

# End User License Agreement

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This End User License Agreement ("EULA") is a legal agreement between the end user (as an individual or entity, "End User") and the applicable Licensor entity defined in Section 16.0 ("Licensor Party"), which sets forth the rights and obligations governing software products defined in the licensing policy ("Software"), limited support services, and associated documentation ("Documentation"). By installing, using, or otherwise interacting with the Software or Documentation, delivering, or receiving services involving the Software, the End User agrees to be bound by the terms of this EULA. If the End User does not agree with the terms of this EULA, do not use or otherwise interact with the Software, Documentation, or services.

## 1. General Terms

1.1. License Grant. Licensor grants to End User a non-exclusive, non-transferable, non-sublicensable right to install and use the Software in object code form and also the Documentation for End User's internal business purposes under the terms and conditions stated herein within the scope, type of use, limitations on deployment or as otherwise set forth in the applicable ordering document and for which End User has paid the applicable fees.

1.2. The Software is to be used in accordance with the Documentation, the terms of this EULA, and the [Licensing Policy](#) in which descriptions of the license(s) purchased can be found ("Licensing Policy"). End User may only use the number of licenses or capacity that has been purchased or granted unless the product specifically allows exceed usage. In the event End User exceeds the purchased or granted capacity, the Software may not process additional workloads and Licensor shall not provide Maintenance for such overage license use.

1.3. End User is permitted to make copies of the Software and Documentation for internal purposes in accordance with this EULA and the Licensing Policy. Any copies or partial copies of the Software and Documentation that End User makes shall remain Licensor's intellectual property and must incorporate all relevant patent, copyright and trademark notices.

## 2. Prohibited Use

Without Licensor's express prior written consent, End User may not (directly or indirectly through any employee, contractor, consultant, agent or other representative): (a) resell, transfer, share, or make the Software or license keys available to any third party (including, without limitation, sharing license keys on any website, forum or social media); (b) process third-party data (as a service provider), provide commercial hosting or support services, sublicense, rent or lease, in whole or in part, the Software to another party, or otherwise use the Software on a service bureau basis, without purchasing a specific license to do so; (c) decipher, decompile, disassemble, reverse assemble, reverse engineer, modify, or otherwise attempt to derive source code, algorithms, tags, specifications, architectures, structures or other elements of the Software, including any license keys, in whole or in part, for any purpose or in any manner (except to the extent such prohibition is expressly prohibited by law); (d) write or develop any derivative software or documentation or other software programs based upon the Software or Documentation; (e) violate applicable laws or regulations through use of the Software; or (f) disclose, transfer or otherwise make available to any third party the results of any performance, capacity or functionality tests or any benchmark testing of the Software.

## 3. Maintenance and Support

3.1. Maintenance and support (collectively, "Maintenance") for the Software is available in accordance with the Licensing Policy and [Licensor's support policy](#) (the "Support Policy"). If Maintenance is included in End User's plan purchased, it will commence upon the date the order is processed. End User will receive support for the Software including any updates, enhancements, or improvements that are included or defined in the Support Policy. Expired Maintenance plans are not eligible for Software updates. Violating any material provision of this EULA and/or Licensing Policy (including exceeding the purchased licensing capacity stated in Section 1.2) may result in postponement or rejection of Software Maintenance. Licensor may use collected telemetry (as prescribed in Section 4 below) to provide proactive Maintenance, including security update notifications and risk alerts.

3.2. The Software may include an automatic update functionality ("Automatic Updates") that, when enabled, downloads and installs updates to the Software, including updates to third-party packages and components. By using the Software, End User acknowledges and agrees to the following:

- a) Automatic Updates may include modifications to the Software, updates to existing third-party components and/or new third-party components.
- b) End User agrees that by continuing to use the Software following any update, End User accepts and are bound by the terms of the latest version of this EULA available at <https://www.veeam.com/legal/eula> and the terms of any applicable third-party license terms and conditions.
- c) The Automatic Updates functionality can be controlled through the Software's settings at any time. However, changing the default settings of the Automatic Updates may impact the security and functionality of the Software, and Licensor disclaims any liability arising from End User's decision to disable updates.

## 4. Technical Information Collection

4.1. Licensor cannot access the Software installed in End User's chosen environment(s) or any data that is managed using the Software. Licensor cannot access any technical information pertaining to the configuration or performance of the Software unless End User voluntarily provides it to Licensor by uploading log files, sharing telemetry data, sharing screenshots, descriptions, reports, survey information, etc., pertaining to the Software use



or utilize the Assistant (as defined in Section 9.1 below). Additional information and requirements regarding End User's use of the Assistant are set forth in Section 9 below.

4.2. Licensor products that support automatic license updates and telemetry generate and send license usage statistics and telemetry data to Licensor. THIS FUNCTIONALITY IS TURNED ON BY DEFAULT AND CAN BE DISABLED AT ANY TIME. However, the data collection is mandatory for all Free and Community Edition licenses and cannot be disabled.

4.3. Certain Licensor products require online licensing services accessibility for license activation and/or usage reporting due to the protected platform's requirements. THIS DATA COLLECTION IS ALWAYS ON AND CANNOT BE DISABLED.

## 5. Personal Information

In the event End User voluntarily provides personal data to Licensor in connection with Maintenance or otherwise, End User's personal information will be used and stored in accordance with [Licensor's Privacy Notice](#). End User can always update preferences to adjust personal information settings by visiting the customer portal in the Software tool.

## 6. Intellectual Property Rights

The Software is LICENSED, NOT SOLD. The Software is protected by patent, copyright, trademark, trade secret, and other laws, including, without limitation, international treaties. A list of relevant patents and trademarks can be found [here](#). All rights, title, and interest in and to the Software, Documentation, and any other Licensor materials or information provided or made available in connection with this EULA are retained solely by Licensor. End User hereby agrees that Licensor shall have the unrestricted, worldwide, fully paid, royalty-free right and license to use any and all ideas, feedback and suggestions made by End User to Licensor regarding the Software, Documentation, and other materials or information (collectively, "Feedback") including the right to use all intellectual property rights in the Feedback. Third-party licensors, in addition to any other rights or remedies available to them, are third-party beneficiaries of this EULA with regard to their respective component(s).

## 7. Open Source Software

7.1. Licensor may include various open source software components in or with the Software (collectively, "OSS"), each of which is owned by a third party and is subject to its own applicable license terms and conditions. A current list of OSS components used by Licensor, along with their applicable license terms, is included in a text file located in the folder where the Software files are installed (the "OSS License File").

For informational purposes only, Licensor may also make available a list of OSS components and their associated license terms [on the special webpage](#). However, the definitive and governing list of OSS components and their applicable licenses is contained within the OSS License File distributed with the Software.

7.2. As part of the Software's functionality, Licensor may update, modify, or replace OSS components included in the Software during the course of providing Automatic Updates. These updates may result in changes to the applicable license terms of the OSS.

7.3. By continuing to use the Software after an update that includes changes to OSS components, End User acknowledges and agrees to comply with the updated license terms of such OSS, as provided in the updated OSS License File included in the Software files.

7.4. Any warranties, representations, or liabilities related to such OSS, if any, are governed solely by the applicable OSS license terms. Nothing in this EULA is intended to modify, limit, or supersede the terms of any OSS license. In the event of any conflict between this EULA and an applicable OSS license, the terms of the OSS license shall control solely with respect to the applicable OSS component.

## 8. Audit

8.1. During the term of the EULA and for a period of one year thereafter, Licensor may, during normal business hours and upon reasonable prior notice to End User, inspect files, computer processors, equipment, and facilities to verify End User's compliance with the terms and conditions of this EULA, including but not limited to all license terms, policies, and quantities purchased via authorized Licensor resellers or online marketplaces. The scope of the audit may encompass the verification of compliance with this EULA as a whole, which by reference includes the Licensing Policy.

8.2. Licensor may conduct such an audit no more than once per year unless there are reasonable grounds for the audit, such as suspected breaches of the EULA. The audit may be conducted in any form, including online requests for information (logs) or by inspecting End User's infrastructure, by itself and/or with the involvement of third parties at Licensor's discretion. In case of such an audit, End User must provide Licensor and/or any third party selected by Licensor the requested information (logs) and/or access to End User's infrastructure within thirty (30) days after receiving the Licensor's notice and make reasonable efforts to facilitate the audit.

8.3. Any information received by Licensor as a result of the audit shall be treated as confidential and be used solely for the purposes of performing the audit. Should the audit reveal that End User is in breach of any terms of this EULA, the costs of the audit conducted by a third party will be borne by End User.

## 9. AI-enabled Assistant

9.1. Some Software may contain an artificial intelligence ("AI")-enabled assistant trained to provide End User with assistance regarding use of the Software (the "Assistant"). Use of this feature is subject to the [AI Terms of Use](#). By using the Assistant, End User acknowledges and agrees that, in addition to the terms of this Section 9, End User has read, understand and agrees to comply with the AI Terms of Use. End User further agrees that Licensor is not responsible for the Assistant's output or any information that End User inputs into the Assistant. End User may not use the Assistant for any purpose other than to seek information about the Software's functionality. End User agrees that under no circumstances will End User or any user in End User's organization input to the Assistant information that is considered "personal information" or "personal data" (as those or similar terms are defined under any laws applicable to End User) or information that End User's organization considers confidential or non-public. The Assistant is based on Azure OpenAI Service from Microsoft Corporation. All input End User shares with this Assistant will be processed in accordance with [Microsoft's Azure OpenAI Terms](#) and this EULA. By using the Assistant, End User acknowledges and agrees that End User has read, understands and agrees to comply with those terms. Please review the documentation before using the Assistant. End User may not use the Assistant if End User does not agree to those terms. In some Software, the Assistant may have two modes: basic ("Basic Mode"), which only utilizes information End User inputs to the chat window, and advanced ("Advanced Mode"), which utilizes information End User inputs to the chat window and product data received from the Software (the combined information, "Mixed Input"). Basic Mode is turned on by default. Advanced Mode is turned off by

default, and End User needs to turn it on explicitly. The Software also includes an option to completely disable the Assistant.

9.2. Basic Mode. Licensor may store and review any input End User shares with the Assistant and the Assistant's output in order to improve the Assistant's functionality or as otherwise necessary or useful for Licensor to provide its services. Licensor will delete all stored input and output after 30 days from the store date.

9.3. Advanced Mode. Mixed Input is deleted immediately after End User closes the conversation session or the session times out. Licensor may store and review the Assistant's output (but not Mixed Input) in order to improve the Assistant's functionality or as otherwise necessary or useful for Licensor to provide its services. Licensor will delete all stored output after 30 days from the store date.

9.4. Licensor does not review all of the Assistant's output; if the Assistant is unable to answer End User's question or if End User has any concerns regarding its output, End User may contact Licensor's customer support personnel.

## 10. Indemnification

Licensor will defend or, at its option, settle any action, suit or proceeding against End User that is based upon a claim that End User's use of the Software infringes any patent, copyright or other intellectual property right of a third party, and will indemnify End User against any amounts awarded against End User as a result of the claim, suit or proceeding; provided that (a) Licensor is promptly notified of the assertion of the claim, suit or proceeding, (b) Licensor has sole control of its defense and/or settlement, and (c) End User provides reasonable assistance and cooperate in Licensor's defense and/or settlement, at Licensor's expense. Licensor's defense and indemnity obligations do not apply, and End User shall be responsible for the defense and/or settlement of any claims where (1) End User's use of the Software or Documentation is beyond the scope of license granted in this EULA or otherwise in violation of any of the terms or conditions set forth in this EULA or any terms, policies or information referenced or to which a link has been provided in this EULA, (2) End User modified or created derivative works from the Software or Documentation, (3) End User used an outdated and infringing version of the Software or Documentation after release of a non-infringing version by Licensor, (4) End User used or combined the Software with any technology, software or hardware not supplied by Licensor, where the alleged infringement would not have occurred absent such use or combination, or (5) End User's use of the Evaluation Licenses or Free and Community Edition Licenses. In the event any such infringement action, suit, or proceeding is brought or threatened, Licensor will, at its sole option and expense: (i) procure for End User the right to continue the use of the Software or the allegedly infringing part thereof; or (ii) modify or amend or replace the same with other software or material having substantially similar functionality and performance.

## 11. Limited Warranty and Limitations of Liability

11.1. The purchase of the Software license (perpetual or subscription) is non-returnable and non-refundable. Licensor warrants that the Software, in its unmodified form as initially delivered or made available to End User, will perform substantially in accordance with the Documentation for such Software for a warranty period of ninety (90) days from the date the Software is delivered to End User (the "Warranty Period"). In the event the Software fails in a material respect to operate in accordance with the Documentation during the Warranty Period and Licensor is unable to correct the defect, Licensor's sole and exclusive liability and End User's sole and exclusive remedy shall be a refund of the license fees, if any, paid by You for the Software. All claims must be made within the Warranty Period. The foregoing limited warranty will not apply to Evaluation Licenses or Free and Community Edition Licenses, that are provided "as is". In the event a reported problem with the Software is

contributed to End User's fault and End User requests that Licensor works to resolve the problem, End User agrees to pay for such remediation efforts in accordance with Licensor's then-current rates.

11.2. For any Evaluation Licenses and Free and Community Edition Licenses in no event will Licensor be liable for any damages, for any claim or cause for any damages of any kind, including, without limitation, any direct, indirect, special, incidental, exemplary, statutory, punitive or consequential damages (including, without limitation, loss of profits, loss of use or data, damage to systems or equipment or business interruption). End User is not entitled to any defense, indemnification, or warranty protection for licenses granted pursuant to Section 11.1.

11.3. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 11.1, THE SOFTWARE AND MAINTENANCE ARE PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY THAT THE SOFTWARE IS FREE OF DEFECTS, WILL BE UNINTERRUPTED, IS MERCHANTABLE, OR FIT FOR A PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY LICENSOR OR ANY THIRD PARTY, INCLUDING, WITHOUT LIMITATION, ANY LICENSOR DISTRIBUTORS OR RESELLERS, SHALL CREATE ANY WARRANTY IN ADDITION TO, OR IN ANY WAY INCREASE THE SCOPE OF, THIS LIMITED WARRANTY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL USE OF THE ASSISTANT BY END USER OR ANY OF END USER'S PERSONNEL SHALL BE AT END USER'S SOLE RISK.

11.4. IN NO EVENT WILL LICENSOR OR ANY OF ITS AFFILIATES OR SUPPLIERS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, STATUTORY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF USE OR DATA, DAMAGE TO SYSTEMS OR EQUIPMENT, BUSINESS INTERRUPTION OR COST OF COVER) IN CONNECTION WITH OR ARISING OUT OF THE DELIVERY, PERFORMANCE OR USE OF THE SOFTWARE (INCLUDING THE ASSISTANT) OR ANY OTHER MATERIALS OR MAINTENANCE PROVIDED BY LICENSOR UNDER THIS EULA, WHETHER ALLEGED AS A BREACH OF CONTRACT CLAIM OR AS ANOTHER TYPE OF CLAIM, INCLUDING, WITHOUT LIMITATION, CLAIMS FOR UNJUST ENRICHMENT, UNFAIR COMPETITION OR BUSINESS PRACTICES, OR OTHER TORTIOUS CONDUCT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LICENSOR'S MAXIMUM AGGREGATE LIABILITY ARISING FROM OR RELATED TO THIS EULA, INCLUDING, WITHOUT LIMITATION, USE OF THE SOFTWARE (INCLUDING THE ASSISTANT) OR ANY OTHER MATERIALS OR MAINTENANCE PROVIDED BY LICENSOR UNDER THIS EULA, AND LICENSOR'S RELATIONSHIP WITH END USER SHALL NOT, IN ANY EVENT, EXCEED THE FEES PAID BY END USER FOR THE SOFTWARE DURING THE ONE (1) YEAR PERIOD PRIOR TO THE DATE THE APPLICABLE CAUSE OF ACTION AROSE.

11.5. NO ACTION ARISING OUT OF ANY ACTUAL OR ALLEGED BREACH OF THIS EULA OR TRANSACTIONS CONTEMPLATED BY THIS EULA MAY BE BROUGHT BY EITHER PARTY MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED. FOR PURPOSES OF THIS EULA, A CAUSE OF ACTION SHALL BE DEEMED TO HAVE ACCRUED WHEN A PARTY KNEW OR REASONABLY SHOULD HAVE KNOWN OF THE BREACH OR CLAIMED BREACH.

## 12. Export Control

The parties will comply with all applicable export or import regulations and trade sanctions imposed by various countries, including the U.S., E.U., U.K., and U.N. Customer confirms that it is not included on any sanctions-related list of designated persons and is not organized under the laws of, resides in, or is controlled by any country or region subject to comprehensive sanctions or embargoes (currently, Belarus, Cuba, Iran, North Korea, Russia, Syria, and the Crimea, Donetsk, Kherson, Luhansk, and Zaporizhzhia regions of Ukraine). Without limiting the foregoing, Customer agrees that it will not export, re-export, or otherwise transmit the Software: (i) to any country or region subject to an embargo or comprehensive trade sanctions; (ii) to any individual or entity

identified on any restricted party lists (including the Consolidated Sanctions, Specially Designated Nationals, Denied Persons, Entity, or Unverified Lists); or (iii) to any end user with knowledge or reason to know that the Software will be used for any unlawful purpose. Veeam reserves the right to block access to the Software for violations of this clause without prior notice.

## 13. United States Government Users

The Software licensed under this EULA is “commercial computer software” as that term is described in DFAR 252.227-7014(a)(1). If acquired by or on behalf of a civilian agency, the U.S. Government acquires the Software and/or Documentation subject to the terms of this EULA as specified in 48 C.F.R. 12.212 (Computer Software) and 12.211 (Technical Data) of the Federal Acquisition Regulations (“FAR”) and its successors. If acquired by or on behalf of any agency within the Department of Defense (“DOD”), the U.S. Government acquires the Software and Documentation subject to the terms of this EULA as specified in 48 C.F.R. 227.7202 of the DOD FAR Supplement and its successors.

## 14. Confidentiality

Each party agrees to maintain the confidentiality of all information disclosed by the other party in relation to the provision and use of the Software, designated as confidential or reasonably understood to be confidential due to the nature of the information and the circumstances of disclosure (“Confidential Information”). Confidential Information shall be used solely to fulfil obligations under this EULA and protected with no less diligence than that used for one’s own confidential information but no less than reasonable care. This excludes information which is publicly known, received from third parties without breach, or independently developed. If legally compelled to disclose Confidential Information, the receiving party must notify the disclosing party promptly and cooperate with any effort to contest the disclosure. Upon termination of this EULA, Confidential Information must be returned or destroyed as directed by the disclosing party.

## 15. General

This EULA, together with the terms, policies and information referenced herein, sets forth Licensor’s entire obligation and End User’s exclusive rights as to the Software and Maintenance, and supersedes any conflicting terms of any purchase order and any other communication regarding the same. No failure of either party to exercise or enforce any of its rights hereunder will act as a waiver.

15.1. Severability. If any provision of this EULA is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the other provisions of this EULA will not be affected.

15.2. Assignment. Neither party may assign or transfer this EULA, in whole or in part, without the other’s prior written consent. Notwithstanding the foregoing, Licensor may, without End User’s consent, assign the EULA to any of its affiliates, or to an entity who acquires all or substantially all of its business or assets, or in connection with a change in control of Licensor (through merger, consolidation, reorganization, operation of law or otherwise). Subject to the foregoing, this EULA is binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns.



**Licensor Party**

Kasten Inc., USA, licenses Veeam Kasten for Kubernetes and Veeam Software Group GmbH, Switzerland, licenses all other Software.

## 17. Governing Law and Jurisdiction

17.1. End User agrees that if End User licenses the Software from either of the entities below, any claim or dispute arising from or in connection with this EULA is governed by the corresponding laws without regard to its conflict of law principles and excluding the U.N. Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act and End User consents to the exclusive jurisdiction of the specified courts:

- a) Veeam Software Group GmbH- Switzerland; Canton of Zug, Switzerland;
- b) Kasten Inc.- New York; federal or state courts of New York County, New York.

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