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# PHUSION PASSENGER ENTERPRISE LICENSE AGREEMENT

## THE PARTIES

### PHUSION,

Incorporated and registered in The Netherlands, under Chamber of Commerce number 08173483, having its principle place of business at:

7522 MH, Enschede at the Calslaan 11-106, in The Netherlands,

further referred to as: LICENSOR,

and

**The Company,** that obtains, or desires to obtain, a license to use the Licensed Product, **further referred to as: LICENSEE,** 

agree to the following conditions:

## **DEFINITIONS**

# Agreement

This Agreement: the Phusion Passenger Enterprise License Agreement between Licensor and Licensee.

### Licensee's data

- 1. Licensee's data is, amongst others, the information handled by Phusion Passenger Enterprise, on behalf of Licensee, and stored by Licensee on Licensee's Server(s).
- 2. Licensee's data can consist of digital information, including but not limited to numbers, text, graphics, photos, audio, video, software, or other information.
- 3. The Licensed Product shall only transfer data via Internet that was made public by Licensee through its web application or using the settings in the Licensed Product itself.

### Licensor

The licensor is Phusion, the developer of the application generally known as Phusion Passenger Enterprise (the "Licensed Product").

#### Licensee

Licensee is the natural or legal person that obtains, or desires to obtain, a limited, non-exclusive, non-sublicensable, nontransferable, and non-assignable license to use the Licensed Product for the Subscription Term.

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The Licensed Product is Phusion Passenger Enterprise, the Enterprise version of Phusion Passenger (including the software, associated media, printed and/or electronic documentation), that is installed and running on the server(s) of Licensee. Excluded in the Licensed Product are: any operating system(s) or other necessary software, hosting, any database server(s) and other possible hardware and/or software in order to be able to use Licensee's web application.

### Phusion Passenger Enterprise

Phusion Passenger Enterprise is an application server for Ruby web applications. General product information about Phusion Passenger Enterprise, and information about supported software, programming languages, platforms and/or server systems can be found on the website <a href="www.phusionpassenger.com">www.phusionpassenger.com</a>. Optimal performance of Phusion Passenger Enterprise is only possible if the necessary environment (including hardware, software, network, operating systems etc.) is installed and functioning properly. Although, Phusion Passenger Enterprise contains several features to analyze and reduce problems in Licensee's web application, these features have limitations and they are no substitute for a well-coded web application.

## Server

A Server is a virtual machine if Licensee makes use of virtualization, or a physical machine if Licensee does not make use of virtualization.

## **Production Server**

A Production Server (or Production Machine) is defined as a Server, which is expressly used in a production environment.

### Registered User

The Registered User is the Licensee who:

- 1. has officially registered and paid Licensor for a User Subscription, or,
- 2. obtained a User Subscription on the basis of a tailor made agreement with Licensor, or,
- 3. obtained a free User Subscription.

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The Subscription Term is a minimum period of one month, unless otherwise agreed in writing. Licensor retains the right to issue subscriptions with a term of more than one month. During the Subscription Term the Registered User can use the Licensed Product after payment of the Subscription Fee. A monthly Subscription Term recurs on the same day of the month, resulting in 12 payments per year. Over many occurrences the day of the month will be no more than the 28<sup>th</sup>.

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In all cases, Licensee shall at least prepay the subscription fee of the agreed Subscription Term. Subscription fees are nonrefundable.

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- 1. After full registration and payment,
- 2. Licensor grants a (free or tailor-made) User Subscription, at Licensor's sole discretion.

## **LICENSE**

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### Registration

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- 4. The provided license key contains a code that can be connected to information about the Licensee who purchased a valid License.
- 5. Licensee shall use the Licensed Product only for the duration of the Subscription Term.

# DATA

### Data

1. The Licensed Product is able to optionally produce usage data, which is intended for analytical purposes, like e.g. the application Union Station.

۷.	The	The usage information can currently contain, amongst others,	
		server memory usage,	
		memory usage of various processes,	
		the time (that would be necessary) to process a browser request,	
		the URL of the request (this may be a secret URL that may contain sensitive information, such as	
		Licensee's password via a GET request. Licensor cannot determine this),	
		database queries, and execution time,	
		application specific errors. These errors possibly contain user-generated messages (to facilitate	
		debugging of the application).	

3. The Licensed Product does not send any usage data to Phusion, or any third party, unless the user has instructed the software to do so (e.g. by turning on relevant Union Station-related configuration options).

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## **General limitations**

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- 2. VAT will be shifted to Licensee, in case Licensee is registered in the European Union, but not in the Netherlands, with an EU VAT number.
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## Please direct all inquiries to:

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