



eWater Ltd Licence Agreement

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- THIS AGREEMENT IS ENFORCABLE AGAINST YOU AND ANY LEGAL ENTITY ON WHOSE BEHALF YOU HAVE OBTAINED OR USED THE PRODUCT
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eWater Ltd

Special terms and conditions Beta products

Effective from 11 November 2010

1. Standard Terms and Conditions apply

The Standard Terms and Conditions for eWater Ltd Products which follow these special terms and conditions apply to Your use of the beta (test) version of the Product (“Beta Product”).

If there is any inconsistency between the Standard Terms and Conditions and these special conditions for Beta Products (“Special Conditions”), the Special Conditions will apply.

2. Beta Licence Special Conditions

BY DOWNLOADING, INSTALLING OR USING THE BETA PRODUCT, YOU AGREE TO BE BOUND BY THESE SPECIAL CONDITIONS, IN ADDITION TO THE STANDARD TERMS AND CONDITIONS.

IF YOU DO NOT AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS LICENCE, INCLUDING THE SPECIAL CONDITIONS, DO NOT DOWNLOAD, INSTALL OR USE THE BETA PRODUCT.

3. Evaluation Licence

The Beta Product is licensed to You solely for evaluation purposes. The Beta Product is beta test software and, as such, WILL CONTAIN BUGS AND MAY CAUSE DATA LOSS.

4. Technical Support

Technical support is not guaranteed for a Beta Product. You may find the user-to-user support forums (www.toolkit.net.au/support) helpful in addressing any issues.

5. No Warranty

THE BETA PRODUCT IS BEING DELIVERED TO YOU "AS IS" AND EWATER LTD MAKES NO WARRANTY AS TO ITS USE, RELIABILITY OR PERFORMANCE. YOU ARE SOLELY RESPONSIBLE FOR DETERMINING THE APPROPRIATENESS OF USE OF THE BETA PRODUCT AND ASSUME ALL RISKS ASSOCIATED WITH ITS USE.

EWATER LTD DOES NOT AND CANNOT WARRANT THE PERFORMANCE OR RESULTS YOU MAY OBTAIN BY USING THE BETA PRODUCT. TO THE EXTENT PERMITTED BY LAW, EWATER LTD MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE BETA PRODUCT, INCLUDING ITS FITNESS FOR ANY PARTICULAR PURPOSE.

YOU ASSUME ALL RISK ASSOCIATED WITH THE QUALITY, PERFORMANCE, INSTALLATION AND USE OF THE BETA PRODUCT INCLUDING, BUT NOT LIMITED TO, THE RISKS OF PROGRAM ERRORS, DAMAGE TO EQUIPMENT, LOSS OF DATA OR BETA PRODUCT SOFTWARE PROGRAMS, OR UNAVAILABILITY OR INTERRUPTION OF OPERATIONS.

6. Term and Termination

This Licence will automatically expire on the first day eWater Ltd makes available the production version of the Beta Product (as announced on the eWater Toolkit Website web site (www.toolkit.net.au), unless earlier terminated under the Standard Terms and Conditions.

eWater Ltd

Standard Terms & Conditions

Effective from 11 November 2010

1. Definitions

“eWater Toolkit Website” means the website at URL <http://www.toolkit.net.au>.

“eWater CRC” means the eWater Cooperative Research Centre and the parties making up the eWater CRC.

“eWater Ltd” means the licensor of the Product.

“Licence” means this licence agreement between You and eWater Ltd comprising the Terms and Conditions that You accept by clicking the “I AGREE” button when downloading, opening, installing, copying or using the Product.

“Product” means the software or data You are downloading or installing from the eWater Toolkit Website and includes Product documentation.

“Product Owner” means eWater Ltd as trustee for the participants in eWater CRC or such other owner(s) of the Product identified in the eWater Ltd Intellectual Property Register.

“Registration” means the process You go through to become a member of the eWater Toolkit community by submitting Your personal details at the eWater Toolkit Website.

“Standard Terms and Conditions” means these standard terms and conditions as varied from time to time in accordance with clause 9.

“You” means you, the user, and/or any legal entity that you enter into this Licence on behalf of in accordance with clause 2.3 and **“Your”** will be similarly construed.

2. The Licence

- 2.1 eWater Ltd grants You a non-exclusive and non-transferable right to use the Product only in accordance with the terms of this Licence. eWater Ltd reserves the right to refuse to license the Product to any person without giving any reasons.
- 2.2 While the eWater Cooperative Research Centre Participants’ Agreement (eWater CRC PA) remains in force and You are an employee of an eWater Participant nothing in this agreement will reduce or otherwise affect the eWater Participant’s rights, obligations or restrictions detailed in the eWater CRC PA. In the event of any inconsistency between this agreement and the eWater CRC PA the eWater CRC PA will prevail to the extent of any inconsistency
- 2.3 A person entering this agreement on behalf of a corporation or other entity must do so only if properly authorised by the corporation or other entity. In clicking the “I AGREE” button, You warrant that You are authorised to enter the agreement on behalf of the corporation or other entity and eWater Ltd may rely on that warranty.
- 2.4 This Licence is for single-users only. All users of the Product, including employees, consultants and any other person who uses the Product on Your behalf, must have their own Licence.
- 2.5 This Licence does not automatically entitle You to any enhancements, improvements, modifications or upgrades of the Product and any of these may be subject to payment of a Licence Fee.

- 2.6 This Licence contains the complete understanding between You and eWater Ltd with respect to the Product. No provision will be deemed waived unless in writing.
- 2.7 You must click the "I AGREE" button at the end of this Licence to indicate Your agreement to the Terms and Conditions of this Licence.

3. Registration

- 3.1 Before downloading, opening, installing, copying or using the Product, You must provide and ensure the accuracy and completeness of Your Registration.
- 3.2 You agree that eWater Ltd may collect and retain all Registration data for its record-keeping purposes and for further development of its Products.
- 3.3 By clicking "I AGREE", You agree that You have read and understood eWater Ltd's privacy statement and policy available on its website at: <http://www.ewater.com.au/news/subscribe/privacy-policy/>

4. Use of names

- 4.1 You must not without written permission use the name, any trademark or logo of eWater Ltd or eWater CRC to claim any sponsorship, endorsement, approval or affiliation or other association with eWater Ltd or eWater CRC by virtue of this Licence.

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- 6.1 This Licence is for use of the Product by You only. You must not distribute, copy, sell, transfer or otherwise make the Product available for use by a third party. If You become aware of any other person who wishes to use the Product You should refer that person to the eWater Toolkit Website.
- 6.2 You must not decompile, reverse engineer, disassemble, translate or otherwise tamper with the Product, or make any attempt to discover or copy the source code.
- 6.3 You must not modify, network or create derivative works based on the Product in whole or in part, nor permit any other party to do so without the express written authorisation of eWater Ltd.
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- 6.5 You must not provide training in the use of the Product, other than as reasonably required for Your use, without the written consent of eWater Ltd. eWater Ltd may, at its absolute discretion, refuse permission for You to provide training or require payment of a fee or royalty where permission to provide training is granted.

7. Publication

- 7.1 Where the Product or use of the Product contributes to or informs any published article, paper, section or chapter, conference paper or other publication including electronic publication, You must

acknowledge eWater CRC in the publication. If citation information is not included with the Product, the following citation must be used:

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8. Modifications

- 8.1 eWater Ltd may modify the Product or this Licence with notice to You either by electronic notice to the address You provide in Your Registration or by publishing content on the eWater Toolkit Website.
- 8.2 In the event eWater Ltd modifies the Product or the Licence, You may terminate this Licence by ceasing to use the Product and destroying all copies of the Product obtained or made by You under this Licence.

9. Liability

- 9.1 You are responsible for determining that the Product is suitable for Your own use or purpose.
- 9.2 You assume all risk for any loss or damage resulting directly or indirectly from Your use of or inability to use the Product.
- 9.3 To the extent permitted by law, eWater Ltd and the Product Owner exclude all liability for any loss or damage (including direct, indirect, special or consequential loss or damage) arising from Your use of the Product or otherwise in connection with this Licence.
- 9.4 Where any statute or law implies warranties or conditions into this Licence that cannot be lawfully modified or excluded under this Licence ('Non-excludable Condition') then this Licence will be read subject to such Non-excludable Condition. Where such statute or law permits, eWater Ltd limits its liability to You for breach of such Non-excludable Condition at its option to:
 - a) re-supply the Product

10. eWater Ltd makes no representations

- 10.1 eWater Ltd does not warrant or make any representations, either express or implied, including without limitation any warranty with respect to the Product:
 - a) that the Product is of merchantable quality, suitable for Your use, or is fit for any other purpose;
 - b) that any functions contained in the Product will meet Your requirements or that operation of the Product will be uninterrupted or that the Product is error-free;
 - c) regarding the suitability of the results of any use of the whole or any part of the Product;
 - d) as to the accuracy, reliability or content of any data, information, service or goods obtained through any use of the whole or any part of the Product;
 - e) regarding its future support or development, or
 - f) that the use of the Product will not infringe the intellectual property rights of a third party.
- 10.2 You accept responsibility for the selection of the Product in whole or in part to achieve Your intended results, and for the installation, use and results obtained from the Product.

11. Indemnity

- 11.1 You agree to indemnify and hold eWater Ltd and the Product Owner, their parents, subsidiaries, affiliates, officers and employees, harmless from any claim or demand, including reasonable legal

fees, made by You or any third party due to or arising out of Your use of the Product, or the infringement by You, of any intellectual property or other right of any person or entity.

12. Termination

- 12.1 You may terminate the Licence at any time by ceasing to use the Product and destroying all copies of the Product obtained or made by You under this Licence and notifying eWater Ltd in writing that You have terminated the Licence.
- 12.2 eWater Ltd may terminate this Licence at any time:
- a) by giving You written notice, including electronic notice, to the address You provide in Your Registration; or
 - b) in the case of an electronic timing mechanism contained in the Product ('time bomb'), by activation of the time bomb.
- 12.3 Your Licence is terminated immediately, without notice to You, if You breach any term or condition of this Licence.
- 12.4 On termination, all Your rights to use the Product cease and You must discontinue use of the Product and destroy all copies of the Product obtained by You or in Your possession as a result of this Licence.
- 12.5 Intellectual property protections, disclaimers of warranty, indemnities, dispute resolution and limitation of liability provisions of this Licence will survive termination.
- 12.6 The failure or delay of eWater Ltd to exercise any of its rights upon any breach of this Licence will not be deemed to be a waiver of those rights or of the breach.

13. Resolving disputes

- 13.1 In any dispute arising out of or in connection with this Licence, You agree to first negotiate in good faith with a senior eWater Ltd officer to resolve it. If the dispute is not resolved by those negotiations within 30 days, You agree that the matter may be referred to the Australian Commercial Dispute Centre Limited ('ACDC') for resolution by mediation and if necessary by arbitration in accordance with the Conciliation Rules of the ACDC.

14. Governing Law

- 14.1 This Licence is governed by and construed in accordance with the laws of the Australian Capital Territory, Australia.

By pressing the 'I AGREE' button, You acknowledge and represent (upon which eWater Ltd relies) that You have read and agreed to the Standard Terms and Conditions of the Licence.

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