KONG SOFTWARE LICENSE AGREEMENT

Last updated: April 20, 2021

PLEASE READ THIS AGREEMENT CAREFULLY AS IT GOVERNS YOUR USE OF THE SOFTWARE (AS DEFINED BELOW), UNLESS WE HAVE EXECUTED A SEPARATE WRITTEN OR ONLINE AGREEMENT WITH YOU FOR THAT PURPOSE. IF YOU ARE ACTING ON BEHALF OF AN ENTITY, THEN YOU REPRESENT YOU HAVE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF ATHAT ENTITY. IF YOU DO NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN YOU MUST NOT DOWNLOAD OR USE THE SOFTWARE.

This Kong Software License Agreement ("**Agreement**") is entered into by and between Kong Inc., a Delaware corporation with offices at 150 Spear Street, Suite 1600, San Francisco, CA 94015 and the user of the Software that accepts the terms of this Agreement, regarding proprietary software made available by Kong for download ("**Software**"). "**Kong**," "**we**," and "**us**," refers to Kong Inc. "**Customer**", "**you**" and "**your**" refers to the person, company or other legal entity entering into this Agreement with Kong.

YOU DEMONSTRATE YOUR ASSENT TO BE BOUND BY THIS AGREEMENT, BY (1) CLICKING ON THE CHECKBOX OR DOWNLOAD BUTTON INDICATING ACCEPTANCE, OR (2) USING THE SOFTWARE. This Agreement is effective as of the date Customer accepts it or starts use of any part of the Software ("**Effective Date**").

1. License.

1.1   License to Kong Software. Subject to the terms and conditions of this Agreement, Kong grants to Customer a limited, non-exclusive, non-transferable, worldwide, license to install and use the Software during the term of this Agreement in a Customer-controlled network environment ("**Customer Network Environment**"). The Customer Network Environment may include the Customer's own servers, those of its Affiliates, or servers of third cloud provider services (such as Amazon Web Services, Microsoft Azure or Google Cloud) or some combination of on-premises and cloud provider deployment. "**Affiliate**" means any entity that directly or indirectly controls, is controlled by, or is under common control with a party, where "control" means having more than 50% ownership or the right to direct the management of the entity.

1.2   Konnect Platform. If Customer has an active subscription to the Konnect Platform including the Software, then any Software that Customer downloads from Kong's website or otherwise receives from Kong will be subject to the terms of the Kong Konnect Customer Agreement applicable to Kong's proprietary software or a separately negotiated and signed agreement between Kong and Customer for Kong's proprietary software and not the terms of this Agreement. The "**Konnect Platform**" means Kong's proprietary end-to-end API (application programming interface) service connectivity platform for the configuration, deployment, management and securing of API services. This Agreement does not apply to any software released by Kong under an open source license, including the community version of the Kong API gateway.

1.3   Restrictions and Limitations. Except as otherwise expressly permitted by an applicable third party license, Customer must not and must not allow any third party to: (i) modify the Software or create derivative works based upon the Software, or reverse engineer or decompile, decrypt, disassemble or otherwise reduce the Software to human-readable form, except and only to the extent any foregoing restriction is prohibited by applicable law; (ii) use any elements or functionalities of the Software to create a program or a set of programs similar or identical to the Software; (iii) sublicense, sell, rent, lease, license, transfer, assign or redistribute, or sell access to the Software to any third party (except as expressly set forth in Section 2 (Access by Third Parties to Customer's API Services); (iv) use or permit the Software to be used for or in a software-as-a-service, time sharing, service bureau or outsourcing offering; or (v) use the Software where failure or fault

of the Software could lead to death or serious bodily injury of any person, or to severe physical, property or environmental damage. For the avoidance of doubt, all restrictions specified in this Agreement with respect to the Software apply to all components. There are no implied licenses granted by Kong under this Agreement.

1.4 Software Delivery. The Software, and any versions, updates or maintenance releases of the Software or any components of the Software, will be delivered only through an electronic transfer.

1.5 Support and Maintenance. Kong is not obligated to provide maintenance and support services for the Software licensed under this Agreement. If Kong, in its sole discretion, makes available to Customer any updates or maintenance releases of the Software, the updates or maintenance releases will be deemed Software under this Agreement.

2. Access by Third Parties to Customer's API Services. The Software includes the capability for Customer, at its option and in its sole discretion, to expose Customer's API services to the programmatic applications of third parties (including, if Customer chooses, applications outside Customer's Network Environment) to interact with, access or consume Customer's API services. At all times Customer remains responsible for its API services and access to its data and network through the Software.

3. Ownership. Customer agrees that, as between Kong and Customer, Kong or its suppliers retain all right, title and interest (including all patent, copyright, trademark, trade secret and other intellectual property rights) in and to the Software and any and all related and underlying technology and documentation; and any derivative works, modifications, or improvements of any of the foregoing, including any Feedback that may be incorporated. Notwithstanding anything to the contrary in this Agreement, Kong may freely use and incorporate into Kong's products and services any suggestions, enhancement requests, recommendations, corrections, or other feedback provided by Customer relating to Kong's products or services ("**Feedback**"). All Feedback is provided by Customer without warranties.

4. Usage Data. Kong has the right to collect and use data about Customer's use of the Software to develop, improve, support, and operate its products and services during and after the term of this Agreement. Customer may choose to disable the feature in the Software which permits transmission of this data to Kong, in which case Kong will not collect the data automatically from the Software. Kong may not share any usage data that includes Customer's Confidential Information with a third party except (i) in accordance with Section 5 (Confidentiality) of this Agreement; or (ii) to the extent the usage data is aggregated and anonymized such that Customer and its authorized users cannot be identified.

5. Confidentiality.

5.1 "**Confidential Information**" means any non-public data, information and other materials regarding the products, software, services, or business of a party (and/or, if either party is bound to protect the confidentiality of any third party's information, of a third party) provided by or made available by one party and/or its Affiliates ("**Disclosing Party**"), either directly or indirectly through third parties, to the other party and/or its Affiliates ("**Receiving Party**") where the information is marked or otherwise communicated as being "proprietary" or "confidential" or the like, or where the information should, by its nature, be reasonably considered to be confidential and/or proprietary. The Software will be deemed Kong's Confidential Information. Notwithstanding the foregoing, Confidential Information will not include information which: (i) is already known to the Receiving Party prior to disclosure by the Disclosing Party; (ii) becomes publicly available without fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without restriction as to disclosure, or is approved for release by written authorization of the Disclosing Party; or (iv) is independently developed or created by the Receiving Party without use of the Disclosing Party's Confidential Information.

5.2 Duties. Except as expressly authorized in this Agreement, the Receiving Party agrees to: (i) use the Confidential Information of the Disclosing Party only to perform its obligations and exercise rights granted to it under this Agreement; (ii) treat all Confidential Information of the Disclosing Party in the same manner as it treats its own similar proprietary information, but in no case with less than reasonable care; and (iii) disclose the Disclosing Party's Confidential Information only to its Affiliates, and those employees, agents and contractors of the Receiving Party and those of its Affiliates who have a need to know the Confidential Information for the purposes of this Agreement, provided that any such employee, agent or contractor must be subject to obligations of non-use and confidentiality with respect to the Confidential

Information at least as restrictive as the terms of this Agreement, and the Receiving Party will remain liable for any non-compliance of such Affiliates, and its or their employees, agents or contractors with the terms of this Agreement.

5.3   Disclosures Required by Law. Either party may disclose Confidential Information of the other party if it is required to be disclosed by law or governmental regulation, provided that the Receiving Party provides reasonable notice to Disclosing Party of the required disclosure (to the extent permitted by law) and reasonably cooperates with the Disclosing Party in limiting the disclosure and ensuring confidential handling of the Confidential Information.

6.   Term and Termination.

6.1   Term. This Agreement starts on the Effective Date and will remain in effect until terminated in accordance with its terms.

6.2   Termination. This Agreement will immediately terminate if Customer breaches Section 1.1 (License to Kong Software) or Section 1.3 (Restrictions and Limitations), regardless of whether Kong notifies Customer of the termination. In addition: (i) Kong may terminate this Agreement, or the license to any part of the Software licensed under this Agreement, for convenience with or without cause, upon 4 months' notice to Customer, which notice may be provided by Kong by way of a general notification by Kong on its website, support portal, or other means reasonably intended to alert Customer of the termination, and (ii) Customer may terminate this Agreement by ceasing use of the Software and deleting all copies of the Software from the Customer Network Environment. Further, either party may terminate this Agreement: (i) if the other party materially breaches any provision of this Agreement and the breach remains uncured 30 days after being provided with a reasonably detailed notice of the breach; or (ii) effective immediately, if the other party ceases to do business, or otherwise terminates its business operations without a successor; or if the other party becomes insolvent or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is filed against it and not dismissed within 90 days.

6.3   Effect of Termination. Upon termination of this Agreement for any reason, Customer will destroy (or at Kong's option, return) all copies of Software and related documentation and Kong Confidential Information in its possession or control. Any terms or sections which by their nature should reasonably survive will survive the termination or expiration of this Agreement.

7.   Disclaimer of Warranties and Limitation of Liability.

7.1   Disclaimer of any Warranties. THE SOFTWARE AND ANY OTHER MATERIALS PROVIDED BY KONG UNDER OR RELATED TO THIS AGREEMENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTY OF ANY KIND, EXPRESS, STATUTORY OR IMPLIED. ALL EXPRESS, STATUTORY OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, NON-INTERFERENCE, OR ACCURACY OF INFORMATIONAL CONTENT, OR ARISING FROM A COURSE OF DEALING, LAW, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED, TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW.

7.2   Limitation of Liability. IN NO EVENT WILL KONG OR ITS AFFILIATES BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, CONSEQUENTIAL, RELIANCE, EXEMPLARY OR INCIDENTAL DAMAGES OF ANY KIND, OR FOR ANY LOST REVENUE, LOST PROFIT, LOSS OF BUSINESS, LOSS OF CONTRACTS, LOSS OF ANTICIPATED SAVINGS, LOSS OF GOODWILL, COST OF DELAY, OR FOR ANY LOST, INACCURATE OR DAMAGED DATA, OR ANY BUSINESS INTERRUPTION, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ARISING FROM THE SOFTWARE OR ANY MATERIALS PROVIDED UNDER OR RELATED TO THIS AGREEMENT, EVEN IF ADVISED BEFOREHAND OF THE POSSIBILITY OF THE DAMAGES OR LOSS. IN NO EVENT WILL THE AGGREGATE LIABILITY OF KONG AND ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED US$1,000.

7.3   THE PARTIES AGREE THAT THIS SECTION 7 WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE AND WILL APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

8. General.

8.1 Third Party Open Source. In addition to the terms of this Agreement, third party open source software which may be delivered to Customer together with or as part of the Software is subject to the relevant third-party license, including the relevant proprietary notices, disclaimers, requirements and/or extended rights which are relevant to the third party open source software. For a list of third party open source software please see https://konghq.com/copyright-kong-ee. To the extent the terms of open source licenses applicable to third party open source software prohibit any of the restrictions in this Agreement, such restrictions will not apply to such software.

8.2 Export Law Assurances. Customer understands that the Software is subject to export control laws and regulations. Customer may not download or otherwise export or re-export the Software or any underlying information or technology except in full compliance with all applicable laws and regulations, including United States export control laws. None of the Software or any underlying information or technology may be downloaded or otherwise exported or re-exported: (i) into (or to a national or resident of) any country to which the United States has embargoed goods; or (ii) to 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. Customer hereby agrees to the foregoing and represents and warrants that customer is not located in, under control of, or a national or resident of any such country or on any such list.

8.3 U.S. Government Restricted Rights. The Software and related documentation qualify as "commercial items," as that term is defined at Federal Acquisition Regulation ("FAR") (48 C.F.R.) 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212. Consistent with FAR 12.212 and DoD FAR Supp. 227.7202-1 through 227.7202-4, and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which this Agreement may be incorporated, Customer may provide to a government end user or, if this Agreement is direct, the government end user will acquire, the Software and related documentation with only those rights set forth in this Agreement. Use of either the Software or related documentation or both constitutes agreement by the Government that the Software and related documentation are "commercial computer software" and "commercial computer software documentation," and constitutes acceptance of the rights and restrictions in this Agreement.

8.4 Choice of Law; Venue. This Agreement will be exclusively governed by and construed in accordance with the laws of the State of California, without reference to or application of choice of law rules or principles. The sole and exclusive jurisdiction and venue for actions arising under this Agreement will be the State and Federal courts in San Francisco, California. Customer and Kong hereby consent to personal jurisdiction of such courts and waive all defenses of *forum non conveniens*. Notwithstanding any choice of law provision or otherwise, the Uniform Computer Information Transactions Act (UCITA) and the United Nations Convention on the International Sale of Goods will not apply.

8.5 Headings. Headings and captions are for convenience only and are not to be used in the interpretation of this Agreement.

8.6 Entire Agreement; Modifications; Conflicts. This Agreement constitutes the entire agreement between the parties with respect to its subject matter. Except as expressly provided in this Agreement, this Agreement supersedes and cancels all previous written and previous or contemporaneous oral communications, proposals, representations, and agreements relating to the subject matter contained in this Agreement. Except as expressly provided in this Agreement, this Agreement may be amended, or any term or condition of it waived, only by a writing executed by both parties.

8.7 Illegality. Should any term of this Agreement be declared invalid, void or unenforceable by any court of competent jurisdiction, that provision will be modified, limited or eliminated to the minimum extent necessary to effectuate the original intent and such declaration will have no effect on the remaining terms of this Agreement, which will continue in full force and effect.

8.8 Waiver. The failure of either party to enforce any rights granted under this Agreement or to take action against the other party in the event of any breach under this Agreement will not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

8.9   Assignment. This Agreement may not be assigned or transferred without the other party's prior written consent, provided each party expressly reserves the right to assign this Agreement to a successor in interest of all or substantially all of its business or assets to which this Agreement relates. Any action or conduct in violation of the foregoing will be void and without effect. All validly assigned rights and obligations of the parties under this Agreement will be binding upon and inure to the benefit of and be enforceable by and against the successors and permitted assigns.

8.10 Notice. Any and all notices or other information to be given by one of the parties to the other will be deemed sufficiently given when sent by certified mail (receipt requested), or by courier, or by hand delivery to the other party to the address specified in this Agreement or such other address provided by the parties from time to time. Such notices will be deemed to have been effective on the first business day following the day of delivery.

8.11 Equitable Relief. The parties agree that a material breach of this Agreement adversely affecting Kong's or its licensors' intellectual property rights in the Software or the Confidential Information of either party may cause irreparable injury to the party for which monetary damages would not be an adequate remedy and the non-breaching party will be entitled to seek equitable relief (without a requirement to post a bond) in addition to any remedies it may have under this Agreement or at law.