

DATATOOLS END USER LICENCE SOFTWARE AGREEMENT

PERMISSION TO USE THE SOFTWARE IS CONDITIONAL UPON AGREEING TO THE TERMS OF THE AGREEMENT SET OUT BELOW.

By use of the Software a Licence Agreement (**Agreement**) will be formed between DATATOOLS PTY LTD (ABN 21 073 541 385) of Office 310, 20A Lexington Drive, BELLA VISTA NSW 2153 ("**DataTools**" or "**We**" or "**Us**" or "**Our**") and **Customer** ("**You**" or "**Your**") permitting You to use the Software specified in this Agreement or in the DataTools Licence Certificate (**DataTools Licence Certificate**).

Licence

- 1.1. Subject to payment of fees set out in this Agreement, We grant You a non-exclusive licence during the Term to use the Software for the Permitted Purpose on the terms set forth in this Agreement for the Term.
- 1.2. You agree not to use the Software for any other purpose than the Permitted Purpose.
- 1.3. You agree to comply with any Third Party agreement or requirement relevant to Your use of the Software. Where required We will provide You access to the relevant Third Party agreement(s).
- 1.4. Unless We specifically agree to You using additional Modules, You may only use the Modules specified in the DataTools Licence Certificate.
- 1.5. Where relevant, unless We specifically agree to You using additional Transactions, You may only use the Software and the Modules up to the number of Transactions as specified in the DataTools Licence Certificate for each of the specified Modules.
- 1.6. Where relevant, unless We specifically agree to You installing the Software on a larger Number of Installations, You may only install and use the Software and the Modules on the maximum Number of Installations.
- 1.7. You agree not to use the Software after the Term.
- 1.8. You may not:
 - 1.8.1 rent, lease, distribute or sublicense the Software;
 - 1.8.2 assign, sell or transfer the Software, or allow publication of any results of benchmark tests run on the Software;
 - 1.8.3 copy or reproduce the Software other than in accordance with clause 4;
 - 1.8.4 use the Software for any purpose other than the Permitted Purpose;
 - 1.8.5 modify, adapt, merge, alter, disassemble, decompile or reverse engineer the Software;
 - 1.8.6 transmit any content or data or do anything that is unlawful, or compromise the security of the Software; or
 - 1.8.7 do anything else in relation to the Software which is not expressly permitted in these terms or by law.
- 1.9. If You breach clauses 1.3, 1.4, 1.5, 1.6, 1.7 or 1.8 with or without Our consent:
 - 1.9.1 the costs, losses and damages associated with the breach or the modifications, adaptations, merger or alterations or the costs arising out of the investigation of the effects of such breaches, modifications, adaptations or alterations will be borne solely by You; and
 - 1.9.2 You will fully indemnify Us against all liability which may be incurred by Us if your use of the

Software or such modifications, adaptations, mergers and/or alterations infringe any Intellectual Property Rights of a Third Party or otherwise cause Us to suffer loss, damages or expense.

- 1.10 The Software is provided solely for the Your own use pursuant to this Agreement. You are explicitly prohibited from reselling or attempting to resell the service output, or marketing or otherwise distributing the Software, without Our explicit written permission. We reserve the right to check the URL of the Your website which is using the Software to assist in determining that the Software is being used in accordance with this Agreement.
- 1.11 You agree to provide: reasonable access to Your premises, facilities and personnel; and reasonable information; to allow Us or our Third Party licensors to verify that You are using the Software and Documentation in accordance with the provisions of this Agreement and the requirements of the Third Party licensors. Furthermore, You acknowledge that We may need to provide information in relation to Your identity and Your use of the respective Software to the Third Party licensors, as a requirement to allow You to use the Third Party licensor's data, software and materials. You hereby expressly consent to such disclosure by Us to the Third Party licensors pursuant to this, and for the respective Third Party licensors to contact You in relation to Your use of the Third Party licensor's data, software and other materials.

2. Term of agreement and renewal

- 2.1 The Initial Licence Term of the Agreement is set out in the Schedule to this Agreement.
- 2.2 The Licence Renewal Date is the date on which the Initial Licence Term of the Agreement expires.
- 2.3 Unless terminated in accordance with clause 12, the Agreement may be renewed for a Further Term upon payment of the Renewal Fee to Us.

3. Licence fees

- 3.1 You will pay the Licence Fee to Us, or as We may direct (including to an authorised reseller), at the rate and in the manner specified in the Schedule to this Agreement.
- 3.2 Unless otherwise specified by Us, the Licence Fees are exclusive of GST, taxes, duties and charges imposed or levied in Australia or overseas in connection with the supply and installation of the Software. Without limiting the foregoing, You will be liable for any new taxes, duties or charges imposed subsequent to the Purchase Date in respect of the goods and services which are the subject of this Agreement. You must reimburse Us for any amount which We pay which You are required to pay under this clause 3.
- 3.3 You acknowledge that We may vary the charges applicable pursuant to this Agreement, from time to time and You agree that once You are informed of any such increase in charges and the date that the charges will be effective from, if You continue to use the Software, it will be deemed that you accept such changes in the charges.

4. Copy allowed for backup and security

- 4.1 Where Software is provided to You for Installation You may make one copy of the Software for the purpose of backup and security. You acknowledge any copy is Our property. The terms of this Agreement, with any necessary modifications, apply to any copy.
- 4.2 You will ensure any copy of the Software made pursuant to this Agreement contains a notice of Our ownership of copyright and a notice stipulating that the Products contain information confidential to Us. You will comply with any directions from Us as to the form or content of any notices.

- 4.3 If requested by Us, You will issue a notice in a form approved by Us to all employees and other authorised users of the Software under Your direction or control, advising those persons of Your obligations under this Agreement and also advising of the possible civil and criminal consequences of a breach of this Agreement.
- 4.4 You agree that You are responsible for your systems environment, including maintaining reasonable measures with respect to security and protection from viruses.

5. Software updates

- 5.1 If You have paid the Licence Fee, We will send You or make available Software Updates on a regular basis.
- 5.2 Where relevant You must install the Software Update prior to the expiry date of the Software or Software Update. If You have not installed the Software or Software Update prior to the expiry date, You acknowledge that you will be unable to use the Software.
- 5.3 Subject to any termination rights set out in this Agreement, if you pay the Renewal Fee:
- 5.3.1 We will deliver the Software Updates during the Further Terms; and
- 5.3.2 this Agreement will continue to apply in all respects to the Software Update and Further Terms unless we advise You prior to the Further Term commencing that new terms and conditions will apply for the Further Term.

6. Disclaimer

- 6.1 Some datasets and services utilised in the Software will be supplied to Us by Third Parties. The Software and Documentation is provided “as is”, and we do not warrant or guarantee that the Software will operate on Your system, will be uninterrupted, error-free or virus-free, will not affect Your system, and We do not make any representation or warranty as to the results to be obtained from use of the Software or that it will meet all your requirements, nor do we warrant or guarantee that We will correct all Software errors.
- 6.2 You acknowledge that:
- (a) Where required, Third Party licensors have advised that the Software has achieved the Test Standard specified by the relevant Third Party;
 - (b) the approval of the Software by a Third Party licensor or Us does not represent an endorsement by Us or by The Third Party licensor that the Software is suitable for Your purposes or is capable of being used by You;
 - (c) Any and all enquiries concerning the characteristics or performance of the Software must be referred to Us, and not to the Third Party licensor; and
 - (d) We have no control over services available within the Software that are provided by third parties.
- 6.3 The information contained in Third Party datasets and services We provide to You are provided in good faith to assist You in Your use of the Software. We do not guarantee or make any Warranty as to the accuracy or completeness of the information or availability of these datasets or services.
- 6.4 You agree to implement the technical recommendations provided by Us that may assist in implementing the Software or mitigating the losses that may result from the Software being unavailable or disrupted however you acknowledge that such recommendations are general in nature and will require You to ensure that Your personnel have the necessary skills to implement such recommendations.

7. Ownership of Intellectual Property Rights

- 7.1 You acknowledge that:
- 7.1.1 nothing in these terms confers on You any ownership rights in the Software;
 - 7.1.2 Third Party datasets and services and the Intellectual Property Rights in them will remain the property of the respective Third Parties.
 - 7.1.3 nothing in this Agreement will operate as an assignment of any Intellectual Property Right.
- 7.2 Any Third Party dataset utilised within the Software may not be sold, copied or distributed without prior written permission from the relevant Third Party.
- 7.3 Subject to clause 7.1 and 7.2, You acknowledge that We and any relevant Third Party are the owners or licensees of all Intellectual Property Rights vesting in the Software and Documentation pursuant to this Agreement. Any Intellectual Property Rights that arise directly or indirectly from the use by You of the Software and/or the Documentation belongs exclusively to Us and the relevant Third Party. This includes any use that is in breach of this Agreement. You hereby assign to Us or, at our discretion, to any relevant Third Party, any Intellectual Property Rights that result or arise directly or indirectly from the use of the Software and/or the Documentation as and from their date of creation.

8. Notices

- 8.1 You must not remove or alter any notices of Our or Our Third Party licensor's copyright, trademarks or any other proprietary rights that appear in the Software or the DataTools Licence Certificate.

9. Privacy

- 9.1 We are committed to ensuring the privacy of any personal information We may collect about You.
- 9.2 We use the information collected about You in order to contact You in connection with the Software.
- 9.3 You acknowledge that certain information We collect about You may be shared with Third Parties in order to provide the Software and Modules to You.
- 9.4 We will otherwise comply with the terms of Our privacy policy which can be found at www.datatools.com.au.
- 9.5 You must comply with all requirements of the Privacy Act 1988 as amended by the Privacy Amendment (Private Sector) Act 2000 ('the Act') relevant to Your possession or use of the Software.

10. Liability and release

- 10.1 **Except for terms and warranties which cannot by law be excluded, all implied terms and warranties are excluded.**
- 10.2 **Nothing in this Agreement is intended to exclude, restrict, or modify any consumer rights under the Competition and Consumer Act 2010 (Cth) (CCA) or any other legislation which may not be excluded, restricted, or modified by agreement. To the extent the CCA or any other legislation implies a condition, warranty, or term into the Agreement or provides statutory guarantees in connection with the Agreement in relation to the supply by Us of the Software, Our liability for any breach of those terms is limited to the following (at Our election):**
- 10.2.1 **in the case of goods, either supplying the goods again or paying the cost of having the goods supplied again; and**
 - 10.2.2 **in the case of services, either supplying the services again or paying the cost of having the services supplied again.**

- 10.3 **You accept that the Software is provided as-is and that You use the Software at Your own risk. To the extent permitted by law, Our liability, including for any direct, indirect or consequential loss or damage (including but not limited to loss of profits, loss or damage to Your records and data and loss of business revenue, goodwill or anticipated savings), and whether arising from negligence or in any other way, is excluded.**
- 10.4 **Without limiting clauses 10.1, 10.2 and 10.3, You release Us from all damages, losses, costs and expenses incurred by You arising out Your use of the Software.**
- 10.5 **You acknowledge that in entering into this Agreement You have not relied in any way on Our representations, descriptions, illustrations, specifications, skill or judgment except as expressly specified in this Agreement, and You confirm that You have satisfied yourself as to the condition and suitability of the Software for Your purposes. You acknowledge that the Software has not been developed to meet Your particular requirements.**

11. Indemnity

- 11.1 You will at your cost, indemnify us and keep us indemnified against all and any demands, loss, costs, expenses, liability, claims, actions and proceedings made by any third person in connection with or arising out of a claim or proceeding that is made or commenced:
- 11.1.1 by a third party alleging infringement of Intellectual Property Rights as a result of your use of the Software;
 - 11.1.2 arising out of a breach of this Agreement, or any related third party agreements, by You;
 - 11.1.3 arising from a claim made by a third party arising from Your use of the Software, any alleged misuse by You of a third party dataset or service or a breach of this Agreement;
 - 11.1.4 arising out of a failure by You to give Us all reasonable assistance in connection with dealing with a possible or alleged infringement of the Intellectual Property Rights in the Software and /or Documentation and defending any claim in respect of it;
 - 11.1.5 arising out of an infringement of any Intellectual Property Rights of a third party by You in giving information to the third party in order to enable it to develop or customise the Software for You;
 - 11.1.6 arising out of Your continued use of the Software in circumstances where You have been requested by Us not to use the Software due to an intellectual property infringement claim against us and You have been provided with a suitable alternative under clause 1.1; or
 - 11.1.7 any wilful, unlawful or negligent act or omission by You.
- 11.2 Nothing in this Agreement authorises You to defend, compromise or settle any claim or proceedings on Our behalf.

12. Termination

- 12.1 We may suspend or terminate this agreement at any time by written notice to You for any reason including, but not limited to, termination of the Agreement(s) between a third party provider and Us.
- 12.2 Upon expiry or termination of this agreement, You shall discontinue use of the Software and either destroy or return all copies of the Software and Documentation at Our request.

13. Goods and services tax

- 13.1 Where:

- 13.1.1 A party (Supplier) makes a taxable supply to another party (Recipient), the Recipient must pay to the Supplier an additional amount equal to the GST payable by the Supplier (unless the consideration for that taxable supply is expressed to include GST). The additional amount must be paid when any consideration for the taxable supply is first paid or provided. The Supplier must provide to the Recipient a tax invoice at the time of payment.
- 13.1.2 A party indemnifies, reimburses or makes a contribution (Contribution) to the other party, and the other party can obtain an input tax credit on an acquisition associated with the Contribution, the amount of the Contribution for the first party is reduced by the amount of that input tax credit. The reduction is to be made before any increase under clause 13.1.1.
- 13.1.3 Terms are used in this clause they have the meanings given to them in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

14. Maintenance and support

- 14.1 If We offer support, updates and/or maintenance for the Software pursuant to a separate agreement, and You elect to enter into such an agreement, the support, updates and/or maintenance for the Software will be governed by the terms and conditions of that agreement.

15 Assignment and novation

- 15.1 Neither this Agreement, nor any of its rights or obligations, may be assigned by You without Our prior written consent, and such consent is solely at Our discretion.
- 15.2 We may consent to the assignment or novation of this Agreement by You subject to any conditions We choose to impose.
- 15.3 We may subcontract, assign or novate any rights and/or obligations under this Agreement without Your consent.

16. Third Party agreements and costs

- 16.1 Use of the Software may require You to accept the terms and conditions set forth by Third Parties in order to use the data or services provided by them in the Software.
- 16.2 By using the Third Party data or service within the Software you agree to that Third Party's terms and conditions, including the payment to Us (or where applicable to the authorised reseller) of any fees or royalties associated with the use of the data or service. You agree that You will bring any claims in respect of the Third Party software and data which is governed by those terms and conditions, against the Third Party pursuant to the third party agreement and not against Us.
- 16.3 You acknowledge that these fees or royalties may be in addition to Licence Fees charged by Us.
- 16.4 You acknowledge that the fees and terms and conditions imposed by Third parties may change at any time.

17. General

- 17.1 If You have not been provided with a DataTools Licence Certificate, the terms set out in in the Schedule to this Agreement apply to Your licence for the Software. If You have been provided with a DataTools Licence Certificate, the terms set out in the DataTools Licence Certificate apply to Your licence for the Software to the extent that the terms differ from the terms set out in the Schedule to this Agreement.
- 17.2 This agreement is governed by the laws of New South Wales and the parties irrevocably and unconditionally submit to the jurisdiction of, and venue in the courts in Sydney, New South Wales and courts entitled to hear appeals from them.

- 17.3 Except as otherwise set out in this document, any agreement, covenant, representation or warranty under this document by two or more persons binds them jointly and each of them individually, and any benefit in favour of two or more persons is for the benefit of them jointly and each of them individually.
- 17.4 Each provision of this document is individually severable. If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction it is to be treated as being severed from this document in the relevant jurisdiction, but the rest of this document will not be affected. The legality, validity and enforceability of the provision in any other jurisdiction will not be affected.
- 17.5 No variation of this document will be of any force or effect unless it is in writing and signed by Us.
- 17.6 A waiver of any right, power or remedy by Us under this document must be in writing signed by Us. A waiver is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion. The fact that We fail to do, or delay in doing, something We are entitled to do under this document does not amount to a waiver.
- 17.7 Provisions that survive termination or expiration are those relating to limitation of liability, infringement, indemnity, payment, publicity, confidentiality, third party agreements and others which by their nature are intended to survive, however this shall not imply or create any continued right to use the software after termination of this agreement.
- 17.8 Neither party will use the name of the other party in publicity activities without the prior written consent of the other, except that You agree that We are permitted to name You as Our customer (including use of Your name, trademark and logo).
- 17.9 The authorised reseller is not Our agent. The authorised reseller is an independent entity with no authority to bind Us or to make representations or warranties on our behalf.
- 17.10 The parties are independent contractors, and no joint venture, partnership, franchise, agency, fiduciary or employment relationship between the parties is created by this Agreement.
- 17.11 If either Party is prevented from complying with its obligations due to any event beyond its reasonable control (such event being referred to as a "Force Majeure Event") (including without limitation, any issues arising from the data, software or documentation supplied by the Third Party licensors), it shall not be in breach of this Agreement nor otherwise liable to the other party by reason of any delay in performance or non-performance of any of its obligations due to such events. However, this clause does not excuse You from complying with Your payment obligations, nor from compliance with the Third Party agreements, by itself claiming the benefit of a Force Majeure Event.
- 17.12 Each party will, during the term of this Agreement and thereafter, keep confidential all, and will not use for its own purposes (other than implementation of this licence) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party or any of its affiliates, unless that information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this licence, or subsequently comes lawfully into the possession of such party from a third party. Each party will use its reasonable endeavours to prevent the unauthorised disclosure of any such information.
- 17.13 Subject to clause 10, this Agreement, including any relevant Third Party agreements incorporated by reference, contains the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes and replaces all other written and oral communications between the parties relating to the subject matter. The parties hereby confirm that they have not relied upon

any representations, communications or other matters which have not been expressly stated in this Agreement, whether as an inducement to enter into this Agreement or otherwise.

18. Definitions

In this Agreement, unless the contrary intention appears in this Agreement:

Confidential Information means the confidential information of third party providers, DataTools Pty Ltd, its directors, agents, employees, contractors, authorised distributors or authorised resellers which includes information relating to the design, specification or content of Third Party datasets or services and the Software.

Customer means the organisation named as the 'Customer' or 'Business' or 'Company' in either:

- (1) the DataTools order for the Software;
- (2) the DataTools Licence Certificate; or
- (3) the Agreement.

DataTools Licence Certificate means a document (or online access to a portal) provided by Us, Our directors, agents, employees, contractors, authorised distributors or authorised resellers which sets out the quantify of licences issued to You and any restrictions applicable for the items specified in the Schedule to this Agreement.

Documentation means any user or technical documentation supplied by Us with the Software.

Function means a self-contained software routine that performs a task. For clarification a task may be provided by Us or a third party (via the Software).

Function Call means a request to the Software to perform a specific Function, including values and parameters.

Further Term means each period of extension of the licence beyond the Initial Licence Term. For clarification the Further Term may be a period of time or a number of Transactions. Where the Initial Licence Term is based on a number of Transactions, the Further Term is a number of Further Transactions purchased OR 12 months from the purchase date of the of Further Transactions, whichever comes first.

Further Transactions means the purchase of additional Transactions for a specific Module after the Initial Licence term.

Initial Licence Term means the Initial Licence Term set out in the Schedule to this Agreement.

Installations means computer servers, laptop computers and personal computers.

Intellectual Property Rights means any and all worldwide proprietary, intellectual and industrial property rights, rights in trade, business or company names and such other rights as are generally accepted as falling within the term 'intellectual property', and shall also include any rights to application or registration of such rights, in Australia or elsewhere, and whether created before, on or after the date of this Agreement and conferred by statute, common law or equity, including rights in respect of or in connection with:

- (a) any Confidential Information;
- (b) any copyright (including future copyright and rights in the nature of or analogous to copyright);

- (c) inventions (including patents);
- (d) trademarks, service marks;
- (e) any designs, semiconductor, circuit layouts or other technology; and
- (f) Know-how, ideas and concepts,

Including:

- (g) All rights in all applications to register these rights;
- (h) All renewals and extensions of these rights; and
- (i) All rights in the nature of these rights, such as moral rights.

Licence Fee means the Licence Fee set out in the Schedule to this Agreement.

Licence Renewal Date means the Licence Renewal Date set out in the Schedule to this Agreement.

Modules means the Modules and/or Plug-ins set out in the DataTools Licence Certificate

New Products means any new product created by DataTools.

New Versions means new releases and upgrades of the Software made available by DataTools, but does not include New Products.

Number of Installations means the Number of Installations set out in the Schedule to this Agreement.

Permitted Purpose means:

- (a) parsing, matching, correcting, manipulating, adding to, sorting, comparing, and/or validating (collectively 'processing') data; and
- (b) Unless specified by Us, where a Module referencing a Third Party service is being used, the Purpose as defined within the relevant Third Party licence agreement, and
- (c) any other purpose as advised by Us in writing from time to time, and
- (d) any other purpose for which you obtain Our written consent

provided that all of the above purposes are for internal business purposes only, and that no software, list or database contains functionality which allows reverse engineering of the any Third Party dataset or any use any not permitted by this Agreement. Where the Software is used in conjunction with an authorised reseller's solution, such use shall be limited to use within that solution.

Purchase Date means the date on which You paid the Licence Fee.

Renewal Fee means the annual fee notified by Us from time to time.

Software means the version of DataTools software as specified in the DataTools Licence Certificate (including any backup copies).

Software Update means an updated version of the Software that includes fixes, error corrections, work-around, dataset updates or other maintenance media and corrections made available by DataTools of the Software, but does not include (i) New Versions or (ii) New Products.

Term means the Term set out in the Schedule to this Agreement.

Test Standard means a performance standard set by a Third Party licensor to approve or certify the

Software for compliance with the Third Parties functional or performance requirement.

Third Party means an independent provider of datasets or services consumed by the Software.

Transactions means a single Call to the Software in order to receive a response. For clarification, this may be via an application programming interface, web portal or installed software package.

Except where applicable by law or otherwise agreed by Us, where a definition for a term in this Agreement differs from the same term in a Third party agreement, the term defined in this Agreement will apply.

Schedule

Initial Licence Term

The Initial Licence Term may be a period of time or a number of Transactions.

In the case of locally installed Software the Initial Licence Term is 12 months from the Purchase Date unless otherwise specified on the order or invoice.

In the case of Transactions the Initial Licence Term is for the period up until all purchased Transactions for a particular Method have been used or 12 months from the Purchase Date, whichever comes first.

Licence Fee

You agree to pay to Us (or where applicable, the authorised reseller) all Fees set out in the order, including any fees payable to a third party in connection with your use of the Software

Licence Renewal Date

In the case of locally installed Software the Licence Renewal Date is 12 months from the Purchase Date or 12 months from the commencement of the Further Term.

In the case of Transactions the Licence Renewal Date is the date at which all Transactions for a particular Method have been used or 12 months from the Purchase Date, whichever comes first.

Number of Installations

Where the Software is intended for desktop use: one copy of the Software on one personal computer or laptop computer.

Where the Software is intended for installation on a Server: one copy of the Software on one Server.

Payment Terms

Strictly 14 days from Invoice date.

Accepted payment methods are Electronic Funds Transfer, Cheque, Bank Deposit, Credit Card, unless otherwise arranged. Please refer to invoice for other payment details relating to Your purchase of the Software.

Title of all goods remain Ours until full payment has been made.

Term

In the case of locally installed Software the Term is 12 months from the Purchase Date or 12 months from the commencement of the Further Term, unless otherwise specified in the order or invoice. Where the licence is renewed, the term is 12 months from the Licence Renewal Date or upon purchase of the Further Term.

In the case of Transactions the Term is the use of all purchased Transactions or 12 months from the Purchase Date (unless otherwise specified in the order or invoice), whichever comes first. Where the licence is renewed, the term is the use of all Further Transactions or 12 months from Purchase Date of the Further Transactions (unless otherwise specified in the order or invoice).