

## CovidActNow License Agreement

THIS LICENSE AGREEMENT (this “**Agreement**”) is made and entered into by and between Act Now Coalition, a California nonprofit corporation, with its principal offices at 340 S Lemon Avenue #6683, Walnut, California 91789 (“**CovidActNow**”), and the customer who executes an order (“**Customer**”) for a license to data, as further described in a mutually executed order or invoice (each, an “**Order Form**” or “**Invoice**”).

### 1. LICENSE.

- 1.1. Grant. During the term set forth in the Invoice (the “**License Term**”), and subject to the terms and conditions of this Agreement and the Order Form, CovidActNow hereby grants to Customer a limited, non-exclusive, non-transferable, non-sublicensable right and license to use the product, data, or services specified in the Order Form (the “**Product**” or “**Services**”) for the purpose identified in the Order Form, subject to any use restrictions set forth in the Order Form. Customer accepts the terms and conditions of this Agreement and accepts full responsibility for performance by its employees, contractors and agents (collectively, the “**Customer Representatives**”) of the obligations under this Agreement.
- 1.2. Reservation of Rights. As between the parties, CovidActNow owns all Intellectual Property Rights (as defined herein) and other proprietary interests that are embodied in, or practiced by, the Services. “**Intellectual Property Rights**” means the exclusive rights held by the owner of a copyright, patent, trademark, or trade secret, including (i) the rights to copy, publicly perform, public display, distribute, adapt, translate, modify and create derivative works of copyrighted subject matter; (ii) the right to exclude another from using, making, having made, selling, offering to sell, and importing patented subject matter and from practicing patented methods, (iii) the rights to use and display any marks in association with businesses, products or services as an indication of ownership, origin, affiliation, endorsement, or sponsorship; and (iv) the rights to apply for any of the foregoing rights, and all rights in those applications and data. Intellectual Property Rights also include any and all rights associated with particular information that are granted by law and that give the owner, independent of contract, exclusive authority to control use or disclosure of the information, including enforceable privacy rights and any rights in databases recognized by applicable law.
- 1.3. Restrictions. Customer shall not, and shall not permit any Representative to: (i) resell, sublicense, distribute or otherwise provide access to the Services to any third party or use the Services outside the scope of the license granted herein; (ii) copy, modify, adapt, translate, prepare derivative works from, reverse engineer, disassemble, or decompile the Product or Services; (iii) use the trademarks, trade names, service marks, logos, domain names and other distinctive brand features or any copyright or other proprietary rights associated with the Product or Services for any purpose without the express written consent of CovidActNow; (iv) combine the Product or Services with the personally identifiable information for the purpose of targeted advertising; (v) use the Product or Services to conduct or promote any illegal activities; (vi) impersonate any person or entity, or otherwise misrepresent its affiliation with a person or entity; or (ix) use any portion of the Product or Services or CovidActNow’s tradenames or trademarks in any manner that may give a false or misleading impression, attribution, or statement as to CovidActNow, or as to any third party. Customer agrees to use the Product or Services only for lawful purposes and in compliance with all applicable laws, rules and

regulations issued by governing authorities or industry self-regulatory groups. Customer shall indemnify, defend and hold CovidActNow harmless against any damages, losses, claims or judgments arising out of any violation of Section 2 of this Agreement. In the event CovidActNow objects in any respect to the Customer's implemented use of the Product or Services, then CovidActNow will provide the Customer with ten (10) calendar days notice to cease using the Product or Services in any way ("**Notice of Rejected Use of Product or Services**"). In the event CovidActNow sends a Notice of Rejected Use of Product or Services to the Customer, no refund will be due the Customer by CovidActNow for such cancellation. CovidActNow will only provide notice of a Rejected Use of Product or Services if the Product or Services as used by the Customer is viewed, in CovidActNow's sole and reasonable discretion, as deleterious to CovidActNow's mission as a non-profit entity.

## 2. CHARGES, PAYMENT AND TAXES.

- 2.1. Charges. Customer will pay all amounts as set forth in an Invoice, without offsets or deductions, no later than the date on which they are due. The Customer acknowledges that CovidActNow is a non-profit and not in existence to earn a profit from any payments associated with the Invoice. The Customer further acknowledges the Customer will enforce its rights under this Agreement with an acknowledgement of CovidActNow's non-profit mission and cost structure.
- 2.2. Payment Terms. Unless otherwise agreed in an Order Form, invoices will be due and payable thirty (30) days from the date of invoice and will be paid in immediately available U.S. funds by wire transfer or other method as mutually agreed to by the parties.
- 2.3. Late Payment. Any invoiced amount not paid by when due will bear a late payment charge at the rate of one percent (1.0%) per month (or such lower amount as may be permitted by law) until paid. Payment schedules, amounts, and other related payment terms will be as set forth on the Order Form. If CovidActNow undertakes collection efforts due to non-payment in accordance with the Agreement's terms, Customer shall be responsible for all reasonable costs of collection, including attorney's fees.
- 2.4. Taxes. The fees set forth on the Invoice do not include applicable sales/use, gross receipts, value-added, GST or other tax on the transactions contemplated herein, other than taxes based on the net income or profits of CovidActNow. If any authority imposes a duty, tax or similar levy, Customer agrees to pay, or to promptly reimburse CovidActNow for, all such amounts.

## 3. TERM AND TERMINATION.

- 3.1. Term. Unless sooner terminated in accordance with the provisions of this Section 3, this Agreement will remain in effect until all License Terms have terminated or expired.
- 3.2. Early Termination For Cause. Either party may terminate this Agreement, including all Invoices, immediately upon written notice to the other party, if the other party: (a) commits a material breach of this Agreement, which is capable of remedy, and fails to remedy the breach within fifteen (15) days after written notice; (b) commits any act with the intent to defraud the other party or any third-party; or (c) becomes insolvent, files for bankruptcy, makes arrangement for the benefit of creditors, insolvency or receivership proceedings by or against such party.

- 3.3. Effect of Termination. Upon termination or expiration of this Agreement for any reason (i) all rights and licenses granted to Customer under this Agreement will immediately cease, (ii) Customer will make no further use of the Product or Services and will immediately either destroy or permanently erase all copies of the Product or Services under Customer's control, (iii) neither party shall have continuing rights to the other party's Confidential Information, and (iv) any payment obligations that have accrued but remain unpaid will become immediately due and payable. Either party's termination of this Agreement will be without prejudice to any other right or remedy that it may have at law or in equity and will not relieve either party of breaches occurring prior to the effective date of such termination. Sections 1.2 and 1.3, 3.3, 4 and 5 will survive the expiration of the license(s) granted herein or any termination of this Agreement, howsoever occurring.

#### 4. DISCLAIMERS AND LIMITS ON LIABILITY.

- 4.1. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE PRODUCT AND SERVICES ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, COVIDACTNOW MAKES NO WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, RELATING TO THE DATA, PRODUCT OR SERVICES OR CUSTOMER'S USE OF THE DATA, PRODUCT, OR SERVICES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT, AND/OR FITNESS FOR A PARTICULAR PURPOSE.
- 4.2. COVIDACTNOW'S ENTIRE AGGREGATE LIABILITY TO CUSTOMER FOR ANY AND ALL CLAIMS OF WHATEVER NATURE ARISING OUT OF THE PROVISION AND USE OF THE DATA, PRODUCT, OR SERVICES, SHALL NOT EXCEED THE TOTAL AMOUNTS PAID OR PAYABLE TO COVIDACTNOW DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE MAKING OF THE CLAIM PURSUANT TO THE ORDER FORM OR INVOICE UNDER WHICH THE CLAIM AROSE. COVIDACTNOW SHALL NOT BE LIABLE TO CUSTOMER OR ANY THIRD-PARTY CLAIMANT FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, OR SPECIAL LOSS OR DAMAGES OF ANY KIND INCLUDING BUT NOT LIMITED TO LOST REVENUES, LOST SAVINGS, LOST BUSINESS OPPORTUNITY, OR LOST PROFITS, WHETHER BASED ON A CLAIM OR ACTION OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, INDEMNITY OR CONTRIBUTION, OR OTHERWISE, EVEN IF COVIDACTNOW AND/OR ITS SUBSIDIARIES AND AFFILIATES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### 5. MISCELLANEOUS.

- 5.1. Independent Contractors. CovidActNow and Customer are, and shall be deemed to be, independent contractors with respect to the subject matter of this Agreement. Nothing contained herein shall constitute this arrangement to be a joint venture or a partnership between CovidActNow and Customer. Neither party has any authority to enter into agreements of any kind on behalf of the other party. Each party shall be solely responsible for and shall hold the other harmless from any and all claims for employment-related or similar taxes, fees, or costs, including but not limited to withholding, income tax and workers' compensation.
- 5.2. Force Majeure. Neither party shall be liable for any default or delay in the performance of its obligations hereunder (except for failure to pay amounts due) if and to the extent that such

default or delay arises out of causes beyond its reasonable control, including without limitation acts of God, acts of war, acts of terrorism, cable cuts, power outages, catastrophic network element failures, terrorism, riots, civil disorders, rebellions, strikes, lockouts and labor disputes. Wildfires, hurricane-like weather, earthquakes and Covid-19-caused complications will not constitute a force majeure event herein.

- 5.3. Waiver. No term or provision of this Agreement shall be deemed waived and no breach or default shall be deemed excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. No consent by any party to, or waiver of, a breach or default by the other party, whether express or implied, shall constitute consent to, waiver of, or excuse for any different or subsequent breach or default or shall be construed as a continuing waiver of such right or a waiver of any other provision hereunder.
- 5.4. Partial Invalidity. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and both parties shall negotiate in good faith to substitute for such invalid, illegal, or unenforceable provision a mutually acceptable provision that is consistent with the original intent of the parties.
- 5.5. Amendment. Except as otherwise provided in this Agreement, this Agreement may be amended by the parties hereto at any time only by execution of an instrument in writing signed on behalf of each of the parties hereto. Any extension or waiver by any party of any provision hereto shall be valid only if set forth in an instrument in writing signed on behalf of such party.
- 5.6. Binding Effect. If any provision of this Agreement is held to be invalid or unenforceable, the remainder of the Agreement will remain in full force and effect, and such provision will be deemed to be amended to the minimum extent necessary to render it enforceable.
- 5.7. Survival. Termination of this Agreement shall not affect either party's accrued rights or obligations under this Agreement as they exist at the time of termination, or any rights or obligations that either expressly or by implication continue after this Agreement has ended and any outstanding payment obligations.
- 5.8. Assignment. Customer may not assign or otherwise transfer this Agreement or any rights or obligations hereunder without the prior written consent of CovidActNow. CovidActNow may assign this Agreement to an affiliate or other entity without the written consent of Customer. Subject to the foregoing, this Agreement will be binding upon, enforceable by and inure to the benefit of the parties and their respective successors and assigns. Any attempted assignment in violation of the foregoing shall be void.
- 5.9. Marketing Materials and Communications. Without conveying any right, title or interest, Customer agrees that CovidActNow may utilize Customer's name, trade names, trademarks or service marks (collectively, the "**Marks**") and make accurate informational references to Customer's in connection with its performance of the Services, including to identify Customer as a CovidActNow customer on the CovidActNow website, in client lists and other marketing materials. CovidActNow shall promptly cease the use of any Mark owned by Customer in connection with the performance of the Services upon receipt of notice from the Customer to

discontinue such use. In the event that CovidActNow makes reference to any Mark that is inaccurate, or otherwise incorrect, then Customer may notify CovidActNow of the necessary correction(s) and CovidActNow shall implement such correction(s) as soon as is reasonably practicable.

- 5.10. Notices. Unless otherwise specified, any notice or other communication required or permitted to be given hereunder shall be given in writing and delivered in person, sent by certified mail with the required pre-paid postage and return receipt requested, or delivered by a recognized courier service, shipment charges pre-paid, properly addressed to the individual signing this Agreement on behalf of the applicable party at its address specified in the opening paragraph of the Agreement and shall be deemed effective upon receipt.
- 5.11. Headings. The headings and other captions in this Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Agreement.
- 5.12. No Third Party Beneficiaries. Except as specifically stated in this Agreement, this Agreement is not intended to be for the benefit of any third party, is not enforceable by any third party, and will not confer on any third party any remedy, claim, right of action or other right.
- 5.13. Governing Law. This Agreement shall be governed by the laws of the State of California (irrespective of its choice of law principles). Each party consents to the exclusive jurisdiction of the state and federal courts sitting in the Northern District of California in any action, suit or proceeding hereunder. Each party specifically waives any right to trial by jury in any court with respect to any claim against the other arising out of or connected in any way to this Agreement.
- 5.14. Counterparts; Electronic Signature. This Agreement may be signed in any number of counterparts with the same effect as if the signature on each such counterpart were upon the same instrument, and a facsimile transmission or electronic delivery of a manual signature (e.g., .pdf) shall be deemed to be an original signature.
- 5.15. Entire Agreement. This Agreement, together with any Order Forms, schedules, exhibits, Addenda, or other attachments attached hereto or referenced herein, all of which are incorporated by reference, sets forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby. Any and all previous agreements and understandings between or among the parties regarding the subject matter hereof, whether written or oral, are superseded by this Agreement.