**BAKER HOSTETLER LLP**
Seanna Brown
Torello H. Calvani
45 Rockefeller Plaza
New York, NY 10111
(212) 589-4200

*Counsel to Springshot, Inc.*

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| In re:<br><br>SPIRIT AVIATION HOLDINGS, INC., et al.,<br><br>Debtors.[1] | Chapter 11<br><br>Case No. 25-11897 (SHL)<br><br>Jointly Administered |

**LIMITED OBJECTION OF SPRINGSHOT, INC.**
**TO THE PROPOSED SALE OF THE DISIDENTIFIED DATA**

Springshot, Inc. hereby submits this limited objection and reservation of rights to the approval of the sale of Disidentified Data described in the *Notie of Auction Results and Scheduled Hearing for the Disidentified Data* [ECF No. 1463] and respectfully states as follows:

## PRELIMINARY STATEMENT

Springshot submits this limited objection to the proposed sale to ensure that the Court considers third-party intellectual property rights implicated by the contemplated transaction between the Debtors and Google LLC, and specifically Springshot's ownership of substantial intellectual property utilized by Spirit Aviation for its operations and which appear to be among the categories of data Google is seeking to acquire. To be clear this is a narrow objection:

[1] The Debtors' names and last four digits of their respective employer identification numbers are as follows: Spirit Aviation Holdings, Inc. (1797); Spirit Airlines, LLC (7023); Spirit Finance Cayman 1 Ltd. (7020); Spirit Finance Cayman 2 Ltd. (7362); Spirit IP Cayman Ltd. (4732); and Spirit Loyalty Cayman Ltd. (4752). The Debtors' mailing address is 1731 Radiant Drive, Dania Beach, FL 33004.

Springshot does not seek to scuttle any sale of valuable estate property actually owned by the Debtors or interfere with the liquidation of their assets. Springshot only requests a transparent process and assurances that the operational data to be sold is property of the estate and not intellectual property owned by third parties, such as Springshot, that the Debtors possess (but do not own) by virtue of their vendor relationships.

The contemplated transaction between the Debtors and Google appears to include the sale of intellectual property owned by Springshot under a Master Software as a Service Agreement with Spirit Airlines, Inc., dated April 1, 2022 (the "SaaS Agreement"). Under the SaaS Agreement, Springshot developed and implemented a unique orchestration platform for Spirit that generated, consumed, analyzed and synthesized scores of sources of operational data and organized that information into proprietary formats from which operational decisions could be made in real-time by Spirit through both human and artificial intelligence. The SaaS Agreement provides that Springshot "own[s] all right, title and interest, including all intellectual property rights, in and to the Software, Service, *any data or information generated by the Service or Software*, and any suggestions, ideas, enhancement requests, feedback, or recommendations provided by Customer or any other party relating to the Service or Software."[2] That data is central to Springshot's market leading platform for bringing real-time AI operational optimization to the airline industry. Nevertheless, the sale agreement between Debtors and Google [ECF No. 1463, Ex. A] (the "Sale Agreement") appears to include broad categories of operations and logistics data that includes the intellectual property Springshot owns under the SaaS Agreement, and the Debtors therefore lack the capacity to sell.

[2] SaaS Agreement, ¶ 10 (emphasis added), which is attached (without exhibits) as Exhibit A.

To protect Springshot from irreparable harm, a Court-approved process that ensures that the contemplated transaction does not include, inadvertently or otherwise, Springshot's intellectual property is essential. Should the sale proceed without such safeguards, and should Google obtain Springshot's intellectual property and ingest that data, Springshot would forfeit the value of its technology it has spent fifteen years developing. That existential threat is only amplified by the fact that Google has recently announced its desire to operationalize its own AI platform for airline operations, placing it in direct competition with Springshot.[3] If the sale is approved without safeguards to prevent Google's acquisition of Springshot's intellectual property—whether intentional or inadvertently—the competitive and economic injury to Springshot cannot be undone.

Accordingly, Springshot respectfully requests that the Court decline to approve the contemplated transaction unless Springshot's property is expressly excluded from the sale.

## BACKGROUND

For fifteen years, Springshot has worked with global airlines such as Spirit to improve aviation operations through the development, evolution and implementation of its unique digital platform. Springshot connects operational intelligence with human and autonomous resources to orchestrate airline operations across 475+ airports worldwide. Its proprietary platform digitally connects frontline workers, autonomous machines, previously disconnected systems and real-time operational signals; analyzes and synthesizes the data from those inputs into a continuously updated operational state; and then implements executable, verifiable decisions while also generating the high-fidelity data needed to train reliable operational AI. That intellectual property

[3] Just last week, Ryanair announced a five-year partnership with Google that would employ Google's AI tools and models to help make operational decisions, which is precisely the function Springshot served for Spirit. *See* https://corporate.ryanair.com/news/ryanair-google-cloud-announce-five-year-data-and-ai-partnership/ (last visited 8.20.2026).

appears to fall squarely into the categories of information that the Sales Agreement describes will be sold, but it is owned by Springshot—not Spirit

### A. Under The 2022 SaaS Agreement between Springshot and Spirit, Springshot Owns the Data and Output Generated by Springshot's Software and Service

Under the SaaS Agreement, Springshot provided Spirit with a non-transferable and limited right to use its software and services for an execution platform that transformed multiple sources of operational data into structured, granular flight-specific data records providing real-time visibility into virtually every component of flight operations in a format that enables immediate operational feedback and analysis. Essentially, from the multiple source operational data inputs, Springshot created a digital execution history of the turn operation for each of the hundreds of Spirit aircraft in circulation at any given moment in a proprietary format that enables both human and AI decisions to improve efficiency and solve, in real-time, logistics problems that can—in an industry where timing is the most important performance criteria—cripple operations through ripple effects.

Springshot's intellectual property shared with Spirit as part of the fulfillment of the SaaS Agreement almost certainly exists in multiple data repositories in Spirit's possession and control and must be segregated from any data owned by Spirit that is contemplated as part of the Google transaction. Springshot's ownership of that intellectual property is described in Section 10 of the SaaS Agreement, which provides that Springshot "will own all right, title, and interest," including intellectual property rights in the Springshot Software and Service and in "any data or information generated by the Service or Software." Because that data owned by Springshot is likely commingled with much of Spirit's own operational data (like its employees' emails, chat histories, etc.), to ensure Springshot's intellectual property is not among the data acquired by Google (or any

other potential buyer) a forensic process is necessary to first identify, and then segregate, Springshot's intellectual property from that actually owned by Spirit,

**B. The Proposed Sale Agreement Appears to Sell Springshot's Data to Google**

As drafted in the agreement submitted to the Court, the "Assets" to be sold under Sale Agreement appear to encompass Springshot's intellectual property. *See* Section 1(a). Exhibit A to the Sale Agreement broadly defines the Assets as:

> All data consisting of (i) productivity and collaboration data (including, without limitation, email data, calendar data, char, collaboration and messaging data, documents, presentations, spreadsheets, knowledge repositories, and wikis); (ii) *core business systems and business application data* (including, without limitation, employee behavior and productivity data, revenue and yield management (inventory) data and aircraft operations and logistics; (iii) *workflow and process data* (including, without limitation, marketing data … , support, HR and legacy operations data, strategy and operations and project management data … .

(emphasis added.) This expansive definition does nothing to differentiate between Springshot's intellectual property that exists within Spirit's data repositories and systems, but Spirit does not own, and Spirit data that it actually owns and has the capacity to sell.

We note that the Sale Agreement does include certain protections for consumer's personal data and the Debtors' privileged materials. *See* Section 1(a)(i) & (b)(i). (For example, the Sale Agreement proposes a "Deidentification Agent" to safeguard a consumer's personal identifying information. Section 1(a)(ii).) But these protections are limited to consumers' personal data and the Debtors' privileged materials—there are no similar protections for third parties' intellectual property rights swept into the broad definition of Assets, so these limited protections are no prophylactic for the misappropriation of intellectual property owned by Springshot and other 3rd party vendors of Spirit that will occur if the Sale Agreement is approved as drafted.

Similarly, the Sale Agreement also requires that the Debtors affirmatively covenant that "no portion of the Assets has been deleted, modified or removed" other than through the

deidentification of personal data, ordinary-course changes, and "de minimis" removals to preserve the Debtors' privileged materials. Section 3(e). Finally, the Sale Agreement provides that Google may subsequently transfer the Assets to third parties, provided that personal data remains protected under any future transfers. Section 1(c). Here, again, if the data Springshot generated and owns under the SaaS Agreement is included in the contemplated transaction, the Debtors have preserved that data for sale to Google and potential resale by Google in the future to the irreparable harm of Springshot and without consideration.

## ARGUMENT

A threshold determination in any sale of estate property under Section 363 of the Bankruptcy Code is whether the property sought to be sold is, in fact, property of the estate. *In re Moche*, 677 B.R. 592, 603 (Bankr. S.D.N.Y. 2026) (noting threshold question of whether debtor has interest in property in first place). Courts consistently hold that a debtor may not use, sell, or otherwise dispose of property that is not property of the estate. *Id.* at 603–04 (citing *In re Shao Ke*, No. 09-32272, 2012 WL 2974754, at *2 (Bankr. N.D.N.Y. July 20, 2012); *In re Genger*, No. 19-13895 (JLG), 2024 WL 4438857, at *16 (Bankr. S.D.N.Y. Oct. 5, 2024) (holding trustee or debtor-in-possession "may only sell what belongs to the bankruptcy estate"). *A fortiori*, then, a court should not "approve a sale where there is a dispute over whether the estate owns the property to be sold." *In re Woldeyohannes*, 665 B.R. 542, 567 (2024) (citing 3 COLLIER ON BANKRUPTCY ¶ 363.02).

Operational data, and Springshot's proprietary organization, reporting and analysis of that data in particular, is extraordinarily valuable for AI development in the airline industry. Of the dataset described in the Sale Agreement, Springshot's data may be among the most AI-relevant assets to be purchased. To be sure, Spirit possesses enormous quantities of conventional enterprise

data, such as emails and financial records. But Springshot's dataset is different. It represents a structured digital record and analysis of physical work being performed in real time to turn every operating aircraft in the fleet, including contemporaneous identification of breakdowns in process and performance at a granular task-level. That type of ephemeral information is impossible to obtain independently or from public sources. Springshot's platform creates a proprietary operational data corpus that is exceedingly valuable as AI systems move from understanding language and documents toward understanding, predicting, and directing real-world work. The value of that Springshot-created data belongs to it, not Spirit, as the terms and consideration in the SaaS Agreement makes clear.

Importantly, the deidentification of personal data does not preserve the value of Springshot's ownership of its data, or protect Springshot from the misappropriation of that value, if the data is sold to Google. The Sale Agreement requires that deidentification will "preserve referential integrity across the data set." Section 3(c). The principal value of Springshot's data does not depend on knowing the personal identity of airline employees who completed their assigned tasks. Its value resides in the aggregated operational sequencing for modeling purposes, and the proprietary organization and analysis of that data that is output by Springshot's platform.

The Sale Agreement here certainly appears to include Springshot's data, a conclusion that is bolstered by Google's statement regarding the transaction. A spokesperson for Google said on August 17, "We acquired part of an enterprise dataset from Spirit Airlines, which can be helpful in improving our products and AI models."[4] In other words, Google wants the very dataset created by Springshot on its platform to compete in the very same service market that Springshot created,

[4] *Google to Pay $10M for Spirit Airlines Data to Help AI Models*, by Alex Wittenberg, (August 17, 2026, 8:50 pm EDT). https://www.law360.com/articles/2514341

has invested heavily in, and has carefully protected from such usurpation through clear protection of its intellectual property in the SaaS Agreement.[5]

In summary, the opaqueness of this transaction and the lack of safeguards for the rights of third parties like Springshot requires that the Court pump the brakes on this sale. At best, the Sale Agreement is unclear as to whether Springshot's data is part of the contemplated sale; at worst, it authorizes the sale of Springshot's valuable property that Spirit does not own. Springshot respectfully submits that, before any sale of Spirit operations data is authorized, the Court must require the parties to deploy sufficient safeguards to ensure Springshot's valuable property is not sold to a competitor as part of Spirit's bankruptcy without its consent and without consideration. If there is any chance that the broadly defined Assets under the Sale Agreement include Springshot's owned and generated data, the sale should be conditioned on excluding Springshot's intellectual property.

Springshot therefore respectfully requests that the Court decline to approve the transaction unless and until the order approving the sale expressly and unequivocally provides that, notwithstanding the language in the proposed Sale Agreement, Springshot's intellectual property (i) is not property of the Debtors' estate, (ii) is excluded from the Assets to be sold to Google under the Sale Agreement, and (iii) will not otherwise be transferred or used in a manner inconsistent with the SaaS Agreement.

[5] Google should be acutely sensitive to Springshot's concerns. Specifically, in *Waymo LLC v. Uber Technologies, Inc*., Google's Waymo autonomous-driving affiliate sought relief against a prospective competitor for "acquiring trade secrets with knowledge of or reason to know that the trade secrets were acquired by improper means." Compliant, No. 17-cv-00939-WHA (N.D. Cal. Feb. 23, 2017), ECF No. 1. Similarly, Springshot seeks to prevent the unauthorized acquisition and use of its trade secrets here.

## RESERVATION OF RIGHTS

Springshot reserves all rights, including the right to supplement or amend this objection, to conduct discovery, to be heard at the hearing, and to object to the form of any proposed sale order.

## CONCLUSION

For the foregoing reasons, the proposed sale should be denied if Springshot's assets are part of the sale.

Dated: August 21, 2026
New York, New York

By: */s/ Torello H. Calvani*

**BAKER & HOSTETLER LLP**
Torello H. Calvani
Seanna Brown
45 Rockefeller Plaza
New York, New York 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
Email: tcalvani@bakerlaw.com
Email: sbrown@bakerlaw.com

*Counsel to Springshot, Inc.*

# EXHIBIT

# A

DocuSign Envelope ID: 1D86C9E3-A4C7-4EAB-BBAB-82951A915618

# Springshot
# Software as a Service Agreement

Organization Name: Spirit Airlines

THIS MASTER SOFTWARE AS A SERVICE AGREEMENT, together with all exhibits and attachments hereto, each of which is incorporated by reference (collectively, this "Agreement"), made as of April 1, 2022 (the "Effective Date") by and between Springshot, Inc. ("Springshot"), a California corporation, having a principal place of business at 604 Mission Street, Ninth Floor, San Francisco, CA 94105 and Spirit Airlines, Inc. ("Customer"), a Delaware corporation, having a principal place of business at 2800 Executive Way Miramar FL 33025, sets forth the terms and conditions of a Springshot Software as a Service (SaaS) subscription.

## 1. Definitions

"*Active User*" means a named end-user of the Software that has current login privileges (*i.e.*, an active identification number and associated password). An Active User account (seat) cannot be shared or used by more than one individual Active User.

"*Concurrent Active User Seats*" means the maximum number of Active Users allowed to login to the Service at any given time.

"*Enabled Applications*" means those functions, features, tools and applications of the Service that are activated for Customer by Springshot, as set forth on Exhibit A hereto (or as otherwise agreed in writing between the parties).

"*Enabled Smartphones*" means those smartphones that Customer acquires from Springshot for the purpose of granting Active Users with access to the Software and Service.

"*EULA*" means the end user license agreement each user of the Software and Service is required to accept when downloading or installing the Software.

"*Inactive User*" means a named end-user of the Software that does not have current login privileges through Customer or who has terminated employment or otherwise changed job status or function and no longer uses the Software and Service through Customer.

"*Service*" means the Springshot enterprise resource platform service as made available by Springshot to Customer.

"*Software*" means the Springshot software program (in object code form) provided to Customer hereunder that is designed to be installed and used on mobile devices or accessible and used via internet interface in order to access and use the Service and as described in further detail in Exhibit B.

"*Usage Data*" means any and all data, information, content and other materials stored, transmitted, generated or collected by or for Customer through, or in connection with Customer's (or its Users') use of, the Service

"*Users*" means Active Users and Inactive Users.

## 2. Number of Concurrent Active User Seats and Enabled Smartphones

**2.1** During the Initial Term and any Renewal Term, Customer must acquire a number of Concurrent Active User Seats that is equivalent to or higher than the minimum number of Concurrent Active User Seats designated for such period. The number of minimum Concurrent Active User Seats for the Initial Term is set forth in Exhibit A. The minimum number of Concurrent Active User Seats for each Renewal Term will be mutually agreed by the parties prior the beginning of each respective Renewal Term (absent such agreement prior to a particular Renewal Period, the number of Concurrent Active User Seats will remain unchanged from the immediately preceding period). At any time during the Term, additional Concurrent Active User Seats shall be added by Springshot when requested by an authorized representative of Customer in writing.

## 3. Access to the Service and Limited Use Software License

**3.1** Subject to Customer's compliance with the terms and conditions of this Agreement, Springshot hereby grants, and Customer hereby accepts, a non-exclusive, non-sublicensable, non-transferable, limited right, solely during the Term, to permit Active Users to use the Software solely for the purpose of accessing and using the Service in accordance with Section 3.2.

**3.2** Subject to Customer's compliance with the terms and conditions of this Agreement, Springshot hereby grants, and Customer hereby accepts, a non-exclusive, non-sublicensable, non-transferable, limited right, solely during the Term, to access and use the Enabled Applications made available to Customer and its Active Users through the Service, solely for Customer's own internal business use; provided such access and use is in accordance with the terms and conditions of the EULA and other customer documentation that Springshot makes available to customers for use of the Service. Use of the Service is limited to the number of Concurrent Active User Seats purchased by Customer. The Service may only be accessed or used by Active Users with valid Springshot user IDs and passwords activated by Springshot in accordance with this Agreement.

DocuSign Envelope ID: 1D86C9E3-A4C7-4EAB-BBAB-82951A915618

**3.3** Except as otherwise provided in Section 6.2, Customer will be responsible to provide, install, and maintain all device equipment and operating system and other software to use the Software; Customer is also responsible for establishing and maintaining an Internet connection necessary to access and use the Service. Customer is responsible for all costs and fees (including, but not limited to telephone service, or other telecommunications service, computers and modems) associated with providing user devices and Internet services.

## 4. Identification Numbers and Passwords

**4.1** Customer will provide Springshot with the unique Springshot user IDs created for each individual Active User that may access and use the Service as an authorized representative of Customer. Each Active User must use the unique Springshot user ID to access and use the Service. Each Active User may use only the Active User's own individual user ID and will not permit any person to use such user ID. Customer will also receive at least one administrator identification number and associated password that may be used by an authorized Customer employee to access, generate and manage certain account information, as set forth in the customer documentation.

**4.2** Customer hereby acknowledges and agrees that it (a) bears sole responsibility for protecting all identification numbers and passwords granted in connection with this Agreement; (b) will not provide any such information to any third party; and (c) will remain fully responsible and liable for (and Springshot will not be responsible or liable for) any unauthorized use of any identification number or password.

## 5. Restrictions / Confidentiality

Customer acknowledges that the Software and Service embody logic, design and coding methodology that constitute valuable confidential information that is proprietary to Springshot. Customer will safeguard the right to access the Software and Service using the same standard of care that Customer uses for its own confidential materials. Customer will not have the right to re-license or sell rights to access and/or use the Software or Service or to transfer or assign rights to access or use the Software or Service, except as expressly provided herein. Customer agrees to use the Software and Service in a manner that complies with all applicable laws. Customer agrees not to (a) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Software or Service in any way; (b) modify, translate, reverse engineer, decompile or create derivative works based upon the Software or Service; (c) access the Service or Software in order to build a competitive product or service, build a product using similar ideas, features, functions or graphics of the Service or Software, or copy any ideas, features, functions or graphics of the Service or Software; or (d) use the Software or Service to knowingly (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights; (iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iv) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (v) attempt to gain unauthorized access to the Service or its related systems or networks.

The parties agree that during the course of performance of this agreement the parties may receive and/or have accesss to the other party's confidential information. Accordingly, the use, treatment and protection of such confidential information shall be governed by that certain Confidentiality Agreement entered into by the parties effective as of October 13, 2021 a copy of which is attached hereto and made a part hereof by referenced.

## 6. Price and Payment Terms

**6.1** Customer will pay Springshot the subscription fees in the amounts and according to the terms and conditions set forth in Exhibit A. Unless otherwise set forth in Exhibit A, monthly subscription fees are due and payable in advance on a monthly basis, following Customer's receipt of an invoice therefor. Following the Initial Term, Springshot reserves the right to change the fees set forth in Exhibit A, which any such modification of the fees shall be mutually agreed upon in writing between the parties prior to the renewal of the Term. If the parties are unable to agree on the fees then the Term shall not auto renew in accordance with Section 8 of this Agreement.

**6.2** If Customer is required or elects to lease the Enabled Smartphones, it will pay Springshot the hardware leasing fees in the amounts and according to the terms and conditions set forth in Exhibit A. Unless otherwise set forth in Exhibit A, monthly hardware leasing fees are due and payable in advance on a monthly basis, following Customer's receipt of an invoice therefor. Following the Initial Term, Springshot reserves the right to change the fees set forth in Exhibit A, which any such modification of the fees shall be mutually agreed upon in writing between the parties prior to the renewal of the Term. If the parties are unable to agree on the fees then the Term shall not auto renew in accordance with Section 8 of this Agreement.

**6.3** All prices set forth in this Agreement are in U.S. Dollars and are exclusive of any applicable taxes. Customer shall pay, indemnify, and hold Springshot harmless from all applicable federal, state, municipal and other government taxes (such as sales, use and similar taxes), and similar charges, however designated or levied (other than U.S. taxes on Springshot's income), including penalties and interest. Tax exemption certificates, if applicable, must be presented prior to invoice if they are to be honored.

**6.4** Any amounts payable by Customer hereunder which remain overdue for thirty (30) days or longer will be subject to interest equal to the lesser of one and one-half percent (1.5%)

DocuSign Envelope ID: 1D86C9E3-A4C7-4EAB-BBAB-82951A915618

per month and the maximum amount permitted by law, calculated on a daily basis.

**6.5** In addition to any other rights granted to Springshot herein, Springshot reserves the right, following written notice thereof to Customer, to suspend or terminate this Agreement and Customer's access to the Software and/or Service if Customer has not made payment within forty five (45) days of when payment invoice was due (falls into arrears). Springshot reserves the right to impose a reconnection fee in the event Customer is suspended and thereafter request access to the Software and/or Service.

**6.6** Software support beyond regular application maintenance may be billable to Customer at Springshot's at the rates set forth in Exhibit A.

**7. Modification and Discontinuance of Service.**

Springshot reserves the right to modify, enhance or discontinue (temporarily or permanently) the Service and other offerings at any time. Springshot will notify Customer at least sixty (60) days prior to discontinuing the Service or implementing any modification which materially diminishes or limits the functionality of the Service in which case this Agreement shall be terminated and of no further force and effect.

**8. Term of Agreement**

The term of this Agreement shall begin on the Effective Date and continue for the period set forth in Exhibit A (the "*Initial Term*"). Thereafter, this Agreement will automatically renew for successive one (1) year periods on the anniversary date of the Effective Date (each a "*Renewal Term*" and collectively with the Initial Term, the "*Term*"). unless either party gives the other party written notice of its intent not to renew at least ninety (90) days prior to the end of the Initial Term or the then-current Renewal Period, or unless terminated by either party in accordance with this Agreement. Provided, however, this Agreement will automatically extend for the first two Renewal Terms unless either party provides written notice to the other party of their intent not to renew at least ninety (90) days prior to the end of the Initial Term as discussed above.

**9. Termination**

**9.1** Either party may terminate this Agreement or any license granted hereunder upon written notice if: (a) the other party breaches any term or condition of this Agreement and fails to correct the breach within thirty (30) days following written notice specifying the breach; or (b) the other party becomes subject to bankruptcy or insolvency related proceedings that are not dismissed with prejudice within sixty (60) days after the institution thereof. Finally, notwithstanding anything herein to the contrary, in the event either party breaches Section 5, the non-breaching party may immediately terminate this Agreement upon written notice to the breaching party. For clarity, no cure period shall be afforded to either party for a breach of Section 5 of this Agreement. Without limiting the foregoing, Springshot in its sole discretion may terminate Customer's passwords, accounts or use of the Software or Service if Customer breaches or otherwise fails to comply with this Agreement, following the applicable cure period(s).

**9.2** Upon the expiration or termination of this Agreement, all licenses and other rights granted to Customer hereunder will immediately terminate and Customer will immediately return all Enabled Smartphones to Springshot. The provisions of Sections 4.2, 5, 6, 9.2, 11, 12, 13, 14 and 15 will survive the expiration or termination of this Agreement.

**10. Proprietary Rights**

Springshot and its licensors have and will own all right, title and interest, including all intellectual property rights, in and to the Software, Service, any data or information generated by the Service or Software, and any suggestions, ideas, enhancement requests, feedback, or recommendations provided by Customer or any other party relating to the Service or Software. The Software is licensed to Customer, not sold, and this and does not convey to Customer any rights of ownership in or related to the Service, the Software or the intellectual property rights owned by Springshot. Customer will not take any action to jeopardize, encumber, limit, or interfere in any manner with Springshot's or its licensors' ownership of and rights with respect to any of the foregoing. Customer will have only those rights in and to the Software and Service as are expressly granted under this Agreement and no other rights will be implied. Subject to the foregoing and to Section 11.1 and 11.4, Customer will own all right, title and interest in all "Customer Data"

**11. Usage and Customer Data**

**11.1** Customer understands that the Service allows Users to develop records of their job experience and performance across different employers over time, that a User may be allowed to continue to access the User's respective Usage Data after his/her employment with Customer has ended, and that the User may be allowed to share the Usage Data with future actual or potential employers which also use the Service. Accordingly, Customer acknowledges and agrees that Springshot may, and hereby grants to Springshot a worldwide, royalty-free, non-exclusive, perpetual and irrevocable right and license to: (a) use, reproduce, extract, compile, synthesize, analyze, distribute, transmit, perform (publicly, digitally, or otherwise), display (publicly or otherwise), and make derivative works of any and all Usage Data for purposes of making the Software and Service available to Customer, improving, enhancing and modifying the Software and Service, and for analytic, statistical, security, quality control, and similar purposes; (b) use, reproduce, extract, compile, synthesize, analyze, make derivative works of, distribute, transmit, perform, display and make available to third parties

DocuSign Envelope ID: 1D86C9E3-A4C7-4EAB-BBAB-82951A915618

(including, without limitation, the respective Users and potential and actual future employers of the respective Users) the Usage Data (or derivatives thereof) as pertaining to each User in accordance with the EULA accepted by the respective User or otherwise at the respective Users' request or discretion; (c) store and retain (including, for the avoidance of doubt, after termination of this Agreement) the Usage Data and any derivatives thereof;and (d) sublicense the foregoing rights to Springshot's designees. Customer represents and warrants to Licensor that, to its knowledge, it has the right to grant the foregoing licenses in the Usage Data.

**11.2** Springshot will use commercially reasonable efforts to utilize standard Internet encryption technologies (e.g., Secure Socket Layer – SSL) to provide a secure environment for the Usage Data. However, Customer acknowledges that no data transmission over the Internet or any wireless network, nor any data storage system, can be guaranteed to be 100% secure.

**11.3** Customer's collection, use and disclosure of any personally-identifiable information obtained on or through the Software or Service must comply with Springshot's Privacy Policy and all applicable privacy anddata laws, and regulations. To the extent Springshot will have access to Personal Information, Springshot shall, in the performance and provision of Services, comply with any applicable data privacy laws, including, but not limited to CAN-SPAM and the California Consumer Protection Act (CCPA).

**11.4** Customer will own all right, title and interest in and to the data and content (other than publicly available data) that is provided by or on behalf of Customer through Users' use of the Service, including, for example, work flows, scoring algorithms, operating procedures and business processes, but excluding any Usage Data ("*Customer Data*"). During the Term of this Agreement, Customer grants Springshot a limited, non-exclusive, non-sublicensable, non-transferable license to (a) capture, copy, store, transmit, maintain, access, reproduce, use, and display the Customer Data to the extent necessary to provide the Services during the Term, and (b) use the Customer Data on an aggregated, anonymized basis for the purpose of improving, enhancing and modifying the Service, and for analytic, statistical, security, quality control, and similar purposes. The authority to use such aggregated, anonymized Customer Data is conditioned upon Customer Data being used in a manner that does not disclose, either directly or indirectly, Customer's underlying operational or business processes.

## 12. Disclaimer

SPRINGSHOT REPRESENTS AND WARRANTS THAT THE SOFTWARE, SERVICE SHALL BE, DURING THE TERM OF THIS AGREEMENT, FREE OF DEFECT THAT MATERIALLY AFFECTS THE PERFORMANCE OR USE OF THE SOFTWARE, SERVICE MERCHANTABLE AND FIT FOR THE PURPOSES INTENDED TO BE USED BY CUSTOMER. EXCEPT FOR THE FOREGOING WARRANTIES, (A) THE SOFTWARE AND SERVICE ARE PROVIDED "AS-IS-," AND (B) SPRINGSHOT MAKES NO, AND HEREBY DISCLAIMS ALL, REPRESENTATIONS, WARRANTIES, OR CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, WITH RESPECT TO THE SOFTWARE AND SERVICE, THEIR RESPECTIVE OUTPUT OR ANY RELATED SUBJECT MATTER, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OR CONDITIONS OF NON-INFRINGEMENT, AND ALL WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. SPRINGSHOT DOES NOT WARRANT THAT ANY USE OF OR ACCESS TO THE SERVICE AND/OR ANY INFORMATION PROVIDED IN CONNECTION THEREWITH WILL BE ERROR-FREE, COMPLETE OR SECURE; THAT USE OF THE SERVICE WILL BE UNINTERRUPTED; OR THAT ERRORS OR FAILURES WILL BE CORRECTED OR REMEDIED; AND HEREBY DISCLAIMS ANY AND ALL LIABILITY IN CONNECTION THEREWITH. THE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS AND NOT UNDER SPRINGSHOT'S CONTROL, AND SPRINGSHOT IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS. WITHOUT LIMITATION OF THE GENERALITY OF THE FOREGOING, CUSTOMER ACKNOWLEDGES AND AGREE THAT SPRINGSHOT IS PROVIDING A SERVICE THAT IS INTENDED ONLY TO ASSIST CUSTOMER IN OPERATING ITS OWN BUSINESS AND THAT CUSTOMER IS SOLELY RESPONSIBLE FOR (AND SPRINGSHOT ASSUMES NO RESPONSIBILITY AND WILL HAVE NO LIABILITY OF ANY KIND FOR) THE DECISIONS THAT CUSTOMER MAY MAKE, CUSTOMER'S USE OF THE SERVICE AND/OR ANY INFORMATION PROVIDED IN CONNECTION THEREWITH, OR ANY EFFECTS ON BUSINESS THAT MAY RESULT FROM SUCH USE. NOTWITHSTANDING ANY PROVISION HEREIN TO THE CONTRARY, IN THE EVENT OF A DEFECT IN THE SOFTWARE, SERVICE AND/OR AN ENABLED SMARTPHONE, (A) SPRINGSHOT SHALL, WITHIN A COMMERCIALLY REASONABLE TIME, TAKE REASONABLE STEPS TO REPAIR OR REPLACE THE DEFECTIVE ITEM(S), (B) IN THE EVENT THAT SUCH DEFECT IS NOT CURED BY REPAIR OR REPLACEMENT, CUSTOMER SHALL HAVE THE RIGHT TO TERMINATE THIS AGREEMENT UNDER THE NOTICE AND CURE PROVISIONS SET FORTH IN SECTION 9.1 OF THIS AGREEMENT. THIS SECTION 11 WILL BE ENFORCEABLE TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW. EXCEPT AS NECESARY IN CONNECTION WITH THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT, CUSTOMER AGREES AND ACKNOWLEDGES THAT SPRINGSHOT HAS NO OBLIGATION TO RETAIN CUSTOMER'S INFORMATION. WITHOUT LIMITING THE FOREGOING, CUSTOMER AGREES AND ACKNOWLEDGES THAT CUSTOMER'S INFORMATION MAY BE IRRETRIEVABLY DELETED IF CUSTOMER'S ACCOUNT IS NINETY (90) DAYS OR MORE DELINQUENT.

## 13. Limitation of Liability

TO THE EXTENT ALLOWED BY APPLICABLE LAW AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY OR LIMITATION OF LIABILITY, AND EXCEPT FOR THE INDEMNITY OBLIGATIONS UNDER SECTION 14, (A) IN NO EVENT WILL EITHER PARTY (OR IN THE CASE OF SPRINGSHOT, ITS

DocuSign Envelope ID: 1D86C9E3-A4C7-4EAB-BBAB-82951A915618

LICENSORS) BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE OR DATA, OR INTERRUPTION OF BUSINESS, OR FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND ARISING FROM OR RELATING TO THIS AGREEMENT OR OTHERWISE TO THE SERVICE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, HOWEVER CAUSED; AND (B) EACH PARTY'S ENTIRE LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SERVICE, WHETHER IN CONTRACT, OR TORT, WILL NOT EXCEED THE TOTAL AMOUNT OF ALL FEES PAYABLE TO SPRINGSHOT BY CUSTOMER FOR USE OF THE SERVICE DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE ACTION THAT GAVE RISE TO THE LIABILITY.

## 14. Indemnification

Customer shall indemnify Springshot, its subsidiaries and affiliates, and its and their respective directors, officers, employees, agents, suppliers and service providers against any loss, cost, damage, claim, expense or liability, (collectively, "Losses"), arising out of, or resulting from any third party claim arising out of or resulting from any breach by Customer of this Agreement, or from any use of the Software or Service by Customer or Active Users or other Customer's employees in violation of this Agreement. Customer shall have no obligation to indemnify with respect to any Claims arising out of, resulting from, or connected with any defect, error, or failure in the Software, Service or Enabled Smartphones.

Springshot shall indemnify Customer, its subsidiaries and affiliates, and its and their respective directors, officers, employees, agents and customers against any Losses arising out of or resulting from any third-party claim arising out of or resulting from any infringement or alleged infringement of the Software or Services of any intellectual property right of a third party.

The indemnification obligations of this section shall survive termination of this Agreement. The indemnified party will promptly notify the indemnifying party in writing of any claim made or suit brought within the scope of this section; provided, however, that the failure of any party entitled to indemnification hereunder to give notice as provided for herein shall not relieve the indemnifying party of its obligations under this Section 14 except to the extent that the indemnifying party is actually prejudiced by such failure to give notice. The Indemnifying Party shall not enter into any settlement of any such claim or lawsuit unless such settlement (A) includes a release of all covered claims pending against the indemnified party; (B) contains no admission of liability or wrongdoing by the indemnified party; and (C) does not impose any obligations upon the indemnified party.

## 15. General

**15.1** Customer shall make available positive space on its flights so that Springshot's employees and affiliates may travel to Customer's operations to provide customer support, if such support is requested by Customer.

**15.2** Customer will honor Springshot's reasonable requests for it to work together with Springhsot to market Springshot and the Springshot Platform as used by Customer, including, without limitation, promotional videos, user testimonials, and case studies. Customer also recognizes that Springshot mentions its customers in its marketing campaigns, communication initiatives, and on its public website, and agrees that Springhsot may use Customer's name and logo worldwide, free of charge, for such purposes for the duration of the Term. Upon the expiration or earlier termination of this Agreement as provided for herein, Springshot shall immediately cease the use of any of Customer's name and logo and other trademarks or registered trademarks of Customer. Notwithstanding the foregoing, any use contemplated under this Section 15.2 shall be subject to Customer's prior review and approval, which should not be unreasonably withheld.

**15.3** Springshot and Customer agree and consent that this Agreement shall be governed by the internal laws of New York, without giving effect to principles of conflict of laws. In each case this Agreement shall be construed and enforced without regard to the United Nations Convention on the International Sale of Goods. In the event that any dispute shall require legal proceedings between the parties regarding this Agreement, each party agrees to bear its own cost.

**15.4** This Agreement (including the Exhibits attached hereto) and the EULA contain the complete agreement between the parties with respect to the subject matter hereof, and supersede all prior or contemporaneous agreements or understandings, whether oral or written. The failure or delay of either party to exercise any of its rights under this Agreement or upon any breach of this Agreement shall not be deemed a waiver of those rights or of the breach. An amendment to this Agreement shall not be valid unless such amendment is in writing and signed by a duly authorized representative of Springshot.

**15.5** If any provision of this Agreement shall be held by a court of competent jurisdiction to be contrary to law that provision will be enforced to the maximum extent permissible and the remaining provisions of this Agreement will remain in full force and effect.

**15.6** Springshot shall not be deemed to be in default of any provision of this Agreement or be liable for any delay or failure in performance due to a force majeure event, which includes, without limitation, acts of God, earthquake, weather conditions, labor disputes, changes in law, regulation or government policy, riots, war, fire, epidemics, acts or omissions of vendors or suppliers, equipment failures, malicious or criminal acts of third parties, or other occurrences which are beyond Springshot's reasonable control. The foregoing, notwithstanding, shall exclude the Covid-19 pandemic unless a new government

DocuSign Envelope ID: 1D86C9E3-A4C7-4EAB-BBAB-82951A915618

shutdown materially impacts either Party's ability to perform its obligations under this Agreement.

**15.7** SPRINGSHOT and other trademarks contained in the Software are trademarks or registered trademarks of Springshot in the United States and/or other countries. Customer may not remove or alter any trademark, trade names, product names, logo, copyright or other proprietary notices, legends, symbols or labels in the Software. Unless otherwise defined herein, this Agreement does not authorize Customer to use Springshot's or its licensors' names or any of their respective trademarks.

**15.8** Neither party shall have the right to assign or otherwise transfer its rights or obligations under this Agreement, in whole or in part, without the prior written consent of the other party; provided, however, that either party may transfer its rights and obligations under this Agreement in connection with the sale of, or merger or consolidation involving, such party, or the sale of substantially all of the assets of such party.

**15.10** Springshot represents that the Services hereunder shall be performed (i) in a professional, timely and workmanlike manner in accordance with industry standards and (ii) in compliance with all applicable laws.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement as of the Effective Date:

**SPRINGSHOT, INC.**

DocuSigned by:
Doug Kreuzkamp
73815B6FA35D4F7...

5/4/2022 | 9:24 AM PDT

Signature

Douglas P. Kreuzkamp
Chief Executive Officer

**SPIRIT AIRLINES, INC.**

DocuSigned by:
Mike Byrom
1783E483FE6448B...

Signature

Mike Byrom

Name

Vice President, Airport Services

Title