

# End User License Agreement for Apache

## Apache License

### *Section 1. Our Responsibilities*

We provide the Cloud Service, including technical support, as described in each Offer Description. We may enhance and refine the Cloud Service provided we do not materially reduce its core functionality other than in accordance with our [End of Life Policy](#). From time to time, we perform scheduled maintenance to update the servers and software used to provide the Cloud Service. You acknowledge that we may, in certain situations, need to perform emergency maintenance of the Cloud Service without providing advance notice to You, during which time, we may temporarily suspend Your access to and use of the Cloud Service.

### *Section 2. Your Payment Obligations*

Fees for the Cloud Service set out in Your purchase terms with Your Approved Source are non-refundable and payment obligations are non-cancellable, except as provided herein, in those purchase terms or where prohibited by law. If Your use of the Cloud Service(s) exceeds Your entitlement rights, you agree to pay for your excess use as required under Your purchase terms or Miri buying program.

### *Section 3. Your Use of the Cloud Service*

- a. Your Use of the Cloud Service and Miri Content. You may use the Cloud Service during the applicable term for Your internal use, in accordance with the applicable Offer Description, Order, and Documentation. This right to use extends to Your Authorized Users. You will not deliberately:
  1.
    - i. interfere with the Cloud Service, other customers' access to the Cloud Service, or with its security;
    - ii. sell, resell, or distribute the Cloud Service;
    - iii. make the Cloud Service available to third parties as a managed or network provisioned service;
    - iv. cause an unusual spike or increase in your use of the Cloud Service that Miri determines negatively impacts its operating capability;
    - v. facilitate the attack or disrupt the Cloud Service, including denial of service ("DoS") attack, unauthorized access, pen testing, monitoring crawling, or distribution of malware (including but not limited to viruses, Trojan horses, worms, time bombs, spyware, adware, or cancelbots);
    - vi. submit any information that is not expressly required and/or contemplated in the applicable Documentation;

- b. Responsibility for Customer Data and Credentials. You are responsible for the accuracy and quality of Your Customer Data, the means by which You acquired Your Customer Data and Your use of Your Customer Data with our Cloud Service. You will keep all account information up-to-date, use reasonable means to protect Your account information, passwords and other login credentials for the Cloud Service, and promptly notify Miri of any known or suspected unauthorized use of or access to Your account.
- c. Use by Authorized Users. You may allow third parties to use the Cloud Service solely on Your behalf for Your internal operations. You are responsible for ensuring that all Authorized Users comply with the terms of this Agreement and You are liable for any breach of this Agreement by Your Authorized Users. If You have purchased the Cloud Service under a Miri buying program, further restrictions may apply. To the extent permitted by applicable law, you must ensure that third parties using the Cloud Service on Your behalf bring all claims related to the Cloud Service through You and waive all claims directly against Miri related to those claims.
- d. Third Party Products. If You use the Cloud Service in conjunction with third party products, you are responsible for complying with the third-party providers' terms and conditions and privacy policies, and all such use is at Your risk. Miri does not provide support or guarantee ongoing integration support for products that are not a native part of the Cloud Service.

#### ***Section 4. Confidential Information & Data***

- a. Confidential Information. Recipient will hold in confidence and use no less than reasonable care to avoid disclosure of any Confidential Information to any third party, except for its employees, affiliates and contractors who have a need to know such information in connection with this Agreement, and are under written confidentiality obligations no less restrictive than the terms set forth in this Section. Recipient will be liable for any breach of this Section by its employees, affiliates and contractors. Recipient's nondisclosure obligation will not apply to information which: (i) is known by Recipient without confidentiality obligations; (ii) is or has become public knowledge through no fault of Recipient; or (iii) is independently developed by Recipient. Recipient may disclose Discloser's Confidential Information if required pursuant to a regulation, law or court order; provided that, Recipient provides prior notice to Discloser (to the extent legally permissible) and reasonably cooperates, at Discloser's expense, regarding protective actions pursued by Discloser. Upon reasonable request of Discloser, Recipient will either return, delete or destroy all Confidential Information of Discloser and certify the same.
- b. How we use Your data. Miri processes and uses Personal Data and Customer Data to deliver, analyze, support and improve the Cloud Service and as otherwise permitted in this Agreement, Miri's [Privacy Statement](#) and the applicable [Privacy Data Sheets](#). Miri will maintain appropriate administrative, physical and technical safeguards, which are designed to protect the security, confidentiality and integrity of Personal Data and Customer Data processed by Miri. Miri may share Personal Data and Customer Data with third party service providers consistent with Miri's Privacy Statement in order to assist in providing and improving the Cloud Service as described in the applicable [Privacy Data](#)

[Sheets](#). Miri contracts only with third party service providers that can provide the same level of data protection and information security that Miri provides.

- c. Telemetry Data. Miri processes Telemetry Data to deliver, enhance, improve, customize, support, and/or analyze the Cloud Service and other Miri offerings and otherwise freely uses Telemetry Data that does not identify You or any of Your Authorized Users. You may have the ability to configure the Cloud Service to limit the Telemetry Data collected, but in some cases, you can only opt out of the Telemetry Data collection by uninstalling or disabling the Cloud Service.

## ***Section 5. Ownership and Software Licensing Rights***

- a. What You Own. You retain ownership in all intellectual property rights to Your Customer Data. You authorize Miri to use feedback and ideas You provide in connection with Your use of the Cloud Service for any purpose.
- b. What We Own. Miri and its licensors retain ownership of all intellectual property rights in and to Miri Content, the Cloud Service and all underlying technology and associated Documentation related thereto
- c. Software License & Restrictions. To use the Cloud Service, you may be required to download and install Miri software (“Software”). Miri grants You a limited, non-exclusive, non-sublicensable and non-transferable license to use the Software solely as required to use the Cloud Service. The Software may contain code that is subject to its own license terms. You may not and may not allow a third party to modify, reverse engineer, decompile, or otherwise attempt to derive the source code for the Software, or create derivative works of the Software except as legally permitted for interoperability purposes.
- d. Beta and Trial Versions. Beta versions of Miri products may contain bugs, errors, or other issues. Therefore, they may not be used in Your production environment(s), except as otherwise permitted by Miri in writing. If we provide You access to generally-available Miri products for limited, temporary trial use, your use is permitted for the period limited by the license key or by Miri in writing. If there is no period identified, any trial use will expire thirty (30) days after the product is available to You. If You fail to stop using the Cloud Service by the end of the trial period, you will be invoiced for the list price of the product. Notwithstanding the foregoing, Miri, in its discretion, may end the beta or trial at any time, at which point, you will no longer have access to any related data, information, and files and You should immediately cease any further use. Furthermore, beta and trial products are provided “AS-IS” without support or any express or implied warranty or indemnity for any problems or issues, and Miri will not have any liability relating to Your use of the Miri products.

## ***Section 6. Indemnification***

- a. Claims. Miri will defend any claim or threatened claim against You that any Cloud Service provided under this Agreement infringes a third party's patent, copyright or registered trademark (the “Claim”) during the term of Your valid use and will indemnify You against the final non-appealable judgment entered by a court of competent jurisdiction or any settlements arising out of a Claim, provided that You will:

- (i) promptly notify Miri in writing of the Claim; (ii) fully cooperate with Miri in the defense of the Claim; and (iii) grant Miri the right to exclusively control the defense and settlement of the Claim and any subsequent appeal. Miri will have no obligation to reimburse You for attorney fees and costs incurred prior to Miri's receipt of notification of the Claim. You, at Your own expense, may retain Your own counsel.
- b. Additional Remedies. If a Claim occurs, or if Miri reasonably believes a claim is likely to occur, Miri will procure for You the right to continue using the Cloud Service, or replace or modify the Cloud Service with functionality that is at least equivalent. If Miri determines those alternatives are not reasonably available, upon Miri's notice/request, your right to use will terminate and You will cease using the Cloud Service and Miri will return any fees You paid Your Approved Source for the remaining term of the Cloud Service.
- c. Exclusions. Notwithstanding Sections 6a and 6b, Miri has no obligation for any Claim based on: (i) compliance with any designs, specifications, or requirements You provide or a third party provides on Your behalf; (ii) Your modification of any Cloud Service or modification by a third party on Your behalf; (iii) the amount or duration of use made of the Cloud Service, revenue You earned, or services You offered; (iv) combination, operation, or use of a Cloud Service with non-Miri products, software or business processes; or (v) Your failure to modify or replace a Cloud Service as required by Miri to avoid the alleged infringement.
- d. Sole and Exclusive Remedy. This Section states Miri's sole and exclusive obligation and Customer's exclusive remedy for intellectual property rights infringement.

## ***Section 7. Warranties, Disclaimers and Limitation of Liability***

- a. Warranty. Unless otherwise provided in an applicable Offer Description, Miri warrants that it will use commercially reasonable skill and care to provide the Cloud Service in accordance with the Offer Description (including any applicable service level agreement/objective). Upon Your prompt written notification to the Approved Source of Miri's possible breach of this warranty, to the extent permitted by applicable law, your sole and exclusive remedy is, at our option, either repair or replacement of the Cloud Service or a refund of the fees paid to Miri for the period in which the Cloud Service did not comply, inclusive of any fees paid under an applicable service level agreement/objective.
- b. Limitation of Liability. Except for any amounts due to Miri for the Cloud Service, either party's liability for claims related to, or arising out of Your use of the Cloud Service, shall not exceed, in the aggregate, the total fees attributable to the 12-month period before the initial claim and paid or payable to the Approved Source under the applicable Order. In no event will either party be liable for: (i) indirect, incidental, exemplary, special or consequential damages; (ii) loss or corruption of data or interrupted or loss of business; or (iii) loss of revenues, profits, goodwill or anticipated sales or savings. This limitation of liability applies whether the claims are in warranty, contract, tort, infringement, or otherwise, even if either party has been advised of the possibility of such damages. Nothing in this Section limits or excludes any liability that cannot be limited or excluded under applicable law. This limitation of liability is cumulative and not per incident.

## **Section 8. Term and Termination**

- a. Term. The initial term of the Cloud Service starts on the date the Cloud Service is made available for Your use and continues until the end of the term stated in the Order.
- b. Renewal. *In order to provide You with uninterrupted service, the Cloud Service will automatically renew for the renewal period selected on the Order (“Renewal Term”) unless: (i) You notify the Approved Source in writing at least thirty (30) days before the end of the then-current term of Your intention not to renew; or (ii) You or Your Approved Source elect on the Order at the time of initial purchase not to auto-renew the Cloud Service; or (iii) the end-of-sale date for the Cloud Service has passed. Your Approved Source will notify You reasonably in advance of any Renewal Term if there are any fee changes. The new fees will apply for the upcoming Renewal Term unless You notify the Approved Source in writing before the applicable renewal date that You do not accept the fee changes. In such event, the Cloud Service will terminate at the end of the then-current term.*
- c. Termination. If a party materially breaches this Agreement and does not cure that breach within thirty (30) days after receipt of written notice of the breach, the non-breaching party may terminate this Agreement for cause. Miri also has the right to immediately suspend or terminate Your use of the Cloud Services if You breach Sections. Upon termination or expiration of this Agreement, you must cease any further use of the Cloud Service (and destroy any copies of Software within Your control). Upon any termination for Miri’s material breach of the Agreement, we will refund to You or Your Approved Source any prepaid fees covering the period from the effective date of termination to the end of the term. Upon Miri’s termination for Your material breach of the Agreement, you will pay any unpaid fees covering the period from the effective date of termination to the end of the term.

## **Section 9. General Provisions**

- a. Assignment and Subcontracting. You may not assign this Agreement without Miri’s express written consent and any attempt to do so is a material breach of this Agreement. Miri may subcontract the performance of the Cloud Service to third parties, but any such subcontract will not relieve us of any of its obligations under this Agreement.
- b. Modifications to the Agreement. As our business evolves, we may modify this Agreement or any of its components (except an Order). Changes to the Agreement will only apply to Orders and renewals received or effectuated after the date of the modification.
- c. Miri Partner Transactions. If You purchase Cloud Services from a Miri Partner: (i) the terms of this Agreement apply to Your use of the Cloud Services; and (ii) the terms of this Agreement prevail over any inconsistent provisions in Your purchase order with the Miri Partner.
- d. US Government End Users. The Cloud Service and Documentation are deemed to be “commercial computer software” and “commercial computer software documentation” pursuant to FAR 12.212 and DFARS 227.7202. All U.S. Government end users acquire the Cloud Service and Documentation with only those rights set forth in this Agreement.

Any provisions that are inconsistent with federal procurement regulations are not enforceable against the U.S. Government.

- e. Compliance with Laws. You will comply with all applicable laws and regulations related to Your receipt and use of the Cloud Service. You must ensure You have the right to use all features of the Cloud Service in Your jurisdiction. Miri will comply with all applicable laws when providing the Cloud Service. We may restrict the availability of the Cloud Service in any particular location or modify or discontinue features to comply with applicable laws and regulations.
- f. If you are a public sector agency or government institution located in the United States, the laws of the primary jurisdiction in which You are located will govern the EULA and any disputes arising out of or related thereto. For U.S. Federal Government customers, this EULA shall be controlled and construed under the laws of the United States of America.

### ***Section 10. Integration***

If any portion of this EULA is found to be void or unenforceable, the remaining provisions of the EULA shall remain in full force and effect. Except as expressly stated or as expressly amended in a signed agreement, the EULA, is the complete agreement between the parties with respect to the Software and supersedes all prior or contemporaneous communications, understandings or agreements (whether written or oral) regarding this subject matter. In the event of any conflict, the order of precedence is: (i) supplemental terms; (ii) these license terms (excluding the supplemental terms); then (iii) any applicable policies referenced in this EULA. The parties agree that the English version of the EULA will govern in the event of a conflict between it and any version translated into another language.

Miri and Miri's logo are trademarks or registered trademarks of Miri and/or its affiliates in the U.S. and other countries. Third-party trademarks mentioned are the property of their respective owners. The use of the word partner does not imply a partnership relationship between Miri and any other company (1110R).

### ***Section 11. Miri Partner Transactions***

If You purchase Miri Software from a Miri Partner: (i) the terms of this EULA apply to Your use of the Software; and (ii) the terms of this EULA prevail over any inconsistent provisions in Your purchase order with the Miri Partner.

### ***Section 12. Notification***

Miri may provide you with notice via email, regular mail and/or postings on the Miritech.com website or any other website used with the Software.

### ***Section 13. Force Majeure***

Except for payment obligations, neither party will be responsible for failure of performance due to an event beyond the affected party's reasonable control, including accidents, severe weather

events, acts of God, actions of any government agency, pandemic, acts of terrorism, or the stability or availability of the Internet or portions thereof.

#### ***Section 14. Reservation of Rights***

Failure to enforce any right under this EULA will not waive that right.

#### ***Section 15. Definitions***

“Approved Source” means Miri or a Miri authorized reseller, distributor or systems integrator.

“Authorized User(s)” means the individuals You authorize to access the Software, including Your employees or third parties that access the Software solely on Your behalf for Your internal operations.

“Miri” “we,” “our” or “us” means Miri Systems, Inc. or its applicable affiliate(s).

“Miri Content” means any Miri-provided content or data, including, but not limited to, geographic or domain information, rules, signatures, threat intelligence or other threat data feeds, suspicious URLs and IP address data feeds.

“Miri Partner” means a Miri authorized reseller, distributor or systems integrator.

“Cloud Service” means the Miri hosted software-as-a-service offering or other Miri cloud-enabled feature described in an Offer Description. A Cloud Service may include Software.

“Confidential Information” means non-public proprietary information of the disclosing party (“Discloser”) obtained by the receiving party (“Recipient”) in connection with this EULA, which: (i) is conspicuously marked; or (ii) is information which by its nature should reasonably be considered confidential; or (iii) if verbally disclosed, is summarized in writing to the Recipient within 14 days.

“Customer Data” means all information and data that You or an Authorized User provides or transfers to Miri or that the Software collects from You, Your Authorized User(s) or Your system(s), in connection with Your use of the Software, including but not limited to data related to those Authorized Users Customer Data does not include Telemetry Data.

“Documentation” means the Miri user or technical manuals, training materials, specifications, privacy data sheets or other information applicable to the Software.

“Entitlement” means the license detail; including license metric, duration, and quantity published on Miritech.com.

“Order” means an ordering document (including a web or other electronic form) that specifies the duration, type/product ID (PID) and quantity of Software to be provided and the associated fees (if relevant).

“Personal Data” means any information that can be used to identify an individual and may include name, address, email address, phone number, login information (account number and password), marketing preferences, social media account information, or payment card number.

“Software” means the binary image of Miri computer programs (including Upgrades) which could be a downloadable file, delivered on physical media, pre-installed on the on-premise computer system, resident in ROM/Flash (system memory) or cloud-hosted, and purchased from an Approved Source. Software includes firmware.

“Telemetry Data” means all information and data that the Software generates in connection with Your use, including but not limited to, network policy, log and configuration information; threat intelligence data, URLs, metadata or net flow data; origin and nature of malware; the types of software or applications installed on a network or an endpoint; information about the devices connected to a network; information generated by sensors, devices and machinery; information related to the usage, origin of use, traffic patterns or behaviour of the users of a network or Software; and information relating to the existence of cookies, web beacons, and other similar applications.

“Upgrades” means all updates, upgrades, bug fixes, error corrections, enhancements and other modifications to the Software.

“You” and “Your” means the individual or legal entity licensing the Software under this EULA.