

## **MADCAP SOFTWARE, INC. END USER LICENSE AGREEMENT**

IMPORTANT: THIS SOFTWARE LICENSE AGREEMENT (“LICENSE AGREEMENT”) IS A LEGAL AGREEMENT BETWEEN YOU (EITHER AN INDIVIDUAL OR, IF PURCHASED OR OTHERWISE ACQUIRED BY OR FOR AN ENTITY, AN ENTITY) AND MADCAP SOFTWARE, INC. READ IT CAREFULLY BEFORE COMPLETING THE INSTALLATION PROCESS AND USING THE SOFTWARE. IT PROVIDES A LICENSE TO USE THE SOFTWARE AND CONTAINS WARRANTY INFORMATION AND LIABILITY DISCLAIMERS. IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS OF THIS LICENSE AGREEMENT THEN MADCAP SOFTWARE, INC. IS UNWILLING TO GRANT YOU THIS LICENSE, YOU MUST NOT INSTALL OR USE THE SOFTWARE, AND (1) IF YOU RECEIVED THIS SOFTWARE ON CD-ROM, YOU MAY RETURN THE UNUSED SOFTWARE TO THE LOCATION WHERE YOU OBTAINED IT FOR A REFUND, IN ACCORDANCE WITH THE REFUND POLICY OF SUCH LOCATION; OR (2) IF YOU RECEIVED THIS SOFTWARE VIA DOWNLOAD FROM AN INTERNET WEB SITE, THEN YOU MUST DELETE ALL OF THE DOWNLOADED FILES AND YOU MAY OBTAIN A REFUND IN ACCORDANCE WITH THE REFUND POLICY OF SUCH INTERNET WEB SITE.

THIS LICENSE AGREEMENT SHALL APPLY ONLY TO THE SOFTWARE SUPPLIED BY MADCAP SOFTWARE, INC. HERewith REGARDLESS OF WHETHER OTHER SOFTWARE IS REFERRED TO OR DESCRIBED HEREIN.

BY CONTINUING WITH INSTALLATION, YOU AGREE TO THE TERMS OF THIS LICENSE AGREEMENT. BY INSTALLING AND USING THE SOFTWARE, YOU ARE CONFIRMING YOUR ACCEPTANCE OF THE SOFTWARE AND AGREEING TO BECOME BOUND BY THE TERMS OF THIS LICENSE AGREEMENT.

### **1. Definitions**

1. “Education Version” means a version of the Software, so identified, for use by students and faculty of educational institutions, only.
2. “Not For Resale (NFR) Version” means a version, so identified, of the Software to be used to review and evaluate the Software, only.
3. “MadCap Software, Inc.” means MadCap Software, Inc. and its licensors, if any.
4. “Software” means only the MadCap Software, Inc. software program(s) and third party software programs, in each case, supplied by MadCap Software, Inc. herewith, and corresponding documentation, associated media, printed materials, and online or electronic documentation.
5. “Trial Version” means a version of the Software, so identified, to be used only to review, demonstrate and evaluate the Software for a limited time period. The Trial Version may have limited features, scrambled output, may lack the ability for the end-user to save the end product, and will cease operating after a predetermined amount of time due to an internal mechanism within the Trial Version.

2. License Grants. The licenses granted in this Section 2 are subject to the terms and conditions set forth in this License Agreement. Except only as expressly stated below, your license entitles you to use the Software in object code form only.

1. Your rights to use the Software depend upon your activation of the Software and on the nature of your license purchase as follows:
  1. You may install and use the Software concurrently on the number of computers covered by your license key. Except as expressly provided herein, your license may

not be shared, installed or used concurrently on different computers, and the Software may not be installed on a central storage device or network server.

2. If you acquired a Subscription License, you are entitled to use the Software within your organization for up to the total number of subscribed users for the applicable period of the license you have purchased. Your subscription shall continue so long as you remain in compliance with the terms of this License Agreement and have paid applicable license fees. Your subscription period will begin at the time of license key generation and not necessarily your activation and/or commencement of product usage.
  3. If you acquired a Standard Perpetual License, the term of your license is perpetual, subject to continued compliance with the terms of this License Agreement and payment of applicable license fees.
  4. If you acquired a Floating License, you are entitled to use the Software within your organization without restriction up to the total number of concurrent users that are specified in your Software purchase agreement, provided that your use is limited to the business entity or division that is specified in your agreement. Your Floating License shall continue so long as you remain in compliance with the terms of this License Agreement and have paid applicable license fees. Your Floating License requires activation and continued connectivity to the Internet to remain active. Access to the Software may be interrupted if Internet connectivity is not maintained.
  5. If you acquired an Enterprise Floating License, you are entitled to use the Software within your organization without restriction up to the total number of concurrent users that are specified in your Software purchase agreement, provided that your use is limited to the business entity or division that is specified in your agreement. Your Floating License shall continue so long as you remain in compliance with the terms of this License Agreement and have paid applicable license fees. Your Floating License requires activation and continued connectivity to the Internet to remain active. Access to the Software may be interrupted if Internet connectivity is not maintained. In addition, you may install your Enterprise Floating License on a central network server in order to be accessed remotely by the specified number of concurrent users as specified in your agreement.
  6. The primary user of the computer on which the Software is installed may make a second copy of the Software and install it on either a portable computer or a computer located at his or her home for his or her exclusive use, provided that: (A) the second copy of the Software on the portable or home computer (i) is not used at the same time as the copy of the Software on the primary computer and (ii) is used by the primary user solely as allowed for such version or edition (such as for educational use only), and (B) the second copy of the Software is not installed or used after the time such user is no longer the primary user of the primary computer on which the Software is installed.
2. You agree that MadCap Software, Inc. may audit your use of the Software for compliance with these terms at any time, upon reasonable notice if necessary. In the event that such audit reveals any use of the Software by you other than in full compliance with the terms of this License Agreement, you shall reimburse MadCap Software, Inc. for all reasonable

expenses related to such audit in addition to any other liabilities you may incur as a result of such non-compliance. MadCap Software, Inc. may use remote software license management tools to audit and administer permitted software use.

3. Additional Terms.

1. Permitted Copy. You may make one copy of the Software in machine-readable form solely for backup purposes. You must reproduce on any such copy all copyright notices and any other proprietary legends on the original copy of the Software. You may not sell or transfer any copy of the Software made for backup purposes.
2. Source Code. Unless otherwise set forth in the documentation relating to such code and/or the Software or in a separate agreement between you and MadCap Software, Inc., you may modify the source code form of those portions of such software programs that are identified as sample code, sample application code, or components (each, "Sample Application Code") in the accompanying documentation; *provided, however*, that you are permitted to copy and distribute the Sample Application Code (modified or unmodified) only if all of the following conditions are met: (1) you distribute the compiled object Sample Application Code with your application; (2) you do not include the Sample Application Code in any product or application designed for website development; and (3) you do not use MadCap Software, Inc.'s name, logos or other MadCap Software, Inc. trademarks to market your application. You agree to indemnify, hold harmless and defend MadCap Software, Inc. from and against any loss, damage, claims or lawsuits, including attorney's fees, that arise or result from the use or distribution of your application.
3. MadCap Software, Inc. Redistributables. Subject to the terms and conditions of this License Agreement, MadCap Software, Inc. grants you the non-exclusive, royalty-free right to reproduce and distribute, in object code form only, any MadCap Software, Inc. Redistributables identified in the REDISTRB.TXT file located i) on the Software CD-ROM, ii) if the Software was downloaded, in the unpacked installation folder or iii) in the Software folder on the computer hard drive, provided, that you (I) do not distribute the Redistributables as a stand-alone product, except however, that you may distribute updates of the Redistributables separately for purposes of updating an existing end user of your previously-distributed product that uses the Redistributables; (II) include MadCap Software, Inc.'s copyright notice for the Redistributables on the title page of any documentation, on the product CD, and/or in the About box for any software product that incorporates the Redistributables; (III) except as required above, do not use MadCap Software, Inc.'s name, logo, or trademarks in connection with any product that incorporates the Redistributables; (IV) agree to indemnify, defend and hold MadCap Software, Inc. harmless from any and all liabilities (including attorney's fees) arising from any claims, lawsuits, or other legal proceedings that arise from or are related to the use or distribution of any software application product that you reproduced and/or distributed that incorporates the Redistributables; and (V) do not incorporate the Redistributables into any software product which would compete with the Software.
4. MS-Redistributables. Subject to the terms and conditions of this License Agreement, MadCap Software, Inc. grants you the non-exclusive, royalty-free right to reproduce and distribute, in object code form only, any MS-Redistributables identified in the

REDISTRB.TXT located i) on the Software CD-ROM, ii) if the Software was downloaded, in the unpacked installation folder or iii) in the Software folder on the computer hard drive, provided that you (I) do not distribute the MS-Redistributables as a stand-alone product, *provided, however*, that you may distribute updates of the MS-Redistributables separately for purposes of updating an existing end user of your previously-distributed product that uses MS-Redistributables; (II) include the following copyright notice for the MS-Redistributables "Portions copyright (c) Microsoft Corporation. All rights reserved." on the product CD, disk label, the title page of the documentation, and/or the About box for any software application product that incorporates the MS-Redistributables; (III) except as required above, do not use Microsoft's name, logo, or trademarks to market any Help system that incorporates the MS-Redistributables; (IV) agree to indemnify, defend and hold MadCap Software, Inc. and Microsoft harmless from any and all liabilities (including attorney's fees) arising from any claims, lawsuits, or other legal proceedings that arise from or are related to the use or distribution of any software application product that you reproduced and/or distributed that incorporates the MS-Redistributables; (V) do not incorporate the MS-Redistributables into any software product which would compete with the Software, and (VI) if Microsoft makes a new release of the MS-Redistributables (other than an Update release), use all reasonable efforts to cease distribution of the older version and commence distribution of the new release. You may continue to distribute existing inventory that contains the older release for up to 3 months following such new release.

5. **Mandatory Product Activation.** The license rights granted under this License Agreement may be limited to a specified number of the first thirty (30) days after you first install the Software unless you supply information required to activate your licensed copy within the time and the manner described during the Software setup sequence and/or the dialog boxes appearing during use of the Software. You may need to activate the Software through the use of the Internet or telephone; toll charges may apply. You may need to reactivate the Software if you modify your computer hardware or alter the Software. Product activation is based on the exchange of information between your computer and MadCap Software, Inc.. None of this information contains personally identifiable information nor can they be used to identify any personal information about you or any characteristics of your computer configuration. YOU ACKNOWLEDGE AND UNDERSTAND THAT THERE ARE TECHNOLOGICAL MEASURES IN THE SOFTWARE THAT ARE DESIGNED TO PREVENT UNLICENSED OR ILLEGAL USE OF THE SOFTWARE. YOU AGREE THAT MADCAP SOFTWARE, INC. MAY USE SUCH MEASURES AND YOU AGREE TO FOLLOW ANY REQUIREMENTS REGARDING SUCH TECHNOLOGICAL MEASURES. YOU ACKNOWLEDGE AND AGREE THAT THE SOFTWARE WILL CEASE TO FUNCTION UNLESS AND UNTIL YOU ACTIVATE THE APPLICABLE SOFTWARE ACTIVATION KEY.
4. Distribution of any Software code, other than the Sample Application Code, the MadCap Software, Inc. Redistributables, and the MS-Redistributables, is specifically prohibited.
5. **Non-Exclusivity.** Your license rights under this License Agreement are non-exclusive.
6. **Separation of Components.** The Software is licensed as a single product. You may not separate the Software's component parts for use on more than one computer.

### 3. Additional License Restrictions

1. Other than as expressly set forth in Section 2, you may not make or distribute copies of the Software, or electronically transfer the Software from one computer to another or over a network.
2. You may not alter, merge, modify, adapt or translate the Software, or decompile, reverse engineer, disassemble, or otherwise reduce the Software to a human-perceivable form.
3. Unless otherwise provided herein, you may not rent, lease, or sublicense the Software.
4. Other than with respect to a Trial Version or a Not For Resale Version of the Software, you may permanently transfer all of your rights under this License Agreement only as part of a sale or transfer of a Standard Perpetual License, provided you retain no copies, you transfer all of the Software (including all component parts, the media and printed materials, any upgrades, this License Agreement, the serial numbers, and, if applicable, all other software products provided together with the Software), and the recipient agrees to the terms of this License Agreement. If the Software is an upgrade, any transfer must include all prior versions of the Software from which you are upgrading. If the copy of the Software is licensed as part of a Suite (as defined above), the Software shall be transferred only with and as part of the sale or transfer of the whole Suite, and not separately. You may retain no copies of the Software. You may not sell or transfer any Software purchased under any Subscription License. You may not sell or transfer any Trial Version or Not For Resale Version of the Software.
5. Unless otherwise expressly provided herein, you may not modify the Software or create derivative works based upon the Software.
6. Education Versions may not be used for, or distributed to any party for, any commercial purpose.
7. Unless otherwise provided herein, you shall not (A) in the aggregate, install or use more than one copy of the Trial Version of the Software, (B) download the Trial Version of the Software under more than one username, (C) alter the contents of a hard drive or computer system to enable the use of the Trial Version of the Software for an aggregate period in excess of the trial period for one license to such Trial Version, (D) disclose the results of software performance benchmarks obtained using the Trial Version to any third party without MadCap Software, Inc.'s prior written consent, or (E) use the Trial Version of the Software for a purpose other than the sole purpose of determining whether to purchase a license to a commercial or education version of the software; *provided, however*, notwithstanding the foregoing, you are strictly prohibited from installing or using the Trial Version of the Software for any commercial training purpose.
8. You may only use the Trial Version and Not for Resale Version of the Software to review and evaluate the Software. Furthermore, you agree to not remove any automatically created MadCap Software branding included in the output while using the Trial Version, Education Version or Not for Resale Version.
9. You may not export the Software into any country prohibited by the United States Export Administration Act and the regulations thereunder.

10. You may receive the Software in more than one medium but you shall only install or use one medium. Regardless of the number of media you receive, you may use only the medium that is appropriate for the server or computer on which the Software is to be installed.
11. You may receive the Software in more than one platform but you shall only install or use one platform. If the Software is delivered in multiple versions or languages, you may only run one version or language of the Software, and you may not run the additional versions in any other language on any other computer.
12. You shall not use the Software to develop any application having the same primary function as the Software.
13. In the event that you fail to comply with this License Agreement, MadCap Software, Inc. may terminate the license and you must destroy all copies of the Software (with all other rights of both parties and all other provisions of this License Agreement surviving any such termination).

4. Upgrades. If this copy of the Software is an upgrade from an earlier version of the Software, it is provided to you on a license exchange basis. You agree by your installation and use of such copy of the Software to voluntarily terminate your earlier License Agreement and that you will not continue to use the earlier version of the Software or transfer it to another person or entity unless such transfer is pursuant to Section 3.

5. Prior Same Version License. If this copy of the Software is licensed as part of a Suite (as defined above), and you have a prior license to the same version of the Software, and the Suite was licensed to you with a discount based, in whole or in part, on your prior license to the same version, the Software is provided to you on a license exchange basis. You agree by your installation and use of this copy of the Software to voluntarily terminate your License Agreement with respect to such prior license and that you will not continue to install or use such prior license of the Software or transfer it to another person or entity.

6. Ownership. The foregoing license gives you limited license to use the Software. MadCap Software, Inc. and its suppliers retain all right, title and interest, including all copyright and intellectual property rights, in and to, the Software (as an independent work and as an underlying work serving as a basis for any application you may develop), and all copies thereof. All rights not specifically granted in this License Agreement, including Federal and International Copyrights, are reserved by MadCap Software, Inc. and its suppliers.

7. Maintenance and Support. Your license entitles you to purchase maintenance and support from MadCap Software, Inc. pursuant to the standard maintenance and support programs available for your Software. If you acquired a Floating License, maintenance and support shall be included for all licensed users as specified in the applicable license purchase agreement. If you acquired a Subscription License, basic maintenance and support shall be included for all licensed users during the term of your subscription.

## 8. LIMITED WARRANTY AND DISCLAIMER

1. Except with respect to any Sample Application Code, MadCap Software, Inc. Redistributables, MS Redistributables, Trial Version and Not For Resale Version of the Software, MadCap Software, Inc. warrants that, for a period of thirty (30) days from the date of delivery (as evidenced by a copy of your receipt): (i) when used with a recommended hardware configuration, the Software will perform in substantial conformance with the

documentation supplied with the Software; and (ii) the physical media on which the Software is furnished, if provided by MadCap Software, Inc., will be free from defects in materials and workmanship under normal use.

2. If you acquired a Subscription License, MadCap Software, Inc. warrants that for the term of your paid subscription, when used with a recommended hardware configuration, the Software will perform in substantial conformance with the documentation supplied for the Software.
3. MADCAP SOFTWARE, INC. PROVIDES NO REMEDIES OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, FOR ANY SAMPLE APPLICATION CODE, MADCAP SOFTWARE, INC. REDISTRIBUTABLE, MS REDISTRIBUTABLE, TRIAL VERSION AND THE NOT FOR RESALE VERSION OF THE SOFTWARE. ANY SAMPLE APPLICATION CODE, TRIAL VERSION AND THE NOT FOR RESALE VERSION OF THE SOFTWARE ARE PROVIDED "AS IS".
4. EXCEPT ONLY AS SET FORTH ABOVE IN THIS SECTION 8 WITH RESPECT TO SOFTWARE OTHER THAN ANY SAMPLE APPLICATION CODE, MADCAP SOFTWARE, INC. REDISTRIBUTABLE, MS REDISTRIBUTABLE, TRIAL VERSION AND NOT FOR RESALE VERSION, MADCAP SOFTWARE, INC. AND ITS SUPPLIERS DISCLAIM ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALSO, THERE IS NO WARRANTY OF NON-INFRINGEMENT AND TITLE OR QUIET ENJOYMENT. MADCAP SOFTWARE, INC. DOES NOT WARRANT THAT THE SOFTWARE IS ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION. NO RIGHTS OR REMEDIES REFERRED TO IN ARTICLE 2A OF THE UCC WILL BE CONFERRED ON YOU UNLESS EXPRESSLY GRANTED HEREIN. MADCAP SOFTWARE IS NOT RESPONSIBLE FOR ANY CONTENT CREATED USING THE SOFTWARE. FURTHERMORE, IF THE SOFTWARE IS DESIGNED TO ENABLE YOUR CUSTOMERS OR OTHER THIRD PARTIES TO ADD COMMENTS, ATTACHMENTS OR OTHER CONTENT (COLLECTIVELY, "CONTENT") TO AN INSTANCE OF THE SOFTWARE OPERATED BY YOU, YOU WILL BE RESPONSIBLE FOR MODERATING AND CONTROLLING SUCH CONTENT AND YOU ASSUME THE RISK OF ALL CONTENT THAT IS ADDED BY SUCH PARTY. MADCAP SOFTWARE SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESEPECT TO ANY SUCH CONTENT OR ITS EFFECTS. THE SOFTWARE IS NOT DESIGNED, INTENDED OR LICENSED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE CONTROLS, INCLUDING WITHOUT LIMITATION, THE DESIGN, CONSTRUCTION, MAINTENANCE OR OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, AND LIFE SUPPORT OR WEAPONS SYSTEMS. MADCAP SOFTWARE, INC. SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR SUCH PURPOSES.
5. IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SOFTWARE, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO THIRTY (30) DAYS FROM THE DATE OF DELIVERY OR FIRST ACCESS.
6. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY MADCAP SOFTWARE, INC., ITS DEALERS, DISTRIBUTORS, AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY PROVIDED HEREIN.
7. (USA only) SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE.

## 9. PRIVACY; PROCESSING OF PERSONAL INFORMATION

1. You acknowledge and agree that the Software may communicate automatically with cloud-based technology to function, and to make any Software and other services more effective. You may withdraw your consent to such communication only by uninstalling and/or deactivating the Software.
2. MadCap Software processes certain information and data (which may include personally identifiable information and/or personal data) relating to: (i) the user of the Software and/or any Device on which the Software is used; (ii) the Software and/or any Device on which the Software is used. MadCap Software's applicable privacy policy which you can find at <https://www.madcapsoftware.com/privacy/> describes how MadCap Software collects, uses and otherwise processes such information and data.

10. Exclusive Remedy. Provided that any non-compliance with the above warranty is reported in writing to MadCap Software, Inc. no more than thirty (30) days following delivery to you of the Software or access to the Software, MadCap Software, Inc. will use reasonable commercial efforts to supply you with a replacement copy of the Software that substantially conforms to the documentation, provide a replacement for defective media (if applicable), or refund to you your purchase price for the Software or initial Subscription License fees. MadCap Software, Inc. shall have no responsibility if the Software has been altered in any way, if the media has been damaged by misuse, accident, abuse, modification or misapplication, or if the failure arises out of use of the Software with other than a recommended hardware configuration. Any such misuse, accident, abuse, modification or misapplication of the Software will void the warranty above. THIS REMEDY IS THE SOLE AND EXCLUSIVE REMEDY AVAILABLE TO YOU FOR BREACH OF EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE SOFTWARE AND RELATED DOCUMENTATION.

## 11. Intellectual Property Infringement Indemnification.

1. MadCap Software, Inc. will defend or settle, at its option and expense, any action brought against you alleging that the Software infringes a patent issued as of the effective date of this EULA or copyright. MadCap Software, Inc. will pay costs and damages finally awarded against you that are attributable to the infringement action. You understand that as conditions of MadCap Software, Inc.'s obligations under this section, you must (a) notify MadCap Software, Inc. promptly in writing of the action; (b) provide MadCap Software, Inc. all reasonable information and assistance to settle or defend the action; and (c) grant MadCap Software, Inc. sole authority and control of the defense or settlement of the action.
2. If an infringement claim is made, MadCap Software, Inc. may at its sole option and expense either: (a) replace or modify the Software so that it becomes non-infringing; or (b) procure for you the right to continue using the Software. If in MadCap Software, Inc.'s sole opinion neither of the foregoing alternatives is financially practicable or otherwise reasonably available, MadCap Software, Inc. may terminate this Agreement, require the return of the Software and refund to Client the applicable license fees, less a reasonable allowance for use.
3. MadCap Software, Inc. shall have no liability to the extent the alleged infringement is based upon: (a) the combination of the Software with any product not furnished by MadCap Software, Inc. to you; (b) the modification of the Software other than by MadCap Software, Inc.; (c) the use of other than a current unaltered release of the Software; (d) the use of the



Software as part of an infringing process; or (e) any product designed or marketed by you or any end-user.

4. You shall indemnify and hold harmless MadCap Software, Inc. and its licensors, against any and all damages, costs and fees, including reasonable attorney's fees, arising out of or relating to any claims or threatened claims: (a) that the Software is used by you in connection with any illegal activity; (b) based on misrepresentations made by you; or (c) to the extent liability arises from your specifications or requirements.
5. In no event shall MadCap Software, Inc.'s liability for indemnification under this section exceed an amount equal to license and maintenance and support fees paid. This Section 11 states MadCap Software, Inc.'s and its licensors' entire liability and the sole, and your exclusive remedy, with respect to any alleged intellectual property infringement by the Software.

## 12. LIMITATION OF LIABILITY

1. NEITHER MADCAP SOFTWARE, INC. NOR ITS SUPPLIERS SHALL BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, COVER OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR THE INABILITY TO USE EQUIPMENT OR ACCESS DATA, LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION OR THE LIKE), ARISING OUT OF THE USE OF, OR INABILITY TO USE, THE SOFTWARE AND BASED ON ANY THEORY OF LIABILITY INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF MADCAP SOFTWARE, INC. OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.
2. MADCAP SOFTWARE, INC.'S TOTAL LIABILITY TO YOU FOR ACTUAL DAMAGES FOR ANY CAUSE WHATSOEVER WILL BE LIMITED TO THE AMOUNT PAID BY YOU FOR THE SOFTWARE THAT CAUSED SUCH DAMAGE.
3. (USA only) SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE.
4. THE FOREGOING LIMITATIONS ON LIABILITY ARE INTENDED TO APPLY TO THE WARRANTIES AND DISCLAIMERS ABOVE AND ALL OTHER ASPECTS OF THIS LICENSE AGREEMENT.

13. Basis of Bargain. The Limited Warranty and Disclaimer, Exclusive Remedies and Limited Liability set forth above are fundamental elements of the basis of the agreement between MadCap Software, Inc. and you. MadCap Software, Inc. would not be able to provide the Software on an economic basis without such limitations. Such Limited Warranty and Disclaimer, Exclusive Remedies and Limited Liability inure to the benefit of MadCap Software, Inc.'s licensors.

14. U.S. Government Restricted Rights Legend. This Software and the documentation are provided with "RESTRICTED RIGHTS" applicable to private and public licenses alike. The Software is a "commercial item," as that term is defined at 48 C.F.R. 2.101 (Oct 1995), consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (Sep 1995) and is provided to the U.S. Government only as a commercial end item. Any technical data provided with such Software is commercial technical data as defined in 48

C.F.R. 12.211 (Sep 1995). Consistent with 48 C.F.R. 12.211 through 12.212, 48 C.F.R. 227.7202-1 through 227.7202-4 (Jun 1995), and 48 C.F.R. 252.227-7015 (Nov 1995), all U.S. Government End Users acquire the Software with only those rights expressly set forth in this License Agreement.

Without limiting the foregoing, use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in this License Agreement and as provided in DFARS 227.7202-1(a) and 227.7202-3(a) (1995), DFARS 252.227-7013 (c)(1)(ii)(OCT 1988), FAR 12.212(a)(1995), FAR 52.227-19, or FAR 52.227-14, as applicable. For purposes of these regulations the Manufacturer of the Software is MadCap Software, Inc., 9191 Towne Centre Dr #150, San Diego, CA, 92122.

15. (Outside of the USA) Consumer End Users Only. The limitations or exclusions of warranties and liability contained in this License Agreement do not affect or prejudice the statutory rights of a consumer, i.e., a person acquiring goods otherwise than in the course of a business.

The limitations or exclusions of warranties, remedies or liability contained in this License Agreement shall apply to you only to the extent such limitations or exclusions are permitted under the laws of the jurisdiction where you are located.

16. Third Party Software. The Software may contain third party software which requires notices and/or additional terms and conditions. Such required third party software notices, if any, and/or additional terms and conditions are located at <https://www.madcapsoftware.com> and are made a part of and incorporated by reference into this License Agreement. By accepting this License Agreement, you are also accepting the additional terms and conditions, if any, set forth therein.

#### 17. General

1. This License Agreement shall be governed by the internal laws of the State of California, without giving effect to principles of conflict of laws. You hereby consent to the exclusive jurisdiction and venue of the state courts sitting in San Diego County, California or the federal courts in the Southern District of California to resolve any disputes arising under this License Agreement. In each case this License Agreement shall be construed and enforced without regard to the United Nations Convention on the International Sale of Goods.
2. This License Agreement, together with the terms of an applicable software license purchase agreement, if any, between you and MadCap Software, Inc., contains the complete agreement between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements or understandings, whether oral or written. You agree that any varying or additional terms contained in any purchase order or other written notification or document issued by you in relation to the Software licensed hereunder shall be of no effect. The failure or delay of MadCap Software, Inc. to exercise any of its rights under this License Agreement or upon any breach of this License Agreement shall not be deemed a waiver of those rights or of the breach.
3. No MadCap Software, Inc. dealer, agent or employee is authorized to make any amendment to this License Agreement.
4. If any provision of this License 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 License Agreement will remain in full force and effect.
5. All questions concerning this License Agreement shall be directed to: MadCap Software, Inc., 9191 Towne Centre Dr #150, San Diego, CA, 92122, Attention: Support.

6. MadCap Software, Inc. and other trademarks contained in the Software are trademarks or registered trademarks of MadCap Software, Inc. in the United States and/or other countries. Third party trademarks, trade names, product names and logos may be the trademarks or registered trademarks of their respective owners. You may not remove or alter any trademark, trade names, product names, logo, copyright or other proprietary notices, legends, symbols or labels in the Software. Except for the rights granted in Section 2 above relating to Sample Application code, MadCap Software, Inc. Redistributables, and MS Redistributables, this License Agreement does not authorize you to use MadCap Software, Inc.'s or its licensors' names or any of their respective trademarks.
7. Certain MadCap technologies included in the Software are protected by the following U.S Patents: 7,934,153; 9,058,312