party to enable it to contest such order or requirement or limit the scope of such request. The party responding to such an order or requirement will only disclose that information that is expressly required. Customer Data will be destroyed as set forth in Section 6.3, and, upon Customer's request, BeyondCore shall certify to such destruction in writing.

10. **Statistical Information.** Notwithstanding anything else in the Agreement or otherwise, BeyondCore may monitor Customer's use of the Services and use Customer Data in an aggregate and anonymous manner, compile statistical and performance information related to the provision and operation of the Services, and may make such information publicly available, provided that such information does not incorporate Customer Data and/or identify Customer's Confidential Information. BeyondCore retains all intellectual property rights in such information.

11. **Notices.** BeyondCore may give notice applicable to BeyondCore's general Services customer base by means of a general notice on the Services portal, and notices specific to Customer by electronic mail to Customer's e-mail address on record in BeyondCore's account information or by written communication sent by first class mail or pre-paid post to Customer's address on record in BeyondCore's account information. If Customer has a dispute with BeyondCore, wishes to provide a notice under the Agreement, or becomes subject to insolvency or other similar legal proceedings, Customer shall promptly send written notice to BeyondCore at 777 Mariners Island Blvd. Suite 500, San Mateo, California 94404.

12. **Force Majeure.** Neither party shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); or other event outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 20 days, either party may cancel unperformed Services upon written notice. This section does not excuse either party of its obligations to take reasonable steps to follow its normal disaster recovery procedures or Customer's obligation to pay for the Services provided.

13. **Professional Services**. Customer may from time to time request, in an Order, that BeyondCore provide professional services to Customer. The details of such professional services will be specified in such Order. All such professional services will be subject to the terms and conditions contained in a separate services agreement, to be entered into by BeyondCore and Customer.

14. **General provisions.**

▪ 14.1 Any action, Claim, or dispute related to the Agreement will be governed by California law, excluding its conflicts of law provisions, and controlling U.S. federal law. The Uniform Computer

Information Transactions Act will not apply to the Agreement. In any action or proceeding to enforce rights under the Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. The failure of either party to enforce any right or provision in the Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by such party in writing. Except for actions for nonpayment or breach of either party's proprietary rights, no action, regardless of form, arising out of or relating to the Agreement may be brought by either party more than two years after the cause of action has accrued.

- 14.2 The Agreement and all Order(s), represent the parties' entire understanding relating to the Services, and supersede any prior or contemporaneous, conflicting or additional communications. BeyondCore may need to amend and update these Terms and Conditions from time to time and when BeyondCore does so, BeyondCore will communicate such amendments or updates to Customer so that Customer can review and agree to the amendments and updates. If Customer does not agree to such amendments and updates, Customer will not be able to continue to use the Services.. If any provision of the Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect.

- 14.3 No joint venture, partnership, employment, or agency relationship exists between BeyondCore and Customer as a result of the Agreement or use of the Services. Neither party may assign the Agreement without the prior written approval of the other, such approval not to be unreasonably withheld or delayed, provided that such approval shall not be required in connection with a merger or acquisition of all or substantially all of the assets of the assigning company. Any purported assignment in violation of this Section shall be void.

Exhibit A
Authorized Users, Analyses, Rows/Columns of Data

Subscription License on Cloud via BeyondCore for Office

Max # of report creators	1
Max # of report viewers	1
Max # of variables / columns per analysis	10
Max # of rows of data per analysis	100,000

Only a limited set of BeyondCore features are available through the BeyondCore Apps for Office. Specifically: Diagnostic, Predictive, and Prescriptive Analyses as well as Monitoring features are not available through the BeyondCore for Office.