



## CLICKWRAP SOFTWARE LICENSE AGREEMENT

May 2023

THE FOLLOWING TERMS AND CONDITIONS GOVERN YOUR USE OF MICROSTRATEGY SOFTWARE PRODUCTS THAT WE DELIVER OR OTHERWISE MAKE AVAILABLE TO YOU (“PRODUCTS”), INCLUDING THE MICROSTRATEGY CLOUD PROVISIONING CONSOLE AND PRODUCTS ACCESSED THROUGH THAT CONSOLE OR THROUGH ANOTHER CLOUD ENVIRONMENT THAT WE MAKE AVAILABLE TO YOU. BY ELECTRONICALLY ACCEPTING THESE TERMS AND CONDITIONS OR OTHERWISE USING THE PRODUCTS, YOU (“YOU,” “YOUR”) WILL ENTER INTO AN AGREEMENT (“AGREEMENT”) WITH MICROSTRATEGY SERVICES CORPORATION AND MICROSTRATEGY LIMITED (“WE,” “US,” “OUR”) UNDER THE TERMS AND CONDITIONS BELOW. THIS AGREEMENT DOES NOT APPLY TO PRODUCTS THAT YOU LICENSE FROM US PURSUANT TO AN ORDER THAT WE ACCEPT; THE TERMS GOVERNING THOSE PRODUCT LICENSES SUPERSEDE THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY, “YOU” AND “YOUR” REFERS TO THAT COMPANY.

**1. License Grant.** We grant you and your affiliates a non-exclusive, non-transferable license, subject to the terms and conditions of this Agreement and in accordance with applicable law, to (a) install those Products on servers and workstations under your control or under the control of your third party service provider in the country to which the Products are delivered (solely in the case of Products that we deliver to you by sending you a license key that you use to download the Products); and (b) grant Named Users located anywhere in the world access to the Products (including the user documentation or manuals normally distributed or made available in connection with the Products (“Documentation”) and reports, dashboards, dossiers and other output generated by the Products), both solely for purposes of internally evaluating the Products. We may limit your license and access to the Products to a specific period of time that we determine. “Named User” means (i) a single *identifiable* individual with unique, non-generic (e.g., [cashier@abccompany.com](mailto:cashier@abccompany.com) is one example of a generic login that is not permitted) login credentials enabling use of or access to a Product at any time during the term of your license to the Product, regardless of whether the individual is actively using or has ever accessed or used the Product and who you have not permanently replaced with another such individual; or (ii) a single individual without login credentials who, through your use of a Product, receives or has received at any time during the term of your license to the Product, reports, messages or other output directly generated by the Product. We will provide you basic technical support for the Products, and will make each Product available to you electronically, by sending you a license key to download the Products or by providing you access to the Products through an IP address or URL. We may terminate your use of the Products upon written notice to you if you breach a material provision of this Agreement and fail to cure the breach within thirty (30) days following such notice.

**2. Certain Obligations and Restrictions.** You are responsible for compliance with this Agreement by you or any of your affiliates, your third-party contractors and anyone else accessing or using the Products on your behalf or through your systems, including any Named Users

(“Representatives”). You acknowledge that the Products may not restrict use of or access to the licensed amounts and do not ensure your compliance with this Agreement. You are also responsible for the proper operation of your network and your equipment used to connect to the Products. You and your Representatives will not (a) copy, display, distribute, or otherwise use the Products in any manner or for any purpose not expressly authorized by this Agreement; or (b) create derivative works of or otherwise modify the Products or any portion thereof except as expressly provided in the Documentation; or (c) modify, tamper with or repair any Product; or (d) reverse engineer, decompile or disassemble the Products or the metadata created by a Product, or apply any other process or procedure to derive the source code of any Product; or (e) interfere with or disrupt the integrity or performance of a Product; or (f) attempt to gain unauthorized access to a Product; or (g) access or use any Product in a way intended to avoid incurring fees or exceeding usage limits or quotas; or (h) use a Product to develop any product or service that is in any way competitive with any of our product or service offerings; or (i) make available to any third-party any analysis of the operation of a Product, including any benchmarking results, without our prior written consent; or (j) use a Product to provide time-sharing services, software-as-a-service offering, service bureau services or similar services; or (k) use a Product to store or transmit (1) material in violation of third-party privacy rights; or (2) libelous, or otherwise unlawful or tortious material; or (3) material that infringes any copyright, trademark, patent, trade secret or other proprietary right of any entity or individual; or (4) viruses, Trojan horses, worms, time bombs, cancelbots, corrupted files, or any other similar software or programs.

As required for our performance pursuant to this Agreement, you are also required to (A) provide us with reliable, accurate and complete information; and (B) make decisions and obtain required management approvals in a timely manner; and (C) obtain all consents, approvals and licenses necessary for use of any software, services, data or other items provided by you or on your behalf; and (D) cause your third-party contractors and licensors to cooperate with us.

**3. Cloud Environments.** In certain instances, we may procure certain cloud infrastructure service offerings from our third-party service provider and make our Products (and other related cloud service offerings) available to you in conjunction with those infrastructure offerings in a public cloud (collectively, "Cloud Evaluation Environment"). In those instances, the additional cloud infrastructure service offerings (and related cloud service offerings) that we make available to you will be deemed "Products" for purposes of this Agreement and the terms of this Section will apply. In addition to the "Audit" section of this Agreement, we may monitor your access and use of the Cloud Evaluation Environment and the Products to help us assess whether you are complying with this Agreement. You will promptly notify us of any unauthorized use of any password or account or any other known or suspected breach of security of the Products or a Cloud Evaluation Environment. We and our affiliates are not responsible for unauthorized access to your Named User accounts, except to the extent caused by our breach of this Agreement. You are responsible for the development, content, operation, maintenance, and use of any software (including machine images), data, text, audio, video, images, or other content of yours or a third-party that you or your Representatives utilize with a Product or upload or transfer to a Cloud Evaluation Environment ("Customer Content"). If you become aware of any violation of your obligations by a Named User, you will immediately terminate such Named User's access to the Products, the Cloud Evaluation Environment, and Customer Content. We reserve the right to remove any improper Customer Content that is uploaded or transferred to a Cloud Evaluation Environment in violation of this Agreement.

**4. Intellectual Property Ownership.** We, our affiliates and our licensors will own all right, title and interest in and to the Products. Each party will own and retain all rights in its trademarks, logos and other brand elements (collectively, "Trademarks"). To the extent a party grants any rights or licenses to its Trademarks to the other party in connection with this Agreement, the other party's use of such Trademarks will be subject to the reasonable trademark guidelines provided in writing by the party that owns the Trademarks.

**5. Limited Warranties and Remedies.** EACH PRODUCT PROVIDED BY US OR ANY OF OUR AFFILIATES IS PROVIDED "AS IS". NO WARRANTIES OR COMMITMENTS, EXPRESS OR IMPLIED, ARE MADE WITH RESPECT TO THE PRODUCTS INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SYSTEMS INTEGRATION, TITLE, SATISFACTORY QUALITY AND NON-INFRINGEMENT. WE DO NOT WARRANT AND ARE NOT RESPONSIBLE FOR ANY THIRD-PARTY PRODUCTS OR SERVICES AND YOUR SOLE AND EXCLUSIVE RIGHTS AND REMEDIES WITH RESPECT TO ANY THIRD-PARTY PRODUCTS OR

SERVICES ARE AS PROVIDED BY THE THIRD-PARTY PROVIDER AND NOT BY US.

Each party warrants that it will comply with all applicable statutes, laws, rules and regulations in the exercise of its rights and the performance of its obligations under this Agreement.

You acknowledge that the direct or indirect transfer of Products contrary to United States law or any other applicable law is prohibited. You warrant that (a) you are not a Restricted Party or located in a Restricted Country; and (b) you are not controlled by or acting on behalf of any Restricted Party or anyone headquartered or located in a Restricted Country; and (c) neither you nor any of your employees, agents or contractors will transfer or allow any Product to be transferred to any Restricted Party or Restricted Country. "Restricted Party" means any person or entity that is (1) listed on any of the lists of persons or entities maintained by the United States government or any other applicable government that prohibit such persons or entities from receiving exports or services; or (2) a national or resident of, or an entity or governmental authority in, a Restricted Country. "Restricted Country" means any country or territory that is or becomes subject to comprehensive sanctions by the United States or another applicable country or prohibited from receiving Products under applicable export controls (including, but not limited to, Belarus, Cuba, Iran, North Korea, Russia, Syria, and the Crimea, Luhansk People's Republic ("LNR"), and Donetsk People's Republic ("DNR") regions of Ukraine).

**6. Limitation of Liability.** IN NO EVENT WILL WE OR ANY OF OUR AFFILIATES OR LICENSORS BE LIABLE TO YOU OR ANY OF YOUR AFFILIATES FOR ANY DAMAGES OF ANY KIND ARISING OUT OF THIS AGREEMENT, INCLUDING DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EVEN IF WE OR ANY OF OUR AFFILIATES OR LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF AN AGREED REMEDY FAILS OF ITS ESSENTIAL PURPOSE OR IS HELD UNENFORCEABLE FOR ANY OTHER REASON.

**7. Audit.** You will keep accurate and complete records relating to your activities under this Agreement necessary to demonstrate your compliance with this Agreement, including but not limited to (i) a list of servers and applications that run MicroStrategy server software and where MicroStrategy server software is installed ("Server List"); (ii) reports generated by enabling all the functionality of the native audit tools included with the Products, including License Manager and Enterprise Manager reports; (iii) a report from your user directory that includes a list of all individuals who have access to or have had access to each Product and all individuals who receive or have received reports, messages or other output directly generated by the Products; (iv) for each environment where Platform Analytics is enabled, an .mstr file for such environment and

all other data accessible through the “Send Diagnostic” function in the Products and an export of the Compliance Telemetry Dossier with user privilege and status details; and (v) an accurate and complete map of your entire technical MicroStrategy environment and server landscape that includes a breakdown of installations and systems (collectively, “Records”). You agree to maintain such Records during the term of this Agreement and for five (5) years following the termination or expiration of this Agreement. Within ten (10) days following our written request, you will (1) certify to us in a writing signed by an officer of your company that you are in compliance with this Agreement and (2) provide us with any and all Records we specify in such request. In addition, within ten (10) days following our written request, we may, at our sole discretion, audit your Records (i) at your applicable facility during normal business hours and subject to your reasonable facility security requirements and/or (ii) by remote or electronic means. If our review and audit of your Records reveals that you have exceeded the scope of your license to the Products, our remedies will be as set forth in this Agreement or available at law.

**8. Data Protection.** You will not transfer to us or provide us any access to any data or information that is subject to regulation under Applicable Data Protection Law (“Protected Data”) in connection with this Agreement, including Personal Data, Protected Health Information and Personally Identifiable Information (as such terms are defined in Applicable Data Protection Law), except for Protected Data related to your contact persons or uploaded or transferred to a Cloud Evaluation Environment. “Applicable Data Protection Law” means all applicable international, federal, state, provincial and local laws, rules, regulations, directives and governmental requirements currently in effect and as they become effective relating in any way to the privacy, confidentiality or security of Protected Data including, without limitation, the European Union Directives and regulations governing general data protection and all applicable industry standards concerning privacy, data protection, confidentiality or information security. We have implemented appropriate technical, organizational, and security measures designed to safeguard and protect Protected Data provided by you to us and we may access, use and transfer such Protected Data to our affiliates and third parties (including those located outside of the European Economic Area) only for the purposes of fulfilling our obligations and exercising our rights, providing information to you and complying with our legal and auditing requirements. As between you and us, for purposes of this Agreement and Applicable Data Protection Law, you are the “data controller” and we are acting on your behalf as a “data processor” with respect to Protected Data that you or your Representatives upload or transfer to a Cloud Evaluation Environment that we manage on your behalf. If you upload or transfer Protected Data to a Cloud Evaluation Environment, you will enable encryption of report caches and intelligent cubes which are saved to disk.

**9. Confidentiality.** Under this Agreement, Confidential Information may be accessed or disclosed between the parties. “Confidential Information” means any information identified as confidential at the time of disclosure, or that reasonably should be understood to be confidential in view of the information’s nature or circumstances around its disclosure, and will in all cases include pricing terms, the terms of this Agreement or any order governed by this Agreement, software, technology, business plans, technical specifications, product development plans, marketing plans, education materials, and customer lists; generic tools and objects related to the Products created by us during the provision of consulting services are also considered our Confidential Information. Confidential Information will not include information that (a) is or becomes a part of the public domain through no act or omission of the receiving party; or (b) was in the receiving party’s lawful possession prior to the disclosure; or (c) is lawfully disclosed to the receiving party by a third party without restriction on the disclosure; or (d) is independently developed by the receiving party. Security is important to us and our customers, and we strongly recommend that you share with us the results of any penetration tests that you conduct on our Products (which is considered solely our Confidential Information) so that we may utilize that information to improve our Products.

Each party agrees to hold the other party’s Confidential Information in confidence during the term of this Agreement and for a period of five (5) years after the termination of this Agreement (other than with respect to trade secrets, which shall be held in confidence following such period in accordance with this section), and to disclose such Confidential Information only to those employees or agents who have a need to know such Confidential Information and are required to protect it against unauthorized disclosure. Notwithstanding the foregoing, either party may disclose the other party’s Confidential Information to a federal or state governmental entity to the extent such disclosure is required by law, so long as the receiving party notifies the disclosing party in advance of the required disclosure as soon as reasonably practicable to allow the disclosing party to contest the disclosure.

Upon termination of this Agreement and except for electronic copies made in the course of normal network backups or as otherwise set forth in this Agreement, the receiving party will promptly destroy or return, at the sole discretion of the disclosing party, all Confidential Information of the disclosing party in the receiving party’s possession or control.

**10. Notices.** All notices will be in writing and will be deemed to have been given when (a) personally delivered; or (b) sent by electronic mail; or (c) sent by a commercial overnight courier. You will provide notices to: MicroStrategy Incorporated, Attention: General Counsel, 1850 Towers Crescent Plaza, Tysons Corner, Virginia, 22182, United States; email: [crequest@microstrategy.com](mailto:crequest@microstrategy.com).

**11. Assignment.** This Agreement or any product license governed by this Agreement may not be assigned or otherwise transferred in whole or in part by you, including by operation of law, without our prior written approval. Any unauthorized assignment or transfer of this Agreement or a Product license by you to a third-party will constitute a material breach of this Agreement.

**12. Other Provisions.** Neither party will be responsible for delay of performance due to causes beyond its control. This Agreement and the parties' relationship under it will 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 will 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, the parties' relationship under it or the Products will be subject to the exclusive jurisdiction of the state and federal courts with jurisdiction over Fairfax County, Virginia. Both parties 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. In any dispute, the prevailing party will be entitled to recover its cost of enforcing its claim, including but not limited to reasonable attorney fees. When you access any product, service, content or item of a third-party (including third-party data sources) ("Third-Party Solution") with connectors included as part of the Products, you agree and acknowledge that (a) you may download content from the servers of the Third-Party Solution provider; and (b) your access to the Third-Party Solution with such connectors will be for the purpose of utilizing the Third-Party Solution in conjunction with the Products or Cloud Evaluation Environment; and (c) we are not responsible for interruptions of service caused by the Third-Party Solution provider; and (d) if we have a business relationship with the Third-Party Solution provider, that relationship is subject to termination and cancellation; (e) you may not remove or obscure any patent, copyright, trademark, proprietary rights notices, and/or legends contained in or affixed to any output of the Products; and (f) you are solely responsible for licensing the use of third-party data sources accessed by the Products. We may collect usage and diagnostic data related to your use of the Products to help us improve our Products and services, better our customer service and enhance customer experience ("Diagnostic Information"); Diagnostic Information will not include Protected Data. Our security Products are not designed to manage physical or logical access to facilities or systems where delay in or failure of such access could threaten health or safety, or cause property, environmental or similar damage. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision will be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision, with all other provisions remaining in full force and effect. No joint venture, partnership, employment or agency

relationship exists between you and us as a result of this Agreement or your use of the Products. The failure of either you or us to enforce any right or provision in this Agreement will 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. Upon termination of this Agreement, this Agreement, all Product licenses, and any and all rights to receive technical support services will terminate. When a Product license terminates, you will immediately cease using the Products and uninstall each Product that you installed under Section 1, subsection (a) of this Agreement. Any provision of this Agreement that would reasonably be expected to survive will survive the termination of this Agreement. There are no intended third-party beneficiaries of this Agreement. This Agreement comprises the entire agreement between you and us and supersedes all prior or contemporaneous negotiations, discussions, agreements or statements, whether written or oral.