

Emu Analytics – Data License Terms and Conditions

Internal Project License

1. Definitions

- 1.1 “Customer” means only the party that has ordered the Materials from Emu Analytics and shall exclude any parent, subsidiary or affiliate of the Customer.
- 1.2 “Commencement Date” means the date that the Materials have been purchased by the Customer.
- 1.3 “Termination Date” is the date 365 days from the Commencement Date.
- 1.4 “Confidential Information”: all information, data or material of whatsoever nature in any form which is necessary for either party to disclose to the other pursuant to this Agreement and anything the receiving party creates which is derived from or based upon the information data or materials disclosed to it by the disclosing party. It shall not include any information or materials which: (a) are in or enter into the public domain (other than as a result of disclosure by the receiving party or any third party to whom the receiving party disclosed such information); (b) were already in the lawful possession of the receiving party prior to the disclosure by the disclosing party; (c) are subsequently obtained by the receiving party from a third party who is free to disclose them to the receiving party; or (d) are required to be disclosed by law or regulatory authority.
- 1.5 “Licence” means a licence to the Customer which covers all users of the Materials within their organisation and provides for unlimited use of the Materials within the organisation during the license term.
- 1.6 “Materials” means the data this license is attached to.

2. Delivery and Data Licence Grant

- 2.1 Emu Analytics hereby agrees to make available to the Customer for download one digital copy, delivered online of the Materials, granted as a License to be used in accordance with the terms of this agreement.
- 2.2 In consideration of the agreement and undertakings set out herein, Emu Analytics grants the Customer a personal, nonexclusive, non-transferable licence to use the Materials for the term of this Agreement subject to the restrictions set forth herein.

3. Licence Restrictions

- 3.1 Unless otherwise expressly stated to the contrary in this Agreement, the Customer shall not (i) publish or display the Materials or any part thereof, (ii) disclose to any third party, or allow any third party access to, the Materials or any part thereof, (iii) permit any third party to use the Materials or any part thereof or (iv) use the Materials or any part thereof for the benefit of any third party whether as a bureau or in order to provide services to such third party.
- 3.2 Except for backup purposes or as otherwise expressly provided in this Agreement, the Customer shall not use, reproduce, sell, licence, dispose of, deal with, rent, lease, sublicense, loan, modify, adapt, or use for the benefit of a third party, the whole or any part of the Materials and/or Data.

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3.3 The Customer shall ensure that all proprietary notices contained in or on the Materials, Customer Generated Data, Customer Generated Reports and/or Software are reproduced on every copy made thereof in whole or part and are not removed, altered or obliterated.

4. Warranties and Liability

4.1 Except as set forth in this Clause 4, Emu Analytics makes no warranties, whether express or implied, regarding or relating to the Materials or services supplied pursuant to this Agreement. To the maximum extent permitted by law, Emu Analytics specifically disclaims all implied warranties as to satisfactory quality and fitness for any particular purpose (even if Emu Analytics has been informed of such purpose) with respect to the Materials and any services supplied hereunder.

4.2 Your use of the Data Set(s) provided by Emu Analytics is at your own risk. Please read any warnings given about the limitations of the Materials. If the file within which the Materials are delivered to the customer is corrupt or is otherwise unusable then Emu Analytics will replace it provided that the Customer contacts Emu Analytics within one month from the date the Customer receives the Materials.

4.3 Except as stated above, the Licensor gives no warranty as to the quality or accuracy of the Materials or the medium on which it is provided or its suitability for any use. All implied conditions relating to the quality or suitability of the Data Set(s) and the medium, and all liabilities arising from the supply of the Data Set(s) (including any liability arising in negligence) are excluded to the fullest extent permitted by law.

4.4 In no event shall either party be liable for any indirect, incidental, special or consequential damages or damages for loss of revenues or profits, loss of goodwill, loss of use, business interruption, or loss of data, whether in an action in contract or tort, even if the other party has been advised of the possibility of such damages.

4.5 Nothing in this agreement shall exclude or in any way limit (i) either party's liability for fraud or (ii) either party's liability to the other for death or personal injury caused by its negligence.

5. Audit Rights

5.1 Emu Analytics reserves the right to audit for compliance with the terms and conditions of this Agreement. Such right of audit shall include (without limitation) the right to audit any relevant database and computer files maintained by the Customer to ensure that use of the Materials by the Customer is in compliance with the provisions of this Agreement. If any unauthorised use is made of the Materials and such use is attributable to the act of, or through, the Customer (or an authorised representative of the Customer) then, without prejudice to any other rights and remedies, the Customer shall immediately be liable to pay to Emu Analytics an amount equal to the fees that would have been charged had Emu Analytics authorised such unauthorised use.

6. Intellectual Property Rights

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6.1 The proprietary rights in the Materials, any modifications and copies thereof, are vested in and shall remain vested in Emu Analytics.

6.2 Nothing in this Agreement shall constitute a transfer or assignment of any copyright, database rights or other intellectual property rights of Emu Analytics.

7. Publicity Statements

7.1 The Customer shall not disclose the Materials publicly in any manner that is likely to harm Emu Analytics' reputation or business. In particular, the Customer agrees not to use the Materials in any manner that could or does exaggerate, distort or misrepresent the findings of or data supplied by Emu Analytics.

7.2 Any public statement, marketing material, press releases or the like that contain the whole or any part of the Materials shall only be (a) disclosed upon prior written consent of Emu Analytics (which consent shall not be unreasonably withheld), and (b) accompanied by an acknowledgement that such material is supplied by Emu Analytics.

7.3 The parties shall be entitled to list the other as its' service provider or Customer in marketing/promotional material.

8. Confidentiality

8.1 The receiving party agrees that it shall: (i) use the Confidential Information only to fulfil its obligations pursuant to this Agreement; (ii) treat all Confidential Information of the disclosing party as confidential; (iii) not, without the express written consent of the disclosing party, disclose the Confidential Information or any part of it to any person except to the receiving party's directors, employees, parent company, agreed subsidiaries or agreed subcontractors, who need access to such Confidential Information for use in connection with the Services and who are bound by similar confidentiality and non-use obligations; and (iv) comply as soon as practicable with any written request from the disclosing party to destroy or return any of the disclosing party's Confidential Information (and all copies, summaries and extracts of such Confidential Information) then in the receiving party's power or possession.

9. Term and Termination

9.1 This Agreement shall commence on the Commencement Date and shall continue until the Termination Date.

9.2 The non-defaulting party may terminate this Agreement immediately for a material breach by the other party, which is incapable of remedy or, if capable of remedy, is not remedied within 30 days of notification being given to the defaulting party. This termination right shall be without prejudice to Emu Analytics' right to promptly receive all payments under this Agreement, such payments to become immediately payable should a material breach not be remedied or capable of remedy by the Customer in accordance with this clause 10.2.

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9.3 This Agreement will automatically terminate if the Customer (i) is made bankrupt; or (ii) enters into liquidation or any other arrangement with its creditors; or (iii) has a receiver or administrator or administrative receiver appointed with respect to any of its assets; fails to make payment to the Publishers when due for the license to the Product or (iv) is in material breach of this Agreement, or (v) is in dispute with Publishers. Upon termination of this Agreement the Customer must remove any whole or partial copies of the Materials from its computer systems.

10. Effect of Termination

10.1 Upon termination of this Agreement, the Customer shall cease using the Materials and shall destroy all copies of the Materials in its possession or under its control.

10.2 Termination shall not relieve the Customer from paying all fees accrued under this Agreement prior to termination and shall not limit either party from pursuing any remedies other than termination.

11. Miscellaneous

11.1 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.

11.2 Both parties shall comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010.

11.3 This Agreement supersedes all prior agreements, arrangements and understandings (and excludes any pre-Agreement communications of whatsoever nature) between the parties and constitutes the entire agreement between the parties relating to the subject matter hereof.

11.4 The terms of this Agreement shall supersede any terms and conditions referenced or stated in any purchase order, issued in respect of the goods or services to be supplied under this Agreement, unless the parties sign a written agreement to amend this Agreement.

11.5 Neither party shall assign or otherwise transfer this Agreement or any of its rights and obligations hereunder whether in whole or in part without the prior written consent of the other, such consent not to be unreasonably withheld or delayed.

11.6 No term of this Agreement shall be enforceable by a third party.

11.7 English law applies and in the event of a dispute the parties agree to submit to the jurisdiction of the English courts.