

Redgate Platform EULA

Use of Redgate Platform is subject to the terms of this licence agreement (“**Agreement**”). Please read the full Agreement carefully.

You confirm that you accept and agree to be legally bound by all terms and conditions of this Agreement by downloading and/or installing and/or using Redgate Platform. If you do not accept these terms, do not download, install or use Redgate Platform.

IMPORTANT NOTICES:

- 1 Where you sign a paper version or a bespoke version of this Agreement, that paper/bespoke version will take precedence over any subsequent click to agree versions of this Agreement presented on download and/or installation; and
- 2 This Agreement shall prevail over your standard terms and conditions (if any) attached to, enclosed with, or referred to in, the purchase order or confirmation of order.

TERMS AND CONDITIONS

1 LICENCE

- 1.1 We grant you a limited, personal, non-exclusive, and non-transferable licence to use Redgate Platform.
- 1.2 The Licence is personal to you. You may not rent, lease, sub-license, sell, pledge, assign the benefit or delegate the burden of this Agreement or Redgate Platform or hold this Agreement on trust for any other person.
- 1.3 Except as stated in this Licence, you have no right to use, incorporate into other products, copy, publish, display, modify or translate Redgate Platform or any modification, adaptation or copy of Redgate Platform or any part thereof. You may only decompile, reverse engineer, or disassemble the source code of Redgate Platform either in whole or in part, as expressly permitted under the Licence or under Sections 50(A), (B) and (BA) of the Copyright, Designs and Patents Act 1988 (as amended or updated from time to time) or other applicable law.
- 1.4 You shall not use Redgate Platform to manufacture or distribute a product that is substantially similar to or competitive with our Software.
- 1.5 You may use Redgate Platform only for lawful purposes. You may not use Redgate Platform in any way that: (a) breaches any applicable local, national or international law or regulation; or (b) is unlawful or fraudulent or has any unlawful or fraudulent purpose or effect. This includes using Redgate Platform to harm or attempt to harm any person, to transmit spam, to knowingly transmit any data that contains any programs or code designed to adversely affect the operation of any computer software or hardware or the operation on Redgate Platform, or that is illegal, obscene, offensive, hateful or inflammatory or promotes illegal activity.

2 OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS

- 2.1 You acknowledge that i) all Intellectual Property Rights in or relating to Redgate Platform are owned by or licensed to us, ii) except as expressly granted under the Licence, you have no rights in Redgate Platform and iii) we shall have the right to use your name and/or logo on customer lists on our website and in other marketing material.
- 2.2 You hereby agree to refrain from any action which would diminish our Intellectual Property Rights in or relating to Redgate Platform or which would call those rights into question.
- 2.3 You agree not to delete, remove or alter any trade marks, logos, copyright notices or similar proprietary devices of ours, including without limitation any electronic watermarks or other identifiers that may be incorporated in Redgate Platform. All representations of our name or logo must remain as originally distributed.

3 PAYMENT

- 3.1 Your use of Redgate Platform is free of charge.

4 CONFIDENTIALITY

- 4.1 The structure, organisation, and source code of Redgate Platform are proprietary confidential information of ours and our licensors. You agree not to provide or disclose any confidential information of ours (including relating to or derived from Redgate Platform) to any third party, including where such confidential information is derived under any applicable law as set out in clause 1.3.
- 4.2 Other than the disclosures referred to in our Privacy Notice, we agree not to provide or disclose to any third party any information of a confidential nature in any form whatsoever which is disclosed to us by you or on behalf of you.

- 4.3 The provisions of clauses 4.1 and 4.2 will not apply to the extent that:
- 4.3.1 such information is in the receiving party's possession free from any restriction as to its use or disclosure; or
 - 4.3.2 the receiving party can demonstrate that such information is in the public domain (other than as a result of an unauthorised disclosure); or
 - 4.3.3 such information is required to be disclosed by law.
- 4.4 No information to which clause 4.3.3 applies shall be disclosed to a third party unless and until the receiving party has (unless prevented from doing so by law) (i) given the disclosing party reasonable written notice of such proposed disclosure, (ii) consulted with the disclosing party, and (iii) agreed with the disclosing party the content of the disclosure, provided that it shall not limit the disclosure in a manner which would prevent the receiving party from complying with a statutory or regulatory obligation or court order.

5 WARRANTY AND SUPPORT

- 5.1 Redgate Platform has been developed as a standard product for use by a wide variety of users and so we are unable to warrant that it will meet any particular user needs. You shall take full responsibility for ensuring that Redgate Platform is suitable for your intended purposes.
- 5.2 Redgate Platform is a beta version made available to you for preview prior to full release and therefore: (a) is provided AS IS with no representation, guarantee or warranty of any kind as to its functionality, quality, performance, implied whether by statute or otherwise, which are hereby expressly excluded; and (b) you acknowledge that Redgate Platform may not be available to you all of the time.
- 5.3 **Support.** In relation to and without prejudice to the generality of clause 5.2 above, we may, at our sole discretion, provide onboarding support to users of Redgate Platform. This support is provided subject to the terms of this Agreement. You accept that, although we will use reasonable endeavours to solve problems identified by you during onboarding, the nature of software is such that no guarantee can be provide that any particular problem will be solved. You accept that, where a particular problem requires an update to Redgate Platform, the scheduling of any new releases and the functionality those releases contain shall be under our sole control.

6 LIMITATION AND EXCLUSION OF LIABILITY

- 6.1 Nothing in this Agreement shall limit or exclude either party's liability for: (a) personal injury or death resulting from negligence, (b) fraud; or (c) any other matter for which liability cannot be excluded by law.
- 6.2 Subject to clause 6.1, neither party shall be liable to the other party for any indirect, special or consequential loss or damage whatsoever arising under or in relation to this Agreement (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise). We shall not be liable to you for any of the following types of loss or damage arising under or in relation to this Agreement: (a) any loss of profits, business, contracts, anticipated savings, goodwill, or revenue; or (b) any loss, or corruption, of software or data, except as set out in clause 6.3; or (c) any loss of use of hardware, software or data, except as set out in clause 6.3.
- 6.3 If you notify us that you have suffered any loss or corruption of Hosted Personal Data, other than loss or corruption caused by you or your actions, we will on request provide you with reasonable assistance to recover or restore the Hosted Personal Data from the last backup of the Hosted Personal Data we have performed. We will only perform limited back-ups of Hosted Personal Data and offer no guarantee about the frequency at which such backups will be performed. We do not accept any liability to the extent the Hosted Personal Data has changed since the time that we last performed a backup and you should ensure you retain your own copy of all Hosted Personal Data. Our sole liability to you in respect of any loss or corruption of the Hosted Personal Data is as set out in this clause.
- 6.4 Subject to clauses 6.1, 6.2, 6.3 and 9.2, we will not be liable to you for any other direct loss or damage howsoever arising as a result of your use of Redgate Platform.
- 6.5 The provisions of this clause allocate risks under this Agreement between you and us, and your free use of Redgate Platform reflects this allocation of risks and these limitations of liability.

7 LICENCE TERM, SUPPORT TERM, TERMINATION AND RETIRED SOFTWARE

- 7.1 The Licence shall commence upon your acceptance of its terms and shall continue until terminated in accordance with clause 7.2, 7.3 or 7.4, or otherwise in accordance with this Agreement.
- 7.2 We reserve the right to terminate the Licence on 30 days' written notice by us at any time.
- 7.3 We may terminate the Licence immediately and without notice if:
- 7.3.1 we reasonably suspect that you are using Redgate Platform for any purpose which contravenes any applicable law; or

- 7.3.2 you materially fail to comply with any provision of this Agreement.
- 7.4 The Licence will terminate automatically if you uninstall and cease use of Redgate Platform, or uninstall and destroy or voluntarily return Redgate Platform to us.
- 7.5 Where the Licence is terminated in accordance with clause 7.2, 7.3 or 7.4, then the Agreement shall terminate in its entirety.
- 7.6 Upon termination of this Agreement: (a) you must cease use of Redgate Platform, and uninstall, destroy or put beyond use all copies of Redgate Platform in your possession or control; and (b) the provisions of clauses 1.4, 4, 5.2, 6, 7.6, 7.7, 8.1, 8.2.8, 9, 10 and 11 will remain in effect.
- 7.7 The termination of this Agreement howsoever arising shall not affect the rights, duties and liabilities of either party accrued prior to termination.

8 DATA COLLECTION AND PRIVACY NOTICE

- 8.1 Information on the data we collect about you as a data controller and how we treat that data is set out in our Privacy Notice, which can be viewed at: <https://www.red-gate.com/privacy-and-security/platform-privacy-notice>.
- 8.2 You acknowledge that we will be acting as a data processor on your behalf for the purposes of hosting Redgate Platform for you to use. Full details are set out in Schedule 1. We will comply with our obligations under the Data Protection Legislation and will in particular:
- 8.2.1 process the Hosted Personal Data only to the extent necessary for the purpose of providing Redgate Platform and in accordance with your written instructions set out in this Agreement (except to the extent that we are required by law to process the Hosted Personal Data other than in accordance with your instructions);
 - 8.2.2 implement appropriate technical and organisational measures in accordance with the Data Protection Legislation to ensure a level of security appropriate to the risks that are presented by such processing;
 - 8.2.3 ensure that any employees or other persons authorised to process the Hosted Personal Data are subject to appropriate obligations of confidentiality;
 - 8.2.4 not engage any third party to carry out its processing obligations under this Agreement without obtaining your prior written consent of the Client and, where such consent is given, procuring by way of a written contract that such third party will, at all times during the engagement, be subject to data processing obligations not less protective than those set out in this clause 8.2 and save that, for the avoidance of doubt, you consent to those parties listed in Schedule 1 to carrying out processing on our behalf under this Agreement;
 - 8.2.5 notify you, as soon as reasonably practicable, about any request or complaint received from a Data Subject (without responding to that request, unless authorised to do so by you) and, at your expense, assist you by technical and organisational measures, insofar as possible, for the fulfilment of your obligations in respect of such requests and complaints;
 - 8.2.6 at your request and expense and taking into account the nature of the processing and the information available to us, use reasonable endeavours to, assist you in ensuring compliance with your obligations under Articles 32 to 36 of the General Data Protection Regulation (EU) 2016/679 (where applicable) in respect to the Hosted Personal Data;
 - 8.2.7 at your request, make available all information reasonably necessary to demonstrate our compliance with this clause 8 and on reasonable advance notice in writing otherwise permit, and contribute to, at your expense, audits carried out by you (or your independent authorised representative) strictly with respect to our processing of the Hosted Personal Data, save that you will (or will ensure your authorised representatives):
 - (a) sign a non-disclosure agreement in terms acceptable to us prior to undertaking such audit;
 - (b) be accompanied by a Redgate staff member at all times whilst on site during the audit;
 - (c) not be entitled to access any sites, systems or information that does not relate to the Hosted Personal Data or our processing of it (and in no circumstances will we be required to disclose any confidential information relating to our other customers);
 - (d) use your reasonable endeavours to ensure that the conduct of any such audit does not unreasonably disrupt our normal business operations; and
 - (e) comply with our relevant IT and security policies whilst carrying out any such audit; and
 - 8.2.8 on termination or expiry of this Agreement, destroy or return (as you direct) all Hosted Personal Data and delete all existing copies of such data unless we are required to keep or store such Hosted Personal Data

by law.

- 8.3 You, as the data controller, shall: (i) be responsible for ensuring that you have complied, and will continue to comply, with all applicable Data Protection Legislation; and (ii) ensure you have, and will continue to have, the right to provide access to the Hosted Personal Data to us for processing in accordance with the terms of this Agreement.

9 THIRD PARTY CLAIMS

- 9.1 You agree to indemnify us from any loss or damage whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise, if a third party claims that your use of Redgate Platform causes any such loss or damage, except in the circumstances in clause 9.2 below.
- 9.2 If any claim is brought against you alleging that your use of the intellectual property associated with Redgate Platform in accordance with this Agreement infringes the rights of any third party, you shall promptly notify us and supply full details of the claim. The two of us shall consult together on an appropriate course of action and seek to minimise the effect of any claim on the respective businesses. We shall have the right, at our sole choice, to either: (i) use reasonable endeavours to negotiate terms for continued use by you of the claimed infringing software; or (ii) use reasonable endeavours to amend Redgate Platform to make it non-infringing; or (iii) terminate this Agreement with immediate effect but no financial disbursement will be given to you in such circumstances.

10 GENERAL

- 10.1 **Governing law and settlement of disputes.** This Agreement (and any dispute or claim relating to it, or its formation, existence, construction, performance, validity or termination) will be governed by and construed in accordance with the laws of England. The courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims). Without prejudice to any other rights or remedies that we may have, you acknowledge and agree that damages alone would not be an adequate remedy for any breach of clauses 1, 2 and/or 4 by you. Accordingly, we shall be entitled to seek an injunction or other equitable relief for any threatened or actual breach of those clauses.
- 10.2 **Compliance with applicable law.** You agree that, notwithstanding clause 10.1 above, you may be subject to additional laws in other jurisdictions with respect to your use of Redgate Platform in such jurisdictions. You agree to comply with the laws of any such jurisdiction including, without limitation, any applicable export laws or regulations.
- 10.3 **Severability.** If any provision or part of any provision in this Agreement is found to be illegal, invalid or unenforceable for any reason then the remaining provisions or part provisions remain unaffected and the parties shall meet promptly to discuss in good faith and agree an alternative provision or part provision that provides as closely as possible, the same commercial effect as the original.
- 10.4 **No waiver.** No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it, nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 10.5 **No third party rights.** We and you do not intend that any of this Agreement will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it and all rights by virtue of the Contracts (Rights of Third Parties) Act 1999 are hereby excluded.
- 10.6 **Entire agreement.** This Agreement contains all the terms which the parties have agreed in relation to the subject matter of this Agreement and supersedes any prior oral agreements, representations or understandings between the parties in relation to such subject matter.
- 10.7 **Revisions to terms.** For click-to-agree versions of this Agreement only, we reserve the right to revise the terms of this Agreement by updating this Agreement on our website. You are advised to check the website periodically for notices concerning such revisions. Your continued use of Redgate Platform shall be deemed to constitute acceptance of any revised terms. Any bespoke versions of this Agreement shall continue to apply to all future downloads or installation of Software and shall always take precedence over any click to agree versions presented at download or installation of such Software.
- 10.8 **Notices.** References to notices being "written" or "in writing" includes email.

11 DEFINITIONS

- 11.1 In this Agreement, capitalised terms shall have the meanings set out below or the relevant Schedule.

"**Data Protection Legislation**" shall mean the Data Protection Act 2018, the General Data Protection Regulation (EU) 2016/679) to the extent it remains in force in the UK and any other applicable laws relating to the protection of personal data and the privacy of individuals (all as amended, updated or re-enacted from time to time);

"**Data Subject**", "**data controller**", "**data processor**", "**Personal Data**" and "**processing**" have the same meaning as in the Data Protection Legislation;

“Hosted Personal Data” means Personal Data being processed by us on your behalf under this Agreement;

“Intellectual Property Rights” means patents, registered designs, registered trade and service marks, registered copyright and modifications to and applications for any of the foregoing and the right to apply for protection for such registered rights anywhere in the world and inventions, discoveries, copyright, database right, unregistered trade or service marks, brand names or know-how and any similar or equivalent rights whether capable of registration or not arising, applied for or granted worldwide;

“Licence” means the licence to use Redgate Platform, set out in clause 1, this does not include any license to use Third Party Plug-ins;

“OSE” means an Operating System Environment which is all or part of an operating system instance, or all or part of a virtual (or otherwise emulated) operating system instance which enables separate machine identity (primary computer name or similar unique identifier) or separate administrative rights;

“Privacy Notice” means the document entitled Privacy Notice on our website (<https://www.red-gate.com/privacy-and-security/platform-privacy-notice>);

“Software” means any or all of our software products in executable form listed on our website: (<https://www.red-gate.com/support/license/software-editions>);

“Third Party Plug-ins” means a third party plug-in to Redgate Platform;

“We”, “Our”, “Us” and the non-capitalised versions means Red Gate Software Limited, a company registered in England with company number 3857576 and registered office at Newnham House, Cambridge Business Park, Cambridge CB4 0WZ, United Kingdom;

“You”, “Your” and the non-capitalised versions means, whether Redgate Platform is obtained directly from us or through a Reseller, where an individual downloads and/or installs Redgate Platform on a OSE for business use, that individual’s employer (and we will assume that such individual has the authority to purchase on behalf of their employer); or (c) where an entity or organisation downloads and/or installs Redgate Platform on a OSE for use by its employees, that entity or organisation (and such entity shall be responsible for all use by its employees of Redgate Platform).

Schedule 1

Data Processing Details

Nature/purpose of Processing	Provision of the hosted Redgate Platform service under this Agreement
Duration of Processing	Duration of this Agreement
Type of Personal Data	<ul style="list-style-type: none">• Email addresses• Authentication tokens from identity providers• IP addresses of users accessing Platform services• Such personal data as may be incidentally included in your database schemas and IT infrastructure metadata
Categories of Data Subjects	<ul style="list-style-type: none">• Your employees or contractors making use of Redgate Platform• Data subjects whose personal data may be incidentally included in your database schemas and IT infrastructure metadata
Third Countries or International Organisations Personal Data will be transferred to	Not applicable
Sub-Processors	Microsoft (Azure)