

Terms of Use

These terms apply to your use of the following:

- D3 Commerce [<https://data3.my.site.com/>];
 - Lifecycle360 [<https://www.lifecycle360.com.au/>];
 - Identity Portal [TBC]; and
 - any related sites, APIs, platforms or portals under or connected with the above,
- (together, the **Services**).

By clicking 'I Agree' or otherwise using or accessing the Services, you accept and agree to be bound by these terms. Your use of the Services is conditional on your acceptance of these terms. Acceptance of these Terms binds you, the organisations, entities or persons you represent (for the purposes of receiving the Services). If you do not agree with any part of these terms, please do not use the Service.

These terms apply in conjunction with any other terms applicable to your engagement with Data#3, including the Data#3 Terms of Trade, Head Agreement, a Data#3 Quote, Services Proposal and other terms as applicable (**Commercial Engagement Document** or **CED**). In the event of any inconsistency between these terms and a CED, the CED will prevail to the extent of such inconsistency.

General Terms

1. Licence

- 1.1. Data#3 (or its third party licensors) grants to you a non-exclusive, non-transferable, non-sublicensable, revocable, limited licence during the Licence Period to access and use the Services for the Permitted Purpose in accordance with these terms and all applicable laws.
- 1.2. Any rights not expressly granted in these terms are reserved.

2. Prohibited use

- 2.1. Except as expressly permitted under these terms, you must not, and must not encourage any person or entity to:
 - 2.1.1. distribute, resell, copy, reproduce, disclose, market, publish, rent, lease, assign, incorporate into any database, sublicense or otherwise transfer any of the Services to a third party, commercialise or otherwise exploit the Services;
 - 2.1.2. alter, modify, adapt, create any derivative work based on whole or in part of the Services or otherwise incorporate any portion of the Services into any other materials, products or services that are not intended for the Permitted Purpose;
 - 2.1.3. use the Services on behalf of or for the benefit of any third party without Data#3's prior written consent;
 - 2.1.4. remove or alter any copyright, trade mark, logo or other proprietary notice or label appearing on or in the Services;
 - 2.1.5. decompile, disassemble, reverse compile or otherwise reverse engineer all or any portion of the Services, including any source code, object code, algorithms, methods or techniques used or embodied therein, whether by scraping, harvesting or some other means;
 - 2.1.6. data mine, scrape, crawl, email harvest or use any process or processes that send automated queries to the Services;

- 2.1.7. attempt to, interfere, damage, alter, misuse or gain unauthorised access to the Data#3 Environment (and/or the Services) or interfere with the ability of any other user of Data#3's Environment (and/or the Services) to use the Services;
- 2.1.8. use the Services in any way that would or may constitute a misuse of any person's confidential information or infringe upon any person's rights (including Intellectual Property Rights and moral rights);
- 2.1.9. use the Services for any unlawful or unauthorised purpose, including:
 - 2.1.9.1. transmitting any viruses, malware, or any other code that may damage, interfere with, or intercept the Services;
 - 2.1.9.2. engaging in any harmful, fraudulent, deceptive, threatening, abusive, harassing, defamatory, vulgar, obscene, or otherwise objectionable behaviour.

3. User Access and login details

- 3.1. You may only access the Services in the manner notified to you by Data#3 from time to time.
- 3.2. If Data#3 provides you with (or allows you to facilitate the generation of) any Login Details, you acknowledge and agree that you:
 - 3.2.1. bear sole responsibility for protecting and keeping confidential all Login Details;
 - 3.2.2. must not share or provide such Login Details to any third party; and
 - 3.2.3. are, and will remain, fully responsible and liable for any authorised or unauthorised use of any Login Details.
- 3.3. If the Permitted User is no longer an employee of the Customer, it is the Customer's responsibility to promptly remove the user's access to the Services.
- 3.4. You must notify Data#3 as soon as possible if you suspect or are aware:
 - 3.4.1. of any changes impacting the Permitted Users who have been or assigned Login Details including new appointments, changes in roles of staff or resignations;
 - 3.4.2. that your Login Details have been compromised or become known by a third party;
 - 3.4.3. there has been any unauthorised use of your Login Details or account.
- 3.5. For security reasons, you acknowledge and agree that Data#3:
 - 3.5.1. may reset or require you to update Login Details whenever Data#3 considers it appropriate under its internal security protocols; and
 - 3.5.2. may require you to re-authenticate yourself from time to time, for example after a period of inactivity on the Customer's browser. Data#3 is not responsible for any information that you may lose if Data#3 terminates your browser session due to prolonged periods of inactivity.

4. Changes to Services

- 4.1. Data#3 reserves the right to:
 - 4.1.1. modify the method of delivery of, or access to, the Services at any time;
 - 4.1.2. change or refine the features and functionality of the Services from time to time;
 - 4.1.3. require you to obtain and use the most recent version of any Services;
 - 4.1.4. make temporarily unavailable or otherwise suspend access to the Services, due to any scheduled or emergency maintenance, system updates, changes to the Services or for any other reason without notice (but will endeavour to undertake any scheduled outages outside of working hours).
- 4.2. You acknowledge that Data#3 has entered into agreements with various third party vendors (**Third Party Agreements**). Data#3 may at any time be required to amend or suspend the Services that are related to or dependent on a third party provider under those Third Party Agreements.

5. Customer materials

- 5.1. If you (either yourself or through your Permitted Users) provide any Customer Materials to Data#3, you hereby grant to Data#3 and its Service Providers a worldwide, royalty-free, perpetual, irrevocable, non-exclusive right and licence to access and use such Customer Materials for the purpose of providing the Services or related services.
- 5.2. You represent and warrant to Data#3 and its Service Providers that:
 - 5.2.1. you have the right to grant the licences and access rights referred to above, in and to the Customer Materials;
 - 5.2.2. use of the Customer Materials as permitted by this clause will not infringe the rights of any third parties, Data#3 or its Service Providers, including intellectual property rights; and
 - 5.2.3. the Customer Materials are free of worms, viruses, trojan horses, malware and any other disabling code; and
- 5.3. You acknowledge and accept that access to and use of the Services depends on the accuracy and quality of information and materials, including Customer Materials, provided by the Customer to Data#3 and its Service Providers, and Customer is solely responsible for managing the accuracy, correctness and quality of such information and material provided to Data#3 and its Service Providers.

6. APIs

- 6.1. Data#3 reserves the right to place limits on access to the APIs (e.g., limits on numbers of calls or requests over a given time period).
- 6.2. You will be responsible for generating the API key and ensuring its proper handling.
- 6.3. Data#3 will not provide resources to perform integration services. Resources to integrate will need to be provided by you.
- 6.4. Data#3 will use commercially reasonable efforts to provide reasonable notice prior to deprecating or retiring an API.
- 6.5. Without limiting any other provision in these terms, any data accessed or retrieved from the APIs remains our property. You are granted a limited, non-exclusive, non-transferable license to use the data for the Permitted Purpose. You must not share, distribute, or otherwise make such data available to any third party without our prior written consent.

7. Data#3 Warranties

- 7.1. To the full extent permissible by law, Data#3 and its Service Providers expressly disclaim all warranties:
 - 7.1.1. that the Services will meet your requirements or be fit for any particular purpose;
 - 7.1.2. that the Services will be error-free correct, accurate, complete, reliable, current, up-to-date or otherwise;
 - 7.1.3. that the Services will be error free or function in an uninterrupted manner, be available 24 hours a day, 7 days a week, or be fully secure or otherwise compatible with your computer equipment, systems, environment, hardware or software (unless and to the extent otherwise expressly agreed by Data#3 in a CED); and
 - 7.1.4. that errors or defects will be corrected, although Data#3 will endeavour to correct errors within a reasonable time.
- 7.2. Except as otherwise expressly provided in these terms, the Services are provided on an 'as is, as available' basis without any representations or warranties of any kind, either express or implied, including.

- 7.3. To the extent that the *Competition and Consumer Act 2010* (Cth) implies any guarantees with respect to the Services, then Data#3's liability (and that of its Service Providers) in respect of those implied guarantees is limited in the case of services, to any one of the following (as Data#3 and its Service Providers may in their discretion determine):

- 7.3.1.1. the supplying of the services again; or
- 7.3.1.2. the payment of the cost of having the services supplied again, except as expressly provided elsewhere in these terms.

8. Customer obligations and warranties

- 8.1. You agree to cooperate fully and act reasonably and in good faith to assist in the timely progress and fulfilment of our obligations under these terms including, but not limited to, not unreasonably withholding or delaying the provision of any agreement, acceptance, information, assistance or other resource required by us.
- 8.2. You warrant that all information pertaining to your hardware, software or service requirements and specifications is complete, accurate and has been provided to us prior to formal agreement on a CED. You agree to promptly update us if you uncover any errors or incompleteness in the information you have supplied to us.
- 8.3. You are responsible for maintaining and keeping up to date your account(s) with the relevant Service Providers in order to access the relevant Services. Failure to do so may impact the accuracy of the Services.

9. Third party material

- 9.1. You acknowledge that material appearing on a Data#3 website or platform may include advertising and other information submitted by parties other than Data#3, and the Data#3 website or platform may provide links to other sites operated by advertisers and third parties. To the full extent permissible by law, Data#3 disclaims all responsibility for any error, omission or inaccuracy of such information or its failure to comply with the relevant laws or regulations.
- 9.2. Data#3 has no responsibility regarding any information you obtain from any other website, even if you access it via a link from a Data#3 website.
- 9.3. You acknowledge and accept that we use third-party products to provide some or part of the the Services, including public cloud-based products to store certain customer data. You agree to comply with all terms and conditions applicable to the use of any such third-party products, where we will take commercially reasonable steps to notify you of such terms.

10. Confidentiality and privacy

- 10.1. We both agree to maintain in confidence and respect the Confidential Information of the other and to abide by the restrictions on use and disclosure of another's Confidential Information.
- 10.2. Data#3 is committed to protecting your privacy. Data#3's [Privacy Policy](#), available on our website, explains how we collect, use, and disclose your personal information. By using the Service, you consent to the practices described in the Privacy Policy.
- 10.3. You have obtained consent from any person for using their personal information.

11. Termination

- 11.1. Either of us may terminate this Licence:
 - 11.1.1. on 30 days prior written notice, without cause; and
 - 11.1.2. immediately if the other party is in breach of these terms.

- 11.2. If these terms are terminated or expire, all of your rights to use the Services will immediately end, and you will at your expense promptly return, or at Data#3's election destroy, any Confidential Information that is either in your possession or under your control.
- 11.3. For subscription-based Services (if specified in a CED), you may terminate the subscription to the Service at any time upon written notice to Data#3. Such termination will be effective at the end of the then-current subscription term, as set out in the CED. For clarity, all subscription fees are nonrefundable, and you will not receive a refund of any prepaid subscription fees for the terminated subscription.

12. Liability

- 12.1. You assume the risk in using the Services as well as total responsibility for establishing such procedures for data backup and virus checking as you consider necessary.
- 12.2. EXCEPT IN RESPECT OF PERSONAL INJURY OR DEATH CAUSED BY A PARTY'S NEGLIGENCE, IN NO OTHER EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL LOSS OR DAMAGES WHETHER SUCH LOSSES OR DAMAGES ARE ALLEGED AS A RESULT OF TORTIOUS CONDUCT (INCLUDING NEGLIGENCE) OR BREACH OF CONTRACT OR OTHERWISE.
- 12.3. Except in respect of personal injury or death caused by our negligence, our maximum liability to you in aggregate for all claims made against us in contract, tort (including negligence) or for any other common law or statutory cause of action or otherwise in connection with the subject matter of these terms shall be limited to the lesser of \$1,000 or the fees paid by you for the Services (if any).
- 12.4. A party's liability for a claim of another party will be reduced proportionately to the extent that any act or omission of the first mentioned party or any of its officers, agents, employees or contractors causes or contributed to those liabilities, losses, damages, cost or expenses.

13. General Provisions

- 13.1. **Assignment:** Data#3 may at any time transfer or assign any or all of its rights, obligations, benefit or interest under these terms. You may transfer or assign any or all of its rights, obligations, benefit or interest under these terms only with the prior written consent of Data#3, which shall not be unreasonably withheld.
- 13.2. **Severance:** The provisions in these terms are enforceable independently of each of the others and if a provision of these terms is, or becomes, illegal, invalid, void or deemed unenforceable by any court of competent jurisdiction, it shall not affect the legality, validity or enforceability of any other provisions of these terms. If any of these provisions is so held to be illegal, void, invalid or unenforceable but would be legal, valid or enforceable if some part of the provision were deleted, the provision in question will apply with such modification as may be necessary to make it legal, valid or enforceable.
- 13.3. **Waiver:** Failure or delay by either party to enforce any provision of these terms shall not be deemed a waiver of future enforcement of that or any other provision, unless agreed in writing by the relevant party.
- 13.4. **Entire Agreement:** Where these terms apply, they constitute the entire agreement between the parties with respect to the subject matter hereof and supersede and replace any prior condition, warranty, representation, statement, agreement, undertaking, indemnity (whether negligently or innocently) imposed, given or made by a party, whether written, oral or implied and may only be amended in writing and signed by both parties.

- 13.5. **Governing law:** These terms shall be governed by the laws of Queensland and each party submits to the non-exclusive jurisdiction of the courts of Queensland.
- 13.6. **Force Majeure:** We are excused from performing our obligations to the extent we are prevented by circumstances beyond our reasonable control including, but not limited to, acts of God, natural disasters, acts of war, riots and strikes.
- 13.7. **Updates:** We may change the Terms from time to time. Any updated versions of the Terms will be posted on our website. Please review it regularly. You will be deemed to have consented to such variations by your continued use of Data#3's products and services following such changes being made.

Contact Information

If you have any questions or concerns about these Terms, please contact us at LARA@data3.com.au.

These Terms are effective as of: 18 March 2025

Definitions and Interpretation

API Key means the individual key or credentials allocated to the Customer and any additional security measures which may be introduced from time to time, enabling access to the Services via a Data#3 API.

'CED' or 'Commercial Engagement Document' means a Data#3 quotation document or Data#3 proposal document that may reference other specifications applicable to the sale or supply of certain goods and services by Data#3.

Confidential Information means any trade secrets embodied in any information relating to, but not limited to, the commercial activities, product pricing, technologies, business processes, client relationships, strategic information and any other information related to the conduct of each parties businesses.

Customer means you and any other parties for or on whose behalf you enter into these terms.

Customer Application means the software application, website, or digital platform owned or licensed by the Customer.

Customer Materials means any data, information, content, metadata and other materials provided or that may be supplied to Data#3 by the Customer (or obtained by Data#3 from the Customer), directly or indirectly, but does not include the Data#3 Material supplied under or in connection with the Data#3 Services and any materials that independently comes into the possession of Data#3 (other than through the Customer or its Representatives)

'Data#3', 'us', 'our' or 'we' means either the entity Data#3 Limited ABN 31 010 545 267 or any of its wholly owned Related Bodies Corporate as specified in a CED as the seller or supplier, of Level 1, 555 Coronation Drive, Toowong, QLD 4066.

Data#3 API means the application programming interfaces owned and/or licensed by Data#3, which allows the Customer to access the Services or integrate a Customer Application.

Data#3 Environment means any hardware, software, information, networks, systems or other technology solutions owned or controlled by Data#3 (in the ordinary course of operating its business).

Data#3 Materials means all Intellectual Property Rights (of Data#3, its Related Bodies Corporate and/or third party suppliers), Data#3 Confidential Information, Data#3 API, Data#3 Services, the Data#3 Environment, databases, platforms and models, including any other material provided or supplied by Data#3 to the Customer, or otherwise accessed by the Customer in the use of the Data#3 Services, and includes all modifications to those materials.

Data#3 Services means the services provided by Data#3 to supply the product as described in the CED and any other services being provided by Data#3 to the Customer pursuant to these terms.

Intellectual Property Rights includes copyright, trade mark, design, patent, semiconductor or circuit layout rights, trade, business or company names, any right to have confidential information kept confidential or other proprietary rights or any rights to registration of those rights whether created before or after the date of accessing the Services as the context admits and whether existing in Australia or otherwise.

Licence Period means the period defined in the Commercial Engagement Document, or if not otherwise specified, rolling monthly periods until otherwise terminated.

Login Details means any user names, passwords, tokens, API Keys, encryption keys and other authentication credentials for use by a Permitted User for the purpose of accessing the Data#3 Services.

Permitted Purpose means the customer's internal business purposes or any other purpose as agreed between the parties.

Permitted User(s) means parties who have been allocated usernames and passwords in relation to the Data#3 Services in accordance with these terms.

Personal Information means 'personal information' as that term is defined in the relevant and applicable Privacy Laws, and which is disclosed to or received by a party under or in connection with an agreement.

Related Body Corporate has the meaning given to the term in the Corporations Act 2001 (Cth).

Service Provider means any third party, including third party vendor, that may provide services to Data#3 or the Customer in connection with, or in order for the Customer to gain access to or receive, the Services.