

## CAST IMAGING ON CLOUD TERMS AND CONDITIONS

These Terms and Conditions (“**Terms**”), together with the CAST Imaging Analyzer EULA (described in Exhibit A below), in support of an order subscribing to the Services (defined below) (each an “**Order**”), apply to entities who will be installing the CAST Imaging Analyzer (defined in Exhibit A below) for the purpose of analyzing their applications’ source code (the “**End User**”). The CAST Imaging Analyzer is necessary for the analysis of the source code of End User’s applications, in accordance with an Order placed by a party in privity of contract (the “**Contracting Party**”) with CAST (as defined below) and relating to the CAST Imaging on Cloud, as described in the documentation available at the following URL: <https://doc.castsoftware.com/imagingoncloud/> (the “**Services**”). These Terms and the CAST Imaging Analyzer EULA are collectively referred to as the “**Agreement**”.

The Agreement is entered into and is effective as of the date that End User accepts the CAST Imaging Analyzer EULA and downloads the CAST Imaging Analyzer (“**Effective Date**”) and is entered into 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

**End User**, the entity who has agreed to the CAST Imaging Analyzer EULA and installed the CAST Imaging Analyzer.

CAST and End User are, in the Agreement, equally and individually designated “**Party**” and collectively designated the “**Parties**”.

### 1. Description of the Services

**1.1 Rights granted to Contracting Party and End User.** CAST has granted Contracting Party 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, as may be applicable, Contracting Party (i) may use for its own internal purposes only, or (ii) may use for the benefit of its client for which the analysis was performed. “**CAST Generated Data**” means any information or other data that may be generated as a result of Contracting Party’s utilization of the Services, consisting of a display through a CAST Imaging on Cloud web portal (hereinafter the “**Portal**”) of insights on the applications’ inner workings. In order to enable CAST to deliver the Services in accordance with an Order, Contracting Party must use the Services as described in Exhibit A, including, to the extent applicable, coordinating with End User as may be necessary. End User understands and agrees that the Services cannot be delivered to Contracting Party by CAST if the Services are not used in accordance with Exhibit A. Contracting Party has acknowledged that the Services cannot be delivered by CAST if the Services are not used in accordance with Exhibit A. With regards to its applications subject to analysis with CAST Imaging on Cloud, End User is granted a limited, non-assignable, non-transferrable, non-exclusive right to access and use the Services for the sole purpose of enabling the permitted use of the Services by Contracting Party, as described in the corresponding Order, and solely for Contracting Party’s exclusive and direct benefit.

**1.2 Support.** In the event that during the term of an Order, either CAST or Contracting 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 Contracting Party it will notify the other Party. For such notification, Contracting Party will use the CAST Imaging on Cloud Support form provided under the following link: <https://help.castsoftware.com/hc/en-us/requests/new> or by email to [help@castimaging.io](mailto:help@castimaging.io). Upon receipt of such notification, then CAST will exercise its best efforts to promptly provide Contracting Party 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 <https://help.castsoftware.com/hc/en-us/articles/19620367849618-CAST-Imaging-on-Cloud-Support-terms>.

**1.3 Restrictions.** Neither Contracting Party nor End User shall, nor shall either 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 Contracting Party’s or End User’s own intranet system or otherwise for Contracting Party’s 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 these Terms; (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 End User through its use of the CAST Imaging Analyzer 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 CAST Imaging Analyzer will be error free or accurate, and nor that the text file created by the CAST Imaging Analyzer 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 ANY CLAIM BY END USER RELATED TO OR IN CONNECTION WITH END USER'S USE OF THE CAST IMAGING ANALYZER OR SERVICES AS CONTEMPLATED HEREIN MUST BE MADE THROUGH THE APPLICABLE CONTRACTING PARTY WHO PLACED THE CORRESPONDING ORDER. THE MAXIMUM AGGREGATE LIABILITY OF CAST RELATED TO OR IN CONNECTION WITH END USER'S USE OF THE CAST IMAGING ANALYZER AND/OR SERVICES AS CONTEMPLATED HEREIN WILL BE LIMITED TO THE PRICE (TAXES EXCLUDED) PAID BY THE CONTRACTING PARTY FOR THE SERVICES (FOR A MAXIMUM OF THE PRIOR TWELVE MONTHS 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, End User is only granted the rights related to the Services as specified in Section 1.1 and the rights related to the CAST Imaging Analyzer as specified in Exhibit A and as further described in the CAST Imaging Analyzer EULA.

3.2 Notwithstanding the foregoing, as between CAST and Contracting Party, Contracting Party owns all rights, including intellectual property rights, in and to CAST Generated Data and, as between CAST and End User, End User owns all rights, including intellectual property rights, in and to End User Data (as defined in Section 4.1 of these Terms).

## 4. Privacy and Security

4.1 **Privacy.** CAST, as the operator of the Services, will collect, have access to and analyze End User Data and CAST Generated Data. End User has sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all End User Data. End User has granted CAST the right to host the End User Data and the CAST Generated Data solely for the purposes of operating the Services for the benefit of Contracting Party. "**End User Data**" means information collected and mined from, submitted by, or entered by End User or by CAST on behalf of End User.

**4.2 Security.** CAST undertakes to maintain adequate technological and procedural security measures in accordance with industry practice. Contracting Party has acknowledged and End User 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 Contracting Party's/End User's user identification and/or intercept, delete or modify End User Data or CAST Generated Data.

**4.3 Password.** Contracting Party has acknowledged that it 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 Contracting Party as a user. Contracting Party 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 Contracting Party failing to maintain the confidentiality of its user identification(s) and password(s) as provided herein. To the extent that End User is issued user identification(s) and password(s) in order to upload the results of the CAST Imaging Analyzer to the Portal, End User understands and agrees that it is similarly responsible for maintaining the confidentiality of such user identification(s) and password(s).

**5. Fees and Payment.** Contracting Party has agreed that it shall pay all fees set forth in the Order. End User's use of the CAST Imaging Analyzer and/or, to the extent applicable, the Services shall be at no charge.

## **6. Term and Termination**

**6.1 Term.** These Terms shall commence on the Effective Date and shall expire on the earlier to occur of: (i) the date that the End User has uninstalled the CAST Imaging Analyzer on all equipment upon which the CAST Imaging Analyzer had been installed by End User or any third parties operating under End User's direction and control; or (ii) the end of the Subscription Period purchased by Contracting Party as stated in any the corresponding Order. The term of any Subscription Period shall be specified in the applicable Order.

**6.2 Surviving Provisions.** The following provisions shall survive any expiration of these Terms: Sections 2. Disclaimers and Liability, 3. Proprietary Rights, and 7. Confidential Information.

**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 the CAST Imaging Analyzer provided by CAST to End User 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 Imaging on Cloud-generated analytics for product development, feedback, and research, provided that all such analytics shall be rendered anonymous and used in a strictly confidential manner.

## **7. General Provisions**

**7.1 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.

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

## 7.3 **EXHIBIT A – CAST IMAGING ON CLOUD SERVICES**

### **1. CAST Imaging on Cloud Services Description:**

Documentation with a description of the Services is available at the following URL: <https://doc.castsoftware.com/imagingoncloud/>

### **2. Access to the Services:**

The Services will be available via <https://castimaging.io>.

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

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

- (a) To enable the Services, Contracting Party must coordinate with End User for the download, installation and execution of a CAST Imaging code analyzer (“**CAST Imaging Analyzer**”) within the End User’s domain for on-site, centralized or distributed, local diagnosis of applications’ inner-structures. Contracting Party must upload or coordinate with End User for the upload of 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 Contracting Party or End User, as may be applicable. At all times, the application’s inner structure (source code, architecture, tech components and all software constituents of any End User’s application) will not be transferred to the Portal, and will stay behind the End User’s firewall and internal security mechanisms.
- (b) End User’s Domain Standard Supported Operating Systems: see <https://doc.castsoftware.com/imagingoncloud/faq/>.
- (c) In the event that CAST Imaging Analyzer is to be installed by an End User for the analysis of the source code of its applications, as requested by Contracting Party in accordance with a duly executed Order, End User must agree to the CAST Imaging Analyzer End-User License Agreement (the “**CAST Imaging Analyzer EULA**”) (available at <https://doc.castsoftware.com/imagingoncloud/legal/eula/>). End User’s use of CAST Imaging Analyzer is further subject, to the extent applicable, to these Terms and no such use is permitted which would cause Contracting Party to exceed the scope as outlined in the corresponding Order for Services or would cause Contracting Party to otherwise violate these Terms.

**4. Technologies supported:** see <https://doc.castsoftware.com/technologies/coverage-overview/overview/> .

**5. Availability and Support:** see on <https://help.castsoftware.com/hc/en-us>.

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