



HORTONWORKS SMARTSENSE ON AMAZON WEB SERVICES AGREEMENT

PLEASE READ THIS HORTONWORKS SMARTSENSE ON AMAZON WEB SERVICES (“**AWS**”) AGREEMENT (“**AGREEMENT**”) BEFORE ACCESSING OR USING HORTONWORKS SMARTSENSE. THIS AGREEMENT APPLIES TO PARTIES WHO ARE ACCESSING OR USING SMARTSENSE IN CONNECTION WITH THEIR SUBSCRIPTION TO AN AWS MARKETPLACE PAID-AMI, AS DEFINED BELOW, OFFERED BY HORTONWORKS (“**CUSTOMER**” OR “**YOU**”). BY AGREEING TO ACCESS OR USE SMARTSENSE, CUSTOMER IS INDICATING ACCEPTANCE OF THIS AGREEMENT AND AGREES TO THE TERMS AND CONDITIONS HEREIN. IF CUSTOMER AFFIRMATIVELY AGREES TO OPT-IN TO THE SMARTSENSE DATAFLOW CAPABILITIES, CUSTOMER AGREES THAT HORTONWORKS MAY ACCESS AND USE THE DATA PROVIDED BY SMARTSENSE FOR THE PURPOSES DESCRIBED IN SECTION 1.0 BELOW. IF CUSTOMER DOES NOT AFFIRMATIVELY OPT-IN TO THE SMARTSENSE DATAFLOW CAPABILITIES, HORTONWORKS WILL HAVE NO ACCESS TO THE DATA AND CANNOT PROVIDE THE FUNCTIONALITY OR PROACTIVE SUPPORT AS DESCRIBED IN THIS AGREEMENT. IF YOU ARE ACTING ON BEHALF OF AN ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF THAT ENTITY.

This Agreement is made by and between the Customer and (a) if Customer is located in the United States, Canada or Mexico (together “**North America**”), Hortonworks, Inc., or (b) if Customer is located outside of North America, Hortonworks B.V. (each of Hortonworks, Inc. or Hortonworks B.V. referred to herein as “**Hortonworks**”). This Agreement is effective as of the date Customer accepts the terms of this Agreement (the “**Effective Date**”).

PURPOSE

WHEREAS, Customer wishes to access and use SmartSense in connection with its Marketplace Paid-AMI, and

WHEREAS, Customer wishes to utilize the functionality of SmartSense and provide data to Hortonworks such as machine data, system architecture data, and other information as provided below so that Hortonworks can use such data to identify issues, to help configure, to fix and identify Customer data systems, and to make improvements to its products and services.

NOW THEREFORE, the parties hereby agree as follows:

AGREEMENT

1.0 GRANT OF RIGHTS.

1.1 Hortonworks grants to Customer and Customer accepts, free of charge a non-exclusive, non-transferable, limited right, to access and use Hortonworks SmartSense on AWS in accordance with the terms and conditions of this Agreement and subject to Customer’s full compliance with the terms and

conditions set forth in this Agreement. Customer shall not allow any third parties or persons other than its authorized employees or contractors to use or have access to Hortonworks SmartSense on AWS. “Hortonworks SmartSense on AWS” or “SmartSense”: (i) consists of software provided in conjunction with a version of a Hortonworks’ Paid Amazon Machine Image (“**Paid-AMI**”) that Customer has accessed and to which Customer has subscribed through the AWS Marketplace site (“**Marketplace**”), and which will operate in connection with Customer’s AWS account, and (ii) provides features and functionality to: (a) quickly capture relevant system and cluster metric data; (b) collect system architecture data; (c) perform on-going machine and/or log data collection; and (d) quickly capture AWS account number, and cloud environment data such as Paid-AMI ID, EC2 instance number, and cloud controller username (collectively “**Data**”), so that Hortonworks can use such Data to identify issues, to help configure, to fix and identify Customer data systems, and to make improvements in connection with the Paid-AMI running on Customer’s AWS environment. Customer’s access and use of SmartSense shall be solely on the AWS hosted environment. No software distribution is intended or implied, and Customer will not be provided a copy of the software. Hortonworks reserves all other rights.

1.2 If, (a) Customer has accessed and subscribed to a Hortonworks Paid-AMI product on the Marketplace, (b) such Paid-AMI comes with optional, free support for such Paid-AMI, (c) Customer agrees to opt-in to the SmartSense dataflow capabilities, and (d) Customer decides to sign up for and agree to the terms and conditions for such optional, free support, the Data may be used to help with Customer’s questions and issues as presented to Hortonworks support groups through such optional and free support.

1.3 If, (a) Customer has accessed and subscribed to a Hortonworks Paid-AMI product on the Marketplace, (b) such Paid-AMI comes with optional, free support for such Paid-AMI, and (c) Customer agrees to opt-in to the SmartSense dataflow capabilities, but (d) Customer does not agree to sign up for or does not agree to the terms and conditions for such optional, free support, Customer acknowledges and agrees that Hortonworks may continue to receive Data and use such Data to improve the Paid-AMI product. Hortonworks may also use the Data for purposes of providing support to Customer should Customer agree to optional, free support and the associated terms and conditions, at a later date, or if Customer decides to contact Hortonworks for enhanced or paid premium support products.

1.4 If, (a) Customer has accessed and subscribed to a Hortonworks Paid-AMI product on the Marketplace, (b) Customer agrees to opt-in to the SmartSense dataflow capabilities, and (c) Customer has contracted with Hortonworks for enhanced or paid premium support, the Data may be used to provide Customer with customized, enhanced, and proactive support for the Paid-AMI based on the Data sent to Hortonworks.

1.5 If, (a) Customer has accessed and subscribed to a Hortonworks Paid-AMI product on the Marketplace, (b) such Paid-AMI does not come with free and optional support for such Paid-AMI; and (c) Customer agrees to opt-in to the SmartSense dataflow capabilities, Customer acknowledges and agrees that Hortonworks may continue to receive Data to improve the Paid-AMI product. Hortonworks may also use the Data for purposes of providing support to Customer should Customer decide to contact Hortonworks for enhanced or paid premium support products for such Paid-AMI.

1.6 If Customer does not agree to opt-in to the SmartSense dataflow capabilities, Hortonworks will not collect Data from the Customer, and Hortonworks will only be able to provide support and assistance with respect to such Paid-AMI to the extent Customer provides information necessary for Hortonworks to provide such support.

1.7 Customer may disable SmartSense data transfer at anytime. See Section 3.0 below for instructions on how to disable SmartSense data transfer.

2.0 RESTRICTIONS.

2.1 Customer shall access and use SmartSense only as specifically authorized by Hortonworks herein and shall not use, link or interface SmartSense with any equipment, software, data, network or communications system, in any manner or in connection with any function, not specifically authorized by Hortonworks. Any access or use not expressly provided for in this Agreement is forbidden, and Customer shall be liable for any damages caused by or in connection therewith. Customer also acknowledges and agrees that its use of, and access to, SmartSense shall be in conformance with its obligations to AWS under the provisions of the “AWS Acceptable Use Policy” and “IAM Best Practices”, which terms may be found at <https://aws.amazon.com/aup/> and <http://docs.aws.amazon.com/IAM/latest/UserGuide/best-practices.html> respectively.

2.2 Customer may not: (i) use SmartSense to provide services to third parties; (ii) obtain, or assist others in obtaining, access to SmartSense, other than as required for the permitted use hereunder; (iii) transfer, modify, reverse engineer, disassemble, decompile, incorporate or use in any other works, or create derivative works of SmartSense; (iv) reproduce, republish or offer any part of SmartSense (or compilations based on any part of SmartSense) for sale or distribution in any form, over or through any medium, whether in hard copy, electronically or otherwise, including, without limitation, wireless communications, via cable or broadband services, hyperlink, framing or in any other manner on the Internet, any public or private bulletin board system or other electronic network without the prior written consent of Hortonworks; or (v) use, transfer, distribute, or dispose of any Hortonworks information contained in or provided through SmartSense in any manner that could compete with the business of Hortonworks.

2.3 Customer shall be responsible for maintaining the confidentiality of Customer’s AWS account and password and for restricting access to Customer’s computer, and Customer agrees to accept responsibility for all activities that occur under Customer’s account or password, and for causing or allowing unauthorized access to or use of SmartSense and the Hortonworks Confidential Information (as defined below) provided to Customer hereunder. Customer is responsible for properly configuring and using SmartSense and taking Customer’s own steps to maintain appropriate security, protection and backup of Customer’s data, which may include the use of encryption technology to protect your data from unauthorized access. Any log-in credentials and private keys generated by Customer in connection with SmartSense are for Customer’s internal use only and Customer may not sell, transfer or sublicense them to any other entity or person, except that Customer may disclose Customer’s private key to Customer’s agents and subcontractors performing work on Customer’s behalf. Customer also acknowledges and agrees that the above security procedures and policies will also be in

conformance with Customer's requirements under the AWS Acceptable Use Policy and IAM Best Practices.

2.4 Customer shall: (i) notify Hortonworks promptly of any unauthorized access, possession, use, loss, disclosure, or attempt to gain unauthorized access, possession or use, of SmartSense or the Hortonworks Confidential Information by any person or entity which may become known to Customer; (ii) promptly furnish to Hortonworks full details of any attempted or actual unauthorized access, possession, use, loss, or disclosure; (iii) use reasonable efforts to cooperate with and assist Hortonworks in any litigation and investigation against any third parties deemed necessary by Hortonworks to protect its proprietary rights; and (iv) promptly use all reasonable efforts to mitigate or prevent a recurrence of any unauthorized access, possession, use, loss, knowledge, or disclosure of SmartSense or the Hortonworks Confidential Information. Any and all information related to SmartSense or performance thereof, as well as any technical, or other information provided by Hortonworks to Customer (including, without limitation, the terms of this Agreement) ("**Confidential Information**") shall be held in confidence and not disclosed or, except as provided in the next sentence, used by Customer except as permitted by Hortonworks in writing. This obligation will not apply to information that is generally and freely publicly available through no fault of Customer, that Customer independently developed without use of or reference to Hortonworks' Confidential Information, or that Customer otherwise rightfully obtains from third parties without restriction on disclosure.

2.5 Customer acknowledges that some of the Data that SmartSense gathers for analysis of Customer's data systems may include truncated IP addresses and usernames of Customer users who access Customer's data systems, which may be considered personally identifiable information ("**PII**") in some jurisdictions. Customer is responsible for complying with any and all local data protection laws and regulations that may apply, and for properly using SmartSense filters and data anonymization features. Customer represents and warrants that it has provided its employees and potential users with all necessary notices, and obtained any necessary consent for the release and use of such information to Hortonworks solely for the purposes as stated in Section 1. No PII transmitted to Hortonworks by SmartSense shall be used for any marketing, advertising, or other purposes not related to the provisions of Section 1.

3.0 **TERM AND TERMINATION.** The term of this Agreement will commence on the Effective Date and will continue until terminated as set forth herein. Hortonworks may, in its sole discretion, terminate this Agreement or stop providing SmartSense access or functionality at any time, for any reason or no reason. CUSTOMER MAY DISABLE THE SMARTSENSE DATA TRANSFER CAPABILITY AT ANYTIME. IT IS THE CUSTOMER'S SOLE RESPONSIBILITY TO DISABLE SUCH DATA TRANSFER CAPABILITY IF IT DECIDES TO DO SO AT A LATER DATE. CUSTOMER SHALL BE PROVIDED DOCUMENTATION WITH INSTRUCTIONS ON HOW TO STOP SUCH DATA TRANSFER CAPABILITY IF REQUESTED BY CUSTOMER.

4.0 HORTONWORKS SMARTSENSE AND OWNERSHIP

SmartSense is not sold, but rather, access to SmartSense is provided for Customer's internal use only and must be used solely in accordance with the limited rights and use restrictions set forth in this Agreement and in strict accordance with any applicable documentation made available by Hortonworks. Hortonworks and its licensors own all right, title and interest in and to SmartSense (including any updates thereto) and reserve all rights to SmartSense that are not expressly granted hereunder by Hortonworks. Except for the limited rights granted in this Agreement, Customer shall not receive, and Hortonworks does not grant to Customer, any ownership rights, title or interest to; (a) any content provided by Hortonworks herein or within the SmartSense software; (b) any technologies used to create SmartSense; or (c) any of the underlying intellectual property rights thereto, including, but not limited to, any worldwide patent, copyright, trademark, trade dress, trade name, know-how, or trade secrets ("**Intellectual Property**"). The ownership rights set forth in this Section apply with respect to any and all languages, formats and media throughout the world, including all present and future rights in and to the information, content data, designs, material and all Intellectual Property rights and other proprietary rights of any type inherent therein or appurtenant thereto.

5.0 FEEDBACK.

5.1 Customer may, in its sole discretion, provide Hortonworks with suggestions, enhancement requests, recommendations, or other feedback related to SmartSense ("**Feedback**").

5.2 Customer agrees that Hortonworks shall own all Feedback and have the right to use Feedback in any manner and for any purpose in its sole discretion. Customer hereby assigns to Hortonworks all right, title, and interest in and to Feedback, including all Intellectual Property rights therein and thereto. Customer agrees to execute such further instruments as Hortonworks may reasonably request confirming Hortonworks' ownership of Feedback as agreed herein.

6.0 WARRANTY DISCLAIMER AND LIMITATION OF LIABILITY.

6.1 CUSTOMER ACKNOWLEDGES AND AGREES THAT HORTONWORKS SMARTSENSE, AND ANY DATA OR INFORMATION PROVIDED THROUGH THE USE OF SMARTSENSE, IS PROVIDED "AS-IS" AND "AS-AVAILABLE" WITHOUT ANY WARRANTY OF ANY KIND, INCLUDING WITHOUT LIMITATION THAT SMARTSENSE WILL BE UNINTERRUPTED, ERROR FREE OR FREE OF HARMFUL COMPONENTS, OR THAT ANY CONTENT, INCLUDING CUSTOMER'S CONTENT OR ANY THIRD PARTY CONTENT, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED. NEITHER HORTONWORKS NOR ITS SUPPLIERS MAKES (AND HAS NOT AUTHORIZED ANYONE TO MAKE) ANY EXPRESS OR IMPLIED WARRANTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT.

6.2 IN NO EVENT WILL HORTONWORKS, ITS AFFILIATES, ITS VENDORS OR ITS SUPPLIERS BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES (INCLUDING UNAUTHORIZED DISCLOSURE, LOSS OF USE OR CORRUPTION OF DATA, DAMAGE TO EQUIPMENT, LOSS OF BUSINESS OR PROFITS, REVENUE, GOODWILL, ANTICIPATED SAVINGS) OR FOR THE COST OF

PROCURING SUBSTITUTE PRODUCTS OR SERVICES ARISING OUT OF THIS AGREEMENT, WHETHER BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), FAILURE OF A REMEDY TO ACCOMPLISH ITS PURPOSE, STRICT LIABILITY OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTHING IN THIS SECTION IS INTENDED TO EXCLUDE OR LIMIT HORTONWORKS' LIABILITY, TO THE EXTENT APPLICABLE LAW DOES NOT PERMIT EXCLUSION OR LIMITATION OF LIABILITY, FOR: (I) DEATH OR PERSONAL INJURY, (II) FRAUD, (III) FRAUDULENT MISREPRESENTATION, OR (IV) ANY OTHER LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW. Customer acknowledges that Hortonworks would not be able to provide SmartSense and its capabilities without the limitations set forth in this Section 6.

7.0 GENERAL.

7.1 Governing Law and Venue. This Agreement is governed by the laws of the State of California, without regard to conflict of law principles. The parties specifically agree that this Agreement will not be governed by the Uniform Commercial Code. In addition, the provisions of the Uniform Computerized Information Transaction Act and United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Hortonworks SmartSense is a "Commercial Item" as that term is defined in the Federal Acquisition Regulation (FAR) at 48 C.F.R. 2.101. Any legal action or proceeding arising under this Agreement will be brought exclusively in the state or federal courts located in Santa Clara County, California, and the parties expressly consent to personal jurisdiction and venue therein. Neither this arrangement nor the rights granted hereunder are assignable or transferable by Customer (and any attempt to do so shall be void). Hortonworks may freely assign, delegate, license and/or transfer this Agreement, in whole or in part, in its sole discretion.

7.2 Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining portions will remain in full force and effect and such provision will be enforced to the maximum extent possible so as to achieve the intent of the parties and will be reformed to the extent necessary to make such provision valid and enforceable.

7.3 No Waiver. The failure of a party to enforce any provision or exercise any right under this Agreement shall not constitute a waiver of such provision or right and shall not preclude such party from enforcing such provision or exercising such right at any later time.

7.4 Compliance with Export and Other Laws. Customer acknowledges that items provided hereunder are of United States origin, are provided subject to the U.S. Export Administration Regulations, and may be subject to other applicable national and international laws. Diversion or distribution contrary to applicable export control laws is prohibited. Customer represents that (1) it is not, and is not acting on behalf of, (a) any person who is a citizen, national, or resident of, or who is controlled by the government of any country to which the United States has prohibited export transactions, or (b) any person or entity listed on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons or the U.S. Commerce Department's Denied Persons List or Denied Entity List; (2) it will not permit items delivered under this Agreement to be used for any purposes prohibited by law, including, but not limited to, any prohibited development, design, manufacture, or production of missiles or nuclear, chemical, or biological weapons; and (3) it shall not use or access the Paid AMIs or SmartSense from, or export, re-export, or transfer the Paid-AMIs or

SmartSense to, sanctioned countries and regions (i.e., Crimea, Cuba, Iran, North Korea, Sudan, or Syria) or to the governments of these countries, wherever located. Additionally, each of the parties agrees that it will not engage in any illegal, unfair, deceptive, or unethical business practices whatsoever, including, but not limited to, any act that would constitute a violation of the U.S. Foreign Corrupt Practices Act.

7.5 The following provisions shall survive termination or expiration of this Agreement: Sections 2, 3, 4, 5, 6 and 7.

[END OF HORTONWORKS SMARTSENSE ON AMAZON WEB SERVICES AGREEMENT]