ArangoDB Community Edition License Agreement

This ArangoDB Community License Agreement ("Agreement") between you and ArangoDB, Inc. ("ArangoDB"), governs your use of the ArangoDB's software accompanying this Agreement, including but not limited to the ArangoDB Community Edition, and any ArangoDB services or updates for that software (together, the "Community Software").

 BY INSTALLING OR OTHERWISE USING THE COMMUNITY SOFTWARE, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO ANY TERMS OF THIS AGREEMENT, YOU MUST IMMEDIATELY CEASE USING THE COMMUNITY SOFTWARE AND UNINSTALL AND DELETE ALL COPIES. PLEASE NOTE THAT YOUR USE OF AND ACCESS TO COMMUNITY SOFTWARE IS SUBJECT TO ARBITRATION AND A CLASS ACTION WAIVER; IF YOU DO NOT AGREE TO ALL OF THE FOLLOWING, YOU MAY NOT USE OR ACCESS THE SERVICES IN ANY MANNER. ARBITRATION NOTICE AND CLASS ACTION WAIVER: EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN THE ARBITRATION AGREEMENT SECTION BELOW, YOU AGREE THAT DISPUTES BETWEEN YOU AND US WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION.

 If you are installing or using the Community Software on behalf of an organization or are otherwise entering into this Agreement on behalf of an organization, you represent and warrant that you are authorized to enter into this Agreement on behalf of your organization. In consideration of the rights granted to you in this Agreement, you must comply with all the terms in this Agreement.

If you have installed or used any prior version of the community edition of our software under any other license terms, by installing or using the version of the Community Software that accompanies this Agreement, you agree that this Agreement replaces those other license terms in their entirety and will also govern your use of all prior versions of the Community Software.

i. License Grant. Subject to your full compliance with all of the terms, conditions and limitations set forth in this Agreement, ArangoDB grants you a non-exclusive, non-transferable, non-assignable, non-sublicensable, revocable and personal license to install and use the Community Software, but only for your internal business purposes in a dataset that is less than 100GB aggregated across the cluster, and only during the term of this Agreement.

 2. License Restrictions. This Agreement does not grant any rights to our source code that is not provided to you with this Agreement or to any commercial/enterprise (non-community) edition of our software or services, which are subject to separate terms. In addition to the other restrictions and limitations in this Agreement, you must not, and you must not assist or authorize others to: (a) eradicate, avoid, minimize or otherwise work around any technical limitations in the Community Software that control your use the Community Software or any security device or protection used for or contained in the Community Software; (b) decompile, reverse engineer, modify, or create derivative works of the Community Software (except the limited extent such restrictions are expressly prohibited by statutory law or to the extent permitted by the licensing terms governing use of any open source components included with the Community Software (c) use the Community Software in violation of any law, including but not limited to, transferring the Community Software to any country in violation of any export or re-export regulations or laws, or that infringes, misappropriates or otherwise violates any right of any third party; (d) sell, license, sublicense, distribute, offer or provide the Community Software on a standalone basis; I directly share, commercialize, sell, transfer, distribute, license or sublicense the Community Software; (f) make any representations or warranties regarding the Community Software; or (g) use Community Software with any dataset (either a single dataset or a combination or aggregation of datasets) that is in the aggregate 100GB or more).

 3. Audit. You shall prepare and maintain complete and accurate records of all use and transactions relating to the Community Software. ArangoDB or its agents may, with fifteen (15) days' notice, audit your records and inspect your facilities to verify your compliance with the provisions of this Agreement. If an audit indicates any noncompliance, and without limiting any other remedies available to ArangoDB, You will reimburse ArangoDB for the reasonable cost of the audit within fifteen (15) days after the audit reveals such noncompliance. ArangoDB's audit rights in this Section will remain in effect for three (3) years after the end of the term of this Agreement.

4. Term and Termination. This Agreement will continue to apply until (a) you terminate this Agreement at any time by uninstalling and deleting all copies of the Community Software in your possession or control; or (b) we terminate this Agreement. We may terminate this Agreement at any time for any reason (including but not limited to your breach of this Agreement) in our sole discretion by providing you with notice. If we notify you of our termination, you must uninstall and delete all copies of the Community Software in your possession or control. Upon request, you (and if you are an entity then such certification shall be signed by an authorized representative of your company) shall provide written certification that you have uninstalled, deleted and ceased all usage of the Community Software within five (5) business days of our request.

5. Privacy and Data Security. Our use of any personal data collected by us under this Agreement is governed by our privacy policy, currently located at: https://cloud.arangodb.com/privacy-policy. Your use of the Community Software operates as a consent to the practices described in our privacy policy.

6. No Support Services. No services or support is provided under this Agreement for Community Software. We are under no obligation to provide or continue to provide the Community Software (including any update, upgrade or new version) to you.

7. Disclaimer of Warranties. THE COMMUNITY SOFTWARE IS LICENSED TO YOU ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND. ARANGODB, AND ITS LICENSORS DISCLAIM ALL WARRANTIES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, AVAILABILITY AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, WE DO NOT WARRANT THAT THE COMMUNITY SOFTWARE WILL MEET YOUR REQUIREMENTS, THAT ITS OPERATION WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS WILL BE CORRECTED. NO INFORMATION OR ADVICE GIVEN BY US WILL CREATE ANY WARRANTY.

8. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: (A) IN NO EVENT WILL ARANGODB NOR ITS LICENSORS BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY FOR (I) ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, OR DAMAGES FOR LOSS OF PROFITS, LOSS OR CORRUPTION OF DATA, LOSS OF GOODWILL, BUSINESS INTERRUPTION OR ANY OTHER DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE COMMUNITY SOFTWARE, (II) ;) ANY DAMAGES THAT EXCEED FIFTY DOLLARS (USD50.00). ALL LIMITATIONS AND EXCLUSIONS OF LIABILITY IN THIS AGREEMENT WILL APPLY EVEN IF THE ABOVE STATED REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE AND REGARDLESS OF THE FORM OR SOURCE OF CLAIM OR LOSS, WHETHER THE CLAIM OR LOSS WAS FORESEEABLE, AND WHETHER WE HAVE BEEN ADVISED OF THE POSSIBILITY OF THE CLAIM OR LOSS.

9. Non-Assignment. This Agreement is not assignable or transferable by you without the express prior written consent of ArangoDB; any attempt to do so will be null and void. This Agreement is freely assignable and transferable by ArangoDB without limitation.

10. Your Representations and Warranties. You represent and warrant that neither this Agreement (nor any term hereof) nor the performance of or exercise of any rights under this Agreement, is restricted by, contrary to, in conflict with, ineffective under, requires registration or approval or tax withholding under, or affects your proprietary rights (or the duration thereof) under, or will require any termination payment or compensation or indemnity or compulsory licensing under, any law or regulation of any organization, country, group of countries or political or governmental entity located to which you are subject. You will not make any claim to the contrary. ArangoDB is relying on this representation and warranty in entering this Agreement and would not otherwise enter this Agreement.

11.   Dispute Resolution.

a.   Venue; Governing Law.

i.   If your principal place of business is located in Germany or the European Union, each party hereby submits to exclusive venue for any and all disputes with regard to this Agreement in Cologne, Germany provided the parties of the contract are merchants or you have no place of general jurisdiction in Germany or in another member state of the European Union or its permanent or habitual residence is transferred abroad after entry into force of these terms of use or permanent or habitual residence is not known at the time the action is filed.

ii.   If your principal place of business is located elsewhere, each party hereby submits to exclusive venue for any and all disputes regarding this Agreement in the state and federal courts located in San Francisco County, California, USA. and you will be subject to the arbitration agreement set forth in the next paragraph.

iii.   This Agreement and any disputes hereunder or relating hereto shall be governed by and construed under the laws of the state of California without reference to its conflict of laws provisions.

b.   Arbitration. Any dispute or claim arising out of or related to this Agreement, or breach or termination thereof, will be finally settled by binding arbitration in the County of San Francisco, California, United States pursuant to the International Arbitration Rules and Procedures of the Judicial Arbitration and Mediation Service, Inc. ("JAMS") then in effect by a single JAMS arbitrator with substantial experience in resolving complex commercial contract disputes. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitrator will apply California law to the merits of any dispute or claim, without reference to rules of conflict of law, and will have the authority to award any and all available remedies, including legal and equitable relief. The parties may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, as necessary, without breach of this arbitration agreement and without any abridgment of the powers of the arbitrator. The arbitral proceedings and all pleadings and written evidence will be in the English language. Any written evidence originally in a language other than English will be submitted in English translation accompanied by the original or true copy thereof. The prevailing party will be entitled to receive from the non-prevailing party all costs, damages and expenses, including reasonable attorneys' fees, incurred by the prevailing party in connection with that action or proceeding, whether or not the controversy is reduced to judgment or award. The prevailing party will be that party who may be fairly said by the arbitrator(s) to have prevailed on the major disputed issues. Each party hereby consents to the arbitration in San Francisco, California.

         Waiver of Class or Consolidated Actions. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS. CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. If however, this waiver of class or consolidated actions is deemed invalid or unenforceable, neither you nor ArangoDB is entitled to arbitration; instead all claims and disputes will be resolved in a court as set forth in clause ii. below

c.   .

i.   Opt-out. You have the right to opt out of the provisions of this Section by sending written notice of your decision to opt out to the following address: ArangoDB, Inc, Attn: Legal, 548 Market St, #61436, San Francisco, CA 94104 postmarked within thirty (30) days of first accepting this Agreement. You must include (i) your name and residence address, (ii) the email address and/or telephone number associated with your account, and (iii) a clear statement that you want to opt out of this Agreement's arbitration agreement.

ii.   Exclusive Venue. For the avoidance of doubt, if you send the opt-out notice in clause i. above, and/or in any circumstances where the foregoing arbitration agreement permits either you or ArangoDB to litigate any dispute arising out of or relating to the subject matter of this Agreement in court, then the foregoing arbitration agreement will not apply to either party, and both you and ArangoDB agree that any judicial proceeding (other than small claims actions) will be brought in the state or federal courts located in San Francisco County, California.

12. Injunctive Relief, Severability. You may only resolve disputes with us on an individual basis, and you may not bring a claim as a plaintiff or a class member in a class, consolidated, or representative action. Notwithstanding

anything else in this Agreement, if you use the Community Software in violation of this Agreement, we are entitled to apply for injunctive remedies (or any other form of equitable relief or an equivalent type of urgent legal relief) in any jurisdiction. If any part of this Agreement is held invalid, the remainder of the Agreement will continue in full force and effect. If you have other rights not described in this Agreement, including consumer rights, under the laws of your state or country, this Agreement does not change those other rights if the laws of your state or country do not permit it to do so.