

Terms and Conditions of Eight Wire Limited

By using Our Website in any way, or by purchasing any of our Services, you agree to be bound by our Terms and Conditions below.

Please note that no person under the age of 18 years may purchase our Services. We look forward to seeing you again when you are over 18.

We are: Eight Wire Limited

Our address is: Level 1, 15 Edward Street, Wellington, New Zealand

You are: a visitor to Our Website / our customer

The terms and conditions

1 Definitions

In this agreement:

- “Our Website” means eight-wire.com (including www.eight-wire.com) and the entire computing hardware and software installation that is or supports eight-wire.com.
- “Services” means our software as a service (“SaaS”) cloud based, platform agnostic, data integration product and/or any of the other services we may offer for sale on our Website or have specifically negotiated with you and includes our services generally available through updates and support services.
- “Content” means any material in any form published on Our Website by us or any third party with our consent.
- “Material” means content or material of any sort posted by you on Our Website, excluding Your Data.
- “Your Data” means any data or data files you upload or download using Our Website or our Services that you own the rights to or have authority to use, for the purposes of Data Management.
- “Our Software” means any software you may download from our Website in connection with your use of our Services and any software on our servers that you may have access to.

2 Our contract with you

2.1 These terms and conditions apply:

- (a) So far as the context allows, to you as a visitor to Our Website; and
- (b) In any event to you as a buyer or prospective buyer of our Services.

- 2.2 In addition, when you purchase any of our Services, you may be required to accept additional terms and conditions which will be made available to you at the time you purchase the applicable Services.
- 2.3 Confirmation of your order will be sent via email.
- 2.4 Unfortunately, we cannot guarantee that every service offered on our website will be available. If a service becomes unavailable, we will immediately refund any money you have paid. Our refund will cover the period of unavailability but not any period for which Services have been available.
- 2.5 Our terms and conditions as set out here are subject to change. However, where a price differs from the price advertised, we will notify you. The terms that apply to you are the current terms posted here on Our Website. We will endeavour to notify all customers of changes, but it is your responsibility to stay up-to-date with these changes.
- 2.6 If in future, you buy Services from us under any arrangement which does not involve your payment via Our Website; these terms still apply so far as they can be applied.

3 Your account with us

- 3.1 You agree that you have provided, and will continue to provide accurate, up to date, and complete information about yourself.
- 3.2 Once you are have signed up to our Services, you will be provided with a login and password to enable you to access the Services. You agree not to share any of the information or resources provided as part of the Services with any other party except as specified in the terms and conditions, and you will not allow any person not employed by or affiliated with your business to use your log-in information and password to access the Services. You are responsible for maintaining the confidentiality of log-in information and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password.
- 3.3 We reserve the right to refuse you access to Our Website or Services.

4 Your Privacy

- 4.1 We respect the privacy of all our customers who use our Website and/or our Services and are committed to protecting our customers' personal information. Our privacy policy is based on the Information Privacy Principles in the New Zealand Privacy Act 1993.
- 4.2 We reserve the right to vary this policy at any time, effective immediately upon posting on our Website.
- 4.3 We collect personal information from you in the following ways:
 - (a) When you complete an application to open an account with us and/or to be a user of our Website;
 - (b) When you make use of any of our Services; and

- (c) When you access our Services.

4.4 We may use the information we collect subject to the following:

- (a) We may collect information such as your age, gender, location and information relating to you or your company's use of the Services so we can optimise and improve the Services we offer;
- (b) Application use and personal information may be used to improve our business processes, such as our security, speed and information systems;
- (c) We will not disclose your personal information or any contact details to our other customers or any third party without your express authority.
- (d) We may use the information collected from the application at any time, to produce reports and summarise research data which may be shared with a third party but will not identify any of our customers individually.
- (e) We will not use or disclose your personal information in any way, other than in accordance with this Policy or the Privacy Act 1993.

4.5 We may employ procedural and technological measures, consistent with industry practice, to protect your personally identifiable information. Such measures are reasonably designed to help protect your personally identifiable information from loss, unauthorised access, disclosure, alteration or destruction. We may use password protection and other security measures to help prevent unauthorised access to your personally identifiable information.

4.6 **Access:** Under the Privacy Act 1993, you have the right to seek access to information that we hold about you and to correct that information if it is incorrect. You may access or change information that we have collected about you by placing your request in writing and sending your request to us at: Eight Wire Ltd, Level 4, 50 Manners Street, Wellington, New Zealand

Or you can email at support@eight-wire.com

5 Price, payment and service provision

- 5.1 Payment for our Services will be made on a month-by-month basis. When you establish an account with us you will choose to be either an 'On Account' customer or a 'Pay As You Go' customer.
- 5.2 If paying by credit card, you agree to pay the monthly charge for the Services, from the credit card, information for which you have or will have supplied to us. You authorise us to arrange withdrawal of funds on this card each month without further reference to you.
- 5.3 If you have arranged to pay by direct bank transfer, you agree to pay the monthly charge for the Services, to the bank account we nominate.

- 5.4 For 'Pay as You Go' Customers, payments are billed in advance at the beginning of each month.
- 5.5 For 'On Account' Customers, payments are billed in arrears at the end of each month.
- 5.6 Please note that all payments are non-refundable. No refunds will be given unless specified elsewhere in this contract.
- 5.7 If we are not able to provide your Services within 10 days of the date of your order confirmation, we shall notify you by e-mail to advise you of the date we anticipate we will be able to provide the services. You will not be charged until such Services become available.
- 5.8 'On Account' Customers, may cancel Services at any time by giving us four weeks' written notice. Payment will be due until the expiry of the notice period. For 'Pay As You Go' Customers you may cancel at any time; however any refund of any amount prepaid by you will be at our sole discretion. If you fail to make any payment when due, we will grant you a grace period of 5 days after which our Services will no longer be available to you.
- 5.9 We may change the nature or provision of the Services at any time. We may tell you about any such change by email or by posting details on Our Website.
- 5.10 If it is deemed that the nature or provision of the Services has changed substantially to those originally provided, you reserve the right to terminate this contract.
- 5.11 If a change made to our Services, requires action by you, and you do not take that action, we reserve the right to terminate the Services to you without notice. We will notify you in advance of the need for action on your part.
- 5.12 You may not share or allow others to use the Services in your name.
- 5.13 We will do our best to maintain our Services so that you have continual use and access, however, there may be circumstances beyond our control that interrupt your access and use of our Services that we cannot take any responsibility for. We will notify you in advance of any interruption to our services for routine maintenance.
- 5.14 Where we provide goods or services without specific charge to you, then the service(s) is deemed to be provided free of charge, and not to be associated with any other goods or service for which a charge is made. Accordingly, there is no contractual nor other obligation upon us in respect of those goods or service.
- 5.15 We will provide services to you immediately upon receipt of your order through our website. We reserve the right to withhold services from any person or entity for any reason at any time.

6 Foreign taxes, duties and import restrictions

If you do not reside in New Zealand, we cannot accept any responsibility if any of our Services are not deemed to be lawful in your country, nor for the payment of

import duties and taxes of any kind in your country.

7 Dissatisfaction with the Services

Your absolute satisfaction is important to us and we value your feedback. If you are not completely satisfied with our services, please contact us through our website.

8 Disclaimers/Limitation of Liability

- 8.1 We or our Content suppliers may make improvements or changes to Our Website, the Content, or to any of the Services, at any time and without notice. Our intention is that such changes will improve Our Website or our Services. Where such changes materially affect your use of the Services clause 5.9 may apply.
- 8.2 We reserve the right at any time and from time to time to modify (including, without limitation, any modification or redesign of the organization, look, feel, navigation or other elements of the Services or our Website, including the addition or deletion of content or screens for delivery of the Services) or discontinue, temporarily or permanently, the Services (or any part thereof) with or without notice. You agree that we shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Services provided that if you have prepaid accounts fees for a period that you have not obtained the benefit of, we may (and will if legally be obliged to) refund any prepaid fees.
- 8.3 We accept no responsibility for any errors that appear on our Services which may include but are not limited to; technical or content inaccuracies and typographical errors.
- 8.4 You expressly understand and agree that:
 - (a) Your use of our Services is at your sole risk. The Services are provided on an "as is" and "as available" basis. We and our subsidiaries, affiliates, officers, employees and agents expressly disclaim all warranties of any kind, whether express or implied, including, but not limited to any warranties under the Consumer Guarantees Act 1993 (and you acknowledge for the purpose of that Act that you are using our Services as a business), implied warranties of merchantability, fitness for a particular purpose and non-infringement.
 - (b) We and our subsidiaries, affiliates, officers, employees and agents make no warranty that:
 - (i) our Services will meet your requirements;
 - (ii) our Services will be uninterrupted, timely, secure or error-free;
 - (iii) the results that may be obtained from the use of our Services will be accurate or reliable;
 - (iv) the quality of any products, services, information or other material purchased or obtained by you through our Services will meet your expectations;

- (v) any errors in our Services will be corrected; or
 - (vi) that any or all of the functionality of our Services will be compatible with any software or hardware used by you to access our Services.
- 8.5 Our Website contains links to other Internet websites outside our power and control. You acknowledge and agree that we shall not be liable in any way for the Content of any such linked website, nor for any loss or damage arising from your use of any such website.
- 8.6 Under no circumstances shall we or our subsidiaries, affiliates, officers, employees and agents be liable to any user on account of that user's use or misuse of or reliance on our Services arising from any claim relating to the use of our Services pursuant to these terms and conditions or any other agreement between us and you. Such limitation of liability shall apply to prevent recovery of direct, indirect, incidental, consequential, special, exemplary, and punitive damages, whether such claim is based on warranty, contract, tort (including negligence), or otherwise (even if we or our subsidiaries, affiliates, officers, employees and agents have been advised of the possibility of such damages).
- 8.7 Such limitation of liability shall apply whether the damages arise from use or misuse of and reliance on our Services, from inability to use our Services, or from the interruption, suspension, or termination of our Services (including any such damages incurred by third parties). This limitation shall also apply with respect to damages incurred by reason of other services or goods received through or advertised as part of or in connection with our Services or Our Website or received through any links provided in our Services or Our Website, as well as by reason of any information received through or advertised on our Services or Website or received through any links provided in our Services or Website.
- 8.8 Notwithstanding any other provision of these terms and conditions, in any claim against us our liability is limited to the value of the Services you have purchased in the 12 months immediately preceding your claim.

9 Content and Intellectual Property Rights

- 9.1 Copyright and other relevant intellectual property rights exist on all content of our services whether provided by us or by any other content provider and includes but is not limited to text, graphics, logos, icons, images, audio clips, digital downloads, data, and software.
- 9.2 We own the copyright in the designs and compilation of all content of our Website. Title and ownership rights shall remain the sole property of us and / or the other content provider.
- 9.3 You may not copy, modify, publish, transmit, transfer or sell, reproduce, reverse-engineer, create derivative works from, distribute, perform, display or in any way exploit our Services, Our Software or any of the Content in whole or in part, except where expressly authorised
- 9.4 You may not use our name or logos or trademarks or any other Content on any website of yours or that of any other person without our express authority.

- 9.5 Subject to the other terms of this agreement, you may download or copy Content only for your own personal use, provided that you maintain all copyright and other notices contained in it. You may not store electronically any significant portion of any Content.
- 9.6 Our Website and Services may be multi-tenanted. You may not attempt to access or interfere with other Customers data or use of Our Website or Services without their consent.

10 Termination

- 10.1 You agree that we may, under certain circumstances and without prior notice, immediately terminate your account. Cause for such termination shall include, but not be limited to:
- (a) breaches or violations of these terms and conditions or other agreements or guidelines related to your use of our Services;
 - (b) requests by law enforcement or other government agencies;
 - (c) a request by you;
 - (d) discontinuance or material modification to our Services (or any part thereof);
 - (e) unexpected technical or security issues or problems;
 - (f) engagement by you in fraudulent or illegal activities; and/or
 - (g) non-payment of any fees owed by you in connection with our Services.
- 10.2 Further, you agree that all terminations for cause shall be made in our sole discretion and that we shall not be liable to you or any third party for any termination of your account.

11 Your Data

- 11.1 If you upload any data using Our Website or Services, you warrant that you are authorised to do so and you accept all risk and responsibility for it.
- 11.2 You grant to us the rights to use, alter, delete or store any data uploaded by you in order to provide the Services to you. We will not give, sell or otherwise make Your Data available to any other party without your express permission in writing or through Our Website.

12 System Security

- 12.1 You agree that you will not, and will not allow any other person to violate or attempt to violate any aspect of the security of Our Website or Services.
- 12.2 You may not use any software tool for the purpose of extracting data from our website, except to access your data or any data you have been given authority to access as provided by the Services.

- 12.3 You understand that any such violation is unlawful in many jurisdictions and that any contravention of law may result in criminal prosecution.

13 Acceptable use Policy

As a condition of your use of Our Website, you agree to comply with these provisions:

- 13.1 You will not attempt to:

- 13.1.1 Circumvent our billing process;
- 13.1.2 Misrepresent the amount of data you have processed through Our Website or Services.

- 13.2 You will not use the Services in such a way that could unreasonably interfere with other Customers use. This includes but is not limited to:

- 13.2.1 Unusually heavy use that could substantially impact the Service's performance without giving us advanced warning.
- 13.2.2 Uploading unusually large volumes of data without giving us advanced warning – any throughput which is substantially in excess of your normal usage pattern would require you to give us advanced warning. Failure to do so could result in the Services becoming unavailable or us denying you access to the Services.

- 13.3 You will not use the Services or Our Website for any fraudulent or illegal purpose. Any unauthorised use of Our Website or the Services (including, but not limited to, hacking, use of any automated device or process) shall constitute a breach of these terms and conditions.

- 13.4 You are prohibited from posting or transmitting any advertising "spam," unlawful material, or other material we deem inappropriate for Our Website or Service.

- 13.5 All of our Services are subject to our Fair Use Policy (which is available on request).

- 13.6 Your use of the Services must be fair, reasonable and not excessive, as determined by us.

- 13.7 If in our reasonable opinion we consider your usage to be unfair, unreasonable and/or excessive usage we may immediately suspend, modify or restrict your use of the Services or withdraw in full or in part your access to the Services without notice to you, or charge you at our discretion for excessive usage.

14 Indemnity

You agree to indemnify us against any claim or demand, including reasonable lawyers' fees, made by any third party due to or arising in any way out of your use of Our Web Site or Services, your posting any Material, uploading or downloading any data, or the infringement by you, or by any other person using your computer, of any intellectual property or other right of any person.

15 Miscellaneous provisions

- 15.1 When we communicate with you we do so by email. You agree that email communications are contractually binding in the same way as properly signed and dated paper sent by post. An email is deemed to have been delivered 24 hours after sending.
- 15.2 Nothing in this agreement or on Our Website shall confer on any third party any benefit or obligation.
- 15.3 If any of these terms is at any time held by any jurisdiction to be void, invalid or unenforceable, then it shall be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it shall be binding in that changed or reduced form. Subject to that, each provision shall be interpreted as severable and shall not in any way affect any other of these terms.
- 15.4 No waiver by us, in exercising any right, power or provision in this agreement shall operate as a waiver of any other right or of that same right at a future time; nor shall any delay in exercise of any power or right be interpreted as a waiver.
- 15.5 In the event of a dispute arising out of or in connection with these terms or any contract between you and us, then you agree to attempt to settle the dispute by engaging in good faith with us in a process of mediation before commencing arbitration or litigation.
- 15.6 We are not liable for any breach of our obligations resulting from causes beyond our reasonable control including, but not limited to, strikes of our own employees.
- 15.7 This Agreement shall be governed by and construed in accordance with the laws of New Zealand. This agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is hereby expressly excluded.
- 15.8 Any Services may have additional terms attached to them. These will operate in conjunction with the terms set out here. In the event of conflicting terms, the terms set out here will take precedence. You agree to be bound by all applicable terms and conditions set out here and attached to the Services you have purchased from us or have been provided free of charge.

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