

CONFLUENT PLATFORM AGREEMENT FOR U.S. PUBLIC SECTOR

This Confluent Platform Agreement for U.S. Public Sector (“Agreement”) between Confluent Federal, LLC (“Confluent”) and the purchaser or user (“Customer”) of Confluent Software, Support Services, and/or any professional and education services (“Confluent Offerings”) governs the use of such Confluent Offerings where Customer is a part of a federal, state, or local government within the United States. The effective date of this Agreement (“Effective Date”) is the effective date of the relevant Order or agreement providing for the use of the Confluent Offerings. By entering into an Order, Customer is agreeing to and accepting the terms of this Agreement. You represent and agree that you have the legal authority to bind the government entity or agency on whose behalf you are accepting this Agreement, and the rights granted under this Agreement are expressly conditioned upon such authority. If Customer does not accept the terms of this Agreement, then Customer cannot use the Confluent Offerings.

1. LICENSE AND SUPPORT

- 1.1 License to Confluent Platform. Orders entered into by Customer will specify the Confluent Software purchased by Customer, associated Support Services, plus any related professional services purchased thereunder. Confluent Software is licensed and not sold. Subject to the terms of this Agreement and the applicable Order, Confluent grants to Customer a limited, non-exclusive, non-sublicensable, non-transferable license during the subscription term specified in the applicable Order to install and use Confluent Software solely for Customer’s internal business operations. Confluent reserves all rights not expressly granted in this section.
- 1.2 Affiliates and Service Providers. Customer may permit its Affiliates to use Support Services and Confluent Software purchased by Customer provided that: (i) Customer shall remain responsible for each such Affiliate’s compliance with the terms of this Agreement, and (ii) any such use together with Customer’s use must be, in the aggregate, within the use limitations set forth in the applicable Order. Customer may permit its third-party service providers to install and use the Confluent Software to provide outsourced services to Customer, and Customer will be solely responsible for such service provider’s compliance with this Agreement.
- 1.3 Restrictions on Use. Customer shall not, and shall not permit or encourage any third party to: (a) use the Confluent Software for third-party training, software-as-a-service, time-sharing or service bureau use; (b) disassemble, decompile or reverse engineer any portions of the Confluent Software that are not provided in source code format; or (c) attempt to gain access to the Confluent Software source code or the underlying ideas, algorithms, structure or organization of the object code. The foregoing restriction is inapplicable to the extent prohibited by applicable law.
- 1.4 Copies. Customer may make copies of the Confluent Software as reasonably necessary to exercise the license granted in Section 1.1, and a reasonable number of back-up or archival copies, provided that each such copy shall include Confluent’s copyright and any other proprietary notices that appear on the original copies of the Confluent Software.
- 1.5 Certification; Confluent Audit Rights. Upon Confluent’s written request, Customer shall certify in writing that it is in full compliance with this Agreement, including all use limitations set forth in each applicable Order. Such certification shall be signed by an officer of Customer. In addition, Confluent reserves the right, upon prior notice to Customer and during normal business hours, to audit Customer’s usage of the Confluent Software and Customer’s compliance with the terms of this Agreement, provided Confluent personnel

adhere to reasonable security and access requirements under established government policies. If Customer certifies to non-compliance, or Confluent determines as a result of such audit that Customer has exceeded its use limitations, Confluent shall notify Customer of its findings, and Customer will execute new Order(s) to encompass the higher use amount. Customer shall be required to pay amounts due, along with interest in an amount governed by the Prompt Payment Act (31 USC 3901 et seq) and Treasury regulations at 5 CFR 1315. Customer will not be responsible for interest or reimbursing Confluent for audit costs under this Section 1.5 where such payments would violate the Anti-Deficiency Act (31 U.S.C. 1341).

- 1.6 Delivery of Materials. The Confluent Software, and any versions, updates or maintenance releases of any component thereof, will be delivered only through electronic transfer. The parties shall reasonably cooperate to effectuate such delivery via FTP or other reasonable means.
 - 1.7 Support Services. Confluent will provide the Support Services purchased by Customer as specified in the applicable Order.
 - 1.8 Third Party Software. Confluent also makes available certain Third Party Software. The Third Party Software shall be subject to the applicable third party license(s) and not this Agreement. To the extent the terms of third party licenses applicable to Third Party Software prohibit any of the restrictions in this Agreement, such restrictions will not apply to such Third Party Software. To the extent the terms of third party licenses applicable to Third Party Software require Confluent to make an offer to provide source code or related information in connection with the Third Party Software, such offer is made.
- 2. USAGE DATA; TELEMETRY METRICS.** Confluent may collect data related to Customer's use of Confluent Platform ("Usage Data"). Such Usage Data may be used by Confluent for the provision, improvement, and support of Confluent Platform, including the creation of analytics data. Confluent will not publicly disclose Usage Data, unless such data is aggregated and anonymized or to the extent required by law. Customer acknowledges that certain features of the Confluent Platform may be configured to collect and report on system performance ("Telemetry Metrics") to Confluent. Customer may enable or disable transmission of Telemetry Metrics to Confluent at any time.

3. ORDERS, FEES AND RELATED

- 3.1 Orders Generally. All Orders are subject to the terms of this Agreement and are not binding until accepted by Confluent.
- 3.2 Indirect Orders. Sections 3.3 to 3.5 apply only to Orders placed directly with Confluent. If Customer purchases through a reseller, Customer will pay such reseller for such purchase and different payment terms may apply.
- 3.3 Fees and Payment. Customer shall pay Confluent or its authorized reseller as applicable the fees in the amount set forth in the applicable Order in accordance with the Order terms.
- 3.4 Taxes. Confluent or its authorized reseller as applicable shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with 552.212-4(k).
- 3.5 Payment Terms. Except as otherwise set forth in the applicable Order, all amounts payable to Confluent under this Agreement will be due within thirty (30) days from the date of an invoice receipt..

4. OWNERSHIP

- 4.1 Confluent Materials. Confluent or its licensors retain all rights, title and interest, in and to all intellectual property rights in the Confluent Software, including all related and underlying technology and Documentation; and any derivative works, changes, corrections, bug fixes, enhancements, updates and other modifications, or improvements of any of the foregoing (“Modifications”), (collectively, “Confluent Materials”). Except for the express limited rights set forth under this Agreement, no right, title or interest in any Confluent Materials is granted to Customer. Customer acknowledges that the licenses granted in Section 1.1 do not include the right to prepare any Modifications of the Confluent Materials. Confluent reserves all rights not expressly granted in this Agreement. No rights are granted by implication or estoppel.
- 4.2 Feedback. Customer has no obligation to provide Confluent any suggestions, enhancement requests, recommendations, or other feedback regarding Confluent’s products and services (“Feedback”). However, Confluent may use and include any Feedback that Customer provides regarding Confluent’s products and services without restriction or payment.

5. CONFIDENTIALITY

- 5.1 Confidentiality Obligations. Each party shall retain in confidence the non-public information and know-how disclosed or made available by the other party pursuant to this Agreement which is (a) designated in writing as proprietary and/or confidential, if disclosed in writing, (b) if disclosed orally, is designated in writing (which may be via email) as confidential within thirty (30) days of the oral disclosure, or (c) should reasonably be understood to be confidential by the recipient (“Confidential Information”). Notwithstanding any failure to so designate it, Confidential Information of Confluent includes the Confluent Materials, the terms of this Agreement, and all Orders hereunder . Each party shall (x) maintain the confidentiality of the other party’s Confidential Information using the same degree of care that it uses to protect the confidentiality of its own similar Confidential Information and at least a reasonable degree of care; (y) refrain from using the other party’s Confidential Information except for the purpose of performing its obligations under this Agreement; and (z) not disclose Confidential Information to any party except to its and its Affiliate’s employees, subcontractors and agents as is reasonably required in connection with this Agreement and who are subject to confidentiality obligations at least as protective as those set forth in this section. The foregoing obligations will not apply to Confidential Information of the other party which (i) is or becomes publicly known without breach of this Agreement; (ii) is discovered or created by the receiving party without use of, or reference to, the Confidential Information of the disclosing party, as shown in records of the receiving party; or (iii) is otherwise known to the receiving party without confidentiality restrictions and through no wrongful conduct of the receiving party. Receiving party may disclose Confidential Information to the extent required by law or court order (including where Customer is the receiving party and is subject to the U.S. Freedom of Information Act (5 U.S.C. 552) or similar public or open records law) if the receiving party provides prompt notice and reasonable assistance to the disclosing party to enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure; and provided that any information so disclosed retains its confidentiality protections for all other purposes.

- 5.2 Reserved.

6. WARRANTY

- 6.1 Mutual Warranties. Each party represents and warrants to the other that it has full corporate right and authority to enter into and perform this Agreement.

- 6.2 Confluent Warranties. Confluent represents and warrants that (i) it shall perform Support Services in a professional manner, employing a standard of care, skill and diligence consistent with industry standards, and (ii) for a period of thirty (30) days after the first delivery of the Confluent Software by Confluent to Customer, the Confluent Software in the form delivered by Confluent to Customer, will perform in all material respects in accordance with the Documentation. This limited warranty shall not apply if the Confluent Software has been altered or modified; or used, adjusted, installed or operated other than in accordance with this Agreement or the instructions furnished by Confluent. Confluent's sole liability and Customer's exclusive remedies for a breach of the foregoing warranties will be for Confluent to correct any failure of the Confluent Software to conform to the Documentation or to re-perform the Support Services in accordance with the requirements stated in the Support Services policy, as applicable. The foregoing warranties will not apply unless Customer notifies Confluent of the nonconformity in writing within thirty (30) days of the date on which Customer first became aware of such nonconformity.
- 6.3 Warranty Disclaimer. EXCEPT FOR THE EXPRESS WARRANTIES STATED IN THIS AGREEMENT, CONFLUENT MAKES NO OTHER WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE CONFLUENT SOFTWARE OR ANY OTHER MATERIALS OR SUPPORT SERVICES PROVIDED HEREUNDER. CONFLUENT SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE CONFLUENT SOFTWARE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS.
- 7. INFRINGEMENT INDEMNIFICATION.** Confluent will defend Customer from and against any claim, demand or lawsuit brought against Customer by a third party alleging that the Confluent Software, as provided to Customer by Confluent and used pursuant to this Agreement, infringes such third party's intellectual property rights, and Confluent will pay such damages or costs as are finally awarded against Customer attributable to such action, provided that Customer gives Confluent: (a) notification in writing of any such action within sixty (60) days of Customer's receipt thereof; (b) sole control of the defense or settlement of such action (provided any settlement releases Customer from all liability), except as prohibited by 28 U.S.C. 516, in which case Customer will consult with Confluent regularly during such action and Confluent will retain the right to intervene in the proceedings at its own expense, through counsel of its choice; and (c) all reasonable information and assistance, at Confluent's expense. If the Confluent Software becomes, or in the opinion of Confluent is likely to become, the subject of such an infringement claim, Confluent shall, at its option, either: (i) procure for Customer the right to use the allegedly infringing element of the Confluent Software, at no charge to Customer; (ii) replace or modify, in whole or in part, the Confluent Software to make it non-infringing; or (iii) if neither (i) or (ii) are commercially available, terminate the applicable Order, accept return of the Confluent Software, and refund a pro rata portion of the fees paid by Customer for the then-current Order term. Confluent assumes no liability hereunder for any claim of infringement if such claim is based on: (a) use of software other than a current unaltered release of the Confluent Software, as provided by Confluent to Customer; (b) the combination, operation or use of the Confluent Software, with non-Confluent programs or hardware, if the claim would not have arisen but for such combination, operation or use; (c) any alteration or modification of the Confluent Software by a party other than Confluent, (d) Apache Kafka, Apache Flink, or any other Third Party Software, or (e) use of the Confluent Software, or any component thereof, other than in accordance with and pursuant to this Agreement. THIS SECTION SETS FORTH CONFLUENT'S ENTIRE LIABILITY AND OBLIGATION AND CUSTOMER'S SOLE REMEDY FOR ANY CLAIM OF INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS. If Customer is a part of the U.S. Government and written approval of the Attorney General is required for Customer to accept the above procedures, Confluent will defend and indemnify Customer as described above only upon such approval.

8. LIMITATION OF LIABILITY

- 8.1 NOTHING IN THIS AGREEMENT LIMITS EITHER PARTY'S (I) LIABILITY FOR PERSONAL INJURY, DEATH OR WILLFUL MISCONDUCT, (II) LIABILITY THAT CANNOT BE LIMITED BY APPLICABLE LAW, (III) LIABILITY FOR BREACH OF SECTIONS 1.1 (ORDER AND LICENSE), 1.3 (RESTRICTIONS ON USE) OR 5 (CONFIDENTIALITY), (IV) OBLIGATIONS UNDER SECTION 7 (INFRINGEMENT INDEMNIFICATION), OR (V) CUSTOMER'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT.
- 8.2 EXCEPT AS SET FORTH IN SECTION 8.1, IN NO EVENT SHALL EITHER PARTY'S OR ITS AFFILIATES' LIABILITY ARISING UNDER THIS AGREEMENT EXCEED THE AMOUNT PAID OR PAYABLE BY CUSTOMER DURING THE TWELVE (12) MONTHS IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY.
- 8.3 NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, NEITHER PARTY NOR ITS AFFILIATES SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES, OR FOR LOST PROFITS, BUSINESS, CONTRACTS, REVENUE, GOODWILL, PRODUCTION, ANTICIPATED SAVINGS, OR LOSS OF DATA, OR FOR ANY CLAIM OR DEMAND BY ANY OTHER PARTY, HOWEVER CAUSED, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

9. TERM AND TERMINATION

- 9.1 Term. This Agreement commences on the Effective Date and will remain in effect until terminated as specified below.
- 9.2 Termination. If Customer is not a part of the U.S. Government, In accordance with GSA Schedule Contract Clause 552.238-114 Use of Federal Supply Schedule Contracts by Non-Federal Entities (May 2019), either party may terminate this Agreement and any Order upon breach by the other party of any material obligation under this Agreement which has not been cured within thirty (30) days after providing written notice of such breach to the other party. If Customer is a part of the U.S. Government, Confluent shall not have the foregoing termination right unless such remedy is granted after conclusion of applicable dispute resolution processes under applicable law (e.g., the Tucker Act or Contract Disputes Act) or if such remedy is otherwise available under U.S. Federal law. If Customer is not a part of the U.S. Government, Confluent may also terminate this Agreement upon written notice if Customer: (a) terminates or suspends its business; (b) becomes subject to any bankruptcy or insolvency proceeding under Federal or state statute; (c) becomes insolvent or subject to direct control by a trustee, receiver or similar authority; or (d) has wound up or liquidated, voluntarily or otherwise.
- 9.3 Effect of Termination. Termination or expiry of an Order will not automatically result in termination of this Agreement. The provisions of this Agreement that by their nature extend beyond the termination of this Agreement including without limitation "Orders, Fees and Related", "Ownership", "Confidentiality", "Infringement Indemnification", "Limitation of Liability" and "Term and Termination" will survive termination.

10. GENERAL

- 10.1 Assignment. Assignment. Neither party may assign or otherwise transfer this Agreement or any rights or obligations hereunder, in whole or in part, whether by operation of law or otherwise, to any third party without the other party's prior written consent, except to an Affiliate or to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. Any purported transfer, assignment or delegation without such prior written consent will be void. Confluent may not perform any assignment under this Agreement which violates the Anti-Assignment Act, 41 U.S.C. 6305. Subject to this section, this Agreement shall be binding upon and inure to the benefit of the parties, and their respective successors and permitted assigns.
- 10.2 Delays. In the event that either party is unable to perform any of its obligations under this Agreement due to any Act of God, fire, casualty, flood, earthquake, war, strike, lockout, epidemic, destruction of production facilities, riot, insurrection, material unavailability, acts or intervention of governmental authority, or any other cause beyond the reasonable control of the party invoking this section, and if such party used its commercially reasonable efforts to mitigate its effects, such party shall give prompt written notice to the other party, and the time for the performance shall be extended for the period of delay or inability to perform due to such occurrences.
- 10.3 Governing Law. This Agreement is governed by the Federal laws of the United States (or, if Customer is a part of a state or local government, the laws of that state). The parties disclaim and exclude the application of the United Nations Convention on Contracts for the International Sale of Goods.
- 10.4 Export Compliance. Confluent Materials are subject to export control laws and regulations. Customer may not access or use the Confluent Materials or any underlying information or technology except in full compliance with all applicable United States export control laws. Neither the Confluent Technology nor any underlying information or technology may be accessed or used (a) by any individual or entity in any country to which the United States has embargoed goods; or (b) by anyone on the U.S. Treasury Department's list of specially designated nationals or the U.S. Commerce Department's list of prohibited countries or debarred or denied persons or entities.
- 10.5 U.S. Government Rights. The Confluent Software and Confluent Materials are developed at private expense, and are licensed to the U.S. Government as "commercial items;" "commercial computer software," "commercial computer documentation," and "technical data;" as those terms are defined in 48 C.F.R. Ch 1 ("FAR") and 48 C.F.R. Ch. 2 ("DFARS"). Customer agrees that Confluent Software, Support Services, and professional and educational services are commercial products and commercial services under FAR 2.101. Any use, modification or disclosure of the Confluent Software or Confluent Materials is subject solely to the terms of this Agreement and any other restrictions that generally apply to the Confluent Software or Confluent Materials.
- 10.6 Other. This Agreement, together with and inclusive of any referenced exhibits, addenda and any incorporated terms, represents the entire agreement between the parties, and supersedes all prior agreements and understandings, written or oral, with respect to its subject matter, and is not intended to confer upon any third-party any rights or remedies. Customer acknowledges that it has not relied on any representations other than those contained in this Agreement. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing and signed by both parties. In the event of a conflict between the terms of this Agreement and an Order, the terms of

the Order shall prevail. The terms of this Agreement will supersede any additional or conflicting term in any other purchasing-related document issued by Customer and relating to an Order. The waiver of one breach or default or any delay in exercising any rights will not constitute a waiver of any subsequent breach or default. If any provision of this Agreement is held invalid or unenforceable under applicable law by a court of competent jurisdiction, it will be replaced with the valid provision that most closely reflects the intent of the parties and the remaining provisions of this Agreement will remain in full force and effect. Confluent may use and display Customer's name and logo on the Confluent website and in Confluent marketing and sales materials for Confluent Platform. Nothing in this Agreement will be construed as creating an agency, partnership, or joint venture relationship between the parties. Neither party shall have any right or authority to assume or create any obligations or to make any representations or warranties on behalf of the other party, whether express or implied, or to bind the other party in any respect. Confluent will provide any required notice to Customer under this Agreement by sending the notice by email to the email address that Customer provides to Confluent for its account. To provide notice to Confluent under this Agreement, Customer must send the notice, expressly referencing this Agreement and section with respect to which Customer is providing notice, by email to legal@confluent.io.

11. DEFINITIONS

- 11.1 "Affiliate" means any entity that controls, is controlled by, or is under common control with a party, where "control" means direct or indirect ownership of more than 50% of the voting interests of the entity.
- 11.2 "Confluent Platform" is Confluent Software together with Apache Kafka and/or Apache Flink.
- 11.3 "Confluent Software" means Confluent's proprietary software that is licensed and used pursuant to the applicable Order.
- 11.4 "Documentation" means the published documentation describing the functionality of the Confluent Software located at <https://docs.confluent.io/current/>.
- 11.5 "Order" means an ordering document for Confluent Platform, Support Services, and/or any professional and education services, entered into by Customer with either Confluent or a Confluent-authorized reseller, in accordance with the applicable Confluent Platform definitions and rules posted at confluent.io/contracts.
- 11.6 "Support Services" means the applicable support and maintenance service that Customer purchases, as may be more fully described in the applicable Order.
- 11.7 "Third Party Software" means certain third party software that is made available by Confluent as identified in the applicable help, notices, about or source file.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

CONFLUENT FEDERAL, LLC

Signature:

Name:

Title:

Date:

CUSTOMER: _____

Signature:

Name:

Title:

Date: