

**CAST HIGHLIGHT  
TERMS OF SERVICES  
MICROSOFT COMMERCIAL MARKETPLACE**

These Terms and Conditions ("**Terms**"), together with the order form electronically validated by the Customer subscribing to the Services via Microsoft Commercial Marketplace (the "**Order**"), hereinafter designated the "**Agreement**", are for use of web-based services based on the CAST Highlight technology, as described in the documentation available at the following link: <http://doc.casthighlight.com/how-it-works> (the "**Services**").

This Agreement is entered into and effective as of the date of the first Order ("**Effective Date**") by and between:

**CAST SA**, a French company, whose identification number is 379 668 809 RCS Nanterre and having its registered offices at 3, rue Marcel Allegot - 92190 Meudon, France (CAST and its successors in title are designated "**CAST**" in the Agreement)

And

**Customer**, as designated in the Order.

CAST and Customer are, in the Agreement, equally and individually designated "**Party**" and collectively designated the "**Parties**".

## **1. Description of the Services**

**1.1 Rights granted to Customer.** CAST grants Customer a limited, non-exclusive, non-transferrable right to access and use the Services during the term of the Order and for the number of applications set out in the Order, to obtain **CAST Generated Data** that Customer may use for its own internal purposes only. "**CAST Generated Data**" means the Deliverables described in Section 1.2 below. Customer expressly agrees that the content and functionality of the Services, as well as the Terms of this Agreement, may be updated or amended by CAST from time to time. Customer shall be informed by e-mail of such changes. In order to enable CAST to deliver the Services, Customer must use the Services as described in Exhibit A. Customer acknowledges that the Services cannot be delivered by CAST if the Services are not used in accordance with Exhibit A. An Order cannot be amended, modified, superseded or terminated (unless pursuant to Section 6. below) by Customer without CAST's prior written approval.

**1.2 Deliverables.** The Deliverables consist of a display through a CAST Highlight web portal (hereinafter the "**Portal**") of insights on the structural health, cloud readiness, open source risks, and green impact of applications' inner workings.

**1.3 Support.** In the event that during the term of this Agreement, either Party becomes aware of an event, occurrence, error, defect, or malfunction in the Services that has been identified as causing or having the potential to cause material issues for Customer it will notify the other Party. For such notification, Customer will use the CAST Highlight Support form provided under the following link <https://help.castsoftware.com/hc/en-us/requests/new> or by email to [support@casthighlight.com](mailto:support@casthighlight.com). Upon receipt of such notification, then CAST will exercise its best efforts to promptly provide Customer with written notice of the event, occurrence, error, defect, or malfunction and the possible adverse effect and proposed remedy (if any) under the support terms as further set out at <http://doc.casthighlight.com/support-terms>.

**1.4 Restrictions.** Customer shall not, and shall not knowingly allow any third party to, (a) modify, copy, or otherwise reproduce the Services in whole or in part; (b) permit access to the Services through Internet links, frames, or content mirrors (other than through Customer's own intranet system or otherwise for its own internal business purposes) or attempt to gain unauthorized access to the Services or related systems or networks; (c) translate, modify or create a derivative work of any part of the Services or otherwise create a competing service by using the Services; (d) sell, resell, rent, lease, transfer, assign, distribute or otherwise commercially exploit the Services or make any CAST Generated Data derived from the Services available to any third party except as permitted in this Agreement; (e) interfere with or disrupt the Services or the CAST Generated Data; (f) disclose any Confidential Information, as defined below, of CAST to any third party unless compelled by law or (h) use the Services for any unlawful purpose.

## **2. Disclaimers and Liability**

**2.1** CAST does not warrant the accuracy and reliability of the Services if the data collected and transferred to the Portal by the Code Reader (as defined in Exhibit A) is corrupted, incorrect or altered during the collection

and diagnosis process or during the transfer of the text file through the Internet (or any other network) to the Portal.

**2.2** CAST does not warrant that the data collected by the Code Reader will be error free or accurate, and nor that the text file created by the Code Reader will not be altered during its transfer through the Internet (or any other network) to the Portal.

**2.3** EXCEPT TO THE EXTENT OTHERWISE PROVIDED BY LAW, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (OR TO ANY PERSON OR ENTITY CLAIMING THROUGH THE OTHER PARTY) FOR ANY LOSS OF DATA, LOST PROFITS OR FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, REGARDLESS OF THE FORM OF ACTION AND WHETHER OR NOT SUCH PARTY HAS BEEN INFORMED OF, OR OTHERWISE MIGHT HAVE ANTICIPATED, THE POSSIBILITY OF SUCH DAMAGES.

**2.4** CAST DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**2.5** BECAUSE OF THE VERY NATURE OF THE WEB SERVICE, CAST DOES NOT WARRANT THE UNINTERRUPTED OPERATION OF THE SERVICES OR ACCESS AND OPERATION FREE FROM ALL ERROR, NOR THAT ALL OF THE DEFICIENCIES OR ERRORS WHICH MAY BE CONTAINED IN THE SERVICES WILL BE CORRECTED.

**2.6** THE MAXIMUM AGGREGATE LIABILITY OF CAST TO THE CUSTOMER (OR TO ANY PERSON OR ENTITY CLAIMING THROUGH THE CUSTOMER) RELATED TO OR IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO THE PRICE (TAXES EXCLUDED) PAID BY THE CUSTOMER FOR THE SERVICES (FOR A MAXIMUM OF THE PRIOR TWELVE MONTH PERIOD) PURSUANT TO THE APPLICABLE ORDER THAT GIVE RISE TO SUCH LIABILITY.

### **3. Proprietary Rights**

**3.1** CAST owns rights, including intellectual property rights of websites and technical components used to enable the Services. Under this Agreement, Customer is only granted the rights related to the Services as specified in Section 1.1. and all rights to the same are reserved by CAST.

**3.2** Notwithstanding the foregoing, Customer owns all rights, including intellectual property rights, in and to CAST Generated Data and Customer Data (respectively defined in Sections 1.1 and 4.1 of this Agreement).

### **4. Privacy and Security**

**4.1 Privacy.** CAST, as the operator of the Services, will collect, have access to and analyze Customer Data and CAST Generated Data. Customer has sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data. Customer grants CAST the right to host the Customer Data and the CAST Generated Data solely for the purposes of operating the Services for the benefit of Customer pursuant to the Terms of this Agreement. “**Customer Data**” means information collected and mined from, submitted by, or entered by Customer or by CAST on behalf of Customer.

**4.2 Security.** CAST undertakes to maintain adequate technological and procedural security measures in accordance with industry practice. Customer acknowledges that the Internet is an open system and CAST cannot and does not warrant or guarantee that third parties cannot or will not access the Services using the Customer’s user identification and/or intercept, delete or modify Customer Data or CAST Generated Data.

**4.3 Password.** Customer is responsible for maintaining the confidentiality of its user identification(s) and password(s). The user identifications and passwords are strictly personal and attached to each individual identified by the Customer as a user. Customer agrees that CAST has no liability with regard to the use of such user identifications or passwords by third parties, but only to the extent such use results from the Customer failing to maintain the confidentiality of its user identification(s) and password(s) as provided herein.

**5. Fees and Payment.** Customer shall pay all fees set forth in the Order.

### **6. Term and Termination**

**6.1 Term.** This Agreement shall begin on the Effective Date and shall expire at the end of the last Subscription Period purchased as stated in any Order. The term of any Subscription Period shall be specified in the applicable Order. Unless otherwise agreed in an Order, annual Subscriptions are automatically renewed unless terminated in writing with a sixty (60)-day notice prior to the then current Subscription Period.

**6.2 Termination.** Either Party may terminate this Agreement for cause if the other Party commits any material breach of its obligations under this Agreement which is not remedied within thirty (30) days of written notice of such breach. Written notice must be sent to CAST at the address as set forth on the first page of this Agreement and to Customer at the address mentioned in the Order, by registered letter with acknowledgement of receipt.

**6.3 Surviving Provisions.** The following provisions shall survive any termination or expiration of this Agreement: Sections 2. Disclaimers and Liability, 3. Proprietary Rights, and 7. Confidential Information. Termination shall not relieve Customer of the obligation to pay any fees accrued or payable prior to the effective date of termination.

**7. Confidential Information.** The Parties acknowledge that each Party might have access to certain commercial, business and other confidential, private, or personal information relating to or concerning the business of the other Party (the “**Confidential Information**”, as further defined hereafter). The Parties acknowledge and agree that the Confidential Information exchanged by the Parties for the purposes of this Agreement is exclusively owned and controlled by the Party who discloses such Confidential Information (the “**Disclosing Party**”). The Parties expressly agree that they may only disclose Confidential Information of the other Party to those of their employees and Affiliates’ employees who have a need to know for the purpose of this Agreement and will not at any time, in any fashion, form, or manner, unless specifically consented to in writing by the Disclosing Party or compelled by law, either directly or indirectly use, divulge, appropriate, or communicate to any third party, in any manner whatsoever, any Confidential Information. “**Affiliate**” means and includes any entity that directly or indirectly controls, is controlled by, or is under common control with a Party where “control” means the ownership of, or the power to vote, more than fifty percent (50%) of the voting stock, shares, or interests of such entity and to direct or cause the direction of the management and policies of such entity whether by contract or otherwise. Each Party shall protect the Confidential Information of the other Party in the same manner that it protects its own similar Confidential Information, but in no event using less than a reasonable standard of care. For purposes of this Agreement, “Confidential Information” shall include any and all information, correspondence or document exchanged in any fashion or form by the Parties for the purposes of this Agreement. Said Confidential Information shall also include, without limitation, CAST Generated Data, Customer Data and any other Customer materials provided by Customer to CAST hereunder. Each Party agrees that notwithstanding the foregoing, Confidential Information shall not include information that (i) is or becomes publicly available, other than as a result of the receiving Party’s breach hereof, (ii) was in the receiving Party’s possession prior to its receipt hereunder, or (iii) is independently developed or acquired from a third party reasonably understood to have the right to disclose such information. This Section 7 shall survive the termination or expiration of the Agreement for three (3) years. CAST retains the right to analyze CAST Highlight-generated analytics for product development, feedback, and research, provided that all such analytics shall be rendered anonymous and used in a strictly confidential manner.

## **8. General Provisions**

**8.1 Governing Law and Jurisdiction.** This Agreement shall be governed by the laws of France. ALL CLAIMS OR DISPUTES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL BE HEARD EXCLUSIVELY BY THE COMMERCIAL COURT OF PARIS.

**8.2 Assignment.** This Agreement may not be assigned by the Customer by operation of law or otherwise, without the prior written consent of CAST.

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## **EXHIBIT A – CAST HIGHLIGHT SERVICES**

### **1. CAST Highlight Services Description:**

Documentation with a description of the Services is available at the following link:  
<https://doc.casthighlight.com/Getting-Started-Guide.pdf>

### **2. Access to the web services:**

The Services will be available via <https://cloud.casthighlight.com>

Standard Supported Browsers: see <https://doc.casthighlight.com/faq>

### **3. Conditions for CAST to deliver the Services:**

(a) To enable the Services, Customer must download and install a code reader (“**Code Reader**”) and then run (execute) within the Customer’s domain for on-site, centralized or distributed, local diagnosis of applications’ inner-structures. Customer must upload the results to the Portal, using the procedure defined by CAST. The results consist of data files containing the results of the analyses and the input entered manually by the Customer. At all times, the application’s inner structure (source code, architecture, tech components and all software constituents of any Customer’s application) will not be transferred to the Portal, and will stay behind the Customer’s firewall and internal security mechanisms.

(b) Customer’s Domain Standard Supported Operating Systems: see <https://doc.casthighlight.com/faq>

**4. Technologies supported:** see <https://doc.casthighlight.com/#technologycoverage>

**5. Availability and Support:** see on <http://doc.casthighlight.com/support>

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