



## ELASTIC CLOUD SERVICE TRIAL LICENSE AGREEMENT

This **ELASTIC CLOUD SERVICE TRIAL LICENSE AGREEMENT** (This "**Agreement**"), is entered into as of the date on which it is fully executed ("**Effective Date**") by and between Elasticsearch BV with offices located at Keizersgracht 281 1016 ED Amsterdam, The Netherlands ("**Elastic**") and the entity identified as the "Customer" on the signature block of this Agreement ("**Customer**"). This Agreement governs Customer's use and access to the Trial Features and Functions of the applicable Cloud Service. Capitalized terms not defined at first use shall have the meaning set forth in Section 9 (Definitions).

### 1. USE OF THE CLOUD SERVICE AND RESTRICTIONS

1.1 Use of the Cloud Service. Subject to the terms and conditions of this Agreement, Elastic will provide to Customer, and Customer is hereby granted the right to use, for a period of fourteen (14) days from the Effective Date (the "**Trial Term**"), the Trial Features and Functions of the applicable Cloud Service solely for Customer's internal, evaluation use in a non-production capacity. Customer's Affiliates and Contractors are also permitted to use the Trial Features and Functions of the applicable Cloud Service during the Trial Term, provided that such use by Customer's Affiliates and Contractors must be solely for Customer's benefit, and Customer shall be responsible for all acts and omissions of such Affiliates and Contractors in connection with their use of the applicable Cloud Service that are contrary to the terms and conditions of this Agreement. Customer understands that upon expiration of the Trial Term, Customer will no longer be able to use the Trial Features and Functions, unless Customer either (a) purchases a Subscription or (b) obtains from Elastic written consent (e-mail sufficient) to extend the Trial Term, which may be granted by Elastic in its sole and absolute discretion

1.2 Endpoint Security Software Component License. If the Trial Features and Functions of the applicable Cloud Service include endpoint security, then, subject to the terms and conditions of this Agreement, Elastic grants to Customer a limited, non-exclusive, non-transferable, fully paid up, right and license (without the right to grant or authorize sublicenses) during the Trial Term to (i) install and use, in object code format, the downloadable object-code component required to be installed on each endpoint that is managed by the endpoint security feature of the Cloud Service ("**Software Component**"), solely in connection with Customer's internal, evaluation use of such feature in a non-production capacity; and (ii) permit Contractors (as defined below) and Customer's Affiliates to use the Software Component as set forth in (i) above, provided that such use by Contractors and Affiliates must be solely for Customer's benefit, and Customer shall be responsible for all acts and omissions of such Contractors and Affiliates in connection with their use of the Software Component that are contrary to the terms and conditions of this Agreement. For purposes of this Agreement, the Software Component shall be deemed part of the applicable Cloud Service. Upon expiration of the Trial Term or termination this Agreement for any reason, Customer must cease use of and un-install all Software Components installed on endpoints pursuant to the foregoing license grant.

1.3 No Other License; No Assignment of Rights. This Agreement grants Customer a limited right to use the applicable Cloud Service for the Trial Term. Nothing in this Agreement shall be understood to transfer from Elastic to Customer any intellectual property rights, and all right, title and interest in and to any Cloud Service or related documentation will remain (as between the parties) solely with Elastic or its third party suppliers. "Elastic" logos, and all other trademarks, service marks, graphics and logos used in connection with any Cloud Service or related documentation are trademarks or registered trademarks of Elastic or Elastic's third party suppliers. Other trademarks, service marks, graphics and logos used in connection with any Cloud Service or related documentation may be the trademarks of other third parties. Elastic grants to Customer no right or license to reproduce, or otherwise use any Elastic or third-party trademarks under this Agreement.

1.4 Registration. In order to use a Cloud Service, Customer must first register for one or more account(s) (each an "**Account**"). Customer may not register multiple Accounts to simulate or act as a single Account, or otherwise access the applicable Cloud Service in a manner intended to avoid incurring fees that would otherwise be assessed on

Customer's use. Communications from Elastic to Customer regarding a Cloud Service will be sent to the email address registered with the Account applicable to such Cloud Service.

1.5 Customer's Security Obligations. Customer is responsible for maintaining the security of the login credentials, security-keys and the correct configuration of access control lists for Customer's Accounts. You are fully responsible for all activities that occur under Customer's Accounts. You agree to immediately notify Elastic of any unauthorized use of Customer's Accounts, use of an Account in violation of this Agreement or any other breaches of security related to Customer's Account(s), of which Customer become aware.

1.6 Restrictions on Use of Cloud Services. Customer agrees to use each Cloud Service in compliance with all applicable laws, including export control and data privacy laws. Customer agrees not to: (i) execute or attempt to execute any computer viruses, worms, time bombs, Trojan horses and other harmful or malicious code, routines, files, scripts, agents or programs ("**Malware**") in any Cloud Service or use any Cloud Service to transmit Malware; (ii) use any Cloud Service to store or distribute any information, material or data that is harassing, threatening, infringing, libelous, unlawful, obscene, or which violates the privacy or intellectual property rights of any third party; (iii) access or use any Cloud Service to compete against Elastic; (iv) access or use any Cloud Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes, including, without limitation, for the purpose of designing and/or developing any competitive services; (v) except as expressly permitted herein, make access to any Cloud Service through its account available to any third party; (vi) sell, resell, rent, lease, offer any time sharing arrangement, service bureau or any service based upon, any Cloud Service; (vii) interfere with or disrupt the integrity, security or performance of any Cloud Service or third-party data contained therein; (viii) attempt to gain unauthorized access to any Cloud Service or any associated systems or networks; (ix) modify, make derivative works of, disassemble, decompile or reverse engineer any Cloud Service or any component thereof; (x) use the Cloud Service to process any protected health information as defined by the Health Insurance Portability and Accountability Act of 1996; or (xi) use any Cloud Service in furtherance of the violation of the rights of others.

1.7 Compliance with Law. Customer represents and warrants that Customer is not listed on (a) the U.S. Commerce Department's Entity List, Denied Persons List, and Unverified List; (b) the U.S. Treasury Department's Specially Designated Nationals & Blocked Persons List; or (c) the U.S. State Department's Debarred Parties List (together, the "**Restricted Lists**") and will not transfer Customer's trial to, or let Customer's trial be used by, any party listed on any Restricted Lists. Customer further acknowledges that the Cloud Service is subject to the Export Administration Regulations ("**EAR**") (15 C.F.R. Parts 730-774 (2010)) and the economic sanctions regulations and guidelines of the U.S. Department of the Treasury, Office of Foreign Assets Control. Customer represents and warrants that Customer is now and during the Trial Term will remain compliant with all such export control laws and regulations, and will not export, re-export, otherwise transfer or disclose the Cloud Service (or any portion thereof) to any person contrary to such laws or regulations. Customer acknowledges that remote access to the Cloud Service may in certain circumstances be considered a re-export of the Cloud Service, and accordingly, may not be granted in contravention of U.S. export control laws and regulations.

1.8 Suspension. If Elastic believes, in its sole discretion, that Customer has violated or attempted to violate any provision of this

Agreement, or that Customer's use of a Cloud Service presents a material security risk, Elastic may suspend Customer's access to such Cloud Service until the violation has been corrected or terminate Customer's access to the Cloud Service and this Agreement.

1.9 Overuse. If Customer's use of a Cloud Service materially degrades the performance of such Cloud Service for other customers, rate limiting controls may result in the temporary reduction or a pause in the responsiveness of a Cloud Service. Furthermore, Customer shall contact Elastic if Customer desires to assess performance by benchmarking for more than five minutes.

## 2. CUSTOMER'S CONTENT

2.1 Definition of Content. In connection with Customer's use of a Cloud Service, Customer and/or others Customer allows to use the applicable Cloud Service may enable the ingestion of information, content and data to the Cloud Service or may retrieve such information, content and data (collectively, "**Content**") from, such Cloud Service.

2.2 Customer's Responsibility for Content. Customer is fully responsible for the content, accuracy and completeness of such Content, and any loss, liabilities or damages resulting from the Content, regardless of the nature of the Content including, without limitation, whether the Content consists of, including but not limited to, data, text, graphics, audio, video, or computer software. Customer are solely responsible for backing up or otherwise making duplicates of Content. Customer represents and warrants to Elastic that: (i) Customer owns or has the necessary licenses to provide the Content to Elastic, and the provision of the Content to, and use of the Content by, Elastic as contemplated herein will not infringe the intellectual property rights, including but not limited to copyright, patent, trademark or trade secret rights, of any third party; (ii) the Content does not contain any executable Malware; and (iii) Customer has, in the case of Content that includes computer code, accurately categorized and/or described the type, nature, uses and effects of the Content, whether requested to do so by Elastic or otherwise. Elastic makes no assurances that any of Customer's Content will be secured or that such Content will be kept confidential.

2.3 Data Processing. To the extent Customer communicates any Content relating to an identified or identifiable individual ("**Personal Data**") to Elastic, or Elastic obtains any Personal Data from Customer, Elastic agrees that it (and/or its contractors) will not knowingly collect, access, use, store, disclose, transfer or otherwise process (collectively, "**Process**" or "**Processing**") any such Personal Data except (i) for the purposes of this Agreement, including without limitation, to implement and deliver the applicable Cloud Service and its features and associated services; (ii) as expressly permitted by Customer in this Agreement or otherwise; or (iii) as compelled by law. Customer shall make such disclosures, obtain such consents, provide such choices, implement such safeguards in compliance with, and otherwise comply with, any applicable law, rule or regulation regarding the Processing of Personal Data of any individual whose Personal Data Customer Processes (including, without limitation, by disclosing the Personal Data to Elastic) in connection with Customer's use of or access to a Cloud Service and its features and associated services. Elastic is a "Service Provider" as such term is defined under §1798.140(v) of the CCPA with respect to Personal Data. As such Elastic shall not retain, use or disclose any personal information (as defined in the CCPA) received from Customer during the Trial Term for any purpose other than the specific purpose of providing the Cloud Services specified in this Agreement or for such other business purpose as is specified in this Agreement.

2.4 License to Elastic. By submitting Content to Elastic, Customer hereby grants Elastic a sublicensable, worldwide, royalty-free, and non-exclusive right to reproduce, modify, adapt and publish the Content solely for the purpose of enabling Elastic to provide Customer with the applicable Cloud Service. If Customer wishes to delete Content from Customer's Account, Elastic will use reasonable efforts to remove it, but Customer acknowledges that backups, caching or references to the Content may not be made immediately unavailable.

2.5 Data Retrieval. Customer is solely responsible for deleting or retrieving Content from a Cloud Service prior to termination of this Agreement and/or Customer's Account for any reason. Notwithstanding the foregoing, Elastic may delete Content in accordance with Elastic's Digital Millennium Copyright Act policy.

2.6 Third Party Content. Furthermore, while Elastic reserves the right, it has no obligation to monitor all of the content, data or information uploaded on any Cloud Service by third parties ("**Third Party Content**"), and is not responsible for any such content, data or information. Elastic does not represent or imply that that such Third-Party Content is accurate, useful or non-harmful. Customer must take all precautions necessary to protect Customer and Customer's computer systems from viruses, worms, Trojan horses, and other harmful or destructive materials. Elastic disclaims any responsibility for any harm resulting from any Third-Party Content.

## 3. INDEMNIFICATION

3.1 Obligation. Customer agrees, at Customer's expense, to (i) defend, or at Customer's option settle, but subject to Elastic's prior written consent, not to be unreasonably withheld, a claim brought against Elastic, its contractors, suppliers, licensors, and or respective directors, officers, employees and agents, arising out of or related to Customer's use of any Cloud Service including, without limitation use in violation of the terms of this Agreement, and (ii) indemnify Elastic against and pay (1) any settlement of such claim or (2) any damages finally awarded to such third party by a court of competent jurisdiction as the result of such claim.

3.2 Conditions. Customer's obligations in this Section 3 are conditioned upon Elastic (i) notifying Customer promptly in writing of any threatened or pending claim for which Customer has an obligation under this Section, provided that failure to provide such notice will only relieve Customer of Customer's obligations under this Section 3 to the extent Customer's ability to defend or settle an applicable claim is materially prejudiced by such failure to provide notice, (ii) giving Customer, at Customer's expense, reasonable assistance and information Customer request in connection with the defense and/or settlement of the claim and (iii) tendering to Customer sole control over the defense and settlement of the claim. Elastic's counsel will have the right to participate in the defense of the claim, at Elastic's own expense. Elastic will not, without Customer's prior written consent, make any admission or prejudicial statement, settle, compromise or consent to the entry of any judgment with respect to any pending or threatened claim.

## 4. TERM AND TERMINATION

4.1 Term. Unless earlier terminated under Section 4.2 below, this Agreement is effective upon the date Customer indicates acceptance of the terms and conditions herein (the "**Effective Date**"), and shall remain in force for the duration of the Trial Term.

4.2 Termination. Elastic may terminate this Agreement at any time for any reason or no reason upon notice to Customer. Customer may terminate this Agreement at any time by ceasing to use the Trial Features and Functions of the applicable Cloud Service. This Agreement shall automatically terminate in the event that Customer breaches the scope of the rights granted to Customer in Section 1.1 or 1.2 of this Agreement, provided that Elastic reserves the right to retroactively waive such automatic termination upon written notice to Customer.

4.3 Post Termination or Expiration. Upon termination or expiration of this Agreement, for any reason, Customer shall promptly cease the use of the applicable Cloud Service and, as applicable, uninstall the Software Components from all endpoints.

4.4 Survival. Sections 1.3, 2.4, 3, 4.3, 5, 6, 7, 8 and 9 shall survive any termination or expiration of this Agreement.

## 5. DISCLAIMER OF WARRANTIES

5.1 Malicious Files Disclaimer. To facilitate Customer's evaluation of certain Elastic security products, Elastic may provide Customer with samples of malicious files or code or similar data. These samples will only be provided to Customer with Customer's permission and with notice regarding the contents of such files. Elastic disclaims any warranty, responsibility or liability associated with such materials, including any damage to Customer's data or devices.

5.2 Disclaimer. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE APPLICABLE CLOUD SERVICE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND ELASTIC AND ITS LICENSORS MAKE NO WARRANTIES WHETHER EXPRESSED, IMPLIED OR STATUTORY REGARDING ANY CLOUD

SERVICE OR RELATED DOCUMENTATION. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, ELASTIC AND ITS LICENSORS SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT WITH RESPECT TO THE APPLICABLE CLOUD SERVICE, AND WITH RESPECT TO THE USE OF THE FOREGOING. FURTHER, ELASTIC DOES NOT WARRANT RESULTS OF USE OR THAT THE CLOUD SERVICE WILL BE ERROR FREE OR THAT THE USE OF THE CLOUD SERVICE WILL BE UNINTERRUPTED.

## 6. LIMITATION OF LIABILITY

IN NO EVENT SHALL ELASTIC OR ITS AFFILIATES OR THEIR RESPECTIVE LICENSORS BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY PUNITIVE, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE USE OR INABILITY TO USE THE CLOUD SERVICE, OR THE PERFORMANCE OF OR FAILURE TO PERFORM THIS AGREEMENT, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF THE RESPONSIBLE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL ELASTIC'S OR ITS AFFILIATES' TOTAL, CUMULATIVE LIABILITY UNDER THIS AGREEMENT EXCEED US\$500.

## 7. PRODUCT USAGE DATA; THREAT DATA

7.1 Product Usage Data. Elastic may collect and use Product Usage Data (defined below) for security, support, product and operations management, and research and development. "**Product Usage Data**" is information other than Customer's Content that may be automatically collected and reported by the Product. Detailed information on Product Usage Data is provided in Elastic's Privacy Statement at <https://www.elastic.co/legal/privacy-statement>.

Threat Data. If Customer's Trial Features and Functions include endpoint security, Elastic may collect and use Threat Data (defined below) for threat analysis and mitigation, customer support, product management and improvement, and research and development. "**Threat Data**" is data derived from, or communicated to, the Product that is related to malicious or potentially malicious code, attacks or activity. Threat Data will not be shared with third parties in a manner attributable to an individual or end user.

## 8. MISCELLANEOUS

This Agreement completely and exclusively states the entire agreement of the parties regarding the subject matter herein, and it supersedes, and its terms govern, all prior proposals, agreements, or other communications between the parties, oral or written, regarding such

subject matter. This Agreement may be modified by Elastic from time to time, and any such modifications will be effective upon the date of update stated in the modified Agreement. If any provision hereof is held unenforceable, this Agreement will continue without said provision and be interpreted to reflect the original intent of the parties. This Agreement and any non-contractual obligation arising out of or in connection with it, is governed exclusively by Dutch law. This Agreement shall not be governed by the 1980 UN Convention on Contracts for the International Sale of Goods. All disputes arising out of or in connection with this Agreement, including its existence and validity, shall be resolved by the courts with jurisdiction in Amsterdam, The Netherlands, except where mandatory law provides for the courts at another location in The Netherlands to have jurisdiction. The parties hereby irrevocably waive any and all claims and defenses either might otherwise have in any such action or proceeding in any of such courts based upon any alleged lack of personal jurisdiction, improper venue, forum non conveniens or any similar claim or defense. A breach or threatened breach, by Customer of Section 1.1 or 1.2 may cause irreparable harm for which damages at law may not provide adequate relief, and therefore Elastic shall be entitled to seek injunctive relief without being required to post a bond. Customer may not assign this Agreement (including by operation of law in connection with a merger or acquisition), in whole or in part to any third party without the prior written consent of Elastic, which may be withheld or granted by Elastic in its sole and absolute discretion. Any assignment in violation of the preceding sentence is void. Notices to Elastic may also be sent to [legal@elastic.co](mailto:legal@elastic.co). Providers that host the applicable Cloud Service in an applicable transaction may also receive information related to the terms of this Agreement or Customer's usage of the applicable Cloud Service.

## 9. DEFINITIONS

The following terms have the meanings ascribed:

9.1 "**Affiliate**" means, with respect to a party, any entity that controls, is controlled by, or which is under common control with, such party, where "control" means ownership of at least fifty percent (50%) of the outstanding voting shares of the entity, or the contractual right to establish policy for, and manage the operations of, the entity.

9.2 "**Contractor**" means any third party contractor performing services on Customer's behalf.

9.3 "**Subscription**" means a Customer's right, pursuant to a separate agreement between Customer and Elastic, to receive support services and a right to use the applicable Cloud Service in a production capacity.

9.4 "**Trial Features and Functions**" means those features and functions of the applicable Cloud Service that are eligible for use on a trial basis under this Agreement.

In Witness Whereof, the parties have executed this Agreement by their duly authorized representatives.

**ELASTICSEARCH BV**

Signature:

Name:

Title:

Date:

**CUSTOMER:**

Signature:

Name:

Title:

Date: