



End User License Agreement

Novembre – 2019

THIS SOFTWARE LICENSE AGREEMENT (THIS “AGREEMENT”) IS A LEGAL AND BINDING AGREEMENT BETWEEN YOU AND/OR YOUR ORGANIZATION (“CUSTOMER”) AND STRAPDATA SAS. (“STRAPDATA”). USE OF STRAPDATA'S SOFTWARE, INCLUDING WITHOUT LIMITATION ALL ASSOCIATED DOCUMENTATION, IS SUBJECT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT BY CLICKING “I ACCEPT,” DOWNLOADING OR INSTALLING THE SOFTWARE, OR OTHERWISE SIGNIFYING ACCEPTANCE OF THIS AGREEMENT, CUSTOMER AGREES TO ALL TERMS AND CONDITIONS OF THIS AGREEMENT.

1. Definitions

1.1. “Documentation” means the written, electronic, or recorded work provided to Customer in connection with the Software that describes the functions and features of the Software.

1.2. “Cluster” means a number of interconnected Nodes.

1.3. “Customer Application(s)” means Customer’s proprietary application(s) (i) as to which Customer deploys the Software under this Agreement and (ii) that are deployed by or on behalf of Customer in a production environment.

1.4. “Customer Network” means the hardware and software components within Customer’s internal computer network at Customer’s designated location or that of Customer’s designated hosting provider.

1.5. “Node” means each single Java Virtual Machine running the Elassandra code.

1.6. “Production Node” means each Node that is deployed on a production server with respect to a Customer Application.

1.7. “Software” means any software provided by Strapdata to Customer, including Strapdata’s proprietary software and certain open source software, each as may be specified in the online order form or purchase order submitted by Customer, including updates thereto.

2. License.

2.1 Grant of License. Subject to the terms and conditions of this Agreement, during the subscription term specified in the online form or purchase order submitted by Customer at the time of registration. Strapdata grants to Customer a personal, non-sublicensable, nonexclusive, non-transferable license: (a) install, or have installed, the Software on a single Cluster within the Customer Network and on no more than the number of Elassandra Production Nodes specified at the time of registration, unless otherwise authorized in writing by Strapdata, and (b) use the Software, in accordance with the Documentation, and on no more than the number of Elassandra Production Nodes as may be specified in the purchase order submitted by Customer, unless otherwise authorized in writing by Strapdata. The foregoing license does not apply to any Third Party Software, which is licensed under separate licenses described in Section 2.3.

2.2 License Restrictions. Unless otherwise specified in this Agreement or in another agreement between the parties, Customer may not: (a) modify, disassemble, de-compile, reverse

engineer, or otherwise attempt to determine the source code or protocols from the object code of the Software or knowingly permit or encourage any third party to do so, (b) use the Software in any manner to provide service bureau, time-sharing or other computer services to third parties, (c) use the Software in any manner to assist or take part in the development, marketing, or sale of a product potentially competitive with the Software, or (d) use the Software, or allow the transfer, transmission, export, or reexport of the Software or portion thereof in violation of any export control laws or regulations administered by any government agency.

2.3 Third Party Elements. Customer acknowledges that (i) the Software may contain other software or components that are either owned by a third party or in the public domain, and (ii) Strapdata has no proprietary interest in such software or components (collectively and each, the "Third Party Software"), and as such, cannot grant Customer a license to use such Third Party Software. A listing of such Third Party Software will be made available from Strapdata upon written request submitted to contact@strapdata.com. Customer's rights in the Third Party Software are governed by and subject to the terms and conditions set forth in the applicable third party license(s) also set forth therein. Customer acknowledges and agrees to fully comply with such terms and conditions. IN ADDITION TO ANY DISCLAIMERS SET FORTH IN SUCH TERMS AND CONDITIONS, THE DISCLAIMERS AND THE LIMITATIONS OF LIABILITY SET FORTH IN THE AGREEMENT SHALL APPLY TO STRAPDATA AND ITS LICENSORS WITH RESPECT TO SUCH THIRD PARTY SOFTWARE. STRAPDATA IS NOT OBLIGATED TO PROVIDE SUPPORT SERVICES FOR ANY SUCH THIRD PARTY SOFTWARE UNLESS EXPRESSLY AGREED TO IN WRITING BY STRAPDATA UNDER A SEPARATE AGREEMENT. CUSTOMER FURTHER AGREE TO INDEMNIFY, HOLD HARMLESS AND DEFEND STRAPDATA AND ITS LICENSORS FROM AND AGAINST ANY CLAIMS OR LAWSUITS, INCLUDING ATTORNEYS' FEES, THAT ARISE OR RESULT FROM THE USE OR DISTRIBUTION OF SUCH THIRD PARTY SOFTWARE.

2.4 Limited Rights. Customer's rights in the Software will be limited to those expressly granted in this Section 2. Strapdata reserves all rights and licenses in and to the Software not expressly granted to Customer.

3. Ownership.

This license confers no ownership rights to Customer and is not a sale of any rights in the Software, the Documentation, or the media on which either is recorded or printed. Strapdata shall own and retain ownership of all right, title, and interest in and to (i) the Software and any copies thereof; (ii) the Documentation and any copies thereof; (iii) any ideas, suggestions, or feedback relating to the Software and Documentation ("Feedback"); and (iv) all intellectual property rights embodied within the foregoing (i)-(iii). Customer hereby irrevocably assigns and agrees to assign all of its right, title, and interest in and to any Feedback to Strapdata.

4. Fees.

Customer agrees to pay Strapdata the applicable monthly or annual fees per Elassandra production nodes, based on Customer's subscription level, for the use of the Software listed on the pricing page of Strapdata's website or as otherwise specified in Customer's purchase order (the "Fees"), provided that if Customer registers for a free trial or beta version of the Software, the Software will be offered to Customer free of charge during the trial or beta period indicated at the time of registration. Customer shall pay all such taxes directly or to Strapdata, as required by applicable law. Should Customer not pay any amount when due, Strapdata may (at its discretion and in addition to other remedies it may have) suspend Customer's and Authorized Users' access to the Service.

5. Support.

During the term of this Agreement, Strapdata will provide Customer with Support of the Software during the Subscription Period, according to the Strapdata Support Policy terms. If Customer requires a purchase order to complete its purchase, then Support will not be provided until Customer delivers a conforming purchase order.

6. Disclaimer of Warranties.

EXCEPT FOR THE EXPRESS WARRANTY SET FORTH IN THIS SECTION 6, LICENSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOFTWARE, ANY SERVICES, OR ANY OTHER MATERIALS (TANGIBLE OR INTANGIBLE) OR SERVICES SUPPLIED BY LICENSOR, ITS LICENSORS, OR ITS AGENTS, AND LICENSOR HEREBY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINTERFERENCE, ACCURACY OF DATA, AND NONINFRINGEMENT.

7. Limitation of Liability.

EXCEPT FOR LICENSEE'S BREACH OF SECTION(LICENSE), IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE SOFTWARE OR SERVICES, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. EXCEPT FOR LICENSEE'S BREACH OF SECTION 2 (LICENSE), EACH PARTY'S CUMULATIVE LIABILITY TO THE OTHER PARTY, FROM ALL CAUSES OF ACTION AND ALL THEORIES OF LIABILITY, WILL BE LIMITED TO AND WILL NOT EXCEED THE AGGREGATE AMOUNT PAID OR OWED TO LICENSOR BY LICENSEE DURING THE ONE (1) YEAR PRECEDING THE DATE ON WHICH THE CAUSE OF ACTION ACCRUED. THE FOREGOING LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN.

8. Term and Termination.

8.1.Term. This Agreement will begin on the Effective Date, when the customer will have requested to start it explicitly or at least, when the first production license will be delivered by Strapdata, and will remain in effect for the subscription duration indicated at the time of registration, unless terminated earlier in accordance with the terms of this Agreement.

8.2.Termination for Breach. Each party will have the right to terminate this Agreement or any Software license granted hereunder if the other party breaches any material term of this Agreement and fails to cure such breach within thirty (30) days after written notice thereof.

8.3.Effect of Termination. Upon any termination of this Agreement, all Software licenses granted pursuant to this Agreement shall immediately terminate. At such time, Customer will promptly return the Software to Strapdata or destroy the Software and all copies and portions thereof, in all forms and types of media, and, at Strapdata's request, provide Strapdata with an officer's written certification, certifying to Customer's compliance with the foregoing.

8.4.Survival. The rights and obligations of the Parties contained in Sections 2.2, 2.4, 4 (as to amounts owed as of termination), 6, 7, 8.4 and 9 of these terms survive the termination or expiration of this Agreement.

9. Miscellaneous.

9.1.Governing Law and Jurisdiction. The validity and construction of this Agreement and all matters pertaining thereto are to be determined in accordance with the laws of France. The Licensee agrees that any proceedings related to this Agreement, including any suit filed against Strapdata, shall be brought in the Courts of Paris.

9.2.Government Use. The use, duplication, reproduction, release, modification, disclosure, or transfer ("use") of the Software and the Documentation, no matter how received by the United States Government, is restricted in accordance with the terms and conditions contained in this Agreement. All other use is prohibited. Further, the Software and the Documentation was developed at Strapdata's private expense and is commercial in nature. By using, receiving, or downloading the Software and the Documentation, the Government user agrees to the terms and conditions contained in this license agreement including the terms and conditions contained in this paragraph.

9.3. Relationship of Parties. The parties to this Agreement are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

9.4. Equitable Relief. The parties agree that a material breach of the license or confidentiality provisions of this Agreement would cause irreparable injury to Strapdata for which monetary damages would not be an adequate remedy, and therefore Strapdata shall be entitled to equitable relief in addition to any other remedies it may have hereunder or at law.

9.5. Force Majeure. Neither party shall be deemed to have breached any provision of this Agreement as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from network failures, acts of civil or military authorities, civil disturbances, wars, terrorism, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications or Internet equipment or service, other catastrophes, or any other occurrences which are beyond such party's control.

9.6. Assignment. Customer may not assign this Agreement, in whole or in part, without Strapdata's prior written consent. Strapdata may assign this Agreement in its discretion. Any purported assignment in violation of this section shall be null and void. This Agreement shall be binding on all permitted assignees.

9.7. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

9.8. Waiver. The failure of either party to enforce at any time the provisions of this Agreement, or the failure to require at any time performance by the other party of any of the provisions of this Agreement, shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the ability of either party to enforce each and every such provision thereafter. The express waiver by either party of any provision, condition or requirement of this Agreement shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement.

9.10. Entire Agreement. This Agreement, including any and all exhibits attached hereto, is the entire agreement of the Parties and supersedes any prior representations, agreements, negotiations, or understandings between them, whether written or oral, with respect to the subject matter hereof. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by duly authorized representatives of the Parties hereto. This Agreement supersedes any conflicting terms and conditions on any work orders, invoices, checks, order acknowledgements, forms, purchase orders, or similar commercial documents relating hereto and which may be issued by a party after the Effective Date.

9.11. Notices. All notices required or permitted under this Agreement will be in writing and delivered by confirmed facsimile transmission, by courier or overnight delivery service, or by certified mail, and in each instance will be deemed given upon receipt. All communications will be sent to the addresses set forth above or to such other address as may be specified by either party to the other in accordance with this section. Either party may change its address for notices under this Agreement by giving written notice to the other party by the means specified in this section.

10. Audit.

Strapdata may audit Customer's use of the Software to ensure that Customer is in compliance with the terms of this agreement, with 45 days prior notice. Customer undertakes to cooperate to this audit measure by answering any information request from Strapdata without delay. Customer shall pay Strapdata within 30 days following notice, any additional licence fee resulting from an excessive use of the Software by Customer.