

## TERMS OF SERVICE

These Terms of Service (“Terms”) between You (defined below) and Anderson ZurMuehlen Technology Services (defined below) describes the terms and conditions of Your use of Anderson ZurMuehlen Technology Services’s Services (defined below). BY COMPLETING THE ELECTRONIC ACCEPTANCE PROCESS, YOU AFFIRM THAT YOU (i) ARE AT LEAST 18 YEARS OF AGE OR OLDER AND (ii) HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY ALL OF THESE TERMS. IF YOU DO NOT AGREE TO ALL OF THE TERMS, DO NOT PROCEED ON THE ELECTRONIC ACCEPTANCE PROCESS AND YOUR REGISTRATION PROCESS WILL BE DISCONTINUED.

Anderson ZurMuehlen Technology Services reserves the right, exercised at its sole discretion, to modify, add or delete portions of these Terms from time to time without notice to You, and You further agree to be bound by such modified Terms. The most current version of the Terms can be viewed at <https://aztechnologyservices.com>.

### 1. DEFINITIONS

“**Documentation**” means any electronic or printed materials that accompany the Software that provide instructions for the installation, operation and use of the Software.

“**Licensed User**” means an individual with a valid seat license for the Anderson ZurMuehlen Technology Services PwrCloud line of products.

“**Services**” means the services and related Software provided by Anderson ZurMuehlen Technology Services to You under these Terms for Anderson ZurMuehlen Technology Services Cloud Services.

“**Software**” means certain software applications, in object code format only, that are required for You to use the Services and licensed to You subject to these Terms.

“**Anderson ZurMuehlen Technology Services**” means Anderson ZurMuehlen Technology Services Inc. and its successors and assigns.

“**Anderson ZurMuehlen Technology Services Account**” means a user account created with Anderson ZurMuehlen Technology Services that uniquely identifies You with a user name and password.

“**Third Party Software**” means certain software that Anderson ZurMuehlen Technology Services licenses from third parties and provides to You incorporated into the Software.

“**You or Your**” means you as a Licensed User or an employee or agent of a legal entity that is authorized to represent and legally bind such entity to these Terms.

### 2. ONLINE REGISTRATION

To use the Services, You may be required to complete the online registration process, including Your electronic acceptance of these Terms. Anderson ZurMuehlen Technology Services may reject an online registration by You at its sole discretion and is not obligated to provide a reason for its rejection.

- a. **Registration Data.** As part of the online registration process for a Anderson ZurMuehlen Technology Services Account, Anderson ZurMuehlen Technology Services will collect certain limited information about You (“Registration Data”). All Registration Data provided by You must be current, complete, and accurate, and You

are solely responsible for updating the Registration Data as necessary. Anderson ZurMuehlen Technology Services may terminate all rights to access, receive, use and license the Services if (i) Anderson ZurMuehlen Technology Services discovers that any of Your Registration Data is incomplete, inaccurate, or not current, or (ii) Anderson ZurMuehlen Technology Services determines, at its sole discretion, that You are not the appropriate user of the Services.

- b. Passwords and Security. As part of the online registration process, You must use Your email address as Your user name and choose a password for access to Your Anderson ZurMuehlen Technology Services Account. You are entirely responsible for maintaining the confidentiality of Your password and agree to carefully safeguard all of Your passwords. You are solely responsible for any and all activities that occur under Your Anderson ZurMuehlen Technology Services Account and agree to immediately notify Anderson ZurMuehlen Technology Services of any unauthorized use of Your Anderson ZurMuehlen Technology Services Account or any other breach of security. Furthermore, You are solely responsible to obtain consent from your users before collecting, transmitting or transferring any content from their devices through the Services. Anderson ZurMuehlen Technology Services shall not be liable for any loss that You may incur as a result of a third party using Your Anderson ZurMuehlen Technology Services Account, either with or without Your knowledge. You may be held liable for losses incurred by Anderson ZurMuehlen Technology Services or another party due to a third party using Your Anderson ZurMuehlen Technology Services Account, either with or without Your knowledge.
- c. Subscription to Use the Software. When You subscribe to use the Services, You are agreeing to the Anderson ZurMuehlen Technology Services Terms of Sale.
- d. Trial and Promotional Offers. From time to time, Anderson ZurMuehlen Technology Services may offer certain trial and/or promotional offers. Anderson ZurMuehlen Technology Services reserves the right to modify, discontinue any trial or promotional offers in its sole discretion and without notice. Any trial or promotional offers are limited to one (1) per customer and may not be combined with any other offers.

### **3. END USER LICENSE AGREEMENT**

These end user license terms grant You a right and license to use the Software under certain restrictions, terms and conditions ("EULA"). You agree to be bound by this EULA before using the Software.

- a. License Grant. You are granted a non-transferable, non-sublicensable, non-exclusive license to use the Software and Documentation subject to Your full compliance of this Section 3.
- b. Commercial Use. The Anderson ZurMuehlen Technology Cloud Services are fully licensed for commercial use in a professional environment.
- c. Software Restrictions. You shall not (i) in whole or in part, copy, reproduce, transfer, create derivative works from, translate, reverse engineer, disassemble, decompile, or

otherwise attempt to derive the source code, alter or modify the Software, or remove any portion thereof, nor shall You cause or permit any other person to do the foregoing; (ii) remove, alter, cover or obfuscate any copyright notices or other proprietary rights notices placed or embedded by Anderson ZurMuehlen Technology Services on or in any Software or Documentation; (iii) sell, resell for a profit, rent, lease or lend the Software or Documentation or use it for commercial time sharing, rental or service bureau use; (iv) use the Software or any component thereof for any illegal purposes; or (v) use the Software or Documentation, or any component thereof, to enable copyright protection-circumvention devices or to violate or circumvent in any manner any content copyright, content protection scheme, or content copy policies.

- d. Service Restrictions. By using the Services, You agree not to and shall not allow any of Your users to (i) use the Services in violation of any applicable laws or regulations, (ii) transmit any material that may violate or infringe the intellectual property, privacy or other rights of any third party, (iii) harvest or otherwise collect or store any information of a third party without his/her consent, (iv) use the Services in a way that may cause harm or disruption to Anderson ZurMuehlen Technology Services network, Anderson ZurMuehlen Technology Services Accounts or other Anderson ZurMuehlen Technology Services services or (v) use the Services to send any spam, malware or any fraudulent, obscene or unlawful content.
- e. Use Limitations. You agree to comply with the following applicable term while using the respective Services:
  - The total number of Anderson ZurMuehlen Technology Services Streamers that are logged in with Your Anderson ZurMuehlen Technology Services Account is limited to (1) users.
- f. Third Party Software. Certain Third Party Software provided in or with the Software is subject to various other terms and conditions imposed by the licensors of such Third Party Software. Your use of the Third Party Software is subject to and governed by the respective Third Party Software licenses, which relevant licenses for such Third Party Software You may view through the hypertext links in the Third Party Software list located at the following URLs: <https://aztechnologyservices.com> for Anderson ZurMuehlen Technology Services cloud products. You agree to comply with the terms and conditions contained in all such Third Party Software licenses.

#### **4. INTELLECTUAL PROPERTY PROTECTION**

Anderson ZurMuehlen Technology Services or its licensors retain ownership of all proprietary rights in or associated with the Services and these proprietary rights are protected by United States and international copyright and other intellectual property laws and international trade provisions. You acknowledge that the Services may contain unpublished information and embody valuable trade secrets proprietary to Anderson ZurMuehlen Technology Services and/or its licensors. Anderson ZurMuehlen Technology Services and/or its licensors reserve all rights in the Services not expressly granted herein. The license granted hereunder and Your right to use the Services terminate automatically if You violate any part of the Terms.

## **5. CONFIDENTIAL INFORMATION**

“Confidential Information” means any non-public business or technical information of Anderson ZurMuehlen Technology Services including, without limitation, any information relating to Anderson ZurMuehlen Technology Services’s trade secrets or know-how that is designated as “confidential,” either orally or in writing, or that You know or should know is considered confidential or proprietary by Anderson ZurMuehlen Technology Services. You agree to maintain the Confidential Information in strict confidence and not to use Confidential Information except as expressly authorized by these Terms. You shall ensure that no unauthorized persons shall have access to the Confidential Information. Notwithstanding the foregoing, Confidential Information shall not include information that (i) becomes part of the public domain through no breach of the Terms by You; (ii) is independently developed by You without reference to any Confidential Information; or (iii) is rightfully disclosed to You by a third party without restriction on disclosure.

## **6. TRADEMARKS**

You acknowledge and agree that the term Anderson ZurMuehlen Technology Services and other related logos and designs provided hereunder (collectively, the “Anderson ZurMuehlen Technology Services Trademarks”) are the exclusive trademarks of Anderson ZurMuehlen Technology Services, registered in the United States and elsewhere, and that You shall not use or reproduce the Anderson ZurMuehlen Technology Services Trademarks without first obtaining a trademark license from Anderson ZurMuehlen Technology Services. All other trademarks and service marks referenced in the Services or Anderson ZurMuehlen Technology Services website are the exclusive property of their respective owners. All rights reserved.

## **7. PRIVACY**

Anderson ZurMuehlen Technology Services’s use of any information provided by You, including without limitation, Registration Data and payment information, is set forth in Anderson ZurMuehlen Technology Services’s current Privacy Policy, which can be found at <https://aztechnologyservices.com> for Anderson ZurMuehlen Technology Services cloud products.

## **8. UPDATES AND SUPPORT**

Anderson ZurMuehlen Technology Services may, from time to time, at its sole discretion, and without any obligation to do so, make updates to the Services available via the Internet or other sources. All such updates shall be deemed to be included within the definition of Services and shall be subject to these Terms. Anderson ZurMuehlen Technology Services reserves the right to charge fees for any future versions of, or updates to, the Services. If Anderson ZurMuehlen Technology Services is Your support provider for the Services, You may visit <https://support.azworld.com> or contact Anderson ZurMuehlen Technology Services support team to resolve any technical issues You might have.

## **9. TERM AND TERMINATION**

These Terms shall commence on the date of Your electronic acceptance. For subscription-based Services, these terms continue until the end of Your subscription. You may terminate these Terms at any time by terminating Your subscription, removing the Software and Documentation from Your system, and stopping to use the Services. Anderson ZurMuehlen

Technology Services may immediately terminate these Terms and Your subscription, license, and right to the Services if (i) You breach these Terms; (ii) You, as a legal entity, declare bankruptcy, are involved in any bankruptcy proceedings or are otherwise insolvent; or (iii) Anderson ZurMuehlen Technology Services decides, at its sole discretion, to discontinue offering the Services, in which case Anderson ZurMuehlen Technology Services shall notify You in advance, whenever possible, and provide You with alternative plans or options to minimize any inconvenience that may be caused by such termination. Anderson ZurMuehlen Technology Services shall not be liable for any damages resulting from a termination of these Terms as provided for herein. Upon termination of these Terms: (a) all license rights granted hereunder will automatically terminate without further notice to You; and (b) You will immediately discontinue all access to and use of the Services and destroy the Software and Documentation, and all copies thereof. Sections 1, 4, 5, 6, 7, 9, 10, 11, 12, 13 and 15 shall survive the expiration or termination of these Terms in full force and effect.

#### **10. DISCLAIMER OF WARRANTIES**

THE SERVICES, SOFTWARE, ANY UPDATES THERETO, ANY DOCUMENTATION AND INFORMATION ARE PROVIDED "AS-IS" WITHOUT WARRANTY OF ANY KIND. ANDERSON ZURMUEHLEN TECHNOLOGY SERVICES, ON BEHALF OF ITSELF AND ITS LICENSORS, DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THESE TERMS AND ANY SAMPLE, SPECIFICATION OR PROPOSAL PROVIDED BY ANDERSON ZURMUEHLEN TECHNOLOGY SERVICES, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. ANDERSON ZURMUEHLEN TECHNOLOGY SERVICES DOES NOT GUARANTEE THE ACCURACY, COMPLETENESS, SATISFACTORY QUALITY OF THE SERVICES OR THAT THE SERVICES WILL BE FREE OF DEFECTS, RUN ERROR-FREE OR UNINTERRUPTED, MEET YOUR REQUIREMENTS, BE FREE OF VIRUSES OR THAT ANDERSON ZURMUEHLEN TECHNOLOGY SERVICES WILL CORRECT ALL ERRORS. YOU UNDERSTAND AND AGREE THAT ANY MATERIAL OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR SOLE RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA. SOME LAWS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO, TO THAT EXTENT, THIS LIMITATION MAY NOT APPLY TO YOU.

#### **11. LIMITATION OF LIABILITY**

IN NO EVENT SHALL ANDERSON ZURMUEHLEN TECHNOLOGY SERVICES, OR ITS LICENSORS OR SUPPLIERS, BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR INDIRECT DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF INFORMATION, OR OTHER PECUNIARY LOSS) ARISING OUT OR IN CONNECTION WITH THESE TERMS, IRRESPECTIVE OF THE CAUSE OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, GROSS NEGLIGENCE, NEGLIGENT MISREPRESENTATION) OR PRODUCT LIABILITY, EVEN IF ANDERSON ZURMUEHLEN TECHNOLOGY SERVICES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW

THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO TO THAT EXTENT THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. IN NO EVENT WILL ANDERSON ZURMUEHLEN TECHNOLOGY SERVICES'S CUMULATIVE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS EXCEED FIFTY DOLLARS (US\$50).

## **12. INDEMNIFICATION**

You hereby agree, at Your sole expense, to indemnify, defend and hold Anderson ZurMuehlen Technology Services and its affiliates, employees, officers, directors, owners, information providers, agents, licensees, licensors (the "Indemnified Parties") harmless from and against any and all liabilities, claims, costs, including reasonable attorneys' fees, incurred by the Indemnified Parties in connection with any demand, claims, action, suit, or loss arising as a result of (a) any breach by You of these Terms or claims arising from Your Anderson ZurMuehlen Technology Services Account; (b) any fraud or manipulation by You; (c) a third-party claim, action or allegation of infringement based on information, data, files or other content submitted by You; or (d) any claims of credit card fraud based on any information released by You. You agree to use best efforts to cooperate with Anderson ZurMuehlen Technology Services in the defense of any demand, claim, action or suit. Anderson ZurMuehlen Technology Services reserves the right to assume the exclusive defense of any matter subject to indemnification by You at Anderson ZurMuehlen Technology Services's own expense.

## **13. EXPORT CONTROLS**

You acknowledge and agree that the Services licensed under these Terms are subject to the export control laws and regulations of the United States (including, without limitation, the Export Administration Regulations ("EAR"), and sanctions regimes of the U.S. Department of Treasury, Office of Foreign Asset Controls.). You shall, at Your own expense, comply with all applicable laws, ordinances, regulations, rules and other requirements. You shall not, without prior U.S. government authorization, export, re-export or transfer any Software, Services or technology subject to these Terms, either directly or indirectly (i) into any country subject to a U.S. trade embargo or to any resident or national of any such country, or (ii) to any person or entity listed on the "Entity List" or "Denied Persons List" maintained by the U.S. Department of Commerce or the list of "Specifically Designated Nationals and Blocked Persons" maintained by the U.S. Department of Treasury. By downloading Software or using the Services, You are agreeing to the foregoing and You represent and warrant that You are not located in, under the control of, or a national or resident of any such country or on any such list.

## **14. HIGH-RISK USE**

You hereby acknowledge that the Services are not designed or intended for access and/or use in or during high-risk activities and shall not be used in connection with any system where malfunction can reasonably be expected to result in personal injury, death or damage to property, environment or business. Without limiting the foregoing, the Services shall not be used in connection with any life support system. Anderson ZurMuehlen Technology Services and its licensors hereby expressly disclaim any express or implied warranty of fitness for such purposes. You agree to hold Anderson ZurMuehlen Technology Services and its

officers, directors, employees, affiliates and licensors harmless from any claims or losses resulting from any of the foregoing uses of the Services.

## **15. GENERAL**

- a. These Terms constitute the entire agreement between You and Anderson ZurMuehlen Technology Services and supersede any prior or contemporaneous agreements, communications and/or understandings, written or oral, concerning the subject matter hereof. Anderson ZurMuehlen Technology Services is not bound by any provision of any purchase order, receipt, acceptance, confirmation, correspondence, or otherwise, unless Anderson ZurMuehlen Technology Services expressly agrees to the provision in a written, executed document.
- b. If any provision of these Terms shall be held to be invalid, illegal or unenforceable, such provision shall be enforced to the maximum extent permitted by law and the remaining provisions shall not be affected.
- c. These Terms are governed by the laws of the State of Montana without reference to conflicts of laws provisions. You and Anderson ZurMuehlen Technology Services expressly disclaim the applicability of the United Nations Convention on the Sale of Goods. You agree that all claims and disputes arising out of or in connection with these Terms shall be heard exclusively by any federal or state court of competent jurisdiction located in Lewis and Clark County, Montana, U.S.A., and You irrevocably consent to the personal and exclusive jurisdiction of, and venue in, such courts, and waive any objection to any proceedings brought in any such court.
- d. You may not assign or transfer these Terms or any rights or obligations under these Terms. Any assignment or transfer of these Terms made in contravention of the terms hereof shall be null and void. Subject to the foregoing, these Terms shall be binding on and inure to the benefit of the parties' respective successors and permitted assigns. Anderson ZurMuehlen Technology Services may assign its rights under these Terms to its affiliates and to any successor by way of merger, acquisition, consolidation, reorganization or sale of all or substantially all of its assets that relate to these Terms, without action on Your part, in which case references to Anderson ZurMuehlen Technology Services herein shall be deemed to refer to the assignee.
- e. Notices by Anderson ZurMuehlen Technology Services to You may be sent to the email address provided by You during the online registration process or otherwise by any means that Anderson ZurMuehlen Technology Services determines at its sole discretion as likely to come to Your attention. All notices by You to Anderson ZurMuehlen Technology Services regarding these Terms shall be in writing and sent by express carrier or certified mail at the address of Anderson ZurMuehlen Technology Services set forth herein.
- f. You agree not to bring or participate in any class action law suits against Anderson ZurMuehlen Technology Services or any of its employees or affiliates. You agree that You will not bring a claim under these Terms more than two (2) years after expiration or termination of these Terms. No waiver of any provision or consent to any action by



Anderson ZurMuehlen Technology Services shall constitute a waiver of any other provision or consent to any other action, whether or not similar. No waiver or consent by Anderson ZurMuehlen Technology Services shall constitute a continuing waiver or consent except to the extent specifically set forth by Anderson ZurMuehlen Technology Services in writing.

- g. You acknowledge that Anderson ZurMuehlen Technology Services may provide software, solutions and services to third parties, including competitors of You, which are the same or similar to the software, solutions and services provided to You hereunder.
- h. Anderson ZurMuehlen Technology Services will not be responsible for any delay, interruption or other failure to perform under these Terms due to acts beyond Anderson ZurMuehlen Technology Services's reasonable control.
- i. If You have any ethical, integrity, safety, security, and/or compliance concerns about Anderson ZurMuehlen Technology Services or its employees, You are encouraged to report the incident anonymously at: <https://login.redflagreporting.com/> using client code 4064421040.

Anderson ZurMuehlen Technology Services Inc.  
828 Great Northern Blvd., Suite 103  
Helena, MT 59601

**Last updated:** March 16, 2020