

## **SHELDUS®END-USER LICENSE AGREEMENT (TERMS AND CONDITIONS)**

### **IMPORTANT – PLEASE READ CAREFULLY:**

This End-User License Agreement (“EULA” or “Agreement”) is a legal, license agreement between you (either an individual or a single entity, hereinafter “You” or “User”) and The Arizona Board of Regents for and on Behalf of Arizona State University, referred to herein as “ASU” which covers Your use of the SHELDUS® data, products, or analytic results that accompanies this EULA and related software components, which may include associated media, printed materials, “online” or electronic documentation, and Internet-based services. All such SHELDUS® data and materials are referred to herein as “SHELDUS®”. A SHELDUS® subscription, issued to a designated user only by ASU or its authorized agents, is required for each user of the SHELDUS® or the SHELDUS® Data Aggregation Subscription. An amendment or addendum to this EULA may accompany the SHELDUS®. YOU AGREE TO BE BOUND BY THE TERMS OF THIS EULA BY INSTALLING, COPYING, OR OTHERWISE USING SHELDUS®. IF YOU DO NOT AGREE, DO NOT INSTALL, COPY, OR USE SHELDUS®.

### **A. GENERAL TERMS AND CONDITIONS**

#### **1. GRANT OF NON-EXCLUSIVE LICENSE.**

- 1.1. ASU grants You the following rights provided that you comply with all of the terms and conditions of this EULA.
- 1.2. This Agreement entitles You (depending on subscription level outlined in section B2) to a personal or an institutional, non-exclusive, royalty-free license to use SHELDUS® for design, development, testing, research, publication, and policy purposes. If You have an individual license You may use SHELDUS® on an unlimited number of computers so long as You are the only individual using the SHELDUS®. You may not modify or create derivative copies of the SHELDUS®.
- 1.3. You may make a copy of SHELDUS® for the use authorized above for backup and/or archival purposes. No other copies may be made. The copy must reproduce all copyright and other proprietary rights notices on or in the SHELDUS®. Without obtaining the express written consent of ASU, You may not assign Your rights and obligations under this Agreement, or redistribute, encumber, sell, rent, lease, sublicense, or otherwise transfer Your rights to SHELDUS®.
- 1.4. You agree that You will not engage in any activity that interferes with or disrupts the SHELDUS® (or the servers and networks which are connected to the SHELDUS®).

1.5. You may incorporate portions of SHELDUS<sup>®</sup>, either in unmodified (“raw”) or summary (“aggregate”) form, into works that You create, including but not limited to: research papers (such as papers prepared for publication in academic journals), speeches, testimony, reports, official publications, and internal policy documents (created works hereinafter collectively referred to as “Work Product”), PROVIDED that You shall not incorporate any information into a Work Product to be made available to the public that is in the finest data resolution available to You via SHELDUS<sup>®</sup>. For purposes of clarity, all Information contained within any Work Product to be made available to the public must be aggregated higher than the finest data resolution available to You with respect to at least one of geography (i.e., by aggregating at least two counties), time (i.e., by aggregating at least two years) and hazard type (i.e., by aggregating at least two hazard types).

1.6. You may share descriptive documentation on SHELDUS<sup>®</sup> provided by ASU regarding the information (such documentation shall include user guides and data dictionaries, but shall not include the information itself) with entities who have a need to know such documentation.

1.7. You are permitted to publish information incorporated into a Work Product in tabular, graphical, or charted form.

1.8. You agree to provide reasonable and appropriate attribution to ASU SHELDUS<sup>®</sup> in Work Product that contains Information. For example, You will acknowledge any applicable University of South Carolina’s Hazards & Vulnerability Research Institute (HRVI) SHELDUS<sup>®</sup> intellectual property for Information that is reproduced in Work Product. Also, if Your Work Product contains significant amounts of aggregate Information, You will acknowledge ASU SHELDUS<sup>®</sup> as the source or one of several sources, as applicable.

## **2. RESERVATION OF INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP.**

SHELDUS<sup>®</sup> is protected by U.S. and international copyright laws and treaties. You must not remove or alter any copyright notices on any copies of SHELDUS<sup>®</sup>. Furthermore, this EULA does not grant You any rights in connection with any trademarks or service marks of ASU. ASU reserves all intellectual property rights, including copyrights, and trademark rights. SHELDUS<sup>®</sup> is licensed, not sold.\

## **3. PROHIBITION ON REVERSE ENGINEERING, DECOMPILATION, AND DISASSEMBLY.**

You may not reverse engineer, decompile, defeat license encryption mechanisms, or disassemble SHELDUS<sup>®</sup> except and only to the extent that such activity is expressly permitted by applicable law, notwithstanding this limitation.

## **4. RESTRICTIONS ON ALTERATIONS.**

4.1. You may not modify the SHELDUS<sup>®</sup> or create any derivative work of the SHELDUS<sup>®</sup>. Derivative works include, but are not limited to, translations. You may

not alter any files or libraries included in SHELDUS®. You may not reproduce the database portion of SHELDUS® in any way.

4.2. You agree that You shall not remove, obscure, or alter any proprietary rights notices (including copyright and trade mark notices) which may be affixed to or contained within the Services.

## **5. SUPPORT SERVICES.**

No technical support will be provided with Your SHELDUS® subscription.

## **6. MISCELLANEOUS.**

6.1. ASU reserves the right to reference any website or company using SHELDUS® in our sales and marketing literature.

6.2. ASU reserves the right to monitor compliance with this EULA and to restrict the use of the SHELDUS® for non-compliance.

## **7. TERMINATION WITHOUT PREJUDICE TO ANY OTHER RIGHTS.**

ASU may terminate this EULA if You fail to comply with any term or condition of this EULA. If this does occur, You agree to return to ASU or to destroy all copies of SHELDUS® upon termination of this EULA. You may terminate this s EULA at any time by destroying all copies of SHELDUS® and SHELDUS® Documentation.

## **8. DISCLAIMER OF WARRANTIES.**

YOU ACCEPT THE SHELDUS® LICENSE "AS IS," AND ASU (AND ITS THIRD PARTY SUPPLIERS AND LICENSORS) MAKE NO WARRANTY AS TO ITS USE, PERFORMANCE, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ASU (AND ITS THIRD PARTY SUPPLIERS AND LICENSORS) DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES, AND CONDITIONS, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. **THE ENTIRE RISK ARISING OUT OF USE OR PERFORMANCE OF SHELDUS® PRODUCT REMAINS WITH YOU.**

## **9. LIMITATION OF LIABILITY.**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ASU, OR ITS SUPPLIERS, BE LIABLE FOR ANY COSTS OF SUBSTITUTE PRODUCTS OR SERVICES, OR FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET A DUTY, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE EULA OR THE USE OR INABILITY TO USE THE PRODUCT, THE PROVISION OF OR FAILURE TO PROVIDE SERVICES OR OTHER FORMS OF SUPPORT, INFORMATION, SHELDUS®, AND RELATED

CONTENT THROUGH THE PRODUCT, EVEN IF ASU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ASU SHALL ONLY BE LIABLE FOR NO MORE THAN THE AMOUNT PAID BY USER FOR ACCESS TO THE PRODUCT IF ASU FAILS TO PROVIDE THE PRODUCT OR IF THE PRODUCT IS DEFECTIVE.

**10. GOVERNING LAW.**

This EULA is governed by the laws of Arizona, without regard to user's state specific conflict or choice of law provisions.

**11. RECORDS.**

To the extent required by ARS § 35-214, You will retain all records relating to this Agreement. You will make those records available at all reasonable times for inspection and audit by ASU or the Auditor General of the State of Arizona during the term of this Agreement and for 5 years after the completion of this Agreement. The records will be provided at ASU in Tempe, Arizona, or another location designated by ASU on reasonable notice to You.

**12. NONDISCRIMINATION.**

You will comply with all applicable laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, and nondiscrimination, including the Americans with Disabilities Act.

**13. CONFLICTS OF INTEREST.**

If within 3 years after the execution of this Agreement, User hires as an employee or agent any ASU representative who was significantly involved in negotiating, securing, drafting, or creating this Agreement, then ASU may cancel this Agreement as provided in Arizona Revised Statutes (ARS) § 38-511. Notice is also given of ARS §§ 41-2517 and 41-753.

**14. ARBITRATION.**

Arbitration. The parties agree to arbitrate disputes filed in Arizona Superior Court that are subject to mandatory arbitration pursuant to ARS § 12-133. ARS § 12-1518 requires this provision in all ASU contracts.

**15. DISPUTE RESOLUTION.**

If a dispute arises under this Agreement, the parties will exhaust all applicable administrative remedies under Arizona Board of Regents Policy 3-809.

**16. FAILURE OF LEGISLATURE TO APPROPRIATE.**

In accordance with ARS § 35-154, if ASU's performance under this Agreement depends on the appropriation of funds by the Arizona Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then ASU may provide written notice of this to You and cancel this Agreement without further obligation of ASU. Appropriation is a legislative act and is beyond the control of ASU.

## **17. RESPONSIBILITY.**

Each party is responsible for the negligent or willful acts or omissions of its employees and contractors when acting under such party's direction and supervision. ASU recognizes an obligation to pay attorneys' fees or costs only when assessed by a court of competent jurisdiction.

## **18. ASSIGNMENT.**

You may not transfer or assign this Agreement or any of Your rights or obligations hereunder, either directly or indirectly, or by operation of law, without ASU's prior written consent, and any attempt to the contrary will be void.

## **19. ENTIRE AGREEMENT.**

This EULA (including any addendum or amendment to this EULA which is included with SHELDUS®) are the entire agreement between You and ASU relating to SHELDUS® and they supersede all prior or contemporaneous oral or written communications, proposals, and representations with respect to SHELDUS® or any other subject matter covered by this EULA.

## **20. SEVERABILITY.**

If any provision of this Agreement shall be held to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect. To the extent any express or implied restrictions are not permitted by applicable laws, these express or implied restrictions shall remain in force and effect to the maximum extent permitted by such applicable laws.

## **B. SUBSCRIPTION SPECIFIC TERMS AND CONDITIONS**

### **1. TERMS**

INDIVIDUAL SUBSCRIPTION – The level of access to SHELDUS® limited to use solely by one person. Individual subscriptions are granted to single users and may not be shared.

INSTITUTIONAL SUBSCRIPTION – The level of access to SHELDUS® not limited in number of persons accessing SHELDUS®. Institutional subscriptions are granted to multiple users under the same company or entity. The institutional non-exclusive license applies to multiple users solely within one university, non-governmental, corporation or government agency at multiple locations within a single country (e.g., one university (all departments), one corporation (but not subsidiaries), one county government (all departments), one federal agency (below cabinet level in the U.S.), one state or provincial government agency, or one city government (all departments)).

### **2. SUBSCRIPTION LEVELS**

A. Academic Subscriptions – Subscription only available to users registered with .edu (or other educational) email address and either employed by an institution of education or enrolled in such institution. Four types of academic subscriptions and two sub-types are currently available in SHELDUS®

- a. Type of subscriptions
    - i. Student – for users who are both interested in SHELDUS® for personal research or educational needs and enrolled as a student at an institute of higher education (or like entity).
    - ii. Instructor – for users who are both interested in SHELDUS for educational or instructional needs and employed by an institute of higher education (or like entity).
    - iii. Researcher – for users who are both interested in SHELDUS for research purposes and employed by an institute of higher education (or like entity)
    - iv. Student/Instructor/Researcher – for those entities interested in student, instructor, and researcher access to SHELDUS®.
  - b. Subscription sub-types
    - i. Individual – One single registered user, non-transferable subscription. See terms above.
    - ii. Institutional – Unlimited users from one institution or entity. See terms above.
- B. Government Subscriptions – Subscription only available to users registered with a .gov (or other governmental) email address who are also employed by the same entity. Three types of government subscriptions and two sub-types are currently available in SHELDUS®
- a. Type of subscriptions
    - i. Local Government – for users who work for and will be using SHELDUS® for a local government entity only.
    - ii. State Government – for users who work for and will be using SHELDUS® for a state government entity only.
    - iii. Federal Government – for users who work for and will be using SHELDUS® for a federal government entity only.
  - b. Subscription sub-types
    - i. Individual – One single registered user, non-transferable subscription. See terms above.
  - c. Institutional – Unlimited users from one institution or entity. See terms above.
- C. Commercial Subscriptions – Subscription only available to users registered with a .com (or other commercial) email address who are also employed by the same entity. Four types of commercial subscriptions and two sub-types are currently available in SHELDUS®
- a. Type of subscriptions
    - i. Local Government – for users who work for and will be using SHELDUS® for a local government entity only.
    - ii. State Government – for users who work for and will be using SHELDUS® for a state government entity only.
    - iii. Federal Government – for users who work for and will be using SHELDUS® for a federal government entity only
  - b. Subscription sub-types
    - i. Individual – One single registered user, non-transferable subscription. See terms above.

- ii. Institutional – Unlimited users from one institution or entity. See terms above.
- D. Per Query Membership – The default SHELDUS® subscription level. Users will have access to all features within SHELDUS® and will pay per aggregation.