

Seq End User Licence Agreement

This end user licence agreement (“**Agreement**”) sets out the terms on which Datalust Pty Ltd (ABN 84164150298) (“**Datalust**”) provides you with access to the Software and the terms on which you may use the Software. You should read these terms and our Privacy Policy carefully.

INTRODUCTION

1. You enter into this Agreement by clicking a button or check box to indicate acceptance when installing the Software, specifying ACCEPT_EULA=Y when running the Docker container, paying the Fees or otherwise accessing or using the Software.
2. If you are entering into this Agreement on behalf of another entity such as your employer, you warrant and represent you have legal authority to bind that entity.
3. If you purchase a licence to the Software from an authorised reseller, this Agreement will apply to your rights and obligations in using the Software and Datalust’s liability to you, irrespective of any other terms agreed between you and the reseller.

TERM

4. Your annual subscription begins when you purchase or renew a subscription, as applicable.
5. Your subscription will automatically renew if you save your payment details when purchasing your subscription. You can also renew your subscription on the Datalust website at <https://datalust.co/renew>.

SOFTWARE

6. You can download the Software from sources listed on the Datalust website at <https://datalust.co/download>. Subject to you paying the Fees (as defined below), Datalust will provide you with a licence key for the Software in accordance with the Tier you have selected and the terms of this Agreement.
7. You must use the Software in accordance with the inclusions and restrictions applicable to the Tier you have selected. These details are set out on the Datalust website at <https://datalust.co/pricing>.
8. You are responsible for downloading, hosting and operating the Software on your own infrastructure.

9. The Software contains open source software. The list of these components is available at <https://docs.datalust.co/docs/acknowledgements> or in the documentation. You agree that such components are not subject to this Agreement and are provided to you on, and subject to, the terms of the applicable open source licences.

LICENCE

10. Subject to you paying the Fees (as defined below) Datalust grants you a non-exclusive, non-transferable licence to use the Software during the subscription term for your internal business purposes only and in accordance with the Tier you have selected and purchased (if applicable).
11. No intellectual property rights are transferred or assigned by Datalust to you pursuant to this Agreement. You only receive the rights to the Software expressly set out in clause 10.

PRICING & PAYMENT

12. The Fees for each Tier are set out on the Datalust website at <https://datalust.co/pricing>.
13. You must:
 - a. pay us the Fees on an annual basis in advance through the secure third party online service on the Datalust website; or
 - b. for Australian customers only, pay us the Fees through an agreed method of direct payment.

SUPPORT

14. The support applicable to each Tier is set out on the Datalust website at <https://datalust.co/pricing>. Datalust will use reasonable endeavours to provide you with timely support in accordance with your Tier.

CUSTOMER OBLIGATIONS

15. You must use the Software in accordance with the Tier you have purchased.
16. You agree, except to the extent permitted by applicable law, not to:
 - a. reproduce or otherwise copy the Software or trade marks of Datalust, unless expressly authorised by Datalust;
 - b. seek to obtain or derive the source code, underlying ideas or algorithms of the Software;
 - c. resell the Software or resell access to or use of the Software, including on a service bureau basis;
 - d. incorporate the Software in, or bundle the Software with, any product that you provide to a third party;
 - e. attempt to work around any technical limitations in the Software that only allow you to use the Software in certain ways;
 - f. supply Datalust with personal information or confidential information; or
 - g. where you have selected the Individual Tier, allow the Software to be accessed by, or use the Software on behalf of, any other person.
17. You are responsible for:
 - a. compliance with your local laws and regulations;
 - b. secure configuration of the Software on your servers;
 - c. maintaining the confidentiality and security of your licence keys for the Software; and
 - d. your use of the Software and outputs of the Software.
18. You must ensure that all persons who use the Software on your behalf or who otherwise have access to the Software also comply with the requirements of this Agreement. You will be responsible for any acts or omissions of people who use the Software on your behalf or who otherwise have access to the Software through you, as though those acts or omissions were yours.
19. You must not use the Software to monitor critical control systems, critical safety systems or similar high risk systems. If you do so, you do so entirely at your own risk.

NO WARRANTY

20. While Datalust uses reasonable care in providing the Software, Datalust cannot promise that the Software is free of faults or errors.
21. Datalust may make updates available from time to time via our website or supported distribution services including Docker Hub as part of your subscription. It is your responsibility to monitor our website for updates and download any updates. Datalust will not be liable to the extent that we have made an update to the Software available and you have not downloaded that update.
22. Datalust may also make available new releases and new functionality which may be subject to additional costs. You may upgrade your subscription to get access to these new releases or new functionality.
23. Subject to law, and without limitation, Datalust makes no warranties or representations, in relation to the Software including as to its merchantability or fitness for a particular purpose.

LIABILITY

24. A party will not be liable to the other party or any third party for any consequential or indirect loss or damage, including without limitation, time, money, goodwill, loss of custom or lost profits, which may arise from the use, operation, maintenance, modification or failed use of the Software, except where the loss or damage is the direct result of the relevant party's negligence, fraud or wilful misconduct. This clause does not limit your obligation to pay Datalust (or the reseller) the Fees, including any additional Fees payable for use in excess your Tier.
25. To the maximum extent permitted by law, we limit our liability to you on an annual basis, whether in contract, tort (including negligence), or otherwise, to your annual Fees.
26. Datalust agrees to indemnify you from and against any damages arising from a claim by a third party that use of the Software infringes that third party's copyright or trade marks (**Claim**), provided that you have notified Datalust of the Claim, allow Datalust to defend the Claim, provide reasonable assistance to Datalust to defend the claim and do not make any admissions or settlements in respect of the Claim without our approval.
27. Datalust may terminate this Agreement if a Claim arises.

PUBLICITY

28. Unless you advise us otherwise by emailing support@datalust.co, we may identify you as a customer in our promotional materials and on the Datalust website.

TERMINATION

29. Either party may terminate this Agreement:
- in the event of a material breach of this Agreement, immediately by giving the other party written notice; or
 - at any time by giving the other party two weeks' written notice.
30. Unless otherwise agreed in writing, upon termination of this Agreement:
- your licence to use the Software will automatically terminate; and
 - you must immediately discontinue use of the Software.
31. If the Agreement is terminated by you for material breach by Datalust or by Datalust (except in the case of material breach by you), any Fees you have paid in advance will be refunded on a pro-rata basis for the remainder of the payment period.

CHANGES TO THE TERMS

32. Datalust may vary this Agreement from time to time and will provide the updated terms on our website and in the installation media for new software versions. Any variation to this Agreement will take effect when you download, install or commence using an updated version of the Software.
33. If Datalust varies this Agreement in a manner that has a material detrimental impact on your rights or obligations under this Agreement and you do not agree to those changes, you may elect to either:
- not download the latest version of the Software and continue to use your existing instance of the Software on the same terms; or
 - cease using the Software and terminate this Agreement on written notice to Datalust, with immediate effect. If

you terminate under this clause, Fees you have paid in advance will be refunded to the entity who paid the Fees (which may be the reseller if you purchased through a reseller) on a pro-rata basis for the remainder of the Term.

ASSIGNMENT

34. You may novate this Agreement to an entity that acquires all or substantially all of your business or assets.
35. Except as set out in paragraph 34, you may not assign your rights under this Agreement, unless Datalust consents.
36. Datalust may assign its rights under this Agreement on notice to you.

GENERAL

37. This Agreement constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.
38. A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the terms of this Agreement continue in force.
39. This Agreement will be governed by the internal laws of the State of Queensland, Australia, without regard to the principles of conflicts of laws. Both parties agree to submit to the jurisdiction of the State Courts of Queensland and Federal Courts of Australia in Queensland.
40. For the purpose of this Agreement:
- “**Privacy Policy**” means the Datalust privacy policy available at <https://datalust.co/privacy>
 - “**Software**” means Datalust’s proprietary Seq software
 - “**Tier**” means the licence tiers available on the Datalust website at <https://datalust.co/pricing>