

Online Terms of Service

Last modified: 14 December 2012

This Subscription Agreement governs your (“Customer”) use of Datahug Services, either on a trial or commercial licence. This Subscription Agreement and any online purchase order forms, if applicable, (“Order Form”) (collectively referred to as the “Agreement”) represent the parties' entire understanding regarding the Services and shall control over any different or additional terms of any purchase order or other ordering document, and no terms included in any such purchase order or ordering document shall apply to the Services.

This Agreement is entered into by and between Datahug Limited (“Datahug” or “DH”) an Irish company and the Customer set forth in the applicable Order Form. Where there is a contradiction or conflict between the subscription Agreement and any Order Form, the terms of the Order Form shall apply. This document outlines the standard contractual terms and conditions (“Terms”) that apply to the provision of any products, product documentation, materials or services (“Services”) provided by Datahug, its affiliates, agents, contractors, or other third parties. We reserve the right to change or modify any of this Agreement at any time, in our sole discretion. Any updated Agreement will apply thirty (30) days after posting. Your continued use of any part of the Services following this thirty (30) day period will constitute your acceptance of such changes or modifications. This contract comes into force on the date appearing on the Order Form (“Effective Date”).

YOU UNDERSTAND THAT BY USING THE SITE WWW.DATAHUG.COM, THE SERVICES OR YOUR DATAHUG ACCOUNT, OR BY CLICKING “CREATE ACCOUNT”, “I ACCEPT” OR “SIGN UP” TO INDICATE YOUR AGREEMENT TO THIS AGREEMENT, YOU ARE AGREEING TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT ACCEPT THIS AGREEMENT IN ITS ENTIRETY, YOU MAY NOT ACCESS OR USE THE SERVICES. IF YOU AGREE TO THESE TERMS OF SERVICE ON BEHALF OF A BUSINESS, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND THAT BUSINESS TO THIS AGREEMENT AND THAT YOUR AGREEMENT TO THIS AGREEMENT WILL BE TREATED AS THE AGREEMENT OF THE BUSINESS. IN THAT EVENT, CUSTOMER, “YOU” AND “YOUR” WILL REFER AND APPLY TO THAT BUSINESS.

1. Right to Use

Upon payment of the applicable fees and charges as specified in the Order Form, DH grants to the customer (“you” and “your”), for your internal use only, a non-transferable, non-sublicenseable, non-exclusive right to use, and to permit individuals authorised by you

("Authorised Users") to use the Services solely for your internal business operations, as contemplated by this contract, for the term of the contract, as specified in the Order Form. Subscription License Fees are calculated on the basis of the number of individuals contributing data (rather than on a user basis) to the DH Service ("DH Licences") as set out in the Order Form. DH will provide the Services in accordance with the terms of the relevant Order Form, it being agreed that deployment dates and timelines given in the Order Form are estimates only. All rights not expressly granted to you are reserved by DH and its licensors. You agree not to create or to enable third parties to create modifications, derivative works, or competitive products or services. You further agree that your Authorised Users shall comply and be bound by these Terms and shall keep a secure password for his/her use of the Services. You agree not to modify your customer relationship management system, any other system to include fields that are designed to capture, reflect or contain Intellectual Property Rights in the Services. You may not store, distribute or transmit any viruses or any material that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; or promotes unlawful violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities or interfere with such systems or networks. On a quarterly basis DH may conduct an audit to verify if the number of DH Licences exceeds the number specified on the Order Form. If the number is greater, you shall pay to DH an amount equal to such past underpayment of the Subscription License Fees as calculated in accordance with the prices set out in the Order Form within 10 days of the date of the relevant audit and thereafter either discontinue use or pay the appropriate Subscription License Fees to permit continuation of that use. Usage is transferable among your Authorised Users subject to fair use of the Service.

2. Responsibilities

You agree to provide reasonable assistance to enable DH to provide the Services required by the Order Form. You shall appoint a lead contact who shall have the authority to commit you on matters relating to the Services. You shall obtain all third party consents, licenses and rights required in order to allow DH to perform the Services required by the Order Form in relation to software not supplied by DH. You are responsible for all activity occurring under your use and use by Authorised Users of the Services and you shall be liable and hold DH harmless for your acts or omissions as well as those of Authorised Users and your sub-contractors and agents. You shall abide by all applicable national and foreign laws, treaties and regulations in connection with your use of the Services, including those related to data privacy, international communications, employment law, intellectual property and the transmission of technical or personal data. You shall: (i) notify DH immediately of any unauthorised use of any password or account or any other known or suspected breach of

security; (ii) report to DH immediately, and use reasonable efforts to stop immediately, any copying or distribution of Services that is known or suspected by you or an Authorised User; (iii) not impersonate another user or provide false identity information to gain access to or use the Services and (iv) promptly prevent further access to the Services by Authorised Users who breach the Terms.

3. Intellectual Property Rights

“Intellectual Property Rights” means all copyrights, trademarks and service marks (whether registered or unregistered), trade secrets, patents, patent applications, contract rights, mask work rights, know-how and other proprietary rights, including without limitation all rights considered “moral rights,” whether existing now or in the future, throughout the world. DH owns all right, title and interest in the Intellectual Property Rights in the Services and retains the right, without fee, payment or obligation, to enhance such intellectual property through any knowledge gained through its engagement with you in performing this contract except where such enhancements would infringe any intellectual property owned by you or any third party.

4. Fees and Payment

You agree to pay DH the Subscription Licence Fee, charges and expenses set forth in your Order Form in accordance with the payment terms detailed therein. All fees and expenses are exclusive of any sales, use, excise, import or export, value added or similar taxes on products or services and all payments by you will be made free and clear of any withholding taxes. You agree to pay the agreed set up fee (if any) in accordance with the contract payment terms in advance of the Services as set out in the Order Form.

5. Confidential Information

“Confidential Information” means all documentation, technical information, software, business information, pricing of the Services, trade secrets or know how or other materials of a confidential nature and/or that are disclosed in confidence by either party to the other during the term of this contract. The parties agree to hold, by using the same degree of care that it takes for its own information of a similar nature, each other’s Confidential Information in confidence. You acknowledge that details of the Services, and the results of any performance tests of the Services, constitute DH's Confidential Information. You agree that DH may name you as a customer in a general context.

6. Customer Data

You are responsible for the data you and the Authorised Users provide to DH and all data inputted and DH does not own any data, information or material you or the Authorised Users provide ("Customer Data"). You shall own all rights, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data. You shall have sole responsibility for obtaining specific permission from all Authorised Users with respect to the deployment of Services and to store information about them in accordance with the law applicable in the relevant jurisdiction. In the event of any loss or damage to Customer Data, your sole and exclusive remedy shall be for DH to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by DH. DH shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party. If DH processes any personal data on your behalf when performing its obligations under this contract, the parties record their intention that you shall be the data controller and DH shall be a data processor and in any such case: (i) you shall ensure that you are entitled to transfer the relevant personal data to DH (and its subcontractors) so that DH may lawfully process the personal data in accordance with this contract; (ii) DH shall process the personal data only in accordance with these Terms and any lawful instructions reasonably given by you from time to time; and (iii) each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

7. Usage

DH may at its sole discretion suspend the Services temporarily or permanently on the occurrence of any unscheduled maintenance or any of the following (i) notified maintenance (ii) issue by any competent authority of an order which is binding on DH which affect the Services (iii) if you fail to pay any amounts due under the contract when they are due and do not cure such breach with 15 days of receipt of notice. Such suspension shall only last until the cause of the suspension is resolved. In the event that the suspension continues for a period of 30 days DH shall be entitled to terminate this contract by giving 14 days notice in writing.

8. Warranty, Warranty Disclaimers, Limitation of Liability

DH warrants that its performance under this contract will be in a manner consistent with the standards generally observed in the industry for similar services and that it will provide the Services with reasonable care and skill and substantially in accordance with the published materials. Your exclusive remedy and DH's entire liability for any breach of this warranty and

any other liability arising under this contract shall be either to re-perform its obligation (at no extra cost to you) or to refund to you the portion of the fees paid to DH that relates specifically to the nonconforming part of the Services. Except for the above warranty, the products and the Services are provided "as is", without warranty of any kind. DH does not warrant that the Services will be uninterrupted, timely, secure or error free or that any results obtained will be complete, accurate or current. All implied terms, warranties and conditions that may be lawfully excluded are hereby excluded to the fullest extent permitted by law. The implied warranties and conditions of merchantability, fitness for a particular purpose, title, quality of service and non-infringement are also expressly disclaimed. The Services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. DH is not responsible for any delays, delivery failures, or other damage resulting from such problems. To the fullest extent permitted by applicable law, the total aggregate liability of DH under these Terms and your Order Form (including liability for negligence or breach of statutory duty or under any indemnity) will be limited to the fees paid by you to DH under your Order Form under which the liability arises. DH will not be liable under any circumstances whether in tort or contract for any loss of profit, or any indirect or consequential or special loss or damage. DH does not exclude or restrict in any way its liability for death or personal injury resulting from its own negligence or the negligence of its employees or agents acting in the course of their employment or agency or for fraudulent misrepresentation.

If you sign up for a trial licence, our maximum liability in relation to the Service shall not under any circumstances exceed €5.

9. Termination

Either party may terminate this contract (i) for specified material breach upon thirty (30) days written notice unless such breach is cured within thirty (30) days or (ii) with immediate effect by notice in writing if any Force Majeure Event prevents the performance of the whole or a substantial part of the party's obligations for a continuous period of thirty (30) days after the date on which it should have been performed; or (iii) with immediate effect by notice in writing if the other should become insolvent or otherwise unable to pay its debts as and when they fall due, should have appointed to it a liquidator, receiver or administrator, should enter into an arrangement with its creditors or have presented against it a petition for its winding up other than for the purposes of effecting a solvent reorganisation which it does not promptly apply to have set aside, or be ordered to be wound up or liquidated or for any other reason cease or threaten to cease trading or business. Failure to make due payments, breach of section 2 and section 5 shall be deemed to be a material breach. Upon termination for breach all due and outstanding monies due including for work in progress, time and expenses shall

be immediately payable. All paid fees are non-cancellable and non-refundable. Rights granted to you and to Authorised Users under this contract will cease immediately upon termination. On termination for any reason DH may destroy or otherwise dispose of any of the Customer Data in its possession unless DH receives, no later than 10 days after the effective date of the termination of this contract, a written request for the then most recent back-up of the Customer Data. DH shall use reasonable commercial endeavours to deliver the back-up to you within 30 days of its receipt of such a written request, provided that you have, at that time, paid all fees and charges outstanding. You shall pay all reasonable expenses incurred by DH in returning or disposing of Customer Data. Sections 3,4, 5, 6, 7, 8, 9, 10, 11, and 16 herein shall survive any termination, together with any other provisions that by their content or nature are intended to survive.

If you are signed up for a trial access, we may terminate such access for any or no reason with or without notice.

10. General Terms & Conditions

These Terms are severable, and the unenforceability of any provision will not affect other provisions. Neither this contract nor any of the rights granted hereunder or in your Order Form may be assigned by either party without the other party's prior written consent (which shall not unreasonably be withheld or delayed), provided, however, that such consent shall not be required if DH assigns its right to receive and collect payments hereunder. The prevailing party in any action to enforce these Terms will be entitled to reasonable lawyer's fees and other costs and expenses incurred by it in connection with such action. Notices must be in writing and sent by certified post or overnight carrier with proof of delivery to the parties identified on the related Order Form. This contract shall not be modified or amended except in writing and signed by authorised representatives of both parties. Your standard purchase order terms from time to time shall have no effect. You acknowledge that all advice, instructions or recommendations made by DH as part of the sales process was dependent on the information you provided to DH.

11. Publicity and Case Studies

You agree to provide editorial input and reasonably approve the content of a press release authored by DH for release on or before the 1 month anniversary after delivery stating that you have acquired the Datahug solution. This release shall contain a statement from your Sales Director and/or Business Sponsor(s) on why Datahug was chosen. You agree to provide editorial input and reasonably approve the content for a Case Study to be released on or before the 1 month anniversary after delivery describing the deployment of the Datahug solution. This Case Study shall contain a statement from your Sales/Marketing Director on

why Datahug was chosen and the benefits anticipated from its deployment. You also grant to Datahug a perpetual, royalty-free licence to use the Customer logo and tradename on Datahug's customer list displayed on Datahug's website or other marketing material.

12. Governing Law and Compliance with Laws

Each party will comply with all applicable laws, including without limitation all Irish laws and international treaties related to the export and re-export of software and other goods, intellectual property, data protection and privacy. This contract shall be governed by and construed under the laws of Ireland. The parties irrevocably agree that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this contract or its subject matter or formation (including non-contractual disputes or claims).

13. Entire Agreement

The contract, schedules (if any), and the Order Form (s) together represent the entire agreement and understanding between the parties relating to the provision of Services and replace any previous contract or understanding between the parties on that subject. You acknowledge that in entering into this contract you have not relied on any representation or statement (written or oral) made by any person other than those actually set out in this contract. You also acknowledge that in respect of the representations and statements that are actually set out herein, your only remedy shall be for breach of contract under the terms of this contract.

14. Force Majeure

Neither party shall have liability under this contract, if it is prevented from or delayed in performing its obligations under this contract, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, failure of a utility service or transport or telecommunications network, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors ("Force Majeure Event"), provided that the other party is notified of such an event and its expected duration.

15. Relationship of Parties

The parties are and will remain independent contractors. Nothing contained in this contract will be construed to create an agency, joint venture, partnership or other relationship between the parties.

16. Severance

If any provision of this contract is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable then that provision will be enforced to the maximum extent permissible and the remaining provisions of this contract shall continue in full force and effect. The judicial or other competent authority making such determination shall have the power to limit, construe or reduce the duration, scope, activity and/or area of such provision, and/or delete specific words or phrases as necessary to render such provision enforceable.