Terms and Conditions for Launch Guide User

## 1. ACKNOWLEDGEMENT

This Agreement governs your use of the Launch Guide you are about to access, which may include electronic versions of the Guide, data, visualizations, and related documentation and information (collectively the "Product"). The Product is licensed, not sold. You agree to abide by United States and international intellectual property laws. You further agree to take all necessary steps to ensure that the terms and conditions of this Agreement are not violated by any person or entity under your control or in your service. The Product is protected by trademark and copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The Product may not be used except in accordance with this License Agreement or with the express written consent of Northern Arizona University ("NAU").

### 2. LICENSE

The creation of this document was made possible with the use of federal funds. NAU grants to you a personal, world-wide, non-exclusive, royalty-free, perpetual, and irrevocable license to:

(i) Access, reproduce, publicly perform, publicly display, and distribute the Launch Guide; and (ii) Prepare derivative works from the Launch Guide and reproduce, publicly perform, publicly display and distribute those derivative works;

subject to the following conditions:

- a) Attribution You must give appropriate credit, provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests Northern Arizona University endorses you or your use.
- b) Non-Commercial You may not use the material for commercial purposes and this license is non-transferable and non-assignable without written consent of NAU.
- c) ShareAlike If you modify, transform, or build upon the material, you must distribute your creation under the same license as the original.
- d) No additional restrictions You may not apply legal terms or technological measures that legally restrict others from doing anything the license permits.

You do not obtain any interest in or rights to the Product other than as set out in this Agreement.

# 3. PROHIBITIONS

You must not:

- a) remove, obscure or in any way alter any copyright, proprietary or trademark notice or any notice acknowledging contributions to the Product;
- b) use the Product for commercial purposes or a fee for service, grant proposals, or link to websites without attribution to make it appear as though it is not the property of Northern Arizona University;
- c) permit or authorize any other person to do any of the acts referred to in paragraphs (a) to (c), without the prior written consent of NAU, which may be withheld or made subject to conditions at NAU's discretion.

### 4. TERMINATION

- 4.1 This Agreement will terminate immediately if you breach any condition of this Agreement.
- 4.2 On termination of this Agreement, the license granted under this Agreement will also terminate and you must immediately:
  - (a) cease using the Product; and
  - (b) permanently delete the Product from any storage medium on which it is stored,
  - (c) and you must not access or allow any other person to access any Product that may remain on any back-up media.

## 5. WARRANTIES AND DISCLAIMER

5.1 To the extent permitted by law, the Product is provided "as is" and without warranty of any kind, either express or implied, including, but not limited to, warranties of merchantability or fitness for a particular purpose, or the accuracy of the data or visualizations.

# 5.2 Without limiting the foregoing, NAU does not warrant that:

- (a) the Product will meet your requirements;
- (b) the use of the Product will be uninterrupted, timely, secure, or error-free;
- (c) the results that may be obtained from the use of the Product will be accurate or reliable;
- (d) the quality of the Product will meet your expectations; or that
- (e) any errors in the Product will be corrected

YOU ACKNOWLEDGE AND AGREE THAT THE PRODUCT, INCLUDING ALL CONTENT CONTAINED THEREIN. IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. AND THAT YOUR USE OF OR RELIANCE UPON THE PRODUCT AND ANY THIRD PARTY CONTENT AND SERVICES ACCESSED THEREBY IS AT YOUR SOLE RISK AND DISCRETION. NAU AND ITS COLLABORATORS, SUPPLIERS AND LICENSORS HEREBY DISCLAIM ANY AND ALL REPRESENTATIONS, WARRANTIES AND GUARANTIES REGARDING THE PRODUCT AND THIRD PARTY CONTENT AND SERVICES, WHETHER ORAL, EXPRESS, IMPLIED OR STATUTORY, AND WHETHER ARISING BY LAW. STATUTE, USAGE OF TRADE, CUSTOM, COURSE OF DEALING OR PERFORMANCE OF THE PARTIES, OR THE NATURE OR CONTEXT OF THIS LICENSE, AND INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. FURTHERMORE, NAU AND ITS COLLABORATORS, SUPPLIERS AND LICENSORS MAKE NO WARRANTY THAT (I) THE PRODUCT OR THIRD PARTY CONTENT AND SERVICES WILL MEET YOUR REOUIREMENTS: (II) THE PRODUCT OR THIRD PARTY CONTENT AND SERVICES WILL BE UNINTERRUPTED, ACCURATE, RELIABLE, TIMELY, SECURE, FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS OR ERROR-FREE; (III) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION OR OTHER MATERIAL ACCESSED OR OBTAINED BY YOU THROUGH THE PRODUCT WILL BE AS REPRESENTED OR MEET YOUR EXPECTATIONS; OR (IV) ANY ERRORS IN THE PRODUCT OR THIRD PARTY CONTENT AND SERVICES WILL BE CORRECTED. NO ADVICE OR INFORMATION. WHETHER ORAL OR WRITTEN. OBTAINED BY YOU FROM NAU OR FROM THE PRODUCT SHALL CREATE ANY REPRESENTATION, WARRANTY OR GUARANTY. FURTHERMORE, YOU ACKNOWLEDGE THAT NAU AND ITS COLLABORATORS, SUPPLIERS AND LICENSORS HAVE NO OBLIGATION TO CORRECT ANY ERRORS OR OTHERWISE SUPPORT OR MAINTAIN THE PRODUCT. NOTWITHSTANDING AND WITHOUT WAIVING THE FOREGOING, THE TERMS AND CONDITIONS OF THE RELATED AGREEMENTS MAY PROVIDE LIMITED REMEDIES TO YOU.

### 6. LIMITATION OF LIABILITY.

EXCEPT TO THE EXTENT PROHIBITED BY LAW, UNDER NO CIRCUMSTANCES SHALL NAU, ITS COLLABORATORS, SUPPLIERS OR LICENSORS, NOR THEIR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, BE LIABLE FOR ACCIDENTS, PROPERTY DAMAGE, PERSONAL INJURY, DEATH, OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SALE OR DISTRIBUTION OF, THE PERFORMANCE OR NON-PERFORMANCE, OR YOUR ACCESS OR USE OF OR INABILITY TO ACCESS OR USE THE PRODUCT AND ANY THIRD PARTY CONTENT AND SERVICES, WHETHER OR NOT THE DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SUCH PARTY WAS ADVISED OF THE

POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NAU'S AGGREGATE LIABILITY TO YOU (WHETHER UNDER CONTRACT, TORT, STATUTE OR OTHERWISE) SHALL NOT EXCEED THE GREATER OF (i) THE INITIAL PURCHASE PRICE YOU PAID FOR THE PRODUCT, (ii) THE AGGREGATE AMOUNT PAID TO NAU FOR THE PRODUCT DURING THE ONE MONTH PRECEDING THE DATE THAT THE CLAIM ARISES, OR (iii) TWO DOLLARS (\$2.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE. THESE OBLIGATIONS SURVIVE TERMINATION OF THIS LICENSE.

### 7. INDEMNIFICATION.

You shall indemnify, defend and hold harmless NAU and its collaborators, suppliers and licensors, and their officers, directors, agents and employees (the "Indemnified Parties") from and against any claim, proceeding, loss, damage, fine, penalty, interest and expense (including, without limitation, fees for attorneys and other professional advisors) arising out of or in connection with the following: (i) your access to or use of the Product or third party content and services; (ii) your breach of this License; (iii) your violation of law; (iv) your negligence or willful misconduct; or (v) your violation of the rights of a third party. You will promptly notify NAU in writing of any third-party claim arising out of or in connection with your access to or use of the Product. These obligations survive termination of this License.

#### 8. INTELLECTUAL PROPERTY RIGHTS

You acknowledge that:

- (a) all Intellectual Property Rights in the Product are owned by NAU; and
- (b) nothing in this Agreement has the effect of assigning any ownership of the Intellectual Property Rights in the Product to the you.

### 9. SECURITY

- 9.1 NAU retains title to the Product. You acknowledge that the Product contains valuable confidential and proprietary information as well as copyrights and trademarks. You agree to take reasonable steps to ensure the Product is not used, copied or disclosed in a way not authorized under this Agreement.
- 9.2 If you become aware of any suspected or actual infringement of the Intellectual Property Rights in the Product or any suspected or actual use, copying or disclosure of the Product not authorized under this Agreement, you must, at its own expense, immediately:
  - (a) notify NAU in writing;
  - (b) take all reasonable steps to prevent or stop the suspected or actual conduct; and
  - (c) provide NAU with any assistance reasonably requested by NAU in relation to any proceedings NAU may take against any person in relation to the conduct.

## 10. GOVERNING LAW AND JURISDICTION

This Agreement is governed by laws of Arizona and each party submits to the exclusive jurisdiction of the courts of Arizona relation to any dispute arising in respect of this Agreement.

## 11. WAIVER

The failure NAU at any time to insist on performance of any obligation under this Agreement is not a waiver of its right to insist on performance of, or claim damages for breach of, that obligation, or at any other time to insist on your performance of that or any other obligation.

#### 12. SEVERANCE

If any term of this Agreement is illegal or otherwise unenforceable, it will be deemed to be severed from this Agreement, and all other terms of this Agreement will remain in full force and effect.

## 13. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties as to its subject matter and supersedes all prior representations and agreements in connection with that subject matter. This Agreement may be modified only by written amendment with the authorized signature of both parties. You acknowledge that you have read and understand every provision of this Agreement and that you agree to be bound by its terms and conditions.

### 14. MARKS

All trademarks, service marks, trade names, logos and trade dress, whether registered or unregistered (collectively the "Marks") that appear in the Product are proprietary to NAU or such Marks' respective owners. You may not display or reproduce the Marks other than with the prior written consent of NAU, and you may not remove or otherwise modify any trademark notices from any content. The Marks are protected by trademark, trade dress, copyright, and various other intellectual property rights and unfair competition laws.

In addition, all page headers, custom graphics, button icons, and scripts are trademarks, service marks, trade names and/or trade dress of NAU or their respective owners, and may not be copied, imitated, or used, in whole or in part, without the prior written permission of NAU.

## 15. ENDORSEMENTS

You acknowledge and agree that the provision of access to any third party content and service shall not constitute or imply any endorsement by NAU of such third party content and services. NAU reserves the right to restrict or deny access to any third party content and services otherwise accessible through the Product, although NAU has no obligation to restrict or deny access even if requested by you.

### 16. LEGISLATIVE ACTION

The parties acknowledge that legislative action may require that curtailment or termination of some or all of NAU's research and educational programs. The parties acknowledge further that NAU is obligated to respond to such legislative action and may determine that it is necessary to curtail or terminate those programs. NAU has no obligation to the other party to perform any research or educational program and nothing in the foregoing or otherwise in this Agreement will be interpreted to create any obligation on NAU to perform research or educational programs. The parties also agree that termination or failure to perform terms and conditions of this Agreement in response to legislative action will not be deemed a breach of this Agreement.

Northern Arizona University is an Affirmative Action/Equal Opportunity Employer and offers all benefits, services, education, and employment opportunities without regard for race, color, creed, religion, national origin, ancestry, citizenship, age, gender, sexual orientation, disability or Vietnam Era Veteran Status.