



## END USER LICENCE AGREEMENT AND TERMS OF SERVICE

This End User Licence Agreement and Terms of Service (referred to in this document as the “**Use Agreement**”) is between You and SyncEzy. Your use of SyncEzy’s Services is governed by the Use Agreement. It is a legal agreement between You and SyncEzy.

In consideration for Registering as a user of SyncEzy’s Services, purchasing SyncEzy’s Services or using any of SyncEzy’s Services, you confirm acceptance of the Use Agreement. The date You Register will be the effective date of the Use Agreement (referred to as the “**Effective Date**”). You may not make any use of the Licensed Services unless You have accepted the Use Agreement. At a minimum, Your agreement with SyncEzy will always include the Use Agreement.

### 1 DEFINITIONS

“**Additional Terms**” means any other written agreement that You enter into with SyncEzy in respect of the Licensed Services, if any. Subject to any principles of interpretation set out in the Additional Terms and the Use Agreement (including but not limited to clause 2.4 below), the Additional Terms will be deemed to be incorporated as part of this Use Agreement.

“**Automated Access**” means use of a process, script, webcrawler, software or other methodology that

- (a) permits a user that is not a human user to access the Licensed Services as a user or
- (b) monitors any activity in connection with the Licensed Services, regardless of whether SyncEzy is aware of the nature of such access.

“**Circumstance**” means any fact, matter, circumstance or claim that occasions a Loss.

“**Confidential Information**” has the meaning set out in clause 7.1 (Definition of Confidential Information).

“**Harmful Code**” means viruses, worms, time bombs, Trojan horses and other harmful software, files, scripts, agents or programs.

“**Intellectual Property Rights**” means intellectual property rights conferred on a party or recognised at Law in any territory throughout the world including any rights associated with copyright, trade marks, business names, patents, innovation concepts, semiconductor rights, formulae, trade secrets, methods, circuit layouts, inventions and any other results of intellectual activity in any field of industry or endeavour, whether or not registered or registerable and includes any right to register those rights, whether created before or after the date of this document.

“**Law**” means, with reference to any applicable jurisdiction, any statute, regulation, bylaw or a provision of a statute, regulation, or bylaw and includes, without limitation, any statutory rule, or ruling by a statutory body.

“**Licensed Services**” means the online, web-based applications, platforms or websites provided by SyncEzy from time to time, and other designated platforms or

websites that are described to You from time to time. The Licensed Services include, but are not limited to:

- (a) any services that are arranged by You direct with SyncEzy (including any integration service) and
- (b) any associated offline components, but excluding Third Party Applications.

**“Licensor Material”** means all material provided to You by SyncEzy prior to and during Your use of the Licensed Services, including all software, guides, any material setting out or supplementing Additional Terms and any other written communications that are commercially sensitive to SyncEzy.

**“Loss”** means any losses, liabilities, damages, costs, charges or expenses (including lawyers' fees and expenses on a full indemnity basis), and fines and penalties, however arising.

**“Register”** means the act of registration as a user of the Licensed Services (including by means of Automated Access) and includes the act of registration on behalf of that person as a user, or the web-based confirmation of an act of acceptance of an invitation by any person to become a user, purchasing or using SyncEzy Services in any way. Without limiting **clause 2.3(d)** (Interpretation – General), in this Use Agreement, Registered, Registering and other similar grammatical variances of this word have the corresponding meaning of this concept in the context they are used.

**“SyncEzy”** means 3D Consulting Pty Ltd ACN 159 855 044 trading as SyncEzy of Western Bace, 222 Ferris Rd Melton South Victoria, Australia 3338.

**“Term”** means the duration of this Use Agreement as described in clause 3.4.

**“Third Party Applications”** means online, web-based applications and offline software products that:

- (a) may provided by third parties, and directly interact with the Licensed Services; and
- (b) may be either separate or conjoined with the Licensed Services, regardless of whether or not they are identified to You by SyncEzy as applications that are provided by third parties.

**“You”** means any party who is Registered. Without prejudice to the requirements of Licensor’s Registration policies, when:

- (a) there is more than one party involved in that instance of Registration, those parties are jointly and severally liable to SyncEzy;
- (b) You are an individual, the expression includes Your personal representatives, and any employees and agents of Yours;
- (c) the Registered party is a corporation, the expression includes the employees, agents and successors of the corporation;
- (d) the Registered party is a partnership, the expression includes the partnership as it is constituted at the date of its Registration and each of its members and also the successors of the partnership whether comprising the same of a different

name and each of the members of the partnership or its successors as it may be constituted from time to time;

- (e) the Registered party is or becomes a trustee (whether or not that fact is disclosed to SyncEzy) the expression includes the party in its personal capacity as well as its capacity as a trustee. Without limiting **clause 2.3(d)** (Interpretation – General), in this Use Agreement, Your, Yours and other grammatical variances of these terms in the Use Agreement have the corresponding meaning of this concept in the context they are used.

**“Your Content”** means all content or information owned by You (or content in which You have Intellectual Property Rights) that is submitted by You making use of the Licensed Services, whether that content is submitted by You or content that is intended by You to be syndicated using the Licensed Services, but not including:

- (a) any personal information;
- (b) information that is Your **“Confidential Information”** as that term is defined in **clause 7.1** (Definition of Confidential Information); or
- (c) any content that SyncEzy asserts ownership over, such as content You develop or create using the Licensed Services including but not limited to user maps, memes involving the Licensed Services, screenshots of any aspect of the Licensed Services, or video of Your use of the Licensed Services.

**“Your Data”** means all electronic data or information submitted by You making use of the Licensed Services, whether that data or information is submitted by You or data that is intended by You to be syndicated using the Licensed Services. This includes Your Content.

**“Your Network”** means the network of websites, web services or content delivery platforms or accessed or by You with the intention of either:

- (a) enhancing them using the Licensed Services; or
- (b) enhancing the Licensed Services by accessing various facets and functions of that network.

## **2 INTERPRETATION**

### **2.1 References – People and Parties**

In this document a reference to

- (a) one gender includes the others;
- (b) the singular includes the plural and the plural includes the singular;
- (c) a person includes a body corporate;
- (d) a party includes the party’s executors, administrators, successors and permitted assigns.

### **2.2 References – Statutes and currency**

In this document a reference to a Law includes:

- (a) that Law as amended or re-enacted from time to time;

- (b) a statute, regulation or provision enacted in replacement of that Law; and
- (c) another regulation or other statutory instrument made or issued under that Law; and
- (d) money is to the currency which your purchasing arrangement sets out is the agreed currency, unless otherwise stated. In the event there is no relevant purchasing agreement, the reference to money is to Australian dollars.

## **2.3 Interpretation – General In this document:**

- (a) “**including**” and similar expressions are not words of limitation;
- (b) a reference to a clause or schedule is a reference to a clause of or a schedule to the Use Agreement;
- (c) A reference to an agreement or document (including, without limitation, a reference to the Use Agreement) is to the agreement or document as amended, novated or replaced;
- (d) where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning;
- (e) headings are for convenience only and do not form part of this document or affect its interpretation;
- (f) a provision of the Use Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Use Agreement; and
- (g) all references to time are to time in Melbourne, Australia.

## **2.4 Interpretation – Priority**

If there is any inconsistency between any provision in the Use Agreement and any provision in the Additional Terms, the Additional Terms will prevail to the extent of that inconsistency.

# **3 SERVICES**

## **3.1 Provision of the Licensed Services**

SyncEzy will make the Licensed Services available to You:

- (a) under the Use Agreement; and
- (b) under any applicable Additional Terms.

You acknowledge that the terms of this Use Agreement do not constitute a sale of any aspect of the Licensed Services to You. You agree that Your use of the Licensed Services is not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by SyncEzy regarding future functionality or features. You may access the Licensed Services on any device that has the relevant capabilities. However, You acknowledge that SyncEzy does not warrant that any of the Licensed Services will be available by way of access from

any particular device. On occasion our Licensed Services may be unavailable to permit maintenance or other development activity to take place.

### **3.2 Fees**

- (a) In some instances, the Licensed Services (or various components of the Licensed Services) must be purchased by You, either as a one-off fee or an ongoing subscription basis.
- (b) When you purchase our Licensed Services, you will agree to the terms of that purchase and those terms are incorporated into this Use Agreement.
- (c) We may increase or change fees in our absolute discretion. In the event that you are subscribed to our Licensed Services via an ongoing monthly subscription basis, we will give you 60 days' notice of any fee increase, during which time you may elect to terminate your subscription at the end of that notice period.
- (d) If you have purchased an annual or multi-annual subscription of Licensed Services, no refunds (whether pro-rata or otherwise) will be given for early termination, for any reason. Our annual or multi-annual subscriptions are priced on the basis of payment in full of the agreed fees for the full term, regardless of the timing of any early termination.
- (e) SyncEzy may use specifically nominated third parties (Payment Processors) to receive and process any fees owing from You.
- (f) The processing of payments will be subject to the terms, conditions and privacy policies of the Payment Processors in addition to the Use Agreement and Additional Terms.
- (g) SyncEzy is not responsible for any error by the Payment Processors.
- (h) In no circumstances will fees be refundable to you once paid, subject always to the requirements of applicable Law and the terms of the Use Agreement and Additional Terms.

### **3.3 License**

SyncEzy grants to You a personal, non-assignable, and non-exclusive license to use the Licensed Services in accordance with the Use Agreement and any Additional Terms for the duration of the Use Agreement. This license is granted for the sole purpose of enabling You to enjoy the features of the Licensed Services in the manner contemplated by the Use Agreement and any Additional Terms and is not capable of sublicense without SyncEzy's prior written consent.

### **3.4 Term**

The term of this Use Agreement will continue until it is terminated in one of the ways provided for in **clause 9** (Termination).

## **4 USE OF THE SERVICES**

### **4.1 Your Responsibilities**

You acknowledge that You may be required to have and maintain an internet or data connection in order to access the Licensed Services, and that You are entirely responsible for:

- (a) Your access to the Licensed Services;
- (b) Your use of the Licensed Services;
- (c) the appropriateness and legal integrity of all Your Data,
- (d) Your compliance with the Use Agreement;
- (e) the appropriateness, accuracy, quality, and legal integrity of Your Data;
- (f) backing-up your Data;
- (g) the means by which You acquired Your Data;
- (h) ensuring that Your use conforms with any Additional Terms.

### **4.2 Prevention of Misuse You must:**

- (a) use commercially reasonable efforts to prevent unauthorized access to or use of the Licensed Services, and notify SyncEzy promptly of any such unauthorized access or use;
- (b) not seek to circumvent SyncEzy's methods intended to control access to the Licensed Services;
- (c) not operate or develop patches, software or applied programming interfaces that are intended to augment or alter the Licensed Services in a manner that is not intended or not authorized by SyncEzy; and
- (d) use the Licensed Services only in accordance with applicable Laws.

### **4.3 Use of the Licensed Services You must not:**

- (a) make the Licensed Services available to anyone else;
- (b) sell, resell, rent or lease access to the Licensed Services;
- (c) use the Licensed Services to store or transmit infringing, defamatory, or otherwise unlawful or tortious material, or to store or transmit material in violation of third party privacy rights;
- (d) use the Licensed Services to store or transmit Harmful Code;
- (e) interfere with or disrupt the integrity or performance of the Licensed Services or any Third Party Applications; or
- (f) attempt to gain unauthorized access to the Licensed Services or SyncEzy's related systems or networks. You may not access the Licensed Services to monitor their availability, performance or functionality unless the reason for Your doing so is to assess the Licensed Services for Your own reference in

circumstances where the details of Your assessment are not to be published or provided to a third party.

#### **4.4 Usage Limitations**

The Licensed Services may be subject to usage limitations, such as, for example, limits:

- (a) on storage space;
- (b) on the number of calls You are permitted to make against SyncEzy's application programming interfaces; or
- (c) for any Licensed Services that enable You to provide public websites, on the number of page views by visitors to those websites.

You must comply with any usage limitations imposed by SyncEzy that are notified to you from time to time. SyncEzy will notify you in advance of any forthcoming changes to any imposed usage limitations during the Term.

#### **4.5 Automated Access**

All Automated Access is also subject to the Use Agreement. No automated software or process is permitted to access the Licensed Services until the person who is responsible for the Automated Access has accepted the Use Agreement. As such, any attempt to obtain Automated Access will be bound by the Use Agreement. If You are responsible for any Automated Access, You must also comply with any directives SyncEzy may make in respect of the Licensed Services using a Robots Exclusion Protocol, robots.txt file, Robots Exclusion Standard or any other directive concerning Automated Access prepared by SyncEzy from time to time.

#### **4.6 Access Information**

You must keep Your passwords and any confidential user identification that You use to access the Licensed Services secure. You are solely responsible to SyncEzy for all activities that occur in respect of Your user account for the Licensed Services, and if You become aware of unauthorized use of Your user account for the Licensed Services, You agree that You will notify SyncEzy immediately.

#### **4.7 Software Versions and Licensed Services**

You acknowledge that

- (a) there may be multiple instances of software supporting and underpinning the Licensed Services;
- (b) SyncEzy may make that software available to You from time to time to assist Your use of the Licensed Services; and
- (c) Licensor may update such software from time to time during the Term

As a condition of Your use of the Licensed Services, You must use the latest versions of any of SyncEzy's software made available to You for that use. You also consent to SyncEzy updating the Licensed Services automatically without notifying You.



#### **4.8 Offensive Behaviour**

You must not use the Licensed Services for any purpose that is restricted by SyncEzy in SyncEzy's sole discretion, exercised reasonably. This includes but is not limited to purposes that:

- (a) promote discrimination, bigotry, racism, hatred, harassment or harm against any individual or group;
- (b) are violent or threatening or promote self-harm;
- (c) promote harmful activities or substances in breach of any Law,
- (d) infringe a third party's Intellectual Property Rights, or violate a third party's rights of publicity or privacy;
- (e) breach any Law, or would result in civil liability;
- (f) are fraudulent, false, misleading or deceptive;
- (g) are racist, defamatory, pornographic, offensive or vulgar; or
- (h) are intended in any way to cause harm or an unacceptable level of detriment to another user of the Licensed Services.

#### **4.9 Advertising**

You acknowledge and agree that:

- (a) the Licensed Services may feature advertisements from SyncEzy and/or third parties;
- (b) SyncEzy may at its sole discretion introduce advertising into the Licensed Services that do not presently contain advertising;
- (c) SyncEzy is not responsible for the content of any third party advertisements, nor the content of any website or other materials that may be linked to by third party advertisements, and You view such third party websites and materials at Your sole risk;
- (d) any provision of information to third party advertisers by SyncEzy will be governed by SyncEzy's privacy policy; and
- (e) we may use your name or logo in our marketing materials.

### **5 THIRD PARTY PROVIDERS**

#### **5.1 APIs, Third Party Products and Services You acknowledge that:**

- (a) if You, or if any part of Your Network utilizes any other products or services produced by other parties, including but not limited to Third Party Applications, any use of such third party products and services, including implementation, customization and other consulting services, and any exchange of data between You and any third party provider, is solely between You and the applicable third party provider; and
- (b) SyncEzy does not warrant or support any Third Party Applications or any other product or service that are not a part of the Licensed Services, whether or not



they are designated by You as “certified” or otherwise, and in no circumstances will SyncEzy be responsible or liable in connection with such Third Party Applications.

- (c) Any changes to systems, software, or APIs made by you or by third parties are out of our control (**Changes**) and may prevent our ability to provide you with Licensed Services. You agree and accept that we are not responsible or liable in the case of any Changes, and if any Changes are made then we do not guarantee that we will be able to continue to provide you with Licensed Services and we are not liable for any loss or claim in relation to our inability to provide the Licensed Services.

## **5.2 Third Party Applications and Your Data**

If You install or enable Third Party Applications for use in connection with the Licensed Services, You acknowledge that SyncEzy may allow providers of those Third Party Applications to access Your Data as required for the interaction and interoperation of those Third Party Applications with the Licensed Services and for our Licensed Services sign into Third Party Applications via your login details. SyncEzy is not responsible for any disclosure, modification or deletion of Your Data resulting from this type of access by Third Party Application providers, and any use of Third Party Applications to interact with the Licensed Services is at your sole risk.

## **6 PROPRIETARY RIGHTS**

### **6.1 Reservation of Rights**

Subject to the rights granted to You in the Use Agreement, SyncEzy reserves all other rights, title and interest in and to SyncEzy Material and the Licensed Services, including all associated Intellectual Property Rights. You acknowledge no Intellectual Property Rights are granted to You by the Use Agreement, other than the usage rights for the Licensed Services that are expressly described therein.

### **6.2 Restrictions You**

must not:

- (a) permit any third party to access the Licensed Services except as permitted in the Use Agreement or as specified in any Additional Terms;
- (b) copy, modify, create derivative works of, reverse engineer, decompile or otherwise attempt to extract the source code of the software in respect of the Licensed Services;
- (c) copy, frame or mirror any part or content of the Licensed Services, other than copying or framing for Your own personal reference,
- (d) reverse engineer any aspect of the Licensed Services;
- (e) access the Licensed Services in order to build a competitive product or service; or
- (f) copy any features, functions or graphics of the Licensed Services; or
- (g) act in a manner that is otherwise inconsistent with the Intellectual Property Rights of SyncEzy.

### **6.3 Ownership of Your Data**

Subject to the licenses You have granted to SyncEzy in respect of Your Data through the Use Agreement and under any Additional Terms, SyncEzy acknowledges that You own all rights, title, and interest in and to all of Your Data. You grant to SyncEzy a fee-free, royalty-free, perpetual, irrevocable, worldwide, sublicensable, transferable licence to access and use Your Data to enable SyncEzy to operate and further develop the Licensed Services, and deliver them to You and other users.

### **6.4 Other Intellectual Property Rights**

During Your use of the Licensed Services, You must not utilize content in a way that infringes the Intellectual Property Rights of third parties. You must obtain the consent of the owner of the relevant Intellectual Property Rights in respect of the content You intend to use in conjunction with the Licensed Services. You acknowledge that SyncEzy is not liable to You or to any third party for Your use of content without permission, in breach of this **clause 6**.

### **6.5 Information Rights and Publicity**

Subject to the terms of its privacy policy (located <https://syncezy.com/privacy/>), or any other reference point that SyncEzy may provide to You from time to time), SyncEzy and its related parties may retain and use, information collected about You during the course of Your use of the Licensed Services. SyncEzy will not share information in respect of Your activities with any third parties unless SyncEzy:

- (a) has Your consent;
- (b) is permitted to do so under relevant Laws relating to privacy; or
- (c) provides such information in certain limited circumstances to third parties to carry out tasks on SyncEzy's behalf (eg, billing or data storage) with strict restrictions that prevent the data from being used or shared except as directed by SyncEzy.

When this is done, SyncEzy must ensure it is subject to agreements that oblige those parties to process such information only on SyncEzy's instructions and in compliance with the Use Agreement and appropriate confidentiality and security measures. By registering as a user of the Licensed Services, You also consent to the transfer of Your personal information to a country outside of the country You reside in.

### **6.6 Trade Marks**

You acknowledge that You may not use SyncEzy's trademarks, logos, domain names or brands to promote You, Your Network or services (or in juxtaposition to them) except:

- (a) in accordance with any license granted under the Additional Terms; or
- (b) in any instance where SyncEzy has otherwise authorized You to do so; or
- (c) in any instance where SyncEzy's trademarks, logos, domain names or brands are to be used in association with functions that permit the Licensed Services to interoperate with other services.

## 6.7 Suggestions

You grant to SyncEzy a fee-free, royalty-free, worldwide, transferable, sublicensable, irrevocable and perpetual license to use or incorporate into the Licensed Services any suggestions, enhancement requests, recommendations or other feedback provided by You relating to the operation of the Licensed Services.

## 7 CONFIDENTIALITY

### 7.1 Definition of Confidential Information

In the Use Agreement, “**Confidential Information**” means all information disclosed by a party (**Disclosing Party**) to the other party (**Receiving Party**), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information includes Your personal information. SyncEzy’s Confidential Information includes the Licensed Services. Confidential Information also includes the terms and conditions of the Use Agreement and the Additional Terms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by any party. However, Confidential Information does not include any information that:

- (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party;
- (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party;
- (c) is received from a third party without breach of any obligation owed to the Disclosing Party; or
- (d) was independently developed by the Receiving Party.

### 7.2 Protection of Confidential Information

Unless authorized by the Disclosing Party in writing:

- (a) the Receiving Party must use a reasonable degree of care not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of the Use Agreement; and
- (b) the Receiving Party must limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need the access for purposes that are consistent with the Use Agreement and who have signed confidentiality agreements satisfactory to both parties.

### 7.3 Protection of Your personal information

SyncEzy will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of Your personal information in accordance with SyncEzy’s privacy policies as modified by SyncEzy from time to time, and applicable privacy laws. SyncEzy will not:

- (a) modify Your personal information;

- (b) disclose Your personal information, except where this Use Agreement or any Additional Terms permit or require that disclosure; or
- (c) access Your personal information except to provide the Licensed Services or prevent or address service or technical problems, or at Your request in connection with customer support matters.

#### **7.4 Compelled Disclosure**

The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by Law to make the disclosure, provided the Receiving Party gives the Disclosing Party prior notice of the scope of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by Law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

### **8 WARRANTIES AND DISCLAIMERS**

#### **8.1 Warranties**

You represent and warrant that:

- (a) You have the legal power and capacity to enter into the Use Agreement; and
- (b) You will not transmit to SyncEzy any Harmful Code.

#### **8.2 Disclaimer**

- (a) You acknowledge that the Licensed Services cannot be guaranteed to be error free and further acknowledge that the existence of any such errors will not constitute a breach of the Use Agreement or Additional Terms.
- (b) Except as expressly provided to the contrary in the Use Agreement or Additional Terms, and to the full extent permitted by applicable Law, SyncEzy will not be liable to You for any loss, including special, indirect or consequential damages (such as loss of profits), or claim, arising out of breach of the Use Agreement or Additional Terms, or arising out of the supply of defective goods or services (including but not limited to the Licensed Services).
- (c) Without limiting the preceding clause 8.2(b), to the full extent permitted by applicable Law, SyncEzy's liability for any term, condition, guarantee or warranty that is implied by Law and cannot lawfully be excluded by SyncEzy, including the consumer guarantees set out in the Australian Consumer Law contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and all similar or equivalent legislation, rules and regulations is limited to (at SyncEzy's option):
  - (i) in the case of goods (including software to the extent considered a good under applicable law) – repairing, replacing or supplying equivalent goods, or paying the cost of any of those remedies to You; or

- (ii) in the case of services, including the Licensed Services – supplying the services again or paying the cost of having the services supplied again.
- (d) You acknowledge that You have exercised your independent judgment in acquiring the Licensed Services and have not relied on any representation made by SyncEzy which has not been stated expressly in the Use Agreement or Additional Terms or upon descriptions or illustrations or specifications contained in any document including catalogues or publicity material produced by SyncEzy.

### **8.3 Liability**

Subject to any Law applying to the Use Agreement that expressly prevents this provision, SyncEzy's aggregate liability from any one claim by You (whether the claim arises under this Use Agreement, the Additional Terms or pursuant to any action in tort, negligence or otherwise) will not exceed the larger of

- (a) the amount You have paid to SyncEzy for the Licensed Services over the 6 month period prior to the date giving rise to Your claim;
- (b) the amount of \$3,000.00; or
- (c) the cost of re-supplying the Licensed Services to You. In some jurisdictions this type of limitation is not permitted, so this provision may not apply to You.

## **9 TERM AND TERMINATION**

### **9.1 Term**

The Use Agreement commences on the Effective Date and is ongoing unless and until terminated in accordance with the remainder of this clause 9.

### **9.2 Termination by SyncEzy**

SyncEzy may terminate the Use Agreement at any time in writing if:

- (a) You have breached any provision of the Use Agreement;
- (b) You have not paid fees associated with your use of the Licensed Services;
- (c) You have acted in a way that indicates You does not intend to comply with a provision of the Use Agreement;
- (d) SyncEzy is required to terminate the Use Agreement by Law or the operation of the Licensed Services becomes unlawful; or
- (e) SyncEzy determines that the provision of the Licensed Services is no longer profitable or viable.

### **9.3 Termination by You**

You may terminate the Use Agreement without notice to SyncEzy simply by:

- (a) deregistering as a user of the Licensed Services; and
- (b) ceasing to use all aspects of the Licensed Services (including those that interoperate with Third Party Applications).

If You resume use of the Licensed Services in any way, the Use Agreement will apply to that resumed use, whether You are Registered or not.

#### **9.4 Survival of Terms**

Any termination by either party will not affect any rights, obligations liabilities or licenses that are either expressed in the Use Agreement or the Additional Terms to be continuous or are intended to continue indefinitely by implication.

#### **9.5 Indemnity**

You indemnify SyncEzy against any and all Losses suffered or incurred by SyncEzy whether directly or indirectly arising from or in connection with, any Circumstance brought about by Your breach of this Use Agreement or any applicable Additional Terms.

#### **9.6 Your Data on termination**

On termination, your Data will be archived by us and you will no longer be able to access your registered account. With all data warehousing/PowerBI integrations we delete all data within 30 days of termination of the agreement.

### **10 GENERAL PROVISIONS**

#### **10.1 Export Compliance**

You must comply with the export Laws and regulations of any relevant jurisdictions in using the Licensed Services. In particular:

- (a) You warrant that You are not named on any government list of persons or entities prohibited from receiving exports; and
- (b) You must not access or use the Licensed Services in violation of any export embargo, prohibition or restriction.

#### **10.2 Relationship of the Parties**

You and SyncEzy are independent contractors. This Use Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

#### **10.3 Third Party Beneficiaries**

You acknowledge that SyncEzy has entered into licensing arrangements to enable the provision of the Licensed Services and the relevant licensors could be third party beneficiaries to Your obligations under the Use Agreement.

#### **10.4 Waiver and Cumulative Remedies**

No failure or delay by either party in exercising any right under the Use Agreement constitutes a waiver of that right. Other than as expressly stated in the Use Agreement, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party under any Law.

#### **10.5 Severability**

If any provision of the Use Agreement is held by a court of competent jurisdiction to be contrary to any Law, the provision must be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by Law, and the remaining provisions of the Use Agreement will remain in effect.

#### **10.6 Conflict**

If any provision of the Use Agreement and any explicit term of the Additional Terms are in conflict, the explicit term of the Additional Terms will prevail in respect of the conflict.

#### **10.7 Assignment**

You cannot assign Your rights or obligations under the Use Agreement without SyncEzy's prior written consent. SyncEzy can novate or assign its rights or obligations under the Use Agreement without restriction.

#### **10.8 Amendments**

SyncEzy may amend the Use Agreement from time to time by either notifying You using the Licensed Services or providing details of the amendments on its website. SyncEzy will act reasonably in making any amendments.

#### **10.9 Governing Law and Disputes**

The Use Agreement is governed by the Laws of Victoria, Australia, and disputes must be resolved in the non-exclusive courts of that jurisdiction. You agree that You will not be involved in an action as a class member in a class action and that all disputes must be pursued in Your own name only. You and SyncEzy each waive respective rights to seek or be involved in any class action under this Use Agreement or concerning any aspect of the Licensed Services.

#### **10.10 Entire Agreement**

The Use Agreement, together with the Additional Terms constitutes the entire agreement between the parties and supersedes all prior understandings and agreements concerning its subject matter.

### **11 CONTACT**

In the event that you need to contact SyncEzy regarding the Use Agreement or the Licensed Services, please use the following details.

3D Consulting Pty Ltd ACN 159 855 044 trading as SyncEzy of Western Bace, 222 Ferris Rd Melton South Victoria, Australia 3338

Email: [info@syncezy.com](mailto:info@syncezy.com)