

## **Mutual Non-Disclosure Agreement — Version 1.1**

*Standard terms, incorporated by reference into your Order Form. Do not sign here — the applicable Order Form is the signature document.*

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### **1. Scope of Confidential Information.**

1.1 Subject to Section 1.2 below, “**Confidential Information**” means all nonpublic, confidential, or proprietary information disclosed directly or indirectly by the Disclosing Party to the Receiving Party before, on, or after the Effective Date, whether written or oral, through any means of communication or observation, including without limitation: (1) all released or unreleased products or services, such as the Disclosing Party’s StrataBI Enterprise software solution; (2) the Disclosing Party’s intellectual property assets, inventions, technologies, ideas, concepts, techniques, architectures, workflow knowledge, methodologies, protocols, processes, documentation, strategies, designs, illustrations, proposals, research, materials, specifications, images, audiovisual components, database information, source and object code, software (including without limitation the Disclosing Party’s enterprise software), vendor lists, marketing plans and methods, financial projections, pricing information, business plans, business methods, financial records, know-how, trade secrets; and (3) any other information that would be apparent to a reasonable person to be of a confidential or proprietary nature. Confidential Information also includes notes, analyses, compilations, reports, forecasts, studies, samples, data, statistics, summaries, interpretations, and other material prepared by or for the Receiving Party or its Representatives that contain, are based on, or otherwise reflect or are derived, in whole or in part, from any of the foregoing.

1.2 Notwithstanding anything herein to the contrary, Confidential Information does not include any information which is or becomes publicly available, after such time as such information actually becomes publicly available (other than through unauthorized disclosure by the Receiving Party or its Representatives).

### **2. Use and Disclosure of Confidential Information.**

2.1 The Receiving Party agrees that Confidential Information received by it from the Disclosing Party will be held and maintained in the strictest confidence and will be used solely and exclusively for the purposes of (1) evaluating a possible business relationship with the Disclosing Party and/or (2) using the Confidential Information within the context of a relationship established between the Receiving Party and the Disclosing Party, regardless of whether such relationship is memorialized in a separate contract. The Receiving Party shall not, directly or indirectly, use the Confidential Information for any other purpose whatsoever. The Receiving Party shall protect Confidential Information received pursuant to this Agreement by using at least the same standard of care the Receiving Party uses to protect and safeguard its own confidential information of a like nature, but no less than a reasonable degree of care, to prevent the unauthorized use, disclosure, dissemination, or publication of the Confidential Information. Without limiting

the generality of the foregoing, the Receiving Party shall not use any Confidential Information in connection with any activities or ventures competitive with the Disclosing Party's business, products, or services.

2.2 The Receiving Party shall not, without the prior written consent of the Disclosing Party, directly or indirectly, disclose all or any portion of the Confidential Information, or the substance thereof, to any third party except to the extent required by applicable law or legal process in accordance with Section 2.3 below.

2.3 The Receiving Party agrees that in the event that it is required by any court or governmental order to disclose any Confidential Information, it shall provide the Disclosing Party, to the extent legally permissible, with prompt written notice of such required disclosure, so that the Disclosing Party has sufficient opportunity to seek an appropriate protective order with respect thereto.

2.4 The Receiving Party is responsible for not only its own breaches, but also the breaches of this Agreement by persons to whom it discloses Confidential Information received hereunder (if permitted).

### **3. Certain Rights and Limitations.**

3.1 All Confidential Information will remain the exclusive property of the Disclosing Party. Other than as expressly set forth herein or in another written agreement between the parties, the provision of Confidential Information hereunder will not transfer any right, title, or interest in such information to the Receiving Party or its Representatives. The Disclosing Party does not grant any express or implied right, assignment, or license to the Receiving Party to, or under, any of the Disclosing Party's patents, copyrights, trademarks, trade secrets, or other intellectual property. CONFIDENTIAL INFORMATION IS PROVIDED "AS IS" WITH ALL FAULTS. IN NO EVENT WILL THE DISCLOSING PARTY INCUR ANY LIABILITY AS A RESULT OF ANY FLAW OR INACCURACY OR INCOMPLETENESS OF ANY CONFIDENTIAL INFORMATION.

3.2 This Agreement does not obligate either party to purchase, sell, license, transfer, or otherwise transact business with respect to any technology, services, products, or intellectual property rights. The parties are independent of one another and this Agreement does not create any agency, employment, partnership, joint venture, or similar relationship between the parties hereto.

3.3 The Receiving Party shall promptly return or, at the Disclosing Party's option, destroy all copies of Confidential Information (and any documents that contain, reflect, or are based upon Confidential Information) at any time upon request by the Disclosing Party or within ten (10) business days following the expiration or earlier termination of this Agreement, and shall provide a certification executed by the Receiving Party or an authorized representative that all such Confidential Information has been returned or destroyed. The Receiving Party's obligations under this Agreement will survive indefinitely regardless of whether the parties enter into a business relationship.

3.4 The Receiving Party shall not reverse-engineer, circumvent, decompile, disassemble, or independently create any documentation, technology, intellectual property, product, or service disclosed to it under this Agreement (except to the extent applicable laws prohibit such restriction) and shall not remove, overprint, or deface any notice of confidentiality, copyright, trademark, logo, legend, or other notices of ownership or confidentiality from any originals or copies of Confidential Information it obtains from the Disclosing Party.

3.5 The Receiving Party acknowledges that with respect to the Confidential Information, its relationship is fiduciary in nature, and that Confidential Information is being furnished, or otherwise made available to it incident to a relationship of trust and confidence.

#### **4. Work Product.**

4.1 This Section 4 applies only if and to the extent the Receiving Party is engaged by the Disclosing Party to perform services, development work, consulting, advisory work, or other work for the benefit of the Disclosing Party, whether pursuant to this Agreement or a separate services, licensing, consulting, development, or similar agreement between the parties. This Section 4 does not apply where the Receiving Party is evaluating the Disclosing Party's products, services, or business solely for the Receiving Party's own internal evaluation, procurement, investment, or similar decision-making purposes.

4.2 To the extent this Section 4 applies pursuant to Section 4.1, "**Work Product**" means all works of authorship, improvements, ideas, concepts, processes, techniques, methods, research, proposals, materials, technology, inventions, discoveries, trademarks, trade secrets, and all other work product of any nature whatsoever created, authored, developed, or otherwise originated by the Receiving Party in the course of performing services, development, advisory, or other work for the Disclosing Party that contain, reflect, or are based upon, in whole or in part, any Confidential Information or the Disclosing Party's intellectual property.

4.3 The Receiving Party acknowledges that all copyrightable Work Product shall constitute "works made for hire" as defined in the Copyright Act of 1976 (17 U.S.C. § 101) and that the Disclosing Party shall own all right, title, and interest therein. To the extent any Work Product does not qualify as a work made for hire, or to the extent this acknowledgment is determined to be insufficient to vest ownership in the Disclosing Party, the Receiving Party hereby irrevocably and unconditionally assigns to the Disclosing Party all right, title, and interest in and to all Work Product, including without limitation all copyrights, patents, trademarks, trade secrets, and other intellectual property rights. The Receiving Party shall assist the Disclosing Party, at the Disclosing Party's expense, to further evidence, record, and perfect such assignments, and to perfect, obtain, maintain, enforce, and defend any rights assigned.

4.4 The Receiving Party shall promptly disclose and provide all Work Product to the Disclosing Party. To the extent any Work Product cannot be assigned by operation of law, the Receiving Party hereby grants the Disclosing Party an exclusive, perpetual, worldwide, royalty-free, transferable, sublicensable, and unlimited license to use, reproduce, modify, distribute, display, perform, and otherwise exploit such Work Product for any purpose.

**5. Period of Confidentiality; Non-Solicitation.** The Receiving Party shall be obligated to protect all Confidential Information received from the Disclosing Party until such time that the Confidential Information becomes publicly known and made generally available through no action or inaction of the Receiving Party. This Agreement will remain in effect until such time it is terminated by the Disclosing Party upon written notice. The Receiving Party agrees that for a period of 12 months following the Effective Date, the Receiving Party shall not make any solicitation to employ the Disclosing Party's personnel or interfere with the Disclosing Party's relationships with clients, customers, contractors, or vendors without written consent of the Disclosing Party to be given or withheld in the Disclosing Party's sole discretion.

**Defend Trade Secrets Act Notice.** Notwithstanding anything in this Agreement, under the U.S. Defend Trade Secrets Act (18 U.S.C. Section 1833(b)), an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made (a) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law; or (b) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the individual's attorney and use the trade secret information in the court proceeding, if the individual files any document containing the trade secret under seal and does not disclose the trade secret except pursuant to court order.

**6. Remedies.** The Receiving Party acknowledges that a breach of any of the terms of this Agreement would cause irreparable harm to the Disclosing Party for which it could not be adequately compensated by money damages. Accordingly, the Receiving Party agrees that, in addition to all other remedies available to the Disclosing Party in an action at law, in the event of any breach or threatened breach by the Receiving Party of the terms of this Agreement, the Disclosing Party will, without the necessity of proving actual damages or posting any bond or other security, be entitled to temporary and permanent injunctive relief, including, but not limited to, specific performance of the terms of this Agreement. The Receiving Party agrees that the Disclosing Party shall be entitled to reasonable attorney's fees and costs in conjunction with any successful action brought to enforce or interpret this **Agreement**.

**7. Miscellaneous.** This Agreement is governed by and shall be construed in accordance with the laws of the State of Florida governing such agreements, without regard to conflicts-of-law principles. The parties hereby agree that any action arising out of or related to this Agreement will be brought solely in any state or federal court that has jurisdiction in Orange County, Florida. The Receiving Party hereby consents to the exclusive personal jurisdiction of such courts, and waives any objection in any such action based on improper venue, inconvenient forum, or similar grounds. This Agreement contains the complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings whether written or oral, express or implied. This Agreement shall be binding upon and inure to the benefit of the parties, and their respective successors and permitted assigns. If any provision of this Agreement is determined to be invalid, illegal, or

unenforceable by a court of competent jurisdiction, such determination will not affect any other provision of this Agreement, which shall remain in full force and effect. No amendment, assignment, delegation, modification, or alteration of the terms of this Agreement will be effective unless made in writing and executed by both parties; provided, however, the Disclosing Party may assign this Agreement without restriction. Any unauthorized amendment, assignment, delegation, modification, or alteration of this Agreement shall be null and void. A failure or delay in exercising any right under this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right will not be presumed to preclude any subsequent or further exercise of that right or the exercise of any other right. Any such waiver will only be effective in writing and for the specific purpose given. This Agreement may be executed in counterparts. All notices prescribed hereunder shall be given in the form of a PDF attached to an email sent to the email addresses set forth below and shall be deemed to have been given on the date sent, except for notices under Section 2.3, which shall be given by email and certified mail to the addresses listed below.

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