

License Agreement

SCALEOUT SOFTWARE END USER LICENSE AGREEMENT

YOU SHOULD CAREFULLY READ THE FOLLOWING BEFORE INSTALLING THIS SOFTWARE PRODUCT FROM SCALEOUT SOFTWARE, INC.

This ScaleOut Software End User License Agreement ("EULA") is a legal agreement between you and ScaleOut Software, Inc. ("ScaleOut") for ScaleOut's software products, including ScaleOut StateServer®, ScaleOut SessionServer™, ScaleOut GeoServer®, ScaleOut GeoServer® DR, ScaleOut Remote Client, ScaleOut ComputeServer®, ScaleOut StreamServer®, ScaleOut Management Pack™, ScaleOut hServer® and other software products of ScaleOut licensed by you, which includes computer software and its on-line documentation, and all updates, enhancements, hot fixes or other releases provided to you by ScaleOut (together, the "Software") and any support related to the Software provided by ScaleOut.

As used in this EULA, the term "Computer" is defined as a physical computer or a virtual server running on a physical computer or on a cloud service, such as Microsoft Azure.

By clicking on the AGREE button, or installing, copying, or otherwise using the Software, you agree to be bound by the terms of this EULA for both evaluation use and use after subsequent purchase, if applicable. If you do not agree with this EULA, you are not authorized to install or use the Software, and you must remove the Software from your system.

An electronic copy of this EULA will be provided to you upon installation of the Software as part of the on-line documentation.

1. GRANT AND TERM OF LICENSE.

1.1 Evaluation Period. Subject to your compliance with the terms of this EULA, ScaleOut grants to you a non-exclusive, non-transferable and royalty-free right to install and use the Software solely for your lawful use for the 30 days after the first day you install the Software on your Computers (the "Evaluation Period"). Such license grant is subject to the following conditions:

a. you must obtain from ScaleOut a valid and unique alphanumeric code ("Evaluation License Key") to activate the Software. The Evaluation License Key may not be disclosed, in writing, electronically or otherwise, to any third party or to the public in general;

b. the Software may be installed only on Computers controlled by you;

c. you may construct and operate exactly one (1) "Store", as defined by the Software documentation, with the Software;

d. you may install and operate ScaleOut Remote Client and its associated client libraries on an unlimited number of Computers, but you may not use ScaleOut Remote Client to connect to a Store from more Remote Client Computers than specified in your Evaluation License Key; and

e. at the end of the Evaluation Period you must pay a license fee as described below or cease use of the Software and destroy all copies in your possession;

f. you are responsible for all fees required by a cloud service, such as Microsoft Azure, to host the Software.

The Software will stop functioning properly at the end of the Evaluation Period unless you obtain a valid License Key.

1.2 Paid License Key. After the Evaluation Period expires, you must obtain, in exchange for a fee ("License Fee") to be paid to ScaleOut or to its authorized reseller in the amount specified by ScaleOut or by its authorized reseller, a valid and unique alphanumeric code ("License Key") from ScaleOut prior to continuing to use the Software. Each License Key will cover a specified period of time during which you may use the Software, which period of time is called the "License Term." Upon receipt of the License Key from ScaleOut, and subject to your compliance with the terms of this EULA, ScaleOut grants to you a non-exclusive, non-transferable and prepaid right to install and use the Software during the License Term solely for your lawful use. Such license grant is subject to the following conditions:

a. the Software may be installed only on Computers controlled by you;

b. you may construct and operate exactly one (1) "Store", as defined by the Software documentation, with the Software;

c. you may install and operate ScaleOut Remote Client on an unlimited number of Computers, but you may not use ScaleOut Remote Client to connect to a Store from more Remote Client Computers than specified in your Paid License Key;

d. you use the Software solely in accordance with the size, user and other restrictions for the valid License Key that you receive from ScaleOut. ScaleOut may from time to time replace the License Key by notifying you that the old License Key is invalid. Upon certification from you that you have destroyed all copies of the invalid License Key, ScaleOut will give you a new, valid License Key; and

e. you do not disclose, in writing, electronically or otherwise, to any third party or to the public in general, any License Key.

The Software will stop functioning properly at the end of the License Term, unless you purchase a perpetual License Key.

1.3 Term. The Software and the right to use the Software are not transferable and if you transfer the Software to any other party, your license is automatically terminated. The license granted in this EULA shall continue until the expiration of the License Term, and it will terminate automatically if you fail to comply with any provision of this EULA. Upon any termination of the license, or if you should give up your use and control of the Computers on which the Software is installed, you agree to destroy all copies of the Software and any related materials in any form. The provisions of Sections 3, 5, 8 and 10 shall survive termination of the license.

1.4 Open Source License. Notwithstanding the above, the ScaleOut hServer Java API library and the C++ API libraries are instead made available pursuant to the terms of the Apache License, Version 2.0.

2. COPYING AND COPYRIGHT.

The Software is owned by ScaleOut or its licensors and is protected by United States copyright laws and international treaty provisions. Therefore, you must treat the Software like any other copyrighted material (e.g. a book or musical recording) except that you may make copies of the Software which include all copyright and trademark notices for installation, backup, and archival purposes only. Solely with respect to electronic documents included with the Software, you may make an unlimited number of copies (either in hard copy or electronic form), provided that such copies include all copyright and trademark notices and are used only for internal purposes and are not republished or distributed to any third party. You may not use the Software for purposes other than as authorized in this EULA or knowingly permit anyone else to do so.

3. OTHER CONDITIONS.

The Software and License Key are confidential information of ScaleOut or its licensors and shall not be disclosed by you to any third party. You may not modify, translate, reverse engineer, decompile, disassemble or create derivative works based on the Software or License Key, remove any proprietary notices or labels, or continue use of a License Key after receiving notice from ScaleOut that it is invalid, or knowingly permit anyone else to do so. All applicable rights to patents, copyrights, trademarks and trade secrets in the Software or any modifications to it shall be and remain the property of ScaleOut or its licensors. You may not redistribute any portion of the Software. You may not rent or lease the Software. ScaleOut reserves all rights not expressly granted to you.

4. ACCESS OBLIGATIONS.

You are responsible for obtaining and maintaining at your own expense all telephone or other communications links, computer hardware and other equipment or facilities needed for access to and use of the Software.

5. NO WARRANTIES, INDEMNITIES OR LIABILITIES.

THE SOFTWARE AND SUPPORT IS PROVIDED TO YOU "AS-IS" AND WITHOUT WARRANTY OR INDEMNITY OF ANY KIND, EXPRESS, IMPLIED OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR WARRANTY OF ACCURACY OR COMPLETENESS OF ANY RESPONSES OR RESULTS. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE SOFTWARE IS WITH YOU AND SHOULD EITHER PROVE DEFECTIVE, YOU (AND NOT SCALEOUT, ITS AFFILIATES, AGENTS, OTHER LICENSEES AND LICENSORS) ASSUME THE ENTIRE COSTS OF SERVICING, REPAIR OR CORRECTION OF SUCH DEFECTS. IN NO EVENT SHALL SCALEOUT BE LIABLE TO YOU OR ANYONE ELSE FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION, FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR THE CLAIMS OF THIRD PARTIES, WHETHER OR NOT SCALEOUT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, HOWEVER CAUSED, AND ON ANY THEORY OF LIABILITY, ARISING OUT OF OR IN CONNECTION WITH THE POSSESSION, USE OR PERFORMANCE OF THIS SOFTWARE OR ANY SUPPORT.

6. CONSTRUCTION.

ScaleOut is willing to license the Software to you only in consideration of and in reliance upon

the provisions of this EULA limiting the exposure of ScaleOut to liability. Such provisions constitute an essential part of the bargain underlying this EULA and have been reflected in the License Fee and in other consideration specified in this EULA.

7. U.S. GOVERNMENT RIGHTS.

If you are acquiring the Software on behalf of any part of the United States Government, the Software is provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the Government is subject to restrictions as set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software – Restricted Rights clause at 48 CFR 52.227-19.

8. COMPLIANCE.

You agree to use all reasonable efforts to ensure that persons employed by you or under your direction and control abide by the terms and conditions of this EULA.

9. SUPPORT.

No support or maintenance is included with the License Fee. Users who desire support and maintenance must purchase a subscription for support and maintenance from ScaleOut. A description of support offerings and service levels can be found at:

https://www.scaleoutsoftware.com/media/PDF/ScaleOutSoftware_Support_Options.pdf

10. GENERAL.

This EULA is governed by the laws of the State of Washington.

This EULA is the entire agreement between ScaleOut and you and supersedes any other communications or advertising with respect to the Software or support, including without limitation any terms and conditions on any purchase order, all of which are expressly rejected. If any provision of this EULA is held unenforceable, that provision shall be enforced to the maximum extent permissible so as to give effect to the intent of the parties, and the remainder of this EULA shall continue in full force and effect. The headings used in this EULA are for convenience only, and shall not be given any legal import. Any item or service furnished by ScaleOut or its or their respective affiliates, agents, licensees and licensors in furtherance of this EULA, although not specifically identified in it, shall nevertheless be covered by this EULA unless specifically covered by some other written or electronic agreement accepted by you and an authorized representative of ScaleOut. You agree to comply with all U.S., foreign and local laws and regulations which apply to your use of the Software including without limitation, export control laws and regulations. ScaleOut has the right to assign, either directly or as a result of a change of control or by operation of law or otherwise, its rights and obligations under this EULA.

All correspondence regarding this EULA shall be directed to ScaleOut by U.S. Mail to the following address: ScaleOut Software, Inc., 12725 SW Millikan Way, Suite 270, Beaverton, OR 97005, U.S.A.

**** END OF THE SCALEOUT SOFTWARE END USER LICENSE AGREEMENT ****