

SOFTWARE EVALUATION LICENSE AGREEMENT

This Software Evaluation License Agreement (this "**Agreement**") is between the applicable Apteian legal entity (hereinafter referred to as "**Apteian**"), and your company ("**Customer**").

Customer wishes to license for testing and evaluation purposes certain components of proprietary Apteian software known as Respond Now ("Software").

BY LOGGING IN TO USE THE APTEIAN PRODUCTS FOR THE FIRST TIME CUSTOMER INDICATES ITS ACCEPTANCE OF THIS AGREEMENT, AND CUSTOMER HEREBY AGREES TO USE THE APTEIAN PRODUCTS IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT. THIS AGREEMENT IS MADE EFFECTIVE AS OF THE DATE THAT CUSTOMER LOGS IN TO USE THE APTEIAN PRODUCTS FOR THE FIRST TIME.

TERMS AND CONDITIONS

1. GRANT OF LICENSES

Subject to the terms and conditions of this Agreement, Apteian hereby grants to the Customer and the Customer hereby accepts a limited, personal, non-exclusive, non-transferable license during the Term to use the Software ("**Apteian Products**") and its supporting documentation and materials solely for the purposes of testing and evaluating the Apteian Products. This license specifically excludes maintenance, technical and other standard or premium support services, and is granted for the sole purpose of evaluation to determine whether the Customer will license the Apteian Products under separate terms. Subject to Section 9(B) below, this limited right to use for evaluation purposes is strictly on an "AS IS" basis in accordance with the terms and conditions below. Customer is responsible for complying with all terms and conditions and obtaining all required licenses regarding third-party software, including, without limitation, the Microsoft products referenced in Section 10.

2. PROHIBITED USES

The Apteian Products are provided under a limited license to evaluate only. The Customer may not:

- a. Reverse engineer, decompile, disassemble, modify, decrypt, extract or otherwise attempt to derive the source code of the Apteian Products or any part thereof;
- b. Copy the Apteian Products or any portion thereof;
- c. Remove any proprietary notices, including, without limitation, trademarks or copyright notices, from the Apteian Products;
- d. Sublicense, lease, rent, pledge, encumber, distribute, disclose, assign, resell or otherwise transfer the Apteian Products or any part or copies thereof;
- e. Permit any person, other than employees of Customer who are directly involved in the discussions, analysis, testing, evaluation or assessment of the performance of the Apteian Products for the purposes set forth herein, to access or use the Apteian Products; or
- f. Publish or disclose to any third party, the results of Customer's testing and evaluation of the Apteian Products, or any performance data, metrics, features, functionality, or other information concerning the Apteian Products, without Apteian's express, prior written consent.

3. INTELLECTUAL PROPERTY OWNERSHIP

As between Apteau and its licensors and Customer, Apteau or its licensors retain all right, title and interest in and to the software embedded within the Apteau Products, the Apteau Products and related documentation and materials (whether printed, embedded, on-line or otherwise), including, without limitation, all patent, trade secret, copyright, trademark and other proprietary rights embodied in, or otherwise applicable to the Apteau Products, whether such rights are registered or unregistered, and wherever in the world those rights may exist, and including, without limitation, all subsequent modifications, updates, alterations and enhancements to the Apteau Products, whether made by Apteau, Customer or any other party (and, without limiting Section 2 above, Customer assigns to Apteau immediately from creation all intellectual property rights in or to any modification, update, alteration or enhancement made by or on behalf of the Customer to any Apteau Product). Without limiting the foregoing, the Apteau Products names, brands and logos are trademarks or registered trademarks of Apteau. Third party software in this product is subject to the intellectual property rights held in such software by those third parties. There are no implied rights or licenses in this Agreement. All rights not expressly granted herein are reserved by Apteau.

4. CONFIDENTIALITY

CUSTOMER ACKNOWLEDGES THAT THE APTEAU PRODUCTS CONTAIN AND CONSTITUTE COMMERCIALY VALUABLE, PROPRIETARY TRADE SECRETS AND CONFIDENTIAL INFORMATION OF APTEAU, THE DEVELOPMENT OF WHICH INVOLVED THE EXPENDITURE OF SUBSTANTIAL TIME AND MONEY, AND THE USE OF SKILLED DEVELOPMENT EXPERTS. CUSTOMER ACKNOWLEDGES THAT THE APTEAU PRODUCTS ARE DISCLOSED FOR EVALUATION ON A CONFIDENTIAL BASIS, AND AGREES THAT THE CUSTOMER SHALL NOT DISCLOSE, TRANSFER, OR RELEASE ANY INFORMATION REGARDING THE APTEAU PRODUCTS TO ANY THIRD-PARTY.

CUSTOMER HEREBY COVENANTS THAT IT SHALL ONLY DISCLOSE THE APTEAU PRODUCTS TO TRUSTED EMPLOYEES, AGENTS AND INDEPENDENT CONTRACTORS WHO ARE INFORMED AND BOUND BY THE CONDITIONS OF THIS EVALUATION AGREEMENT, AND THAT THE CUSTOMER WILL PROTECT THE APTEAU PRODUCTS FROM UNAUTHORIZED DISCLOSURE OR USE.

5. FEES

In consideration for the license granted by Apteau within this Agreement and upon request from Apteau Customer hereby agrees to pay Apteau the amount of one Australian Dollar (AUD 1.00). In addition to the consideration contemplated in the previous sentence, each party has agreed to enter into this Agreement at the request of the other party and in consideration of the other party agreeing to enter into this Agreement, and for other valuable consideration the sufficiency of which is hereby acknowledged.

If for any reason a supply made by Apteau under or in connection with this Agreement is a Taxable Supply for GST purposes, then at or before the time the consideration for the supply is payable, Customer must pay Apteau an amount equal to the GST for the supply (in addition to the consideration otherwise payable under this agreement for that supply), and Apteau must give Customer a Tax Invoice for the supply. For the purpose of this section 5, GST means the goods and service tax under the *Good and Services Tax Act 1999* (Cth) and capitalised terms have the meaning given in that Act.

6. EVALUATION TERM

The evaluation license granted herein shall commence on the date of delivery of the Apteau Products to the Customer and continue for the evaluation period of fourteen (14) days ("**Term**"). Subsequent downloads, installations or use of the Apteau Products by or for Customer will not extend, renew, or otherwise restart the Term of this evaluation license.

7. TERMINATION

This Agreement will automatically terminate at the end of the Term. Apteau may, in its sole discretion, terminate this Agreement at any time on written notice to the Customer. The Customer may terminate this Agreement at any time by destroying all copies of the Apteau Product. This Agreement will terminate immediately without notice to the Customer if the Customer fails to comply with any of its provisions. Upon expiry or termination of this Agreement, Customer must destroy all copies of the Apteau Products. The terms of Section 2, 3, 4, 7 (to the extent addressing the consequences of termination), 8, 9, 10 and 11 will survive the termination of this Agreement for any reason.

8. NO WARRANTY

SUBJECT TO SECTION 9(B) BELOW: (A) THE APTEAN PRODUCTS ARE LICENSED HEREUNDER FOR EVALUATION ON AN “AS IS” AND “WITH ALL FAULTS” BASIS; (B) THE USE OF THE APTEAN PRODUCTS AND ALL RESULTS OF SUCH USE IS SOLELY AT CUSTOMER’S OWN RISK; (C) APTEAN MAKES NO EXPRESS OR IMPLIED WARRANTIES WHATSOEVER, AND, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, EXPRESSLY DISCLAIMS ALL EXPRESS OR IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF DURABILITY, NON-INFRINGEMENT, TITLE, AVAILABILITY, SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, LACK OF VIRUSES, ACCURACY OR COMPLETENESS OF RESPONSES OF RESULTS AND LACK OF NEGLIGENCE WITH REGARD TO THE APTEAN PRODUCTS; (D) APTEAN DOES NOT WARRANT THAT THE APTEAN PRODUCTS WILL MEET CUSTOMER’S REQUIREMENTS, OR THAT THE OPERATION OF THE APTEAN PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE APTEAN PRODUCTS WILL BE CORRECTED; (E) THERE IS NO MAINTENANCE PROVIDED UNDER THIS AGREEMENT AND APTEAN HAS NO OBLIGATION TO SUPPORT, MAINTAIN, CORRECT ANY ERRORS IN, OR DELIVER ANY UPDATES OR UPGRADES TO, THE APTEAN PRODUCTS.

9. LIMITATION OF LIABILITY

- A. TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW AND SUBJECT TO SECTION 9(b) BELOW, IN NO EVENT SHALL APTEAN BE LIABLE FOR: (I) ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES; (II) OR ANY CONSEQUENTIAL LOSS, BEING ANY LOSS WHICH CANNOT FAIRLY AND REASONABLE BE CONSIDERED AS ARISING NATURALLY (THAT IS, ACCORDING TO THE USUAL COURSE OF THINGS) FROM THE BREACH, EVENT OR CIRCUMSTANCE GIVING RISE TO THE LOSS; OR (III) ANY DAMAGES FOR LOSS OF DATA, LOST BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS ARISING OUT OF THE USE OF OR INABILITY TO USE THE APTEAN PRODUCTS EVEN IF APTEAN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW AND SUBJECT TO SECTION 9(b) BELOW, IN NO EVENT SHALL APTEAN OR ANY AFFILIATED PARTY’S TOTAL CUMULATIVE LIABILITY TO CUSTOMER OR ANY THIRD PARTY FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT, INCLUDING, NEGLIGENCE AND STRICT LIABILITY, OR OTHERWISE) EXCEED THE SUM OF ONE HUNDRED AUSTRALIAN DOLLARS (AUD 100.00).
- B. EXCEPT AS CONTEMPLATED BY THE REMAINDER OF THIS SECTION 9(B), NOTHING IN THIS AGREEMENT IS INTENDED TO LIMIT ANY RIGHTS CUSTOMER HAS UNDER THE *COMPETITION AND CONSUMER ACT 2010* (CTH). IF THE *COMPETITION AND CONSUMER ACT 2010* (CTH) OR ANY OTHER LEGISLATION STATES THAT THERE IS A GUARANTEE IN RELATION TO ANY GOODS OR SERVICES SUPPLIED BY APTEAN IN CONNECTION WITH THIS AGREEMENT AND APTEAN’S LIABILITY FOR FAILING TO COMPLY WITH THAT GUARANTEE CANNOT BE EXCLUDED BUT MAY BE LIMITED, THEN APTEAN’S LIABILITY FOR THAT FAILURE IS LIMITED TO (AT APTEAN’S ELECTION): (I) IN THE CASE OF A SUPPLY OF GOODS, APTEAN REPLACING THE GOODS OR SUPPLYING EQUIVALENT GOODS, REPAIRING THE GOODS, PAYING THE COST OF REPLACING THE GOODS OR OF ACQUIRING EQUIVALENT GOODS, OR PAYING THE COST OF HAVING THE GOODS REPAIRED; OR (II) IN THE CASE OF A SUPPLY OF SERVICES, APTEAN SUPPLYING THE SERVICES AGAIN OR PAYING THE COST OF HAVING THE SERVICES SUPPLIED AGAIN.

10. NO WARRANTIES FOR MICROSOFT PRODUCTS

SUBJECT TO SECTION 9(B) ABOVE, APTEAN MAKES NO EXPRESS OR IMPLIED WARRANTIES WHATSOEVER, AND EXPRESSLY DISCLAIMS ALL EXPRESS OR IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF DURABILITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WITH REGARD TO ANY MICROSOFT PRODUCTS INCLUDED IN THE CUSTOMER'S EVALUATION OF THE APTEAN PRODUCTS UNDER THIS AGREEMENT, MICROSOFT LICENSE TERMS SHALL BE PROVIDED SEPARATELY BY MICROSOFT.

11. TRIAL PERIOD COMMITMENT

Aptean will undertake the following activities to support the Trial Period:

- a. Provision Customer with a unique SaaS URL to access their own instance of Respond;
 - i. The URL will include the Customer company name entered as part of registration (this name will persist if the decision is taken to enter into a Master Solution Agreement).
- b. Detailed walk through of the Respond Financial services template;
- c. Help deploy Respond Office Productivity and Respond Configuration Manager to one Customer pc;
- d. Update up to five (5) category option list options held within the templated Respond fields;
- e. Enter up to five (5) users into the pre-defined security configuration;
- f. Schedule up to two (2) check point calls in addition to items 11(a)-(d) above.

12. DATA PRIVACY

Aptean will handle, store and manage any Personal Information (as defined in the Privacy Act 1988 (Cth)) that Customer provides or makes available to it in connection with this Agreement in accordance with the Privacy Act 1988 (Cth).

13. GOVERNING LAW

This Agreement is governed by the laws of New South Wales (Australia). The courts of New South Wales (Australia) have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement.

14. MISCELLANEOUS

Customer shall not export any portion of the Aptean Products, technology, or confidential information received hereunder. Customer assumes the sole responsibility for complying with all applicable laws, rules and regulations applicable to its operations, and shall not rely on any functionality or output of the Aptean Products in achieving such compliance. Customer shall not assign this Agreement or transfer any of its rights hereunder, or delegate the performance of any of its duties or obligations arising under this Agreement, whether by merger, acquisition, sale of assets, operation of law, or otherwise, without the prior written consent of Aptean. Any purported assignment in violation of the preceding sentence is null and void. Aptean may freely assign this Agreement or delegate its performance hereunder. This Agreement shall be binding upon, and inure to the benefit of, the permitted successors and assigns of the parties thereto. No waiver will be effective unless in a writing signed on behalf of the party against whom the waiver is asserted. If any part of this Agreement is found invalid or unenforceable, that part will be enforced to the maximum extent permitted by applicable law and the remainder of this Agreement will remain in full force. Nothing contained herein shall be construed as creating an agency, partnership, or other form of joint enterprise between the parties. This Agreement may only be amended in a writing signed by duly authorized representatives of both parties. This Agreement, which includes all exhibits attached hereto, constitutes the entire agreement between the parties and supersedes any prior negotiations or agreements between the parties with respect to the subject matter hereof.