

END USER LICENSE AGREEMENT

1. Applicability

This Software End User License Agreement (“**Agreement**”) is between Prairie Sky Consulting LLC, located in Illinois, United States, company registration number 04646533 (“**PSC**”) and the customer (individual or entity) that has downloaded or otherwise procured the licensed COBieQC program (“**Software**”) and/or **Content** (as defined below) for use as an end user (“**you**”). This Agreement covers any Software and supporting user or technical documentation provided with the Software (“**Documentation**”).

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3. Authorization

Licenses granted for use of the Software and/or Content are contingent upon acceptance by authorized personnel.

If you are using the Software and/or Content as an individual, you represent that you are 18 years old, or older, and capable of entering into a legally binding agreement. If you are using the Software and/or Content as an employee, contractor, or agent of a business organization, then you must be authorized to sign for and bind the organization to accept the terms of this agreement.

If an existing agreement exists between you and Prairie Sky Consulting regarding the Software and/or Content, the terms of that agreement shall supersede this Agreement in its entirety. If that agreement is terminated, you will NOT have the right to use the Software after termination under the terms of this Agreement.

4. Definitions

“**Access**” means to use or benefit from using the functionality of the Software and/or Content.

“**Content**” means data sets, templates, and other similar materials and content owned by PSC made available to you as part of or through the Software.

“**Effective Date**” means the earlier of (1) the date an Order Form was submitted or (2) the date on which the Software is first made available to you.

“**End Date**” means the date on which the Software license ends. On this date your software will stop working.

“**Intellectual Property Rights**” means all rights existing from time to time under patent law, copyright law, trade secret law, trademark law, and all other proprietary rights, and all applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide.

“**License Key**” means a unique code that can be purchased from PSC used to Access the Software and/or Content for a specified duration on a limited number of devices.

“**Order Form**” means any online order form which is submitted by you, or hyperlink download used by you through which you are provided the Software and/or Software license codes. Only a written agreement signed by PSC may vary these Terms and Conditions.

“**Software**” means the executable file providing support for COBie quality control tasks as described in this User’s Manual.

5. License Scope

Subject to the Terms and Conditions of this Agreement PSC grants you a limited, worldwide, nontransferable, and non-exclusive License (without the right to sublicense) to access the Software for your internal use only. The License period begins when each user receives their License Key. The License period ends when each user reaches their License End Date.

6. License Restrictions

You may not, and you may not permit anyone else to do any of the following.

- Access the Software on more devices allowed by your License Key.
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- Copy, modify, adapt, translate, create a derivative work of the Software or Content, or use it for any public display or performance, except as expressly authorized in this Agreement.
- Decompile, reverse engineer, or disassemble the Software and/or Content except and only to the extent permitted by applicable law (and then only with advance notice to PSC).
- Provide training on the use of the Software including the use of any copyrighted content appearing in the User’s Manual.
- Remove, obscure, or alter any product identification, proprietary, copyright, trademark or other notices contained in the Software and/or Content or accessed in conjunction with or through the Software and/or Content.
- Distribute, sell, transfer, sublicense, rent, or lease the Software and/or Content, or use the Software and/or Content for time sharing, hosting, service provider, or like purposes.
- Take any action to circumvent or defeat the security or content usage rules provided, deployed, or enforced by any functionality (including without limitation digital rights management functionality) contained in the Software and/or Content.
- Use the Software and/or Content in violation of any applicable laws or regulations.

7. Qualifications

You are responsible for the application of this Software and/or Contents for the purpose of providing reports based on the COBie specification described in National Building Information Modeling Standard – United States, version 3, Chapter 4.2, and related Annex A.

If you are not technically qualified to the level of a buildingSMART International COBie Certified Professional, then you are responsible to obtain the required prerequisite knowledge prior to using this Software and/or Content or interpreting information provided by this Software and/or Content.

8. User Data

The Software collects and uses personal and technical information from you. The collection and use of this information is governed by our Privacy Policy.

9. Proprietary Rights

You acknowledge that you are obtaining only a limited license right to the Software. You acknowledge that irrespective of any use of the words such as “purchase”, “sale” or like terms in this Agreement, no ownership rights are being conveyed to you. You acknowledge and agree to the following:

- The Software contains proprietary and confidential information that is protected by applicable intellectual property and other laws; and
- PSC owns all rights, title, and interest in and to the Software and Contents, including without limitation all Intellectual Property Rights therein.

PSC has and will retain all Intellectual Property Rights for Software and/or Content and all copies, modifications, and derivative works thereof including any changes which incorporate any of your ideas, feedback, or suggestions.

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You may terminate this Agreement at any time by manually deleting the Software and Content in all its forms from your computer and network locations. If you violate this Agreement, your authorization and license to Access the Software and Content shall automatically terminate, and you must immediately discontinue use of and destroy all copies of the Software and Content.

The following sections of this Agreement will survive any termination of this Agreement: License Restrictions, Proprietary Rights, Warranty Disclaimer, Reliance, Limitation of Liability, and Arbitration.

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PSC provides no warranties, guarantees, or conditions in relation to this Software and Contents. PSC does not provide any warranties or conditions, either express or implied, including warranties of merchantability, satisfactory quality, title, noninfringement of intellectual property, or fitness for purpose.

12. Reliance Disclaimer

Facility design, construction, operations, maintenance, and management are complex and risky ventures. PSC is not responsible for your use of the Software and/or Content in any settings where the use and/or failure of the Software and/or Contents could or does lead to death, personal injury, or severe financial, physical, or environmental damages.

13. Limitation of Liability

You expressly understand and agree that PSC shall not be liable to you for any direct, indirect, incidental, special, consequential, or exemplary damages, including (but not limited to) damages for loss of profits, goodwill, use, data, or other intangible losses (even when PSC has been advised about the possibility of such damages) result from: (1) the use or the inability to use the Software and/or Contents, (2) the cost for procurement of substitute goods or services, (3) unauthorized access to or the alteration of your project or license information, or (4) any other matter relating to the Software and/or Contents. These limitations shall apply regardless of failure of essential purpose of any limited remedy and to the fullest extent permitted by law.

These limitations and exclusions apply without regard to whether damages arise from breach of contract or warranty, negligence, or any other cause of action. In no event will PSC's total liability to you for all damages, losses, and causes of action, whether in contract, strict liability, tort, negligence, or otherwise, exceed the amount you paid for the Software and/or Content.

14. Governing Law

This Agreement and all related actions and proceedings is governed by the laws of the State of Illinois, United States of America. All agreements concluded by PSC with the you, as well as the execution of individual orders, shall be governed by and construed in accordance with the law in the State of Illinois, United States of America.

15. Arbitration

All claims and disputes arising under or relating to this Agreement are to be settled by binding arbitration in the city of Champaign, Illinois, United States of America, or another location mutually agreeable to the parties. Should parties not be able to mutually agree on a location, the location shall be in Champaign, Illinois. An award of arbitration may be confirmed in a court of competent jurisdiction.

16. Third Party Services

PSC reserves the right to include third-party services in support of the Software and/or Content. Unless these additional services require separate licensing agreements, PSC is under no obligation to identify or discuss the use of these services. Should included services require separate licensing agreements, it is up to you to execute those agreements outside this scope of this Agreement.

PRIVACY POLICY

1. Purpose

Prairie Sky Consulting LLC (“PSC”) collects and processes a limited set of Software and/or Content User’s personal data for client administration, execution of orders, invoicing, marketing, etc. PSC does not use or supply information for use in any “profiling” or “tracking” activity. The information collected is limited to the following for each person using the Software and/or Contents (“User”): given name, family name, company name (if applicable), mailing address, email address, telephone.

Technical measures have been taken to safeguard the security and confidentiality of User’s personal data.

2. Basis

Personal data are processed by PSC with (a) the User’s consent (b) necessary for payment processing, (c) necessary to verify licensing status, and (d) PSC to User communications directly related to the use of the Software and/or Content (as defined in the End User License Agreement).

3. Transfer

PSC utilizes third-party payment and web hosting services provided by Google. PSC is not responsible for information captured by Google. The previously noted data collected by PSC will not be shared with third parties.

4. Retention

Upon termination of an End User License Agreement, personal data processed by PSC will be kept for the period required to meet the company’s legal obligations.

5. User’s Right

At any point during the period in which the End User License Agreement is in effect, each User enjoys the right to access, clarify, and update their personal information. To invoke this right an individual User must provide an explicit email request to PSC.

The only restriction to this right is if a User’s End User License Agreement is executed by the User’s company. In this case, all changes must also be explicitly authorized by the company license holder.