

# SOFTWARE LICENSE AGREEMENT – AWS MARKETPLACE

Version revised October 4, 2022

*PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THE SOFTWARE.*

**AGREEMENT:** BY INSTALLING OR USING THE SOFTWARE, YOU ARE AGREEING TO BE BOUND BY THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF OR FOR THE BENEFIT OF YOUR EMPLOYER, THEN YOU REPRESENT AND WARRANT THAT YOU HAVE THE NECESSARY AUTHORITY TO DO SO ON YOUR EMPLOYER'S BEHALF. IF YOU HAVE A SIGNED WRITTEN AGREEMENT WITH STARDOG UNION, THEN THAT AGREEMENT APPLIES TO USE OF THE SOFTWARE.

This agreement is between Stardog Union, a Delaware corporation (**Stardog**), and the customer entering into this agreement (**Customer**). Any version of the Stardog software, modifications, enhancements, documentation, and license keys provided to Customer, as described at <https://docs.stardog.com> (**Software**), is licensed and not sold.

## 1. SCOPE.

This agreement describes the licensing of the Software and Support provided to Customer under an order. Training or implementation services by Stardog may be provided under this agreement and an order or statement of work.

## 2. LICENSE.

Subject to the other terms of this agreement, Stardog grants Customer, under an order, a term-based, for the duration specified in the order, non-exclusive, non-transferable revocable license to use the Software **for any business purpose except production deployment or usage**.

Technical support is available at <https://community.stardog.com>.

Stardog may modify this agreement (including any policies or any links referenced herein) at any time. Subject to the foregoing, the modified terms will become effective upon installation of a new version of the software.

## 3. WARRANTIES, REMEDIES, AND DISCLAIMERS.

- a. **Limited Software Product Warranty.** For the initial license purchase and not any license renewals, Stardog warrants that the Software will perform in substantial accordance with its accompanying product documentation for the term of the license period. This warranty will not apply to any problems caused by software not licensed to Customer by Stardog, use other than in accordance with the product documentation, or misuse of the Software. Customer will cooperate with Stardog in resolving any warranty claim.
- b. **EXCLUSIVE REMEDY AND SOLE LIABILITY. STARDOG WILL USE COMMERCIALY REASONABLE EFFORTS TO REMEDY COVERED WARRANTY CLAIMS WITHIN A REASONABLE PERIOD OF TIME OR REPLACE THE SOFTWARE, OR IF STARDOG CANNOT DO SO, IT WILL REFUND TO CUSTOMER THE LICENSE FEE PAID. THIS REMEDY IS CUSTOMER'S EXCLUSIVE REMEDY AND STARDOG'S SOLE LIABILITY FOR THESE WARRANTY CLAIMS.**
- c. **DISCLAIMERS. STARDOG DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, BUT WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER UNDERSTANDS THAT THE SOFTWARE MAY NOT BE ERROR FREE, AND USE MAY BE INTERRUPTED.**

#### 4. PAYMENT.

Customer will pay all fees due on receipt of an invoice, unless otherwise provided on an order, plus applicable sales, use, and other similar taxes.

#### 5. MUTUAL CONFIDENTIALITY.

- a. **Definition of Confidential Information.** Confidential Information *means* all non-public information disclosed by a party (**Discloser**) to the other party (**Recipient**), whether orally, visually, or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure (**Confidential Information**). Stardog's Confidential Information includes, without limitation, the Software, its user interface design and layout, and pricing information.
- b. **Protection of Confidential Information.** The Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Discloser for any purpose outside the scope of this agreement. The Recipient must make commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and contractors who need such access for purposes consistent with this agreement and who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of this agreement.
- c. **Exclusions.** Confidential Information *excludes* information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser; (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser; (iii) is received from a third party without breach of any obligation owed to Discloser; or (iv) was independently developed by the Recipient without use or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order, but will provide Discloser with advance notice to seek a protective order.

#### 6. STARDOG PROPERTY.

- a. **Reservation of Rights.** The Software, workflow processes, user interface, designs, product documentation, and other technologies provided by Stardog as part of the Software are the proprietary property of Stardog and its licensors, and all right, title, and interest in and to such items, including all associated intellectual property rights, remain only with Stardog and its licensors. The Software is protected by applicable copyright and other intellectual property laws. Customer may not remove any product identification, copyright, trademark, or other notice from the Software. Stardog reserves all rights unless expressly granted in this agreement.
- b. **Restrictions.** Customer *may not*: (i) transfer, assign, sublicense, rent the Software, create derivative works of the Software, or use it in any type of service-provider environment; (ii) reverse engineer, decompile, disassemble, or translate the Software; (iii) evaluate the Software for the purpose of competing with Stardog; (iv) operate the Software other than in accordance with its product documentation; (v) use the Software for any business purpose associated with production deployment or usage; or (vi) circumvent, or attempt to circumvent, the following restrictions of the Software: (a) high availability cluster, (b) caching, (c) backups, (d) LDAP integration, and (e) limited Virtual Graph Connectors.

#### 7. TERM AND TERMINATION.

- a. **Term.** This agreement expires at the end of the license period specified in accompanying order. The Community Edition is terminable by Stardog for its convenience at any time upon electronic notice.

- b. **Mutual Termination for Material Breach.** If either party is in material breach of this agreement, the other party may terminate this agreement at the end of a written 30-day notice/cure period, if the breach has not been cured.
- c. **Return Stardog Property Upon Termination.** Upon termination of this agreement or a license for any reason, Customer must discontinue using the Software, de-install, and destroy or return the Software and all copies within 5 days. Upon Stardog's request, Customer will confirm in writing its compliance with this destruction or return requirement.

## 8. LIMITATION OF LIABILITY.

- a. **Exclusion of Indirect Damages.** Except for violations of a party's intellectual property rights, neither party is liable for any indirect, special, incidental, or consequential damages arising out of or related to this agreement (including, without limitation, costs of delay; loss of or unauthorized access to data or information; and lost profits, revenue, or anticipated cost savings), even if it knows of the possibility or foreseeability of such damage or loss.
- b. **Total Limit on Liability.** Except for Stardog's indemnity obligations, Stardog's total liability arising out of or related to this agreement (whether in contract, tort, or otherwise) does not exceed the amount paid or payable by Customer for the license to the Software within the 12-month period prior to the event which gave rise to the claim.

## 9. ANNUAL SUPPORT.

Stardog's annual Base technical support and maintenance services (**Support**) is included with the license purchase (except for the Community Edition, which comes with community support). Support is provided under the Support policies then in effect. Premium Support may be purchased for an additional fee. Stardog may change its Support terms, but Support will not materially degrade during any Support term. More details on Support are located at <https://www.stardog.com/support-terms/>.

## 10. INFRINGEMENT CLAIMS.

Stardog will defend or settle any third-party claim against Customer to the extent that such claim alleges that the Software violates a copyright, patent, trademark, or other intellectual property right, if Customer promptly notifies Stardog of the claim in writing, cooperates with Stardog in the defense, and allows Stardog to solely control the defense or settlement of the claim. **Costs.** Stardog will pay infringement claim defense costs it incurs in defending Customer, and Stardog negotiated settlement amounts, and court-awarded damages. **Process.** If such a claim appears likely, then Stardog may modify the Software, procure the necessary rights, or replace it with the functional equivalent. If Stardog determines that none of these are reasonably available, then Stardog may terminate the Software and refund any prepaid and unused fees license fees for the Software. **Exclusions.** Stardog has no obligation for any claim arising from: Stardog's compliance with Customer's specifications; a combination of the Software with other technology or aspects where the infringement would not occur but for the combination; or technology or aspects not provided by Stardog. THIS SECTION CONTAINS CUSTOMER'S EXCLUSIVE REMEDIES AND STARDOG'S SOLE LIABILITY FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.

## 11. GOVERNING LAW AND FORUM.

**This agreement is governed by the laws of the Commonwealth of Virginia and applicable U.S. federal laws (without regard to conflicts of law principles) for any dispute between the parties or relating in any way to the subject matter of this agreement. Any suit or legal proceeding must be exclusively brought in the state courts for Arlington County,**

**Virginia, or the Eastern District of Virginia (in the case of federal courts), and Customer submits to this personal jurisdiction and venue. Nothing in this agreement prevents either party from seeking injunctive relief in a court of competent jurisdiction. UCITA as enacted in Virginia does not apply.**

## **12.OTHER TERMS.**

- a. **Entire Agreement and Changes.** This agreement and the order constitute the entire agreement between the parties and supersede any prior or contemporaneous negotiations or agreements, whether oral or written, related to this subject matter. Customer is not relying on any representation concerning this subject matter, oral or written, not included in this agreement. No representation, promise, or inducement not included in this agreement is binding. No modification or waiver of any term of this agreement is effective unless both parties sign it.
- b. **No Assignment.** Neither party may assign or transfer this agreement to a third party, nor delegate any duty, except that the agreement and all orders may be assigned, without the consent of the other party, as part of a merger or sale of all or substantially all the businesses or assets of a party.
- c. **Independent Contractors.** The parties are independent contractors with respect to each other.
- d. **Enforceability and Force Majeure.** If any term of this agreement is invalid or unenforceable, the other terms remain in effect. Except for the payment of monies, neither party is liable for events beyond its reasonable control, including, without limitation, force majeure events.
- e. **Money Damages Insufficient.** Any breach by a party of this agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach of this agreement.
- f. **No Additional Terms.** Stardog rejects additional or conflicting terms of a Customer's form-purchasing document.
- g. **Order of Precedence.** If there is an inconsistency between this agreement and an order, this agreement prevails except in regard to payment terms.
- h. **Survival of Terms.** Any terms, that by their nature survive termination of this agreement for a party to assert its rights and receive the protections of this agreement, will survive (including, without limitation, the confidentiality terms). The UN Convention on Contracts for the International Sale of Goods does not apply.
- i. **Compliance Audit.** No more than once in any 12-month period and upon at least 30 days' advance notice, Stardog (or its representative) may audit Customer's usage of the Software at any Customer facility. Customer will cooperate with such audit. Customer agrees to pay within 30 days of written notification any fees applicable to Customer's use of the Software in excess of the license.
- j. **Export Compliance.** Customer must comply with all applicable export control laws of the United States, foreign jurisdictions, and other applicable laws and regulations.
- k. **U.S. Government Restricted Rights.** If Customer is a United States government agency or acquired the license to the Software hereunder pursuant to a government contract or with government funds, then as defined in FAR §2.101, DFAR §252.227-7014(a)(1), and DFAR §252.227-7014(a)(5), or otherwise, all Software provided in connection with this agreement are "commercial items," "commercial computer software," or "commercial computer software documentation." Consistent with DFAR §227.7202 and FAR §12.212, any use, modification, reproduction, release, performance, display, disclosure, or distribution by or for the

United States government is governed solely by the terms of this agreement and is prohibited except to the extent permitted by the terms of this agreement.

- l. **Open Source Software Licenses.** The Software may contain embedded open source software components, which are provided as part of the Software and for which additional terms may be included in the product documentation or in a file with the Software.
- m. **Feedback.** If Customer provides feedback or suggestions about the Service, then Stardog (and those it allows to use its technology) may use such information without obligation to Customer.