

## Complete Data Cloud Terms and Conditions

- 1. Effective Date and Term.** The Effective Date shall be the date you sign this Agreement. The Initial Term of this Agreement is twelve month. After the Initial Term, the Agreement shall automatically renew for successive twelve (12) month periods unless terminated in writing by either party at least thirty (30) days in advance of the Effective Date anniversary date. Complete Data Cloud ("CDC") reserves the right to change its fees after the expiration of each term.
- 2. Fees.** You agree to pay CDC the fees included in the Schedule to this Agreement in accordance with their terms ("Fees"). Unless we specify otherwise, all fees are due in full upon execution of the applicable Schedule. CDC reserves the right to terminate Client's usage of all Software and Services when any fee payment is past due for more than 30 days, and will not be restored until all past due fees have been paid. In the case of a perpetual license for which full payment has been received, Assurance may be cancelled. Client will no longer receive software release updates and support. Assurance can be reinstated again at a later date and will require the full payment of all Assurance fees that would have applied during the period of Assurance cancellation. All fees are exclusive of costs for hardware, equipment use, travel and/or lodging incurred by Us or Our employees.
- 3. Software.** Upon payment of all applicable fees and subject to the terms of this Agreement, We grant You a limited, nonexclusive, non-transferable term license make exact object code copies of the Software in the quantity indicated on this Agreement, and use and install each such copy of the Software on a single computer owned or leased by Licensee specified in the Schedule, together with any documentation associated with such Software provided by CDC, solely: (i) for your own internal business use; (ii) in accordance with the terms of this Agreement and the Schedule; (iii) on hardware and software that meets the published minimum specified requirements ("Equipment"). You shall not directly or indirectly; (i) lease, rent, assign, sublicense, transfer, provide, sell, market, distribute or copy the Software; (ii) use or allow the Software to be used by or for the benefit of any third-party other than your customers; (iii) use the Software in a time-sharing arrangement or in the operation of a service bureau; or (iv) modify, revise, delete, enhance or make additions to the Software. If the applicable Schedule specifically permits you to operate the Software on a multi-user system, this Agreement will cover all users of that system. You may make one copy of the Software in machine readable form for non-productive, disaster recovery or general back-up purposes. You may not use a licensed copy of Software for production purposes in more than one facility concurrently. Your use of the Software shall mean the ability to access, run, execute and display the Software that is installed on our computer equipment for the Initial Term of this Agreement and any renewal term of it. Licensee owns the media on which the Software is recorded or fixed, but Licensee acknowledges that CDC and its licensors retain ownership of the Software itself. CDC reserves any rights not expressly granted to Licensee. The rights granted are limited to CDC 's and its licensors' intellectual property rights in the Software and do not include any other patents or intellectual property rights.
- 4. Installation.** You agree to prepare your Equipment and site for Software installation in accordance with CDC requirements. You agree to maintain internet connectivity from your equipment to CDC as specified by CDC. CDC will install the Software on your Equipment, configure the Software for your use, and test the Software to confirm that it operates in conformity with the CDC specifications. **Installation Date** is the day you are given the login information to your CDC Software
- 5. Intellectual Property.** You have no copyright, trade secret, patent or other intellectual property right in any Software or in any related data, design, code, program or other item provided by CDC, and CDC shall own all such rights exclusively. You agree that you will not alter, obscure or revise any proprietary, restrictive, trademark or copyright notice included with, or affixed to, the Software. You shall keep the Software free and clear of any claim, lien or encumbrance, and any such action shall be void from its inception.
- 6. Disclaimer.** Under no circumstances shall CDC have any liability for any Defect or losses, claims, demands, penalties, actions, causes of action, suits, obligations, liabilities, damages, delays, costs or expenses, including reasonable attorney's fees, (collectively "Losses") caused, directly or indirectly, in whole or in part, by: (i) Client; (ii) a third party; (iii) abuse, misuse, alteration or use outside of CDC-specified operating requirements; (iv) Client's failure to install, or an incomplete or improper installation, of the originally licensed or any subsequent release of Software; (v) incorrect or incomplete data used by Client; (vi) software, hardware or systems not supplied by CDC; or (vii) any other failure not directly attributable to, or reasonably anticipated by, CDC. CDC shall make the final determination as to the existence and cause of any Defect. CDC shall have no obligation with respect to a Defect unless: (i) You reasonably assists CDC in its diagnosis and correction; (ii) You provide a written description of the Defect to CDC; (iii) You install and maintain internet connectivity in accordance with CDC specifications; (iv) You perform diagnostic and remedial actions described in documentation supplied by CDC; and (v) the Defect, if it relates to Software, can be reproduced at CDC's facilities using the most current release. Client shall pay CDC its then current labour rates for analysing any irregularity or failure not caused by a covered Defect. EXCEPT AS SPECIFICALLY STATED IN THIS AGREEMENT, ALL SOFTWARE IS PROVIDED "AS IS", AND ALL WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF QUALITY, DURABILITY, FITNESS FOR PARTICULAR PURPOSE, MERCHANTABILITY, CONTINUOUS USE, DESIGN, COMPLIANCE OF DATA OUTPUT WITH APPLICABLE LAW, PERFORMANCE OR ERROR-FREE OPERATION (INCLUDING ANY CREATED BY THE INTERNATIONAL SALE OF GOODS CONVENTION) ARE DISCLAIMED IN THEIR ENTIRETY.
- 7. Third Party Products.** Under no circumstances shall CDC have any responsibility or liability to Client with respect to any product or service provided by a third party.
- 8. Indemnification.**
  - 8.1** Client shall indemnify, defend, and hold harmless CDC and its officers, employees, directors and agents, in their individual capacities or otherwise, from and against any and all Losses asserted by a third party resulting from, arising out of, or incurred in connection with Client's: (i) negligence or wilful misconduct resulting in personal injury or property damage; (ii) misuse of the Software; (iii) failure to comply with applicable law; (iv) failure to comply with the terms of this Agreement; (v)

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failure to comply with the terms of any third party agreement to which it is a party; or (vi) any claim of libel, violation of privacy rights, unfair competition or infringement of a intellectual property rights not caused by CDC.

- 8.2** CDC shall indemnify, defend, and hold harmless Client and its officers, employees, directors, shareholders and agents, in their individual capacities or otherwise, from and against any and all Losses asserted by a third party resulting from, arising out of, or incurred in connection with CDC's: (i) gross negligence or wilful misconduct resulting in personal injury or property damage; (ii) failure to comply with applicable law; (iii) failure to comply with the terms of any third party agreement to which it is a party. CDC shall have no liability for any claim of infringement resulting, in whole or in part, from: (i) any use of a version of the Software other than the most current unmodified version; (ii) use or combination of the Software with computer programs owned or licensed by a party other than CDC; or (iii) Client's failure to implement corrections or changes to the Software offered by CDC. CDC shall, at its option either: (i) procure for Client the right to continue using the Software; (ii) replace or modify the Software so that it becomes non-infringing; (iii) terminate this Agreement without any penalty to the Client.
- 8.3** The obligation to provide indemnification under this section is contingent upon: (i) the indemnified party promptly notifying the indemnifying party in writing of any claim; (ii) the indemnifying party having sole control over the defence and settlement of the claim; (iii) the indemnified party reasonably cooperating during defence and settlement efforts; and (iv) the claim not arising, in whole or in part, out of the indemnified party's breach of this Agreement.
- 9. Limitation of Liability.** Under no circumstances shall CDC be liable for any Losses relating to the Software or the actions of CDC in connection with this Agreement that was not brought to its attention by Client in writing within forty five (45) days of its occurrence. No claim for Losses or other relief arising out of this Agreement or the Software may be filed by Client more than one (1) year following its shipment to Client, unless it relates to Assurance, in which case it must be filed within one (1) year of the event that gave rise to the alleged liability. CDC's total liability in any case is limited, in the aggregate, during the first year following the Effective Date, to the amount of fees actually paid by Client for the software, and thereafter, to the amount of any fees actually paid by Client during the then current Period. CDC shall not be liable for any indirect, incidental, consequential, special, delay, punitive, economic or property damages whatsoever (including any damages for loss of business profits, business interruption, loss of information or other pecuniary loss) arising out of the Software or this Agreement, even if CDC or its vendors were advised of the possibility of such damage.
- 10. Advertising.** We have the right to include your name in a general listing of users of our products and services. However, neither party shall use any logo or trademark owned by the other party unless pre-approved in writing by one of its officers.
- 11. Relationship.** CDC is an independent contractor. Neither CDC nor any of its representatives shall be considered your employee. Except as specifically agreed by the parties, CDC has the sole obligation to supervise, manage, contract, direct, procure and perform our obligations under this Agreement. CDC reserves the right to determine which of our representatives shall be assigned to perform its obligations, and to replace or reassign such representatives as we deem appropriate.
- 12. Interference and Competition.** You shall not, directly or indirectly, during the term of this Agreement: (i) induce or influence any employee of CDC or any other person or entity to terminate their relationship with CDC; or (ii) produce a product or service that competes with the Software.
- 13. Confidentiality.** Each party shall treat all information received from the other party and designated as confidential ("Confidential Information") as a trade secret and strictly confidential. CDC designates the Software, all information relating to the Software, the Materials and the terms of this Agreement as confidential. Both parties shall: (i) restrict disclosure of Confidential Information to its employees and agents solely on a "need to know" basis; (ii) advise its employees and agents of their confidentiality obligations; (iii) use commercially reasonable means to comply with the confidentiality obligations of this Agreement; and (iv) notify the other of any unauthorized possession or use of that party's Confidential Information as soon as possible upon receiving notice of same. Neither party shall be obligated to preserve the confidentiality of any information which: (i) was previously known; (ii) is a matter of public knowledge; (iii) was or is independently developed; (iv) is released for disclosure with written consent; or (v) is received from a third party to whom the information was disclosed without restriction. Disclosure of Confidential Information shall not be precluded if the disclosure is: (i) required by law; or (ii) is in response to a valid order of Australian court or other governmental body, provided the receiving party gives written notice to the providing party and makes a reasonable effort to obtain a protective order requiring the information disclosed be used only for the purpose set forth in the original order.
- 14. Return of Materials.**
- 14.1** Upon termination of this Agreement for any reason, you shall cease using the Software and shall either return or destroy it along with all other CDC Confidential Information. You shall, upon request, sign a CDC supplied certification attesting to the foregoing.
- 14.2** Upon termination of this Agreement for any reason and payment of all outstanding fees, CDC shall either return or destroy all your Confidential Information. CDC shall, upon request, sign a CDC-supplied certification attesting to the foregoing.
- 15. Audit.** CDC shall have the right, upon at least five (5) business days prior written notice, to visit your facilities, during normal business hours, for the purpose of determining the adequacy of your procedures for maintaining the confidentiality of CDC's Confidential Information and to otherwise audit, monitor and ensure compliance with the terms of this Agreement. All such audits shall be reasonable in scope and duration. CDC shall maintain the confidentiality of any information disclosed during an audit that is identified as confidential by you. CDC will pay for the audit.
- 16. Additional Remedies.** In addition to any other remedies at law or in equity to which it is entitled, CDC reserves the right to terminate this Agreement upon thirty (30) days advance written notice if you: (i) are in material breach of this Agreement for

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more than ten (10) consecutive days after written notice; (ii) are the subject of a dissolution or bankruptcy action; (iii) suffer the appointment of a receiver or trustee; or (iv) commit any act related to this Agreement with the intent to defraud CDC. Due to the likelihood of irreparable injury, CDC shall also be entitled to an injunction, without bond, prohibiting any breach of this Agreement by Client. You shall pay CDC a late fee equal to the lesser of one and one-half percent (1½%) per month, or the maximum allowed by law, for any amount remaining unpaid for more than thirty (30) days following its due date. Fees payable under this Agreement are not subject to reduction or set-off of any kind for any reason.

### 17. Miscellaneous.

- 17.1 CDC must approve the assignment or transfer of interests, obligations and rights under this Agreement if you enter into an agreement to merge or transfer a majority of your assets or stock. We agree to not unreasonably withhold approval. In all other cases, you shall not subcontract, assign, subrogate or transfer any interest, obligation or right under this Agreement without prior written consent from CDC, and any such attempt shall be null and void. Any dissolution, merger, consolidation, reorganization or transfer of a majority of the assets or stock of Client shall constitute an attempted assignment of this Agreement. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns.
- 17.2 This Agreement shall be governed by the state and Federal laws applicable in NSW, Australia.
- 17.3 Neither party shall be deemed to have waived any of its rights under this Agreement without specifically agreeing to do so in writing. No waiver of a breach of this Agreement shall constitute a waiver of any prior or subsequent breach of this Agreement.
- 17.4 CDC shall not be liable for any loss, damage or failure due to causes beyond our control, including strikes, riots, earthquakes, epidemics, wars, fires, floods, weather, power failure, telecommunications interruption, the failure or closure of a financial institution, computer malfunctions, acts of God or any other failure, interruption or error not directly caused, or reasonably anticipated, by CDC.
- 17.5 The headings that appear in this Agreement are inserted for convenience only and shall not limit or extend the scope of this Agreement.
- 17.6 If you are or become the subject of any insolvency, bankruptcy, receivership, dissolution, reorganization or other similar proceeding, federal or state, voluntary or involuntary, under any present or future law, you consent to the immediate and absolute lifting of any stay as to the enforcement of remedies under this Agreement,
- 17.7 Each party, and each person signing on behalf of a party, represents and warrants it has full legal capacity and authority to enter into and perform the obligations of this Agreement without any additional consent or approval.
- 17.8 This Agreement, together with any referenced Schedules, Addenda or other documents, constitutes the entire understanding of the parties with respect to its subject matter, and all prior agreements, understandings and representations are cancelled in their entirety.
- 17.9 If there is a conflict between a part of this Agreement and any present or future law, the part of this Agreement that is affected shall be curtailed only to the extent necessary to bring it within the requirements of that law.
- 17.10 All notices, including invoices, given in connection with this Agreement, shall be in writing and deemed received forty-eight (48) hours after deposit in the mail, postage prepaid, or if given by other means, upon actual receipt. Notices shall be delivered to the appropriate party at its address set forth in this Agreement, or, in the alternative, in the case of notices to Client, the same address as invoices.

### 18. Cloud Application

- 18.1 You shall have the ability to increase or decrease licensed users and/or add-ons. Billing for the increase or decrease will be effective with the next billing cycle.
- 18.2 You shall make account information and data requests in writing. We will make the requested information available to you within 30 days of request at our then-current rate for file creation.
- 18.3 CDC shall use commercially reasonable methods to limit planned downtime for the application so that disruption to your business is minimized from Monday through Friday between the hours of 8 a.m. and 9 p.m. Eastern Standard Time, and similar business hours in all other locations.