

Individual Contributor License Agreement

This Individual Contributor Agreement (the "Agreement") is entered into as of the ___ day of _____, 20__ (the "Effective Date") by and between EsperTech Inc. ("EsperTech"), a New Jersey for-profit corporation, and _____ ("You", the "Contributor").

Thank you for your interest in participating as a contributor to the Esper development project (the "Project"). The Project consists of individual development projects, including but not limited to the Esper engine, which may be made available by EsperTech under free and/or commercial licenses and subscriptions. In order to conclusively and clearly set out the responsibilities and obligations associated with Contributions (as defined below), EsperTech Inc. ("EsperTech"), as owner of the Project, has each Contributor enter into this Contributor License Agreement (the "Agreement") and agree to the terms below.

This license agreement is for your protection as a Contributor as well as the protection of EsperTech and its users; it does not change your rights to use your own Contributions for any other purpose.

You and EsperTech hereby accept and agree to the following terms and conditions:

1. Contributors and Contributions

1.1 Any individual or legal entity that voluntarily submits to the Project a Contribution is addressed herein as "Contributor" or "You." For legal entities, the entity making a Contribution and all other entities that control, are controlled by, or are under common control with that entity are considered to be a single Contributor. For the purposes of this definition, "control" means (i) the power, direct or indirect, to cause the direction or management of such entity, whether by contract or otherwise, or (ii) ownership of fifty percent (50%) or more of the outstanding shares, or (iii) beneficial ownership of such entity.

1.2 A "Contribution" shall mean any original work of authorship, including any modifications or additions to an existing work, that is intentionally submitted by You to the Project for inclusion in, or documentation of, any of the products owned or managed by EsperTech (the "Work"). For the purposes of this definition, "submitted" means any form of electronic, verbal, or written communication sent to the Project or its representatives, including but not limited to communication on electronic mailing lists, source code control systems, and issue tracking systems that are managed by, or on behalf of, EsperTech or the Project for the purpose of discussing and improving the Work, but excluding communication that is conspicuously marked or otherwise designated in writing by You as "Not a Contribution".

1.3 Any Contribution submitted by You to the Project shall be under the terms and conditions of this Agreement, without any additional terms or conditions. In the event EsperTech should request that You execute this Agreement in written form with a personal signature, or execute a form of assignment or other documents necessary to complete a copyright registration filing, You agree to do so promptly and without additional consideration.

2. Contributor Grants

For the benefit of EsperTech:

2.1 You hereby irrevocably assign, transfer, and convey to EsperTech all right, title and interest in and to the Contribution. Such assignment includes all copyrights, copyright applications, and copyright registrations, and all other intellectual property or proprietary rights other than patents relating to the Contribution, together with all causes of actions accrued in your favor for infringement thereof. Without limiting the generality of the foregoing, EsperTech shall have the right to use or not use the Contribution and to use, sell, register, distribute, license, reproduce, re-use, alter, modify, edit, or change the Contribution as it sees fit and for any purpose.

2.2 You hereby grant to EsperTech and to any and all individuals and entities who obtain, access, use, or distribute any EsperTech product a perpetual, non-exclusive, worldwide, fully paid-up, royalty free, irrevocable (except as set forth below with respect to litigation) license to any patent rights to make, have made, use, offer to sell, sell, import, and otherwise exploit or transfer your Contribution or prepare derivative works thereof, where such license applies only to those patent claims licensable by You that are necessarily infringed by your Contribution alone or by combination of your Contribution with other work of the Project. The patent license granted in this Section shall immediately terminate with respect to any party that institutes patent litigation against You or EsperTech (including a cross-claim or counterclaim in a lawsuit) alleging that your Contribution, or the Project work to which You have contributed, constitutes direct or contributory patent infringement.

2.3 Upon making the assignment set forth in Section 2.1, You shall receive from EsperTech a non-exclusive, worldwide, fully paid-up, royalty-free, irrevocable license to make, have made, use, reproduce, distribute, sub-license, modify and prepare derivative works based on Your Contribution.

2.4 You hereby waive any and all moral rights you may have in any of the Contributions, including without limitation any rights of integrity and disclosure.

3. Identification of Contributors

Upon general availability release of a EsperTech product that includes your Contribution, EsperTech shall identify You by name in the acknowledgements section of the code notes. EsperTech's sole liability and your sole remedy for breach of this Section is for EsperTech to correct the attribution in the next release following the date on which the breach was brought to EsperTech's attention. Any Contributor who does not want to be identified as a Contributor must notify EsperTech of that by means of an email to the Project lead or mailing list at the time of the contribution or afterwards.

4. Contributor Representations

With acknowledgement and agreement that EsperTech and Users of its products will invest significant resources in product development, application development, marketing, and other cost-intensive undertakings in reliance upon your representations in this Agreement, You represent and warrant that:

4.1 You are legally entitled to grant the above assignment and license.

4.2 If your employer(s) has rights to intellectual property that You create that includes your Contributions, You have received permission to make Contributions on behalf of that employer, that your employer has waived such rights for your Contributions to the Project, or that your employer has executed a separate Contributor License Agreement with EsperTech.

4.3 Each of your Contributions is your original creation. You represent that any Contribution submission(s) You make shall include full disclosure and complete details of any third-party license or other restriction (including, but not limited to, related copyright, patents and trademarks) which are associated with any part of your Contribution.

4.4 To the best of your knowledge, no government license or permission is required for the export, import, transfer or use of the Contribution.

4.5 No claim or dispute has been alleged, threatened, made or filed in connection with the ownership, use or distribution of your Contribution.

4.6 Entering into this Agreement and submitting a Contribution does not violate, breach or constitute a default under any other agreement to which You or your employer is a party, does not require any consent, approval or waiver from or notice to any third party, and does not violate any law or regulation.

5. Contributor's Ongoing Obligation

You agree to notify the Project promptly of any facts or circumstances of which You become aware that would make the representations and warranties in Section 4 inaccurate or untrue in any respect.

6. Disclaimer of Warranties

EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTION 4, NEITHER YOU NOR EsperTech MAKE ANY WARRANTIES OF ANY KIND TO THE OTHER PARTY, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF A CONTRIBUTION'S MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7. Support for Contributions

You are not expected or obligated to provide technical support for your Contributions, except to the extent You desire to provide such support. You may provide technical support for free, for a fee, or not at all. If You decide to provide technical support for a fee, EsperTech shall have no obligation to pay any such fee unless the terms of such support (including applicable fees) are set forth in a separate written agreement signed by an authorized representative of EsperTech.

8. Acceptance of Contributions

EsperTech is under no obligation to accept any Contribution or include any Contribution in any Project software or documentation.

9. Future Claims

At no time hereafter shall You dispute, contest, or aid or assist others in disputing or contesting, either directly or indirectly, EsperTech's exclusive right, title, and interest in any and all Contributions, including (but not limited to) any and all copyright and other intellectual property rights therein claimed by EsperTech.

10. Miscellaneous

This Agreement contains the entire agreement between the parties, and supersedes all prior or contemporaneous agreements or understanding, whether written or oral, relating to its subject matter. The terms of this Agreement are binding contractual obligations and not mere guidelines or recitals. The "License Summary" made available in conjunction with this Agreement is provided for informational purposes only, and in the event of a conflict between the License Summary and the terms of this Agreement, the terms of this Agreement shall prevail. This Agreement may be terminated by either party upon written notice to the other party, provided that the terms of this Agreement shall remain in full force and effect with respect to any Contribution submitted prior to the termination date of this Agreement. This Agreement may be amended or modified only in a writing executed by both parties. If any provision of this Agreement shall be deemed invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected and such provision shall be deemed modified only to the extent necessary to make such provision consistent with applicable law.

This Agreement shall be governed by and interpreted in accordance with the laws of the State of New Jersey, U.S.A. (without regard to its principles of conflicts of law). You agree that the terms and conditions of this Agreement are reasonable and necessary for protection of EsperTech's interest in the Project and the assigned Contributions, and that irreparable injury will result to EsperTech if You breach any term or condition herein. You agree that EsperTech may take any necessary action to compel specific performance or enjoin any violation of this Agreement before any court of competent jurisdiction. EsperTech, as used herein, shall mean EsperTech Inc., as well as its successors and assigns.

In witness of this Agreement, EsperTech Inc. and Contributor have executed this Agreement below,

EsperTech Inc.

PO Box 3129
Wayne, NJ 07470
USA
Office: (877) 994 7368
Office: (973) 577 6406
Fax: (973) 939 8458

Contributor

Name:
Title:
E-mail:
Date:

Name:
E-mail:
Date: