

DATATILL SOFTWARE SUBSCRIPTION AGREEMENT

DATATILL PROPRIETARY LIMITED

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BY SIGNING THIS AGREEMENT, PROCEEDING TO DOWNLOAD, INSTALL OR USE THE SOFTWARE IN WHICH THIS AGREEMENT IS ELECTRONICALLY EMBEDDED OR BY OBTAINING A LICENSE KEY FOR THIS SOFTWARE, YOU HEREBY ACKNOWLEDGE AND AGREE TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS. IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, THEN CLICK “DO NOT ACCEPT,” DO NOT INSTALL OR USE THE SOFTWARE AND DELETE THE SOFTWARE FROM YOUR COMPUTER SYSTEM. BY INSTALLING OR USING THE SOFTWARE OR BY CLICKING ON “ACCEPT” YOU ACKNOWLEDGE AND AGREE THAT ON BEHALF OF YOURSELF AND YOUR EMPLOYER YOU HAVE READ THIS SOFTWARE SUBSCRIPTION AGREEMENT CAREFULLY, THAT YOU AND YOUR EMPLOYER AGREE TO BE BOUND BY THIS AGREEMENT AND THAT IF APPLICABLE YOUR EMPLOYER HAS INFORMED YOU OF THE RELEVANT PROVISIONS OF THIS AGREEMENT WHICH MAY BE APPLICABLE TO YOU. THIS AGREEMENT, SHALL GOVERN YOUR INSTALLATION AND USE OF THE SOFTWARE. DATATILL URGES YOU TO CAREFULLY READ THIS AGREEMENT AND ASSESS YOUR USE OF THE SOFTWARE PRIOR TO INSTALLING OR USING THE SOFTWARE OR MAKING ANY DECISION TO USE OR SUBSCRIBE TO IT.

THIS SOFTWARE SUBSCRIPTION AGREEMENT, is dated as of the date of the Client’s acquisition of a License Key, or in the case of any purchase of a license for use of the Licensed Software (as defined below), the date of the Purchase Order (as defined below) pursuant to which such license is purchased, is between DataTill (Pty) Ltd, a South African registered company (“DataTill”) with registration number 2015/020006/07, and in the case of any purchase of a license for use of the Licensed Software, the Client set forth on the purchase order pursuant to which such license is purchased (in each case, herein “Client”), and sets forth the terms and conditions whereby DataTill agrees to provide to the Client for a limited period of time and the Client agrees to acquire from DataTill one or more licenses to use the software and documentation and maintenance services related thereto, owned or licensed by DataTill or a subsidiary or an affiliate of DataTill, as set forth on the Purchase Order delivered in connection with this Agreement. The Purchase Order together with the terms and conditions of this Agreement (as defined below), shall constitute and be construed as a single agreement consisting of the terms and conditions contained in the Purchase Order together with the terms of this Agreement. This Agreement specifically supersedes and replaces the terms and conditions of all prior agreements between DataTill and the Client relating to the software subscribed to hereunder by the Client, including, but not limited to, any shrink-wrap agreements, click-wrap agreements or any demo or trial agreements which may accompany or are embedded in DataTill’s products or which have been previously in force between the Parties.

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DATATILL SOFTWARE SUBSCRIPTION AGREEMENT

In consideration of the mutual promises and agreements contained herein, the Parties hereto also agree as follows:

GENERAL TERMS AND CONDITIONS

1. Definitions

- a. "Agreement" means this software subscription agreement, together with all exhibits, schedules, annexes and Purchase Orders made a part hereof in accordance with the terms of this Agreement and all amendments, modifications, supplements and alterations thereto effected in accordance with the terms of this Agreement.
- b. "Confidential Information" means all technical and non-technical information in both tangible and intangible form, including, but not limited to, product design information, software code, technical information, Client information, discounting, cost and pricing information, financial information and the results derived from or methodology employed by the Client in conducting any benchmark testing of the Licensed Software; provided that the term "Confidential Information" shall not include information which the recipient can show by reasonable proof (i) to have been known by the recipient prior to the time of disclosure by the disclosing Party, (ii) to have become part of the public domain through no fault or breach of this Agreement by the recipient, (iii) to have been disclosed to the recipient in good faith by a third party who is not under any obligation of confidence or secrecy to the disclosing Party at the time such third party discloses the information to the recipient or (iv) to have been compelled to be produced by a court of competent jurisdiction, provided that the recipient shall first give notice to the disclosing Party of any such request or order of the court to give the disclosing Party an opportunity to contest or limit said request or order of the court.
- c. "Error" means any error, defect or omission that (i) is discovered in the Licensed Software, (ii) is reproducible and, (iii) prevents operation of the Licensed Software substantially in accordance with the Licensed Documentation.
- d. "Licensed Documentation" means the published user manuals that DataTill makes generally available for the Licensed Software.
- e. "Licensed Material" means the Licensed Software and the Licensed Documentation.
- f. "Licensed Software" means the machine-readable object code version of (i) the software specified on each Purchase Order, whether embedded on disc, tape, internet download site or other media, and (ii) all Updates for the Licensed Software that the Client is entitled to receive in connection with its receipt of Maintenance Services pursuant to Section 4 of this Agreement, and (iii) data stored in the database or files relating to the functioning of the Software.
- g. "License Term" means, with respect to any Licensed Software, the period of time or duration of the subscription specified on the Purchase Order pursuant to which the Client subscribed to such Licensed Software, together with all renewals thereof effected in accordance with the terms of this Agreement; provided that to the extent no such time period or duration is specified in the Purchase Order pursuant to which the Client subscribed to such Licensed Software, the period of time or duration of

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the subscription shall be one (1) month, or such period agreed to in writing by DataTill, commencing on the date of such Purchase Order, together with all renewals thereof effected in accordance with the terms of this Agreement.

- h. “Maintenance Services” means the support services provided by DataTill pursuant to Section 4 hereof.
- i. “Party or Parties” means each of the Client or DataTill separately or collectively.
- j. “Purchase Order” means (i) DataTill’s standard price quote, purchase order, order form or purchase confirmation (including such price quotes, order forms and purchase confirmations as may be delivered through use of DataTill’s online store), as such document may be amended, supplemented or modified from time to time in accordance with this Agreement or (ii) any other non-DataTill price quote, purchase order, order form or purchase confirmation delivered by the Client to DataTill but solely to the extent permitted by and delivered in accordance with Section 15.
- k. “Update” means any revision, enhancement, improvement or modification to or programming fix for the Licensed Software or Licensed Documentation which DataTill makes generally available, incorporates into and makes a part of the Licensed Software or Licensed Documentation and does not separately price or market.
- l. “User” means employees or staff contracted to the Client who would access the Licensed Software or Licensed Documentation.

2. LICENSE

- a. **Use** – Subject to the terms and conditions of this Agreement, including, but not limited to the applicable licensing restrictions set forth in Section 2(b) below, and subject further to the Client’s full compliance herewith and according to the scope, time period and other terms indicated on the applicable Purchase Order delivered in connection with this Agreement, DataTill hereby grants the Client and the Client hereby accepts from DataTill, a limited, non-exclusive and non-transferable right and license during the License Term to install the Licensed Software on computer hardware that is owned or operated by or on behalf of the Client, to access and use the Licensed Material in accordance with the applicable restrictions and conditions contained in this Agreement and to copy the Licensed Material as permitted by this Agreement. The Client’s right to use the Licensed Material during the License Term shall extend to use by third parties under a written agreement with the Client to provide outsourcing services for the Client’s own internal business operations; provided, that (i) such third parties have agreed to abide by the terms of this Agreement and (ii) the Client shall remain primarily liable for all acts and omissions by such third parties.
- b. **License Usage and Restrictions** – The Client acknowledges and agrees that, as between the Client and DataTill, DataTill subsidiaries and affiliates and its licensors own and shall continue to own all rights, title, and interests in and to the Licensed Material and all derivatives thereof, including associated intellectual property rights under copyright, trade secret, patent, or trademark laws. This Agreement does not grant the Client any ownership interests in or to the Licensed Material, but only a limited right and license to use the Licensed Materials during the License Term in accordance with the terms of this Agreement and each applicable Purchase Order. The Client further acknowledges and agrees

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that the licenses granted hereunder and the restrictions applicable to the Client's installation and use of the Licensed Software will vary according to the type of Licensed Software purchased by the Client. One or more of the restrictions set forth in this Section 2 may apply to the Licensed Software depending upon the type of Licensed Software purchased by the Client, the type of license purchased and the terms contained in the applicable Purchase Order relating to the Licensed Software. The Client is encouraged to carefully review all terms and restrictions contained in this Section 2 and each Purchase Order. The Client hereby agrees to the following license restrictions and conditions applicable to the Licensed Software as set forth in the Purchase Orders delivered by the Client under this Agreement:

- i. For all Licensed Software made generally available by DataTill on a "per-server" basis and licensed hereunder by the Client on a "per-server" basis (a "Server-Based License"), the Client may install, operate and use such Licensed Software during the License Term on one (1) physical or one (1) virtual server per license purchased by the Client;
- ii. For all Licensed Software made generally available by DataTill on a "per-user" or "per-seat" basis and licensed hereunder by the Client on a "per-user" or "per-seat" basis, the Client may install and operate such Licensed Software during the License Term on up to one (1) physical or one (1) virtual server and use such Licensed Software by more than one (1) user per license purchased by the Client;
- iii. For all Licensed Software made generally available by DataTill on a "named user" basis and licensed hereunder by the Client on a "named user" basis (a "Named User License"), the Client may install and operate such Licensed Software during the License Term on up to one (1) physical or one (1) virtual server and designate in writing one (1) person in the Client's organisation (the "Named User") who shall have the right to use the Licensed Software, provided that only the Named User uses the Licensed Software and such use is not conducted on more than one such computer.

In no event shall the Client install, operate, use or access the Licensed Software in contravention of the foregoing restrictions applicable to the Licensed Software or any other restrictions contained in this Agreement.

- c. **Additional Terms Governing Server Licenses** – The Client may re-assign a Server-Based License to a different server; provided, that (i) such Server-Based License may not be installed or operated on more than one server simultaneously and (ii) except for a reassignment in connection with a hardware failure, a Server-Based License may not be re-assigned on a different server within the first ninety (90) days following its most recent installation.
- d. **License Keys** – The Client acknowledges that a security code owned and controlled by DataTill or its subsidiaries (the "License Key") is required to render each license for the Licensed Software operational on the Client's computer hardware for the duration of the License Term. Upon use of a permanent License Key to install the Licensed Software on the Client's computer hardware, no other security code will be required for the Licensed Material to operate on such computer hardware during the License Term in accordance with the terms and restrictions contained in this Agreement. The Client may only install one license for the Licensed Software per individual License Key issued in respect of such Licensed Software. The Client shall not attempt to crack, alter or otherwise derive any License Key. DataTill shall promptly provide the Client with all necessary License Keys upon the Client's

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subscription to the Licensed Software or upon any authorised transfer or re-assignment of the Licensed Software to any other hardware equipment permitted under this Agreement. The Client is solely responsible for safeguarding all License Keys and hereby agrees to do so in a timely, accurate and secure manner.

- e. **Copies & Disaster Recovery** – The Client may make a reasonable number of back-up archival copies of the Licensed Software. In the event of any outage that results in the complete failure of the computer system upon which the Client has installed the Licensed Software, the Client’s right to use the Licensed Software shall include, during the pendency of such outage, the temporary right to use the Licensed Software in a replacement computing environment substantially similar to the original computing environment upon which the Licensed Software was installed immediately prior to such outage. Except as expressly provided in this Section 2(e), the Client shall not use any back-up archival copy of the Licensed Software or Evaluation Software for any commercial purpose or in a production environment. The Client shall reproduce all confidentiality and proprietary notices on each of the copies permitted hereunder and maintain an accurate record of the location of each of the copies. The Client shall not otherwise copy or duplicate the Licensed Material. The Client shall not reverse engineer, disassemble, translate, modify, adapt, or decompile the Licensed Material or apply any procedure or process to the Licensed Material in order to ascertain, derive, and/or appropriate the source code or source listings for the Licensed Software or any trade secret or other proprietary information contained in the Licensed Software.
- f. **Renewal of License Term** – Upon expiration of each License Term, all limited subscription licenses granted under this Agreement shall automatically renew for an additional Licence Term and DataTill will invoice the Client at the then-current subscription-based price for such additional License Term, unless DataTill is notified by the Client in writing at least sixty (60) days prior to the expiration of such current License Term that the Client elects not to renew such limited subscription license for an additional License Term.
- g. **Other Services** – All licenses and Maintenance Services subscribed to by the Client in respect of the Licensed Material shall be governed by this Agreement, together with the applicable Purchase Orders delivered hereunder. Unless otherwise agreed by the Parties in writing, all other services purchased by the Client in respect of the Licensed Software, if any, including implementation services, training services and professional services (collectively, “Ancillary Services”), shall be governed solely by a separate written quotation, and acceptance of the Licensed Material shall not be contingent upon the Client’s acceptance of any such Ancillary Services.

3. DELIVERY AND PAYMENT TERMS

- a. **Delivery** – All Licensed Material shall be delivered by DataTill to the Client via electronic delivery using a secure internet download site. The Client’s subscription to all Licensed Software subscribed to hereunder, the License Term in respect of such Licensed Software and risk of loss for such Licensed Materials shall be deemed to have commenced once DataTill has made the Licensed Material available for download by the Client, notified the Client of the availability of the Licensed Material for download and provided the Client with License Keys necessary for the installation and operation of the Licensed Software.

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- b. **Payment** – Upon delivery of a Purchase Order by the Client, DataTill shall deliver an invoice to the Client specifying the subscription license fees payable pursuant to such Purchase Order for the License Term. The subscription license fees shall be charged by means of a VAT invoice on the last day of each month for services to be provided in the following month. The Client shall pay all subscription license fees specified therein on or before the invoice due date. All fees payable by the Client in respect of such Ancillary Services may be separately invoiced. The Client’s payment obligation with respect to all subscription license fees owing hereunder shall be independent of the provision of Ancillary Services, whether or not such Ancillary Services are separately invoiced. Failure to make payment within the specified due date shall constitute a breach of this agreement and the services provided will be suspended immediately and will remain suspended until such time as all outstanding amounts have been settled in full. Any late payment of any amount owing hereunder shall accrue interest at a rate equal to the lesser of (i) 15% per annum and (ii) the maximum rate permitted by law.
- c. **Payment Methods** – Settlement of the Invoice as mentioned above shall be effected in by means of **debit order**, unless explicitly agreed between DataTill and The Client to use another method of payment, such as Electronic Funds Transfer (free of bank exchange, set-off and all other deductions) into the account of DataTill, the details of which will be provided to The Client in writing.
- d. **Taxes** – All payments referred to in this Agreement are exclusive of value added tax, sales tax and any other applicable taxes, duties or imposts which shall also be payable by the Client in accordance with applicable law.
4. **MAINTENANCE** – DataTill **DOES NOT** warrant that the Licensed Software will operate error-free or may be used error-free. The Client’s right to use the Licensed Software during the License Term shall include the provision of Maintenance Services by DataTill at no additional fee. Upon the Client’s payment of the subscription license fees associated with the License Term purchased by the Client for the Licensed Software specified in a Purchase Order, DataTill shall provide Maintenance Services in accordance with this Section 4 and in accordance with any additional Maintenance Services terms specified in such Purchase Order. DataTill or its authorised representative will provide Maintenance Services for the Licensed Software during each License Term. Maintenance Services includes problem determinations, reasonable problem resolutions and provisioning of software program temporary fixes. Maintenance Services shall also include the additional Maintenance Service terms expressly set forth in writing in the Purchase Order delivered by the Client, which are hereby incorporated herein by reference. Maintenance Services shall entitle the Client to receive, at no additional cost, all Updates.
5. **PROPRIETARY RIGHTS** – The Client shall not acquire, by virtue of this Agreement, any right or license other than as expressly provided herein. The Client shall not reproduce the Licensed Material or other confidential or proprietary information of DataTill, except as provided in this Agreement. All proprietary rights in and to the Licensed Material, all derivatives, translations, modifications, adaptations, improvements, enhancements or developments thereof and all confidential or proprietary information of DataTill, including without limitation, all rights under and with respect to patents, copyrights, trademarks and rights under the trade secret laws of any jurisdiction shall remain the sole property of DataTill, its subsidiaries or affiliates or its applicable licensors, whether recognised by or perfected under applicable local law. The Client shall promptly notify DataTill of any infringement of DataTill’s proprietary rights of which it becomes aware.

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6. LIMITED WARRANTIES

- a. **Warranty** – DataTill warrants to the Client that during the License Term (the “Warranty Period”) such Licensed Software will perform substantially as described in the accompanying Licensed Documentation. DataTill **DOES NOT** warrant that (i) the Licensed Software will satisfy or may be customised to satisfy any of the Client's requirements or any other particular use or (ii) the use of the Licensed Software will be uninterrupted or error-free. Laws from time to time in force may imply warranties that cannot be excluded or can only be excluded to a limited extent. This Agreement shall be read and construed subject to any such statutory provisions.
- b. **Remedies** – If at any time during the Warranty Period, DataTill breaches the warranty set forth in clause (a) above, then the Client shall promptly notify DataTill of such Error or breach and DataTill shall (A) use all commercially reasonable efforts to correct such Error or breach within ninety (90) days of notification or (B) provide the Client within ninety (90) days of notification with a reasonable plan for correcting such Error or breach. If such Error or breach is not corrected or if a reasonable plan for correcting such Error or breach is not established within such ninety (90) day period, DataTill shall replace the defective Licensed Software or, if not practicable, accept the return of the defective Licensed Software and refund to the Client the pro rata portion of all pre-paid license fees actually paid by the Client for the defective Licensed Software in respect of the remaining portion of the current License Term. DataTill’s obligations under this Section 6(b) shall be waived in the event such Error or breach is due to (I) any defect in or misconfiguration of the computer hardware upon which the Licensed Software is installed, (II) improper handling or use of the software media by Client, or (III) an unauthorised alteration, revision or configuration of the Licensed Software or to Client’s computer system by the Client or its employees. The Client acknowledges that this Section 6(b) sets forth the Client's sole and exclusive remedy, and DataTill's and its authorised representatives’ sole and exclusive liability, for any breach of warranty, Error or failure of the Licensed Software to function properly.
- c. **DISCLAIMER – EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, ALL WARRANTIES, REPRESENTATIONS, INDEMNITIES AND GUARANTEES WITH RESPECT TO THE LICENSED MATERIAL, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY DATATILL OR ITS AUTHORISED REPRESENTATIVES OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE) ARE HEREBY OVERRIDDEN AND DISCLAIMED.**

7. INDEMNITY

- a. **Indemnity** – Subject to this Section 7 and Section 8 below, DataTill agrees during the License Term to indemnify, defend and hold harmless the Client from and against all claims, damages, losses, liabilities and expenses (including, but not limited to, reasonable attorneys’ fees) arising out of any claim by a third party asserting that the Licensed Material or any of the Client’s use thereof, infringes upon any third party's patent, copyright or trademark, provided that (i) the Client promptly notifies DataTill in writing no later than thirty (30) days after the Client’s notice of any potential claim, (ii) the Client permits DataTill to defend, compromise or settle the claim, and provided further that no settlement intended to bind the Client shall be made without the Client’s prior written authorisation and (iii) the Client gives DataTill all available information, reasonable assistance, and authority to enable DataTill to do so.

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- b. **Alternative Remedy** – If a claim described in Paragraph 7(a) may or has been asserted, the Client will permit DataTill, at DataTill's option and expense, to (i) procure the right to continue using the Licensed Material during the current License Term, (ii) replace or modify the Licensed Material to eliminate the infringement while providing functionally equivalent performance or (iii) accept the return of the Licensed Material and refund to the Client the pro rata portion of all pre-paid license fees actually paid by the Client for such Licensed Software in respect of the remaining portion of the current License Term.
- c. **Limitation** – DataTill shall have no indemnity obligation to the Client hereunder if the violation or infringement claim results from (i) a correction or modification of the Licensed Material not provided by DataTill or its authorised representative, (ii) the failure to promptly install an Update, (iii) the combination of the Licensed Software with other non-DataTill software and (iv) continuing the allegedly infringing activity after receiving written notice of such infringement claim from DataTill.
- 8. NO CONSEQUENTIAL DAMAGES** – UNDER NO CIRCUMSTANCES WILL DATATILL, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE AUTHORISED REPRESENTATIVES BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR INCIDENTAL DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, BASED ON CLAIMS BY THE CLIENT OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOSS OF DATA, GOODWILL, PROFITS, USE OF MONEY OR USE OF THE LICENSED MATERIALS, INTERRUPTION IN USE OR AVAILABILITY OF DATA, STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER ASSETS), ARISING OUT OF BREACH OF EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, BREACH OF ANY INTELLECTUAL PROPERTY RIGHT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY, EXCEPT ONLY IN THE CASE OF PERSONAL INJURY WHERE AND TO THE EXTENT THAT APPLICABLE LAW REQUIRES SUCH LIABILITY. IN NO EVENT WILL THE AGGREGATE LIABILITY INCURRED IN ANY ACTION OR PROCEEDING BY DATATILL, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE AUTHORISED REPRESENTATIVE EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY THE CLIENT FOR THE SPECIFIC LICENSED SOFTWARE THAT DIRECTLY CAUSED THE DAMAGE DURING THE CURRENT LICENSE TERM.
- 9. CONFIDENTIALITY**
- a. **Confidentiality.** – The Client acknowledges that the Licensed Materials incorporate confidential and proprietary information developed or acquired by or licensed to DataTill and that all results of testing of the Licensed Software, whether performed by the Client or another third party, are confidential. In no event will the Client publish or disclose the results of any testing or performance specifications of the Licensed Software without DataTill's express prior written consent. A party that receives Confidential Information (the "Receiving Party") from the other party (the "Disclosing Party") shall not: (i) export or re-export any Confidential Information; (ii) reverse engineer any Confidential Information; or (iii) disclose or make available the Disclosing Party's Confidential Information to any of the Receiving Party's employees, agents, contractors or consultants or to any third parties, except those that have agreed in writing to be bound by terms and conditions substantially similar to, and no less restrictive with respect to limitations on use and disclosure, than those contained in this Agreement and each of which have a "need to know" in order to carry out the purposes set forth in this Agreement. Each party shall take all reasonable precautions necessary to safeguard the confidentiality of all Confidential Information disclosed by the other party, including those precautions (A) taken by the disclosing party

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to protect its own Confidential Information and (B) which the disclosing party or its authorised representative may reasonably request from time to time. Neither party shall allow the removal or defacement of any confidentiality or proprietary notice placed on the Confidential Information disclosed by the disclosing party. The placement of copyright notices on Confidential Information shall not constitute publication or otherwise impair their confidential nature of such information.

b. **Disclosure** – If an unauthorised use or disclosure of the disclosing party’s Confidential Information occurs within the recipient party’s enterprise, the recipient party will immediately notify the disclosing party or its authorised representative and take, at recipient party’s expense, all steps which may be available to recover such Confidential Information and to prevent its subsequent unauthorised use or dissemination.

10. TERMINATION – Upon 30-days prior written notice the Parties may terminate this Agreement and all subscriptions purchased hereunder; provided, that the Client shall not be entitled to any refund or credit (except as otherwise expressly set forth in this Agreement) of any amounts paid by the Client or a release from or cancellation, waiver or novation of any amounts payable or promised to be paid by the Client hereunder and all such amounts payable or promised to be paid by the Client in respect of the remaining portion of the current License Term shall automatically accelerate, become immediately due and payable and shall survive termination of this Agreement. If the Client or any of the Client’s employees, consultants, authorised representatives or permitted third parties breach any term or condition of this Agreement, DataTill may terminate this Agreement, without judicial or administrative resolution or obligation to refund and all amounts payable or promised to be paid by the Client in respect of the remaining portion of the current License Term shall automatically accelerate, become immediately due and payable and shall survive termination of this Agreement. This Agreement will terminate automatically (i) upon expiration or termination of all License Terms hereunder, or (ii) if the Client ceases to do business, becomes insolvent, goes or is put into receivership or liquidation, passes a resolution for its winding up (other than for the purpose of reconstruction or amalgamation) or for any of the foregoing, makes an arrangement for the benefit of its creditors, enters into bankruptcy, suspension of payments, moratorium, reorganisation or any other proceeding that relates to insolvency or protection of creditors’ rights or takes or suffers any similar action in consequence of debt. Upon the termination of this Agreement for any reason, all rights granted to the Client hereunder will cease, and the Client will promptly (A) purge the Licensed Software and any related Updates from all of the Client’s computer systems, storage media and other files, (B) destroy the Licensed Material and all copies thereof and (C) deliver to DataTill an affidavit certifying that the Client has complied with these termination obligations. The provision of Sections 1, 3, 8 through 16 shall survive the termination of this Agreement.

11. EXPORT RESTRICTIONS – The Client acknowledges that the Licensed Materials and all related technical information, documents and materials are subject to export controls under South African Regulations. The Client covenants and agrees to comply with all regulations of South Africa with respect to the Licensed Material. The Client acknowledges that it may not re-export or divert the Licensed Material or any related technical information, document or material, or direct derivatives thereof, without DataTill’s written consent.

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12. EQUITABLE RELIEF – The Parties recognise that Sections 5, 9, 11 and 13 are necessary for the protection of the business and goodwill of the Parties and are considered by the Parties to be reasonable for such purpose. The Parties agree that any breach of such Sections would cause the other Party substantial and irreparable damage and therefore, in the event of any such breach, in addition to other remedies which may be available, the non-breaching Party shall have the right to seek specific performance and other injunctive and equitable relief in a court of law.

13. REPORTING & AUDIT

Reporting and Audit. – DataTill reserves the right to gather data on license usage by the Client for each item of Licensed Software, including License Key numbers, server IP addresses, email addresses of Users, domain counts and other information deemed relevant, to ensure that the Licensed Software is being used in accordance with the terms of this Agreement. DataTill expressly prohibits domain count overrides without prior written approval. The Client hereby consents to DataTill gathering and processing such usage information and agrees not to block, electronically or otherwise, the transmission of data required for compliance with this Agreement. Any unauthorised use of the Licensed Software by the Client or other use by the Client in violation of the restrictions contained in this Agreement shall be deemed a material breach of this Agreement. In addition to the foregoing, within ten (10) business days of the Client’s receipt of DataTill’s written request, the Client shall provide to DataTill a written report certifying to DataTill the number of licenses for Licensed Software installed, used or accessed by the Client, the identity of the applicable servers, hardware or computers upon which such licenses are installed and, as applicable, the total number of servers, the total number of Users and the highest number of Threads simultaneously executed with respect to such Licensed Software, in each case for the time period so specified in DataTill’s written request, together with such other information as may be requested by DataTill and necessary to confirm the Client’s compliance with the terms of this Agreement. The auditing, reporting and certification rights and obligations set forth in this Section 13(a) shall survive termination of this Agreement for a period of eighteen months.

14. ENFORCEABILITY – If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, void, invalid or illegal, that provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the remainder of this Agreement shall continue in full force and effect.

15. ENTIRE AGREEMENT

a. The Client acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms. The Client and DataTill further agree that, subject to clause (b) below, this Agreement, together with all Purchase Orders delivered in connection herewith and all exhibits, schedules and annexes hereto, is the complete and exclusive statement of the agreement between the Client and DataTill and supersedes all proposals, oral or written, and all other communications between the Parties relating to the subject matter of this Agreement, including any shrink-wrap agreements, click-wrap agreements or demo or trial agreements which may accompany the Licensed Material or which may have been previously in force between the Parties. Subject to clause (b) below, this Agreement may not be amended, modified, supplemented or altered except by a written agreement that is signed by both Parties.

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- b. **UNDER NO CIRCUMSTANCES MAY THE TERMS OF THIS AGREEMENT OR ANY DATATILL PURCHASE ORDER BE AMENDED, MODIFIED, SUPPLEMENTED, ALTERED, SUPERSEDED OR REPLACED BY ANY NON-DATATILL INVOICE OR NON-DATATILL PURCHASE ORDER OR OTHER SIMILAR INSTRUMENT DELIVERED BY THE CLIENT TO DATATILL. EACH PARTY ACKNOWLEDGES AND AGREES THAT, SOLELY AS A CONVENIENCE TO THE CLIENT AND ONLY FOR THE CLIENT'S INTERNAL ACCOUNTING PROCEDURES, THE CLIENT MAY DELIVER TO DATATILL A CLIENT INVOICE OR CLIENT PURCHASE ORDER OR OTHER SIMILAR DOCUMENT FOR ANY TRANSACTION CONTEMPLATED HEREUNDER AND THAT NO ACTION BY DATATILL, INCLUDING DATATILL'S DELIVERY OF ANY LICENSED MATERIALS OR ACCEPTANCE OF PAYMENT, SHALL BE DEEMED TO BE ACCEPTANCE OF ANY OF THE TERMS OR CONDITIONS CONTAINED IN SUCH CLIENT INVOICE OR CLIENT PURCHASE ORDER OR OTHER SIMILAR INSTRUMENT AND SUCH TERMS AND CONDITIONS SHALL BE VOID AND OF NO FORCE OR EFFECT, UNLESS ACCEPTED BY DATATILL PURSUANT TO A WRITTEN INSTRUMENT SIGNED BY BOTH PARTIES.**

16. MISCELLANEOUS

- a. The Client shall not assign, delegate or otherwise transfer this Agreement or any of its rights or obligations hereunder to any other person or entity, whether by contract, merger or operation of the law, without DataTill's prior written consent. In the event of any merger of the Client or a sale of substantially all of the assets of the Client in which the Client is not the surviving entity, the Client may assign or transfer any licenses granted under this Agreement; provided, that the Client provides DataTill with written notice of such transfer within thirty days of such merger or sale. Any assignment or delegation in breach of this Section 16(a) shall be void. This Agreement shall be binding upon the Parties hereto and shall inure to the benefit of the Parties hereto and their respective permitted successors and assigns.
- b. All notices or approvals required or permitted under this Agreement must be given in writing and delivered to the appropriate Party at the address set forth in this Agreement or in any Purchase Order delivered in connection with this Agreement.
- c. The waiver of compliance with or breach of any term or condition of this Agreement or the failure of a Party to exercise any right under this Agreement shall in no event constitute a waiver as to any other failure to comply or breach, whether similar or dissimilar in nature, or prevent the exercise of any right under this Agreement. Unless otherwise specified herein, the rights and remedies of DataTill set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to it at law or in equity.
- d. **THIS AGREEMENT WILL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF SOUTH AFRICA WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW RULES. DATATILL AND THE CLIENT HEREBY IRREVOCABLY AGREE ON BEHALF OF THEMSELVES THAT THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE FOR ANY LITIGATION ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF SHALL BE THE JURISDICTION OF THE WESTERN CAPE HIGH COURT, CAPE TOWN, SOUTH AFRICA.**
- e. Unless otherwise specified herein, the rights and remedies of DataTill set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to it at law or in equity.

DATATILL SOFTWARE SUBSCRIPTION AGREEMENT

- f. This Agreement is not intended to be nor shall it be construed as a joint venture, association, partnership or other form of business organisation or agency relationship.
- g. Headings used in this Agreement are for reference purposes only and shall not be used to modify the meaning of the terms and conditions of this Agreement. This Agreement may be executed in counterparts, all of which shall constitute one single agreement between the Parties hereto.
- h. In consideration of the mutual covenants contained herein, including the rights and licenses granted to the Client herein, the Parties hereto do hereby agree that for a period of two years following the Client's most recent purchase of any licenses or services, including Maintenance Service, from DataTill or its authorised representative, the Client shall not solicit, induce, hire, engage, or attempt to hire or engage any employee of DataTill, or in any other way interfere with DataTill's contractual or employment relations with any of its employees, nor will the Client hire or engage or attempt to hire or engage any individual who was an employee of DataTill at any time during such two-year period.

By signing this DataTill Software Subscription Agreement, the signatory warrants that he/she is duly authorised. By submitting this signed DataTill Software Subscription Agreement to DataTill you acknowledge that you have **read and agree** to be bound by the Terms and Conditions herein.

Name _____
Position/Title _____

Signature _____
Date: _____

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