

## **ES3G platform licence agreement**

This document sets out the standard terms on which ES3G Limited (“**ES3G**”), a company registered in England & Wales with registered office at 88 The Mount, Guildford, Surrey, GU2 4JB, England licenses the use of the “Ask the workers” platform.

### **1. Definitions and recitals**

- 1.1. ES3G provides the Platform. Corporate Users, Users and Workers wish to use the Platform. This agreement (“**Agreement**”) sets out the terms on which the Platform is provided and used.
- 1.2. The **Effective Date** of these terms and conditions is: [1<sup>st</sup> June 2024](#).
- 1.3. The “**Platform**” means the Ask the workers software platform, including all updates and versions, all modules, all documentation, videos, training materials, environments (including live, demo, training, testing, sandbox and others), screens, designs, outputs, reports, analyses and all other matters related thereto and further any related mobile, web or other applications that are provided by ES3G to connect with Workers.
- 1.4. A Licence to use the Platform is provided in this Agreement and, if proposed by ES3G, associated End-User Licence Agreements (“**EULA**”) that may be entered into with Users and with Workers. Any terms set out in a EULA override the terms of this Agreement.
- 1.5. “**Corporate User**” is an organisation, including any Related Company, that accesses the presentation and analysis of Worker Data via the dashboards, extracts and reports that may be provided as part of the Platform. The Corporate User may be a stakeholder that has an interest in understanding how workers may be treated in specific locations or by other businesses or may be the employer of workers itself that are invited to use the Platform. Corporate Users may enter into agreements with ES3G alongside this Agreement to deal with commercial terms, fees, charges, service levels and other matters. Unless explicitly stated in such other agreements with respect to such Corporate User, the terms of this Agreement shall take priority. References in this Agreement to the Corporate User include all and any Related Companies.
- 1.6. A “**User**” is an individual nominated by a Corporate User to have specific access to analysis of Worker Data via the dashboards, extracts and reports provided as part of the Platform. References in this Agreement to the Corporate User include all and any Users.
- 1.7. **Workers** are individuals who provide Worker Data by their use of the mobile, web or other applications that are part of the Platform.
- 1.8. **Worker Data** is data that Workers provide about their worker human rights and working conditions via their use of the Platform by answering questions that they are asked and / or sending messages, data or information through the Platform.
- 1.9. “**IPR**” means all intellectual and industrial property rights including patents, know-how, registered trademarks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trademarks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights, domain names and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions;
- 1.10. A “**Related Company**” is another company, whether or not a subsidiary, that a Corporate User enables to have access to the Platform by nominating Users of such Related Company or by sharing outputs with the Related Company from the Platform.
- 1.11. The “**Licensees**” are the Corporate User, Users and Workers and, in respect to each and any of them, the rights granted to them by ES3G to use the Platform under this Agreement are a “**Licence**”.
- 1.12. References in this Agreement to ES3G include its successors and assigns.

### **2. Conditions**

- 2.1. In consideration for the provision of the Platform by ES3G to the Licensees and the continued use of the Platform by the Licensees, ES3G and the Licensees agree to abide by the terms of this Agreement.
- 2.2. If any Licensee does not wish to use the Platform on the basis of this Agreement, they should stop using the Platform immediately.
- 2.3. Licences (each a “**Licence**”) for Workers, Corporate Users and Users to use the Platform and its related material are granted by ES3G on the terms of this Agreement.
- 2.4. A Licence may be granted or terminated by ES3G in respect of any individual Corporate User, User and Worker without affecting the Licence of any other and the Licences of each and any of them are several and not joint, and Licences may be granted on different terms.

### 3. Licence: Workers

- 3.1. The Platform is licensed from the Effective Date without charge to Workers to be used faithfully and truthfully to provide feedback on their worker human rights as experienced at their place of work.

### 4. Licence: for Corporate Users and Users

- 4.1. The Platform is licensed from the Effective Date to the Corporate User and its Users solely for use in the ordinary course of business of the Corporate User on the basis that ES3G is paid in full all fees and charges that are due to it as set out in any agreement with the Corporate User.
- 4.2. The Licence shall continue indefinitely unless terminated.

### 5. Intellectual Property

- 5.1. Except for the Licence rights granted herein, ES3G and its licensors, successors and assigns, at all times retain all right, title, and interest in the Platform and in any related IPR.
- 5.2. The Platform is licensed, not sold, for use only under the terms of this Agreement, and ES3G reserves all rights not expressly granted to the Licensees.
- 5.3. Licensees, as a condition of their Licence, agree not to copy, disassemble, reverse engineer, decompile, modify or create derivative works of the Platform or its IPR or the documentation to the extent that such restriction is not prohibited by applicable mandatory law.
- 5.4. ES3G warrants and represents that the provision and use of the Platform will not infringe the IPR of any third party and that it owns or has obtained valid licences of all IPR, consents or permissions which are necessary to enable it to grant the Licence.
- 5.5. ES3G agrees to indemnify Licensees against all costs, expenses (including reasonable legal costs), damages and losses resulting from or arising in connection with any claim brought against Licensee for actual or alleged infringement of any third party's IPR in the Platform ("**Claim**").
- 5.6. Where there is a Claim and such Claim causes use of the Platform in accordance with this Agreement to be disrupted or materially impaired, the ES3G must, in the following order of priority and at its own expense following consultation with Licensee:
  - 5.6.1. procure for Licensee the right to continue to use and possess the infringing or potentially infringing software; or
  - 5.6.2. modify or replace the infringing or potentially infringing software, so that there is no infringement or potential infringement and must ensure that such modification or replacement shall be effected with minimal interruption to Licensee business; or
  - 5.6.3. terminate the Agreement.
- 5.7. Licensees agree not to sublicense, sell, encumber, outsource, or grant any other rights in the Platform, or allow the Platform (including, for the avoidance of doubt, documentation, screen shots, manuals, videos and other similar material) to be circulated to, or possessed by another party save as provided for in this Agreement.

### 6. Data

- 6.1. The Corporate User warrants for itself and on a joint and several basis with each Related Company that also warrants for itself, that:
  - 6.1.1. Any and all information that it provides to ES3G, whether via the Platform or otherwise, is information that is lawful for it to provide.
  - 6.1.2. None of the information provided, so far as it is reasonably aware, is subject to confidentiality restrictions, privacy restrictions, or other restrictions in terms of its use, storage or distribution, or, if such restrictions do exist, ES3G shall have been informed in advance of the information being provided.
  - 6.1.3. So far as it is aware the provision of information to the Platform shall not result in the breach of any agreement to which the Corporate User is a party.
- 6.2. The Licensees agree that ES3G and its authorized representatives may collect and use technical information Licensees provide as a part of support services related to the Platform.
- 6.3. The Licensees and ES3G agree that Worker Data belongs absolutely to Workers.
- 6.4. The Licensees and ES3G agree that any other data ("**Other Data**") provided via the Platform to ES3G, subject to and without prejudice to any pre-existing trademarks or other registered intellectual property rights, belongs absolutely to ES3G.

### 7. Licence to use Worker Data

- 7.1. Workers, in consideration for ES3G granting them a Licence to use the Platform without charge, agree to grant ES3G a perpetual, royalty-free and irrevocable licence to store, use, analyse and process Worker Data without limitation as ES3G may determine from time to time.

### 8. Confidentiality of Worker Data

- 8.1. Worker Data shall be kept confidential and shall not be disclosed by ES3G to the Corporate User or any User or any other person in any circumstances or in any manner that enables the Corporate User, any User, or any third party to determine which individual worker might have provided the data or contributed to it unless the Worker has specifically consented to share its identity in respect to any particular instance of Worker Data.
- 8.2. The Corporate User and the Users specifically agree to be bound by, and to observe this restriction and not to attempt to determine what Worker Data has been provided by any specific individual Worker unless the Worker has specifically consented to share its identity in respect to any particular instance of Worker Data.
- 8.3. The Licensees agree that ES3G may disclose Worker Data if required by court order, governmental order or in order to comply with regulatory requirements.
- 8.4. The Licensees agree that ES3G may disclose Worker Data to its sub-contractors and advisers provided they also agree to a hold such Worker Data subject to the same level of confidentiality protection as ES3G.



- 8.5. The Licensees agree, notwithstanding any statements made to Workers by ES3G, Users, or Corporate Users relating to the confidentiality of Worker Data, that any disclosure of Worker Data by any of ES3G or the Licensees, including in situations where it leads to the identification of an individual Worker or group of Workers and the data that such has provided, to the maximum extent permitted by law, does not give rise to a cause of action in contract or in tort against ES3G or any of the Licensees unless such breach is motivated by malice or deliberate intent. In the event that such a cause of action were to be established, the Licensees agree that ES3G and any Licensees may settle any such cause of action with a payment of liquidated damages in the amount of US\$1 for any such non-malicious or non-intentional breach or series of breaches of confidence (whether such breach relates to a single instance of a confidence breach or a group or series of related instances of confidence breaches).
- 8.6. The Licensees agree that ES3G is not liable in situations where the confidentiality of Worker Data in respect to individual Workers or groups of Workers is compromised by the actions of any Licensee, including in situations where the actions that have compromised the confidentiality of Worker Data have been supported by or are achieved via the operation of the Platform.

## 9. Updates to the Agreement (including Licences)

- 9.1. ES3G has published this Agreement on its website ([www.es3g.com/licence](http://www.es3g.com/licence)).
- 9.2. ES3G may update this Agreement at any time by publishing a new version on its website. ES3G will use reasonable endeavours to notify all registered users of the website that an update has been published.
- 9.3. Usage of the Platform will continue on the terms of the existing agreement until the effective date specified in the updated agreement.
- 9.4. The new effective date shall be at least 30 days after the first publication of the updated agreement on the ES3G website.
- 9.5. After the Effective Date, all continued access and use of the Platform and all Licences will continue only on the updated and published agreement.
- 9.6. Any Licensee using the Platform on the terms of an existing agreement who does not accept the terms of the new Agreement should stop using the Platform before the Effective Date.

## 10. Material created by the Platform

- 10.1. The Platform, by its operation, enables the analysis of Worker Data in combination with Other Data to create reports, analysis, presentation, findings, and other outputs, whether printed or available on screen, whether stored or reproduced in real time, all referred to here as “**Derivative Material**”.
- 10.2. To the extent that any Derivative Material enables a specific Corporate User, User or Worker to be identified, such Derivative Material is referred to as a “**Specific Derivative Material**”.

- 10.3. To the extent that any Derivative Material does not enable a Corporate User, User or Worker to be identified, such Derivative Material (being all Derivative Material that is not Specific Derivative Material) is referred to as a “**Generic Derivative Material**”.

## 11. Watermarking

- 11.1. The Licensees hereby agree and consent that ES3G may, in its sole discretion, watermark the Platform, the Worker Data, Other Data and any Derivative Materials in such a way as to enable the tracing of usage of the Platform, such data, and any Derivative Materials, with or without notice to any Licensee. This may extend, within the limits of any applicable legislation, to the storage of cookies or other data on devices that are used to access the Platform, with or without specific consents of the Licensee involved. It may also extend to collecting data from devices about the devices and their connections to the internet or local area networks.

## 12. Licence to use Derivative Material

- 12.1. ES3G grants the Corporate User and its Users a royalty-free right to use any and all Derivative Material in the ordinary course of its business for the duration of the Corporate User’s Licence.
- 12.2. ES3G grants the Corporate User and its Users a perpetual and royalty-free right to use any and all Derivative Material that it has in its possession or can access without using the Platform, such right surviving and continuing in perpetuity even if this Agreement is terminated.
- 12.3. For the avoidance of doubt, the Corporate User may *disclose and / or publish* Derivative Material in writing and in communications with third parties, on its websites (internal and external) and in publicity, annual reports and other promotional materials that it may prepare.

## 13. Confidentiality of Generic Derivative Material

- 13.1. ES3G may create, use, incorporate, publish or disclose Generic Derivative Material via any means and without restriction and such Generic Derivative Material is not confidential.

## 14. Confidentiality of Specific Corporate User information

- 14.1. Worker Data, Other Data, and Specific Derivative Material are, to the extent directly related to, or identifying, or enabling the identification of, a specific Corporate User, collectively, “**Specific Corporate User Information**”.
- 14.2. Licensees acknowledge that Specific Corporate User Information may relate to more than one Corporate User at the same time (for example, an analysis of Worker Data at a supplier may relate to one or many of that supplier’s customers, any of whom might also be a Corporate User).
- 14.3. The Licensees acknowledge that it is in the nature of a multi-tenanted platform (such as the Platform) where data is received from multiple sources and outputs based on that data are available to and delivered to multiple sources that confidentiality of data and outputs can be compromised by the natural operation of the Platform.

- 14.4. ES3G agrees severally and not jointly with each individual Corporate User that Specific Corporate User Information relating to or identifying that specific Corporate User is confidential and shall be stored and held confidentially by it, but subject to the confidentiality provisions of this Agreement.
- 14.5. The Licensees and ES3G agree that Specific Corporate User Information may be disclosed ("**Permitted Disclosures**") as follows:
- 14.5.1. Specific Corporate User Information may be disclosed by ES3G if required by court or governmental order, prompt notice of which will be given by ES3G to the specific Corporate User(s) to whom such information relates, and with whom ES3G will cooperate in obtaining a proper protective order if required.
- 14.5.2. Specific Corporate User Information may be disclosed to persons in the ES3G's organisation, its affiliates, officers, agents, employees, professional advisers, insurers and approved subcontractors on a need-to-know basis. Specific Corporate User Information may only be disclosed to these parties on condition that each further recipient of Specific Corporate User Information is made aware of the confidential nature of the information and ES3G agrees to use all reasonable endeavours to ensure that such further recipients maintain the confidentiality of the information as set out in this clause 14.
- 14.5.3. Corporate Users may freely disclose Specific Corporate User Information that relates to themselves (including by directing or permitting ES3G to disclose or to give access to the Platform to third parties where such Specific Corporate User Information may be available and / or disclosed) without it or ES3G breaching this Agreement. In such circumstances, the disclosing Corporate User (and not ES3G) is responsible for assuring compliance with confidentiality restrictions (if any) by such persons to whom such Specific Corporate User Information is disclosed.
- 14.6. ES3G and the Licensees agree that it is not a breach of this Agreement, and there is no cause of action for any Licensee, if Specific Corporate User Information is disclosed by virtue of it being included (directly or indirectly) or disclosed in a Permitted Disclosure made by another Corporate User or by ES3G.

## 15. Anti-bribery, sanctions and anti-corruption

- 15.1. The Corporate User warrants for itself and on a joint and several basis with each Related Company that also warrants for itself, that:
- 15.1.1. Each User that they have nominated has been informed of, and has agreed to abide by, all applicable laws relating to anti-bribery and corruption (including the Bribery Act 2010)
- 15.1.2. to the best of its knowledge, no User and no Corporate User is a Restricted Person:
- 15.1.3. **Restricted Person** means a person that is (i) listed on any Sanctions List; or (ii) specifically a target of Sanctions, whether designated by name or by reason of being included in a class of persons;

- 15.1.4. **Sanctions** means any applicable economic, financial or trade sanctions, laws, regulations, embargoes, freezing provision, prohibitions or restrictive measures relating to trading, doing business, investment, exporting, financing or making assets available (or other activities similar to or connected with any of the foregoing) administrated, enacted, enforced or imposed by law or regulation by the Sanctions Authorities;
- 15.1.5. **Sanctions Authorities** means the United Nations Security Council, the U.S. Department of Treasury's Office of Foreign Assets Control, the Council of the European Union and any EU member state, the State Secretariat for Economic Affairs of Switzerland, and any other relevant authority, including any authority in a Licensee jurisdiction, the United Kingdom and the jurisdiction of any party that Licensees deal with over the Platform.
- 15.1.6. **Sanctions List** means the Specially Designated Nationals and Blocked Persons List of the U.S. Department of Treasury's Office of Foreign Asset Control, the Consolidated List of Financial Sanctions Targets maintained by the European Union, or any similar list maintained by any of the Sanctions Authorities
- 15.2. Should any User or Corporate User become a Restricted Person, ES3G shall be immediately notified by the Corporate User and that User or Corporate User shall immediately cease to operate or use the Platform.
- 15.3. ES3G shall be under no obligation to accept the nomination of any User and / or any Related Company and may decide, in its absolute discretion, not to provide access to the Platform to any such User and / or Related Company or to withdraw access at any time.
- 15.4. Corporate Users confer on ES3G the non-exclusive right to use those trademarks, trade names, service marks, logos and/or similar identifying material agreed in writing as a reference on the ES3G website and / or promotional materials for the limited use of promoting the Platform to prospective clients and agree generally to be referred to as a client by ES3G provided that ES3G does not refer to the Corporate User in any different way to any other client of its Platform or disclose any information that has been agreed to be confidential. The right to use such intellectual property as described in this clause shall cease immediately (without notice) upon termination of this Agreement (however that is caused).

## 16. Warranties and liability

- 16.1. ES3G does not warrant that the Platform will meet the requirements of Licensees or that operation of the Platform will be uninterrupted or error free. It is the responsibility of the Licensee to ensure that the Platform and any use of it achieves the Licensee's intended results. ES3G disclaims all warranties if the Platform is not properly set up and configured, or if Users or Workers are not fully and properly authorized, trained, monitored, supervised, controlled and assessed in their use of the Platform or do not use the Platform correctly, truthfully and faithfully.

16.2. Except as expressly set forth in this Agreement, ES3G, its licensors, successors and assigns and their respective suppliers make no warranties or representations, express or implied, relating to the Platform. Any updates or services are delivered without warranty of any kind, express or implied, statutory or otherwise. To the maximum extent permitted by applicable law, ES3G disclaims all implied warranties and representations including, but not limited to, any implied warranty of merchantability, fitness for a particular purpose, title and non-infringement with respect to the Platform or any services or updates.

16.3. ES3G and the Licensees each warrant that they:

- 16.3.1. Have the full power and authority to enter into this Agreement;
- 16.3.2. Entering into this Agreement does not breach any other agreement to which they are a party;
- 16.3.3. Have taken all reasonable steps to ensure that their obligations as set out in this Agreement are legal, valid, binding and enforceable, having made reasonable enquiry and considered such matters with all due care and attention.

## 17. Taxes, regulatory and compliance obligations

- 17.1. The Licensees and ES3G agree that each is solely responsible for its own taxes and other regulatory and compliance obligations.
- 17.2. The Licensees and ES3G agree to cooperate in full with the investigations of any competent authority into activities that are conducted across the Platform, and to make promptly available such supporting information as may be required.

## 18. Termination

- 18.1. With respect to each individual Licensee, this Agreement and the Licence granted hereunder are to continue in full force and effect unless and until it is terminated.
- 18.2. Subject to any other agreement that may be entered into with a Licensee, ES3G may terminate the Licence granted under this Agreement and this Agreement with respect to any Licensee at any time without notice and without giving any reason.
- 18.3. Unless otherwise specified in an agreement with the same, each and all Licensees agree that ES3G shall have no liability, consequential, direct, indirect, economic or otherwise, to them if ES3G terminates this Agreement and terminates access to the Platform for any reason.
- 18.4. Should a Licensee wish to terminate the Agreement and the Licence with respect to it, the Licensee may simply do this without notice by stopping their access to and use of the Platform.
- 18.5. The Licensees and ES3G agree that the confidentiality provisions of this Agreement shall continue in force whilst this Agreement is not terminated and for a further period of 3 years after termination.

## 19. Assignment

- 19.1. ES3G may assign its rights and obligations under this Agreement without limitation.

19.2. ES3G may sell its rights to the Platform, but only on the basis that any party that acquires the Platform agrees to be bound by this Agreement including any and all valid Licences that are granted pursuant to it.

19.3. The Licensees may not assign, sub-contract or otherwise dispose of any rights or obligations that they have under this Agreement.

## 20. Notices

- 20.1. All notices, requests, demands, consents, approval or other communication provided or permitted hereunder shall be in writing.
- 20.2. No delay or failure by either party to exercise any rights it may have under this Agreement shall constitute a waiver of that or any other right it may have, unless otherwise expressly provided for herein.
- 20.3. When this Agreement refers to a matter that is to be put in writing, emails received outside the Platform or electronic messages delivered over the Platform are deemed to be acceptable by ES3G and the Licensees.
- 20.4. Emails to ES3G relating to this Agreement should be sent to [legal@es3g.com](mailto:legal@es3g.com).
- 20.5. Emails to Licensees, unless otherwise specified in an agreement with such Licensee, will be sent to the email addresses (if any) for Users that are nominated by the Licensee and which are stored in the Platform.
- 20.6. Legal proceedings may not be served by e mail.

## 21. General

- 21.1. Each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.
- 21.2. This Agreement shall be deemed to be a contract embodying the full terms of the agreement between the parties to this Agreement under and subject to, and shall be construed for all purposes and in accordance with, the laws of England & Wales.
- 21.3. For any litigation relating to, or arising out of, this Agreement, the parties to this Agreement hereto submit to the exclusive jurisdiction of the courts of England & Wales, waiving any claim that the same is an inconvenient forum. Each party to this Agreement waives personal service of any and all process upon it and consents that all such service of process may be made by notice.