

CLOUD INTELLIGENCE MASTER SUBSCRIPTION AGREEMENT  
8 MAY 2012

**YOU AGREE THAT THE ONLINE SERVICES ARE SEPARATE AND DISTINCT FROM ANY LICENSES TO MICROSTRATEGY PRODUCTS AND THE ONLINE SERVICES SHALL NOT BE GOVERNED BY THE TERMS OF ANY SOFTWARE LICENSE AGREEMENT EXECUTED BY YOU OR AN AFFILIATE RELATED TO SUCH MICROSTRATEGY PRODUCTS.**

**1. ACCESS GRANT & RESTRICTIONS**

MicroStrategy hereby grants You during the Term a non-exclusive, non-transferable, right to access the Online Service from anywhere in the world (except as provided in Section 13), solely for Your own internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to You are reserved by MicroStrategy and its licensors. You may not access the Online Service if you currently compete or plan to compete with MicroStrategy, except with MicroStrategy's prior written consent. In addition, you may not access the Online Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking, reverse engineering or other competitive purposes. You shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit Your access rights to the Online Service (ii) modify or make derivative works of the Online Service or the metadata contained therein; (iii) clone the virtual image that includes the Online Service; (iv) reverse engineer the Online Service or the metadata. You may use the Online Service only for Your internal business purposes and shall not (i) interfere with or disrupt the integrity or performance of the Online Service; (ii) attempt to gain unauthorized access to the Online Service or its related systems or networks; or (iii) use the Online Service to store or transmit material in violation of third-party privacy rights or to store or transmit infringing, libelous, or otherwise unlawful or tortious material (iv) use the Online Service to store or transmit material that infringes any copyright, trademark, patent, trade secret or other proprietary right of any entity or individual; (v) use the Online Service to store or transmit material that contains viruses, Trojan horses, worms, time bombs, cancelbots, corrupted files, or any other similar software or programs that may damage the operation of another's computer or property of another; or (vi) use the Online Service to store or transmit material that violates any applicable statute, law, rule or regulation.

**2. YOUR RESPONSIBILITIES**

You are responsible for all activity occurring under Your user accounts, shall use the Online Service in accordance with the User Guide and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with Your use of the Online Service, including those related to data privacy, international communications and the transmission of technical or personal data. You shall: (i) notify MicroStrategy immediately of any unauthorized use of any password or account or any other known or suspected breach of security of the Online Service; (ii) promptly report to MicroStrategy and use reasonable efforts to stop any copying, cloning or distribution of the Online Service; (iii) use appropriate administrative and security measures to ensure that the Online Service is not used to distribute personal data without the consent of the individual to whom the data pertains, (iv) not impersonate another Online Service user or provide false identity information to gain access to or use the Online Service; and (v) remain responsible for the accuracy, quality, integrity, legality, appropriateness, and intellectual property ownership or right to use of the data source accessed by the Online Service. For the purposes of applicable privacy and data protection laws, You will be considered the data controller of all data and information stored as part of the Online Services.

**3. INTELLECTUAL PROPERTY OWNERSHIP**

MicroStrategy (and its licensors, where applicable) shall own all right, title and interest, including all related intellectual property rights, in and to the MicroStrategy Technology and the Online Service and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by You or any other party relating to the Online Service. This Agreement is not a sale and does not convey to You any rights of ownership in or related to the Online Service, the MicroStrategy Technology or any intellectual property rights owned by MicroStrategy or its licensors. As between You and MicroStrategy, You will be and remain the owner of all rights, title and interest in and to all customer data.

**4. CHARGES AND PAYMENT OF FEES**

You shall pay all fees or charges to Your account in accordance with the fees, charges, and billing terms set forth in an Order Form. Except as stated in this Agreement, all payment obligations are non-cancelable and all amounts paid are non-refundable. All pricing terms are confidential.

**5. BILLING AND RENEWAL**

MicroStrategy will invoice you for fees and charges according to the terms of an Order Form. MicroStrategy's fees and charges are exclusive of all taxes, levies, or duties imposed by governmental authorities, and you shall be responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes based solely on MicroStrategy's income and taxes on MicroStrategy's personal property. You agree to provide MicroStrategy with complete and accurate billing and contact information. This information includes Your legal company name, street address, e-mail address and name and telephone number of an authorized billing contact and Subscription Coordinator. You agree to update this information within 30 days of any change to it. If the contact information You have provided is incorrect, MicroStrategy reserves the right to terminate your access to the Online Service in addition to any other legal remedies. As part of the Online Service, MicroStrategy collects anonymous usage data to prepare an invoice. MicroStrategy shall treat such data as Your confidential information. Such data will also be transmitted to a central location in the United States from which invoices will be prepared. All invoices and payment to MicroStrategy will be in US Dollars. Unless otherwise specified in the applicable Order Form, payment of invoiced fees and charges is due net 30 days from the date of invoice receipt. If You believe Your bill is incorrect, You must contact us in writing within 60 days of the invoice date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

**6. SUSPENSION OF ACCESS**

In addition to any other rights granted to MicroStrategy herein, MicroStrategy reserves the right to suspend Your access to the Online Service if your account becomes delinquent. Delinquent invoices are subject to interest of 1.0% per month on any outstanding balance, or the maximum rate permitted by law, whichever is less plus all expenses of collection.

**7. TERMINATION FOR CAUSE**

This Agreement and Order Forms under this Agreement commences on the respective Effective Date and may only be terminated according to this section. MicroStrategy, in its sole discretion, may terminate Your password, use of the Online Service if You have materially breached this Agreement, and such breach has not been cured within 30 days of notice of such breach. You agree and acknowledge that, upon termination of this Agreement under this section, MicroStrategy shall have no obligation to retain Your MicroStrategy metadata database and may irretrievably delete it 30 days after termination. MicroStrategy will make available post-termination assistance at its standard hourly rates. You may terminate this Agreement, if MicroStrategy materially breaches this Agreement and such breach has not been cured within 30 days of notice of such breach.

**8. REPRESENTATIONS & WARRANTIES**

8.1 MicroStrategy represents and warrants that the Online Service will perform substantially in accordance with the User Guide, that the functionality of the Online Service will not materially decrease during a subscription Term and that the MicroStrategy Technology will perform substantially in accordance with its manuals on installation and use under normal use and circumstances. If You believe that there has been a breach of this warranty, You must notify MicroStrategy in writing during the Term describing in reasonable detail the nature of the alleged breach. Upon notice from You, MicroStrategy will promptly review the claim and conduct an investigation. If after such review and investigation, MicroStrategy is able to confirm that there has been a breach of such warranty, MicroStrategy will use reasonable efforts to correct the affected aspects of the Online Service to cause it to comply with the warranty. However, if MicroStrategy is unable to correct a breach of such warranty after reasonable repeated efforts, You will be entitled to cancel the Online Service, in which case Your sole and exclusive remedy will be to receive a refund of any prepaid fees or charges for periods of time after the date the claim arose

8.2 You represent and warrant that You have not falsely identified Yourself nor provided any false information to gain access to the Online Service and that Your billing information is correct. You and all of Your employees, agents and contractors are not on the list of entities or individuals maintained by the United States government that prohibit them from receiving exports.

8.3 Each party represents and warrants that it has the legal power and authority to enter into this Agreement.

8.4 EXCEPT AS EXPRESSLY PROVIDED HEREIN, MICROSTRATEGY MAKES NO OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE ONLINE SERVICE AND MICROSTRATEGY TECHNOLOGY AND SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY STATUTORY OR IMPLIED WARRANTIES OF TITLE, QUIET ENJOYMENT, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. MICROSTRATEGY DOES NOT REPRESENT OR WARRANT THAT THE ONLINE SERVICE WILL MEET YOUR NEEDS OR REQUIREMENTS, THAT YOUR USE OF THE ONLINE SERVICE WILL BE UNINTERRUPTED OR FREE FROM ERROR, OR THAT ALL DEFECTS IN THE ONLINE SERVICE OR SOFTWARE USED TO PROVIDE THE SERVICE WILL BE CORRECTED. YOU ACKNOWLEDGE

AND AGREE THAT THE ONLINE SERVICE IS NOT INTENDED FOR USE AS PART OF ANY PUBLIC HEALTH, SAFETY OR ENVIRONMENTAL OPERATIONS AND THAT MICROSTRATEGY EXPRESSLY DISCLAIMS ALL RESPONSIBILITY AND LIABILITY FOR OR IN CONNECTION WITH ANY SUCH USE OF THE ONLINE SERVICE OR MICROSTRATEGY TECHNOLOGY.

## **9. INDEMNIFICATION**

9.1 MicroStrategy shall defend You against any claim, demand, suit, or proceeding (" Claim") made or brought against You by a third party alleging that the use of the Online Service or MicroStrategy Technology infringes or misappropriates the U.S. intellectual property rights of a third party, and shall indemnify You for any damages finally awarded to the third party claimant or agreed to in settlement of the Claim provided that You (a) promptly give written notice of the Claim to MicroStrategy; (b) give MicroStrategy sole control of the defense and settlement of the Claim (provided that MicroStrategy may not settle any such Claim unless it unconditionally releases You of all liability and contains a statement that You admit no liability); (c) provide to MicroStrategy all available information and reasonable assistance; and (d) have not compromised or settled such Claim without our written approval. If we believe or it is determined that the Online Service or MicroStrategy Technology has violated a third party's intellectual property rights, we may choose to either modify the Online Service or MicroStrategy Technology to be non-infringing (while substantially preserving its utility and functionality) or obtain a license to allow for continued use of the Online Service or MicroStrategy Technology, or if these alternatives are not commercially reasonable, we may end Your subscription to the Online Service and refund any prepaid fees. MicroStrategy shall have no indemnification obligation, and you shall indemnify MicroStrategy pursuant to this Agreement, for claims arising from any infringement or misappropriation arising from your misuse or unauthorized use of the Online Service or the combination of the Online Service with any products, services or business processes not provided by MicroStrategy as part of the Online Service.

9.2 You shall defend MicroStrategy against Claim made or brought against MicroStrategy by a third party alleging (i) that the use of Customer Data in connection with the Online Service or MicroStrategy Technology infringes or misappropriates the intellectual property rights of a third party; or (ii) a claim arising from the breach by You or Your Users of this Agreement, including use of the Online Service in an unlawful or improper manner or for an unlawful or improper purpose, and shall indemnify MicroStrategy for any damages finally awarded to the third party claimant or agreed to in settlement of the Claim provided that MicroStrategy (a) promptly gives You written notice of the Claim; (b) gives You sole control of the defense and settlement of the Claim (provided that You may not settle such Claim unless it unconditionally releases MicroStrategy of all liability and such settlement does not affect MicroStrategy's business or Online Service); (c) provides to You all available information and reasonable assistance; and (d) has not compromised or settled such Claim without Your written approval.

9.3 This Section states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of Claim described in this section.

## **10. INTERNET DELAYS**

MICROSTRATEGY'S ONLINE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. MICROSTRATEGY IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

## **11. LIMITATION OF LIABILITY**

11.1 EXCEPT FOR YOUR WILLFUL OR GROSSLY NEGLIGENT ACTS, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM YOU IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL OR, CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE ONLINE SERVICE, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS AND EXCLUSIONS OF LIABILITY ARE AN ESSENTIAL ELEMENT OF THIS AGREEMENT AND SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW UNDER THE CIRCUMSTANCES, INCLUDING ANY CIRCUMSTANCE IN WHICH A PARTY'S AVAILABLE REMEDY HAS FAILED OF ITS ESSENTIAL PURPOSE.

## **12. PROFESSIONAL SERVICES**

Professional services are offered separately based on our policies for the applicable services ordered and a statement of work prepared at the time of purchase. Upon payment for services, we grant you a perpetual, non-

exclusive, non-assignable, royalty free license to use for your internal business operations anything developed by us and delivered to you as part of the services.

**13. LOCAL LAWS AND EXPORT CONTROL**

The Online Service provides services and uses software and technology that may be subject to United States export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control and other U.S. agencies, and export controls of Switzerland and the European Union. You acknowledge and agrees that the site shall not be used, and none of the underlying information, software, or technology may be transferred or otherwise exported or re-exported to countries as to which the United States, Switzerland and/or the European Union maintains an embargo (collectively, "Embargoed Countries"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders (collectively, "Designated Nationals"). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using the Online Service, you represent and warrant that you are not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. You agree to comply strictly with all U.S., Swiss and European Union export controls and assume sole responsibility for obtaining licenses to export or re-export as may be required. This site may use encryption technology that is subject to licensing requirements under the U.S. Export Administration Regulations, 15 C.F.R. Parts 730-774 and Council Regulation (EC) No. 1334/2000. MicroStrategy and its licensors make no representation that the Online Service is appropriate or available for use in other locations. If you use the Online Service from outside the United States of America, Switzerland and/or the European Union, you are solely responsible for compliance with all applicable laws, including without limitation export and import controls, of other countries. None of the reports, documents or messages generated by the Online Service may be used for nuclear activities, chemical or biological weapons, or missile projects, unless specifically authorized by the United States government or appropriate European body for such purposes.

**14. CONFIDENTIALITY**

By virtue of this agreement, confidential information may be disclosed to each other. You agree and we agree to disclose only information that is required for the performance of obligations under this agreement. The term "confidential information" refers to any information marked confidential or disclosed or provided under circumstances that would lead a reasonable person to conclude that the information was confidential. Confidential information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party.

You agree and we agree to hold each other's confidential information in confidence for a period of five years from the date of disclosure. Also, You agree and we agree to disclose confidential information only to those employees or agents who have a need to know and are required to protect it against unauthorized disclosure. Nothing shall prevent either party from disclosing the terms or pricing under this agreement or orders submitted under this agreement in any legal proceeding arising from or in connection with this agreement or disclosing the confidential information to a federal or state governmental entity as required by law. Upon Your written request, we will maintain appropriate administrative, physical and technical safeguards for protection of the security and confidentiality of Your data provided under this agreement. Upon termination of this Agreement and except for electronic copies made in the course of normal network backups, the Receiving Party shall promptly destroy or return, at the sole discretion of the Disclosing Party, all Confidential Information of the Disclosing Party in its possession or control.

**15. NOTICE**

MicroStrategy may give operational notices regarding the Online Services to you by means of a general notice posted on the log-in page of the Online Service. Such, notices posted on the log-in page of the Online Service shall be deemed to have been given the first time you log in to the Online Service after the notice has been posted. Each Party may give legal notice to the other at any time by any of the following: letter sent by confirmed facsimile to the receiving Party; letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to the receiving Party.

**16. ASSIGNMENT**

This Agreement may not be assigned or otherwise transferred by you, including by operation of law, without MicroStrategy's prior written approval. Any purported assignment in violation of this section shall be void. Any actual or proposed change in control of you that results or would result in a direct competitor of MicroStrategy directly or indirectly owning or controlling 50% or more of you shall entitle MicroStrategy to terminate this Agreement without liability to you immediately upon written notice. MicroStrategy may assign this Agreement in connection with a corporate reorganization or to MicroStrategy's successor in interest in connection with a merger or sale of all or substantially all of the business, stock or assets of MicroStrategy or a business unit of MicroStrategy.

**17. GENERAL**

17.1 The Online Services may be operated by MicroStrategy from one or more data centers in the United States of America.

17.2 MicroStrategy makes no representation that the information You have stored under the Online Services is appropriate or available for use in other locations. You are responsible to ensure that your users have lawful access to the Online Services and information You have stored hereunder.

17.3 Those who choose to access the Online Services from outside of the United States do so on their own initiative and are responsible for compliance with applicable local laws.

17.4 This Agreement and our relationship under it shall be interpreted under and governed by the laws of the Commonwealth of Virginia and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction. This Agreement shall not be subject to the United Nations Convention on the International Sale of Goods. Any disputes, actions, claims or causes of action arising out of or in connection with this Agreement, our relationship under it or the Online Service shall be subject to the exclusive jurisdiction of the state and federal courts located in Fairfax County, Virginia. We both hereby irrevocably consent to the exclusive jurisdiction of and venue in such courts and waive any right to a jury trial in any such proceeding. There are no intended third party beneficiaries of this Agreement. All claim related to the Online Services must be raised solely with MicroStrategy.

17.5 No text or information set forth on any other purchase order, preprinted form or document (other than an Order Form, if applicable) shall add to or vary the terms and conditions of this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect.

17.6 No joint venture, partnership, employment or agency relationship exists between You and MicroStrategy as a result of this Agreement or use of the Online Service. You grant us the right to use your name and logo as our cloud customer in our public communications. With your prior written consent (not to be unreasonably withheld or delayed), you grant us the right to issue a press release within thirty days after execution of this agreement announcing that you have selected us as your business intelligence cloud based platform. The failure of either of us to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to in writing by the party otherwise entitled to exercise or enforce it.

17.7 This Agreement, together with any applicable Order Form, comprises the entire agreement between You and MicroStrategy and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral.

17.8 Any provision of this Agreement that contemplates or governs performance or observance subsequent to the expiration or earlier termination of this Agreement shall survive, continue in effect and apply according to its terms.

**18. DEFINITIONS**

"You" and "Your" refers to the entity that has executed this agreement ("Agreement") and ordered products and/or services. "We," "us," "our" and "MicroStrategy" refers to MicroStrategy Services Corporation, for and on behalf of itself and its subsidiaries and affiliates under common control.

"Effective Date" means the earlier of either the date this Agreement is accepted by selecting the "I Accept" option presented on the screen after this Agreement is displayed or the date You begin using the Online Service.

"Initial Term" means the initial period during which You are obligated to pay for the Online Service pursuant to an Order Form.

"MicroStrategy Cloud Consumer" provides a Web browser and mobile interface to run, view, print, and export reports and scorecards, personalize reports through prompts, drill down, sort data, choose grid or graph format, and schedule to receive reports via email, file, or printer.

"MicroStrategy Cloud Analyst," in addition to the functions of MicroStrategy Cloud Consumer, provides a Web browser and mobile interface to perform investigative analysis, drill anywhere, edit totals, pivot reports, add or remove fields from a report, create derived metrics, and create reports and ad-hoc queries with prompts. In addition, Cloud Analyst users have access to MicroStrategy transaction services to perform "write-back" operations to databases.

"MicroStrategy Cloud Professional," in addition to the functions of MicroStrategy Analyst, provides a Web browser and mobile interface to perform advanced formatting, create calculations spanning multiple data sources, and design scorecards, dashboards, and operational reports using WYSIWYG or design mode.

## MICROSTRATEGY CLOUD INTELLIGENCE MASTER SUBSCRIPTION AGREEMENT

"MicroStrategy Cloud Architect" is a rapid BI development tool that maps the physical structure of the data source to a logical, object-oriented model of the business through a graphical interface. MicroStrategy Cloud Architect provides intuitive wizards and editors to define business rules, through a unified environment for creating and maintaining business intelligence applications.

"MicroStrategy Technology" means all of the proprietary technology (including software, hardware and metadata) made available to You by MicroStrategy as set forth on an Order Form.

"Online Service" means access to MicroStrategy Technology via a designated web site or IP address, or offline products and services provided to You by MicroStrategy to which You are being granted access under this Agreement according to the terms of the Cloud Enterprise User Guide listed at <http://www.microstrategy.com/licensing> ("User Guide").

"Order Form(s)" means the form evidencing the initial subscription for the Online Service and any subsequent order form(s) submitted online or in written form, specifying, among other things, the minimum level of use and other services contracted for, the applicable fees, the billing period, the subscription Term and other terms as agreed to between the parties. Each such Order Form to be incorporated into and to become a part of this Agreement. In the event of any conflict between the terms of this Agreement and the terms of any Order Form, the terms of the Order Form shall prevail.

"Subscription Coordinator(s)" means those Users designated by You who are authorized to purchase online subscriptions by executing written Order Forms and to create User accounts and otherwise administer Your use of the Online Service.

"Term(s)" means the period(s) during which a specified number of Users are granted access to use the Online Service pursuant to the Order Form(s).

"User(s)" means Your employees, representatives, consultants, contractors or agents who are authorized to use the Online Service and have been supplied user identifications and passwords by You (or by MicroStrategy at Your request).