

# 30 Day Trial Agreement

BY CLICKING THE "I AGREED TO THE 30-DAY EVALUATION AGREEMENT" BOX, YOU ARE AGREEING ON BEHALF OF THE ENTITY USING THE SERVICES ("COMPANY") THAT COMPANY WILL BE BOUND BY AND IS BECOMING A PARTY TO THIS HOSTED EVALUATION LICENSE AGREEMENT ("AGREEMENT") AND THAT YOU HAVE THE AUTHORITY TO BIND COMPANY. IF COMPANY DOES NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, DO NOT SELECT THE " I AGREED TO THE 30-DAY EVALUATION AGREEMENT " BOX AND DO NOT USE THE SERVICES. COMPANY HAS NOT BECOME A LICENSEE OF, AND IS NOT AUTHORIZED TO USE THE SERVICES UNLESS AND UNTIL IT HAS AGREED TO BE BOUND BY THESE TERMS. THE "EFFECTIVE DATE" FOR THIS AGREEMENT SHALL BE THE DAY YOU CLICK THE " I AGREED TO THE 30-DAY EVALUATION AGREEMENT " BOX.

## 1. Definitions:

1.1. "Confidential Information" shall mean this Agreement, any addenda hereto signed by both parties, all Services, data, drawings, benchmark tests, specifications, trade secrets, object code and source code of the Software, and any other proprietary information supplied to Licensee by Subscribe-HR (Owned by Subscribe-Software Pty Ltd Incorporated in Australia ABN: 86 132 590 277), including all items defined as "confidential information" by Subscribe-HR.

1.2. "Evaluation Period" shall mean the period of time which shall be no longer than seven (30) days beginning on the date Subscribe-HR provides access to the Services via the Internet to Licensee, unless extended by Subscribe-HR in its sole discretion.

1.3. "Services" means the provision of access via the Internet to the Software.

1.4 "Software" shall mean the software in object code form distributed by Subscribe-HR.

## 2. Limited License:

2.1. License Grant. Subscribe-HR grants to Licensee a temporary, personal, non-transferable, limited and non-exclusive right to access and use the Services during the Evaluation Period solely for the purpose of evaluating the suitability of the Services for Licensee's use. Licensee shall reproduce all titles, trademarks, and copyright and restricted rights notices in any back-up copies.

2.2. Limitations. The license granted herein is granted solely to Licensee, and not, by implication or otherwise, to any parent, subsidiary or affiliate of Licensee. Subscribe-HR reserves all rights not expressly granted to Licensee. Licensee shall not copy, distribute, reproduce, use or allow access to the Services, except as explicitly permitted under this Agreement. Licensee shall not modify, adapt, translate, or prepare derivative works from the Services and, to the extent permitted by applicable law, shall not, decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Services. Licensee shall not remove, obscure, or alter Subscribe-HR's copyright notice, trademarks, or other proprietary rights notices affixed to or contained within the Services.

# 30 day Trial Agreement

## 3. Delivery:

3. Delivery: As soon as practicable following the Effective Date, Subscribe-HR will provide access to the Services to Licensee via the Internet.

## 4. Access to Services:

4.1 Security Measures. Licensee may access the Services as Subscribe-HR instructs through a combination of user names and passwords.

4.2 Password Protection. Licensee shall be entirely responsible for maintaining the confidentiality of the password(s) assigned to Licensee. Licensee shall immediately notify Subscribe-HR if a password is lost, stolen, disclosed to an unauthorized third party, or has otherwise been compromised. Licensee shall be solely responsible for any and all activities made under Licensee's account. Licensee shall defend, indemnify and hold Subscribe-HR harmless from and against all damages, penalties, costs and expenses (including reasonable legal fees) incurred by Subscribe-HR in connection with any legal action arising or resulting from Licensee's failure to comply with the terms of this Section 4.2.

## 5. Licensee Obligations:

Licensee represents and warrants that: (i) it shall not use the Services or Subscribe-HR hosting equipment to which it shall have access (pursuant to this Agreement) to gain or attempt to gain unauthorized access to other computer systems accessible via the Internet, any Services for which Licensee has not been expressly authorized to use pursuant to this Agreement, or software or computer systems belonging to others which is also hosted by Subscribe-HR.

## 6. Warranty Declaration and Limitation of Liability:

6.1. Warranty and Disclaimer. SUBSCRIBE-HR LICENSES THE SERVICES, INCLUDING ANY DOCUMENTATION THAT MAY ACCOMPANY THIS SERVICES, TO LICENSEE ON AN "AS IS" BASIS. SUBSCRIBE-HR MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. SUBSCRIBE-HR DOES NOT WARRANT THAT THE SERVICES WILL OPERATE IN COMBINATIONS OTHER THAN AS SPECIFIED IN ANY ACCOMPANYING DOCUMENTATION OR THAT THE OPERATION OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

# 30 Day Trial Agreement

6.2. Limitation of Liability. IN NO EVENT WILL SUBSCRIBE-HR'S LIABILITY FOR ACTUAL DIRECT DAMAGES ARISING OUT OF THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE SERVICES EXCEED AU\$300. IN NO EVENT WILL SUBSCRIBE-HR BE LIABLE TO LICENSEE OR ANY OTHER INDIVIDUAL OR ENTITY CONNECTED WITH LICENSEE FOR ANY LOST PROFITS, BUSINESS, DATA, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE OF THE SERVICES AND DOCUMENTATION OR OTHERWISE ARISING FROM THIS AGREEMENT, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. The parties agree that this Section 6.2 represents a reasonable allocation of risk.

## 7. Nondisclosure:

Licensee shall not disclose or use any Confidential Information except as expressly permitted under this Agreement. Licensee shall hold all Confidential Information in confidence during the term of this Agreement and for a period of three (3) years after the termination of this Agreement. Licensee shall take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents to third parties who are not subject in writing to the confidentiality obligations of this Section 7.

## 8. Term and Termination:

8.1. Term. This Agreement shall commence on the Effective Date and continue until the end of the Evaluation Period unless terminated earlier by mutual agreement of the parties.

8.2. Effect of Termination or Expiration. Upon the expiration or termination of this Agreement for any reason: (1) all licenses granted hereunder automatically revert to Subscribe-HR and Licensee will no longer have access to the Services; and (2) Licensee shall (a) return to Subscribe-HR all Confidential Information, and all other material received from Subscribe-HR in Licensee's possession or control, or, at Subscribe-HR's sole discretion, Subscribe-HR may request that Licensee destroy all such materials in Licensee's possession or control, (b) erase any and all of the foregoing from all computer memories and storage devices within Licensee's possession or control, and (c) provide Subscribe-HR with a written statement by an officer of Licensee certifying that Licensee has complied with the foregoing obligations.

# 30 Day Trial Agreement

## 9. Miscellaneous:

- 9.1. Assignment. Licensee shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Subscribe-HR. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- 9.2. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.
- 9.3. Governing Law. This Agreement and any dispute arising from or relating to the performance or breach hereof shall be governed by and construed and enforced in accordance with the laws of New South Wales, Australia.
- 9.4. Jurisdiction. Any legal action or proceeding relating to this Agreement shall be instituted in a state or federal court in New South Wales, Australia. Subscribe-HR and Licensee agree to submit to the jurisdiction of, and agree that venue is proper in, these courts for any legal action or proceeding.
- 9.5. Notice. All notices required to be sent hereunder shall be in writing and shall be deemed to have been given when mailed by first class mail OR email to the address listed below.
- 9.6. Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.
- 9.7. Waiver. The waiver by either party of a breach of any provision of this Agreement or the failure by either party to exercise any right hereunder shall not operate or be construed as a waiver of any subsequent breach of that right or as a waiver of any other right.
- 9.8. Export Administration. Licensee agrees to comply fully with all relevant export laws and regulations of Australia ("Export Laws") to assure that neither the Services nor any direct product thereof are (1) exported, directly or indirectly, in violation of Export Laws; or (2) are used for any purposes prohibited by the Export Laws, including, without limitation, nuclear, chemical, or biological weapons proliferation.
- 9.9. Entire Agreement. This Agreement shall constitute the complete agreement between the parties and supersede all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement. This Agreement may not be modified or amended except in writing signed by a duly authorized representative of each party; no other act, document, usage or custom shall be deemed to amend or modify this Agreement.