



## DOMO DEVELOPER SANDBOX INSTANCE AGREEMENT

This Developer Sandbox Instance Agreement ("Agreement") governs your use of a developer sandbox instance of the Domo Service ("Sandbox Instance"). The parties agree as follows:

BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY ACCESSING OR USING A SANDBOX INSTANCE, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SANDBOX INSTANCE.

### 1. DEFINITIONS

1.1 "Authorized User" means an individual who is your employee who you allow to create a unique user name and password under your Sandbox Instance.

1.2 "Client Software" means software components and tools to be installed on your computer systems or devices, including but not limited to Domo Workbench.

1.3 "Developer Data" means any data uploaded into the Sandbox Instance, or otherwise provided for processing by the Sandbox Instance, by or on behalf of you in accordance with this Agreement.

1.4 "Service" means an instance of the Domo Business Cloud Platform and developer toolkits made available to you by us.

1.5 "We" or "Us" or "Our" means Domo, Inc.

1.6 "You" or "Your" means the person indicating acceptance of this Agreement, or if the person indicating acceptance of this Agreement is acting on behalf of a company or other legal entity, such company or legal entity.

### 2. USE OF THE SANDBOX INSTANCE

2.1 Use of the Sandbox Instance. Subject to the terms and conditions of this Agreement, we grant to you a limited, non-exclusive, non-sublicensable, non-transferable, revocable right during the term of this Agreement to use the Sandbox Instance solely for internal development and testing purposes related to integration and interoperability between your applications or services and the Service, up to the number of Authorized Users authorized from time to time by us. Your rights to use the Sandbox Instance are subject to any limitations on use of the Sandbox Instance based on the version of the Sandbox Instance you are enabled to access. As part of the Sandbox Instance, we may provide you with Client Software, which you may install on your computer system or other devices and use solely to upload Developer Data into the Sandbox Instance. You are solely responsible for your conduct (including by and between all users), the content of Developer Data, and all communications with others while using the Sandbox Instance. You acknowledge that we have no obligation to monitor any information on the Sandbox Instance. We are not responsible for the availability, accuracy, appropriateness, or legality of Developer Data or any other information you may access using the Sandbox Instance.

2.2 Use Restrictions. Except as otherwise explicitly provided in this Agreement or as may be expressly permitted by applicable law, you will not: (a) rent, lease, or otherwise permit third parties to use the Sandbox Instance or Client Software; (b) use the Sandbox Instance to provide services to third parties as a service bureau or in any way that violates applicable law; (c) circumvent or disable any security or other technological features or measures of the Sandbox Instance, or attempt to probe, scan or test the vulnerability of a network or system, or to breach security or authentication measures; (d) upload or provide for processing any information or material that is illegal, defamatory, offensive, abusive, obscene, or that violates privacy or intellectual property rights of any third party; (e) use the Sandbox Instance to harm, threaten, or harass another person or organization; or (f) send, store, or distribute any viruses, worms, Trojan horses, or other disabling code or malware component harmful to a network or system. You will not copy, reproduce, modify, translate, enhance, decompile, disassemble, reverse engineer, or create derivative works of the Service or any Client Software or provide, disclose, or make any Client Software available to any third party, except that you may make one copy of Client Software solely for backup and archival purposes. You will neither alter nor remove any trademark, copyright notice, or other proprietary rights notice that may appear in any part of the Client Software and will include all such notices on any copies. You will ensure that your Authorized Users comply with this Agreement. You will be directly and fully responsible to us for their conduct and any breach of this Agreement by them. We reserve the right to deactivate, change, or require you to change your user ID and any custom or vanity URLs, custom links, or vanity domains you may obtain through the Sandbox Instance for any reason or for no reason. We may exercise such right at any time, with or without prior notice.

2.3 Authorized Users. An Authorized User account must not be shared among users. As part of the registration process, you may be asked to identify your company and other Authorized Users who should be associated with your account. You will not misrepresent the identity or nature of the company or Authorized Users who should be associated with your account. We may reassign the domain name associated with your account and change the way you access the Sandbox Instance at any time in our sole discretion. You are responsible for maintaining the confidentiality of your login, password, and account and for all activities that occur under your login and account, including the activities of Authorized Users.

2.4 Protection against Unauthorized Use. You will use reasonable efforts to prevent any unauthorized use of the Sandbox Instance and Client Software, and you will immediately notify us in writing of any unauthorized use that comes to your attention. If there is unauthorized use by anyone who obtained access to the Sandbox Instance or Client Software directly or indirectly through you, you will take all steps reasonably necessary to terminate the unauthorized use. You will cooperate and assist with any actions taken by us to prevent or terminate unauthorized use of the Sandbox Instance or Client Software. We may, at our expense and no more than once every 12 months with reasonable notice, appoint our own personnel or an independent third party to verify that your use of the Sandbox Instance complies with the terms of this Agreement.

2.5 Beta Versions. From time to time, we may make available for you to try, at your sole discretion, certain functionality related to the Sandbox Instance, which is clearly designated as beta, pilot, limited release, non-production, or by a similar description (each, a "Beta Version"). Beta Versions are intended for evaluation purposes and may be subject to additional terms. We may discontinue Beta

Versions at any time in our sole discretion and may never make them generally available. We have no liability for any harm or damage arising out of or in connection with a Beta Version.

2.6 Reservation of Rights. We retain all right, title, and interest in and to the Service, Sandbox Instance, and Client Software and all related intellectual property rights, including without limitation any modifications, updates, customizations, cards, apps, or other add-ons. Your rights to use the Sandbox Instance and Client Software are limited to those expressly set forth in this Agreement. We reserve all other rights in and to the Service, Sandbox Instance and Client Software.

2.7 Feedback and Other Content. The Sandbox Instance may permit you to submit feedback, user community contributions and comments, technical support information, suggestions, enhancement requests, recommendations, and messages relating to the use and operation of the Sandbox Instance. You grant to us a royalty-free, fully paid, non-exclusive, perpetual, irrevocable, worldwide, transferable license to display, use, copy, modify, publish, perform, translate, create derivative works from, sublicense, distribute, and otherwise exploit such content without restriction.

### **3. TERM AND TERMINATION**

3.1 Term. This Agreement shall commence on the date You accept this Agreement and remain in full force and effect until terminated as provided below.

3.2 Termination. Either party may terminate this Agreement at any time for any reason upon written notice to the other party. We may terminate this Agreement immediately and without advance notice: (a) if you are in breach or default of any obligation set forth in of this Agreement; (b) if we determine, in our sole discretion, that your business practices or the business practices are detrimental to the achievement of our business objectives; (c) if we have reason to believe that there is an alleged or actual violation by you of any laws, policies, guidelines, regulations, ordinances, rules and/or orders of any governmental authority or regulatory body having jurisdiction over the subject matter hereof; (d) if any person that we reasonably determine to be a competitor or prospective competitor of us; or (e) if you make a general assignment for the benefit of creditors, file a voluntary petition of bankruptcy, suffer or permit the appointment of a receiver for your business or assets, become subject to any proceedings under any bankruptcy or insolvency law where such proceeding has not been dismissed within sixty (60) days, or are wound up or liquidated, voluntarily or otherwise.

3.3 Post-Termination Obligations. If this Agreement is terminated for any reason: (a) we have no obligation to provide or perform any Sandbox Instance after the effective date of the termination; (b) any and all liabilities accrued prior to the effective date of the termination will survive; and (c) you will provide us with a written certification signed by your authorized representative certifying that all use of the Sandbox Instance and Client Software by you has been discontinued and the Client Software has been de-installed from your computer systems.

### **4. CONFIDENTIAL INFORMATION**

4.1 Definition. "Confidential Information" means non-public business information, know-how, and trade secrets in any form, including information regarding product plans, Beta Versions, terms of this Agreement, and any other information a reasonable person should understand to be confidential, which is disclosed by or on behalf of either party or its Affiliates to the other party or its Affiliates, directly or indirectly, in writing, orally, or by inspection of tangible objects, and whether such information is disclosed before or after the Effective Date of this Agreement. Confidential Information includes this Agreement and its terms. "Confidential Information" excludes information that (a) is publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party through no action or inaction of the receiving party; (b) is already in the possession of the receiving party at the time of disclosure by the disclosing party, as shown by the receiving party's files and records; (c) is obtained by the receiving party from a third party without a breach of the third party's obligations of confidentiality; or (d) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession.

4.2 Maintenance of Confidentiality. The party receiving Confidential Information hereunder agrees to take reasonable steps, at least substantially equivalent to the steps it takes to protect its own proprietary information, but not less than reasonable care, to prevent the unauthorized duplication or disclosure of the Confidential Information to third parties without the disclosing party's prior written consent. The receiving party may disclose the disclosing party's Confidential Information to the receiving party's employees or agents who reasonably need to have access to such information to perform the receiving party's obligations under this Agreement, and who will treat such Confidential Information under the terms of this Agreement. We may disclose this Agreement to actual and potential investors and funding sources and their representatives, in each case who agree to hold it in confidence. The receiving party may disclose the disclosing party's Confidential Information if required by law so long as the receiving party gives the disclosing party written notice of the requirement prior to the disclosure (where permitted) and reasonable assistance, at the disclosing party's expense, in limiting disclosure or obtaining an order protecting the information from public disclosure.

4.3 Return of Materials and Effect of Termination. Upon written request of the disclosing party, or in any event upon any termination or expiration of this Agreement, the receiving party will return to the disclosing party or destroy all materials, in any medium, to the extent containing or reflecting any of the disclosing party's Confidential Information. Following expiration or termination of this Agreement, we may purge your Developer Data and your Sandbox Instance environment from our systems. The obligations in this section survive for three years following expiration or termination of this Agreement, except that Confidential Information that constitutes a trade secret of the disclosing party will continue to be subject to the terms of this section for as long as such information remains a trade secret under applicable law.

### **5. DEVELOPER DATA**

5.1 Data Transmission. You acknowledge that use of the Sandbox Instance involves transmission of Developer Data and other communications over the Internet and other networks, and that such transmissions could potentially be accessed by unauthorized parties. You must protect your Authorized User login names and passwords from access or use by unauthorized parties, and are solely responsible for any failure to do so. You must promptly notify us of any suspected security breach at [security@domo.com](mailto:security@domo.com).

5.2 Developer Data. Developer Data is your property. You grant us a non-exclusive, worldwide, royalty-free license to use, copy, transmit, sub-license, index, store, aggregate, and display Developer Data as required to provide or perform the Sandbox Instance, and to publish, display, and distribute de-identified, aggregated information derived from Developer Data and from your use of the

Sandbox Instance for purposes of improving our products services, and developing, displaying, and distributing benchmarks and similar reports, provided that any such data is not publicly identified or identifiable as originating with or associated with you or any individual person.

## **6. WARRANTIES AND DISCLAIMER**

6.1 Mutual Warranties. Each party represents and warrants to the other that: (a) this Agreement constitutes a valid and binding agreement enforceable against such party in accordance with its terms; and (b) no authorization or approval from any third party is required in connection with such party's performance of this Agreement.

6.2 Personally Identifiable Information. Unless we specifically agree otherwise in writing, you represent and warrant that neither you nor any Authorized User will upload into the Sandbox Instance, or otherwise provide for processing by the Sandbox Instance, any personally identifiable information, including but not limited to personal financial and financial account information, sexual orientation, personal medical or health information, personal information of children under 13, personal education records, and social security, national identity, national insurance, and similar personal identifiers.

6.3 Disclaimer. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS SECTION, DOMO MAKES NO OTHER ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. WE EXPRESSLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. WE DO NOT WARRANT AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE SANDBOX INSTANCE OR CLIENT SOFTWARE. WE DO NOT WARRANT THAT THE SANDBOX INSTANCE OR CLIENT SOFTWARE IS ERROR-FREE OR THAT OPERATION OR USE OF THE SANDBOX INSTANCE OR CLIENT SOFTWARE WILL BE SECURE OR UNINTERRUPTED. WE EXERCISE NO CONTROL OVER AND EXPRESSLY DISCLAIM ANY LIABILITY ARISING OUT OF OR BASED UPON THE RESULTS OF USE OF THE SANDBOX INSTANCE OR CLIENT SOFTWARE.

## **7. INDEMNIFICATION**

7.1 Defense. You will defend us and our Affiliates from any actual or threatened third-party claim, proceeding, or suit brought by a third party ("Claim") arising out of or based upon (a) use of the Sandbox Instance by you or any Authorized User that is not in accordance with the terms of this Agreement; and (b) the Developer Data or other materials or information provided by you or on your behalf under this Agreement. We will give you prompt written notice of the Claim and provide assistance in connection with the defense and settlement of the Claim as you may reasonably request. We may participate in the defense of any Claim at our own expense and with counsel of our own choosing.

7.2 Indemnification. You will indemnify us from and pay: (a) all damages, costs, and attorneys' fees finally awarded against us in any Claim; (b) all out-of-pocket costs, including reasonable attorneys' fees reasonably incurred by us in connection with the defense of a Claim (other than attorneys' fees and costs incurred without your consent after you have accepted defense of the Claim); and (c) all amounts that you agree to pay to any third party to settle any Claim.

## **8. LIMITATIONS OF LIABILITY**

8.1 Disclaimer of Indirect Damages. TO THE EXTENT PERMITTED BY LAW, WE WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES, OR FOR LOST PROFITS OR LOSS OF BUSINESS ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF WE ARE APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING.

8.2 Cap on Liability. TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES WILL OUR TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED \$1,000.

8.3 Independent Allocations of Risk. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT. THE LIMITATIONS IN THIS SECTION WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THIS AGREEMENT.

## **9. THIRD-PARTY PRODUCTS**

9.1 Third-Party Products. Any third-party product that is made available in connection with the Sandbox Instance (e.g., a Non-Domo App) is provided pursuant to the terms of the applicable third-party agreement, and your use of any such third-party product constitutes your agreement to comply with the terms of the applicable third-party agreement. We assume no responsibility for, and specifically disclaim any liability or obligation with respect to, any third-party product.

9.2 Non-Domo Apps. "Non-Domo App" means a software application developed by a third party or by you that interoperates with the Sandbox Instance and that may be listed in the Domo Appstore. We do not warrant or support Non-Domo Apps, regardless of whether the Non-Domo App is certified by us. If you install or enable a Non-Domo App for use with the Sandbox Instance, you grant us permission to allow the provider of that Non-Domo App to access Developer Data as required for the interoperation of that Non-Domo App with the Sandbox Instance. We are not responsible for any disclosure, modification, or deletion of Developer Data by the Non-Domo provider resulting from access by a Non-Domo App. If we believe a Non-Domo App violates our policies, this Agreement, applicable law, or the rights of any third party, we may disable the Non-Domo App and suspend use of the Non-Domo App until the potential violation is resolved.

## **10. MISCELLANEOUS**

10.1 Access by Competitors. You may not access the Sandbox Instance if you are our direct competitor, except with our prior written consent. In addition, you may not access the Sandbox Instance for purposes of monitoring its availability, performance, or functionality, or for any other benchmarking or competitive purpose.

10.2 Anti-Corruption. You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of our employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the

ordinary course of business do not violate the above restriction. If you learn of any violation of the above restriction, you will use reasonable efforts to promptly notify our Legal Department at [legal@domo.com](mailto:legal@domo.com).

10.3 Relationship. We will be and act as an independent contractor (and not as the agent or representative of you) in the performance of this Agreement.

10.1 Publicity. We may use your name, trademarks, and service marks to the extent necessary to fulfill our obligations under this Agreement or as otherwise explicitly authorized in this Agreement. We reserve the right to use your name as a reference for marketing and promotional purposes on our website and in other communications with our existing and prospective customers. If you do not want to be listed as reference, you may send an email to [legal@domo.com](mailto:legal@domo.com) stating that you do not wish to be identified as a reference. You will not use, register or attempt to register any Domo trademarks or trademarks or domain names that are confusingly similar to any Domo trademarks.

10.2 Assignment and Delegation. You may not assign any of your rights or delegate any of your obligations under this Agreement (in whole or in part) without our prior written consent. Any assignment or delegation will not relieve you of your obligations under this Agreement nor release you of your liability under this Agreement. We may voluntarily, involuntarily, or by operation of law assign any of our rights or delegate any of our obligations under this Agreement without your consent. Any purported assignment or delegation in violation of this Subsection will be null and void. Subject to this Subsection, this Agreement will bind and inure to the benefit of each party's respective permitted successors and permitted assigns.

10.3 Subcontractors. We may use subcontractors or other third parties in carrying out our obligations under this Agreement. We remain responsible for all of our obligations under this Agreement.

10.4 Notices. Any notice required or permitted to be given in accordance with this Agreement will be effective if it is in writing and sent by certified or registered mail, or overnight courier, return receipt requested, to the appropriate party at the address provided as part of your registration for the Sandbox Instance access and with the appropriate postage affixed. Either party may change its address for receipt of notice by notice to the other party in accordance with this subsection. Notices are deemed given two business days following the date of mailing or one business day following delivery to a courier.

10.5 Force Majeure. Neither party will be liable for, or be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any cause or condition beyond its reasonable control, so long as that party uses all commercially reasonable efforts to avoid or remove the causes of non-performance.

10.6 Governing Law. This Agreement will be interpreted, construed, and enforced in all respects in accordance with the local laws of the State of Utah, U.S.A., without reference to its choice of law rules and not including the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods.

10.7 Arbitration. Except for the right of either party to apply to a court of competent jurisdiction for a temporary restraining order, a preliminary injunction, or other equitable relief to preserve the status quo or prevent irreparable harm, any action arising out of or in connection with this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, will be determined by binding arbitration in Salt Lake County, Utah, U.S.A. by one arbitrator. The arbitration will be administered by the AAA pursuant to its Comprehensive Arbitration Rules and Procedure. Judgment upon the award rendered by an arbitrator may be entered in any court of competent jurisdiction. The prevailing party will be entitled to receive from the other party its attorneys' fees and costs incurred in connection with any arbitration or litigation instituted in connection with this Agreement. The parties will maintain the confidential nature of the arbitration proceeding except as may be necessary to prepare for or conduct the arbitration hearing on the merits.

10.8 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement, including without limitation Authorized Users.

10.9 Waiver and Modifications. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time, will not be construed as a waiver of the party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice the party's right to take subsequent action. Exercise or enforcement by either party of any right or remedy under this Agreement will not preclude the enforcement by the party of any other right or remedy under this Agreement or that the party is entitled by law to enforce. We reserve the right, at our discretion, to change the terms of this Agreement on a going-forward basis at any time. Please check the terms of this Agreement periodically for changes. If a change materially modifies your rights or obligations, you will be required to accept the modified Agreement in order to continue to use the Sandbox Instance. Material modifications are effective upon your acceptance of the modified Agreement. Immaterial modifications are effective upon publication. Disputes arising under this Agreement will be resolved in accordance with the version of this Agreement that was in effect at the time the dispute arose.

10.10 Severability. If any part of this Agreement is found to be illegal, unenforceable, or invalid, the remaining portions of this Agreement will remain in full force and effect. If any material limitation or restriction on the use of the Sandbox Instance under this Agreement is found to be illegal, unenforceable, or invalid, your right to use the Sandbox Instance will immediately terminate.

10.11 Headings. Headings are used in this Agreement for reference only and will not be considered when interpreting this Agreement.

10.12 Entire Agreement. This Agreement and all exhibits contain the entire agreement of the parties with respect to the subject matter of this Agreement and supersede all previous communications, representations, understandings, and agreements, either oral or written, between the parties with respect to said subject matter, including any prior nondisclosure agreement between the parties. No usage of trade or other regular practice or method of dealing between the parties will be used to modify, interpret, supplement, or alter the terms of this Agreement. Neither party will be bound by, and specifically objects to, any term, condition, or other provision that is different from or in addition to this Agreement (whether or not it would materially alter this Agreement) that is proffered by the other party in any acceptance, confirmation, invoice, purchase order, receipt, correspondence, or otherwise, unless each party mutually and expressly agrees to such provision in writing.