

Mautic Trials Agreement

Before proceeding with your request for a trial of our services, it's crucial that you carefully read and understand the following agreement along with all associated policies. Usage of the Trial Services constitutes acceptance of these terms.

The Trial Agreement, our Acceptable Use and GDPR Policies, along with any additional restrictions identified in our documentation or that you encounter during the trial period, collectively constitute the "Trial Terms and Conditions." These govern your use of the trial service provided by Mautic. Any terms referenced but not explicitly defined in this Trial Agreement can be found in the associated documents. This Trial Agreement can be updated by Mautic at any given time and such changes are incorporated herein by reference.

This Agreement ("Trial Agreement") is a contract between Open Source Collective, representing Mautic (the "Project"), and you (the "Customer"). This Trial Agreement becomes effective when you either click to accept the Agreement or start using our services ("Effective Date").

If you are accepting this Agreement on behalf of your employer or another entity, you confirm that:

1. You have full legal authority to commit your employer, or the applicable entity, to these terms and conditions;
2. You have read thoroughly and understood this Agreement; and
3. You agree to this Agreement on behalf of the entity you represent.

If you do not possess such authority or disagree with any part of this Agreement, you are not permitted to create an account or use Mautic's Trial services.

Dropsolid ("Provider"), under contract with Open Source Collective on behalf of Mautic, provides the Trial services. Dropsolid is located at Moutstraat 60, 9000 Gent, Belgium. You can reach them at mautictrials@dropsolid.com.

By filling out the account creation form to begin a Trial, or by indicating your acceptance of this Agreement in writing, you confirm your agreement to abide by this Trial Agreement and any relevant Terms and Conditions. Note that the Project holds the right to modify this Trial Agreement and the Trial Terms and Conditions occasionally, under the stipulations mentioned in section 11.10.

1. Provision of a Free Trial

The Provider commits to ensuring access to the Service in accordance with the terms of this Agreement. This involves a commitment to the following:

- 1.1. **Purpose of Trial Services:** Mautic's Trial Services aim to provide prospective customers an opportunity to evaluate the Service capabilities. The services are configured with certain constraints intentionally to discourage use in production environments.
- 1.2. **Responsibility for Trial Data:** You are accountable for any data used during the Trial. Neither the Project nor the Provider shall be liable for data uploaded or utilized during the Trial period.
- 1.3. **Potential Errors and Additional Terms:** Please be mindful that Trial Services might exhibit bugs or errors and could be subject to additional terms.
- 1.4. **Limited Warranty:** The Service is provided during the trial period "as is," devoid of express or implicit warranties. The Project and Provider disclaim any warranties, express or implied, including but not limited to warranties of merchantability, fitness for a specific purpose, and non-infringement.
- 1.5. **No Liability:** Neither the Project nor the Provider bear responsibility or liability for any legal consequences arising from the misuse of the Service during the Trial by the Customer.
- 1.6. **Service Modification and Termination:** The Project and Provider maintain the right to modify, limit, or terminate the Trial Services at their discretion. This could involve changes or discontinuation of certain Service features without prior notification to the Customer.
- 1.7. **Data Access:** The Provider and its Authorized Contractors may need access to your data to provide certain services during the Trial period. The Provider ensures it upholds its obligations under this Agreement during these instances and retains responsibility for Authorized Contractors.
- 1.8. **Affiliate Access:** If you represent an Entity, your Entity's Affiliates may attain access to certain features of the Trial Services. You remain responsible for their adherence to the terms of this Agreement.
- 1.9. **Full Access and Updates:** The Trial Services granted comprise full access to all functionalities available in the Service. The Project and Provider may alter the systems and environment for providing the Trial Services at any time during the Trial, with or without prior notification to Customers.

2. Data Privacy

By using our Trial Services, you confirm your understanding and acceptance of our data handling and privacy practices as described in this Agreement and within our integrated [Data Processing Agreement](#) and [Privacy Notice](#). For the purpose of this clause, please note:

- 2.1. **Comprehension of Terms:** Your registration and continued use of the Trial Services represent your acknowledgment of having read, understood, and agreed to Mautic's [Data Processing Agreement](#) and [Privacy Notice](#).
- 2.2. **Personal Data:** The Data Processing Agreement and Privacy Notice wholly apply when Your Data comprises Personal Data, as defined in the Data Processing Agreement.
- 2.3. **Legal Authority:** You must possess the legal rights or have secured all required consents to transmit any data, including Personal Data, to us via the Trial Services. You agree not to use, share, or provide access to data you are legally restricted from sharing with us.
- 2.4. **Limitations on Data:** During your Trial, it is prohibited to use data categories, including but not limited to: production data; confidential, infringing, sensitive personal data, or sensitive data; personally identifiable information (other than email and name); personal health information (HIPAA); financial information; data of substantial value; regulated data; or any other data of a similar type.

3. Your Obligations

3.1. Responsibilities

By using our Trial Services, you're obliged to comply with this Agreement, all relevant laws and regulations, and the [Data Processing Agreement](#). As a user, you have important responsibilities:

- 3.1.1. **Regulatory Compliance:** You're accountable for your use of the Trial Services in compliance with legal and regulatory guidelines.
- 3.1.2. **Security:** You need to put reasonable efforts into preventing unauthorized access or usage of the Trial Services, immediately reporting any such incidents to the Provider by emailing mautictrials@dropsolid.com. Furthermore, it's crucial to maintain the security and compliance of your account.
- 3.1.3. **Purpose of Use:** The Trial Services must exclusively be used for evaluation purposes and not for production use. Upgrading to a paid account is required for production use.
- 3.1.4. **Prohibited Actions:** Licensing, sublicensing, selling, renting, leasing, transferring, distributing, or otherwise exploiting the Trial Services is strictly prohibited.
- 3.1.5. **Security-Testing Tools:** Without explicit permission from the Provider, which can be requested by emailing mautictrials@dropsolid.com, you cannot use, or allow the use of, any security-testing tools to investigate, scan, or seek to determine or compromise the security of the Trial Services.
- 3.1.6. **Code and Service Manipulation:** Any form of code or service manipulation, including copying, creating derivative works, reversing

engineering, disassembling, decompiling, or any attempt to discover the source code or modify any part of the Trial Services, is prohibited.

3.1.7. **Non-Competitive Stance:** Creating a competitive product or service based on the Trial Services is not permitted.

3.1.8. **Benchmark Disclosure:** If you wish to disclose any benchmark or performance tests of the Trial Services, you must first obtain consent by emailing mautICTrials@dropsolid.com.

3.2. Your Data

Your data is an integral part of the Trial Services, and in using these services, stringent guidelines apply:

3.2.1. **Data Format and Preparation:** You are solely responsible for preparing and ensuring your data is correctly formatted as a CSV (Comma Separated Values) file for import. Any transformations or analyses needed to make your data compatible with our services also rest on your shoulders.

3.2.2. **Data Rights and Ownership:** You must possess and maintain all necessary rights for us to deliver the Trial Services under the terms of this Agreement. This implies transferring your data to us and granting us the permissions to access, use, and store your data. Notwithstanding, you remain the exclusive owner of all rights, titles, and interests in your data, including all associated intellectual property rights.

3.2.3. **Provider's Data Usage Rights:** To facilitate our provision of services, you grant us, as well as any associated Authorized Contractors, necessary rights (within the limits of this Agreement) to host, process, display, store, and transmit your data.

3.2.4. **Aggregated Data:** You confirm and warrant that we may compile, use, store and retain aggregated data combining your data with other customers' data for business purposes. This includes areas like analytics, industry benchmarking, service improvement, and new service development. However, the usage confines to non-identification of you or any individual. All intellectual property rights in the Aggregated Data belong to us. Your personally identifiable information (PII) will not be included in the Aggregated Data without explicit consent.

3.2.5. **Data Retention and Removal:** Once the Trial Services conclude, a backup of your data is stored. This backup can be requested by sending an email to mautICTrials@dropsolid.com at any time within a month of your trial ending. Historical archives are maintained for 30 days after the trial ends before being deleted. After deletion there is no more option to recover or export your data. Neither the Project nor the Provider provides support to recover or export your data after this date.

- 3.2.6. **Account Upgrade:** Upgrading to a paid account transitions you from a trial customer to a Dropsolid customer - the official provider of the Trial Services. A separate set of terms and conditions will govern the ongoing business relationship and must be accepted before the upgrade. These new terms and conditions supersede this Trial Agreement.

4. Proprietary Rights

Our Trial Services and your usage entail certain intellectual property rights and obligations:

- 4.1.1. **Trial Service Rights:** Except for the rights expressly granted in this Agreement, all rights, titles, and interests in the Trial Services belong to the Provider and the Project.
- 4.1.2. **Third-Party Software:** The Trial Services may interact with third-party software, including open source software ("Third-Party Software"), licensed directly to you by the respective owners. The Provider and Project do not hold any liability or obligation concerning these third-party offerings. Any usage is at your own risk and subject to the terms outlined by the third-party providers.
- 4.1.3. **Your Data:** We do not acquire rights, title, or interest in your data, including any associated intellectual property rights, beyond the limited licenses granted in this Agreement. All rights not expressly granted to us by this Agreement remain with you.
- 4.1.4. **Intellectual Property:** All intellectual property rights concerning the Trial Services, including patents, trademarks, service marks, trade secrets, copyrights, and other proprietary rights, belong to the Provider and the Project.
- 4.1.5. **Misuse of Intellectual Property:** If the Provider's or Project's intellectual property is misused or used without authorization in connection with the Trial Services, we reserve the right to take appropriate actions. These may include terminating this Agreement, initiating legal proceedings, or engaging other remedies as permissible by law.

5. Confidentiality

Commitment to confidentiality is a key aspect of our Trial Services. Both you, the Customer, and we, the Provider and Project, are obliged to maintain the privacy of proprietary or confidential information shared in the context of this Agreement. For the purposes of this section:

- "Confidential Information" is defined as proprietary or non-public information related to technical and business matters disclosed as part of this Agreement.

The terms and conditions of maintaining this confidentiality include:

- 5.1.1. **Duration of Confidentiality:** The obligation to keep Confidential Information confidential lasts throughout the duration of the Trial and extends to five (5) years following the termination of the Trial.
- 5.1.2. **Usage of Confidential Information:** The Receiving Party agrees to only use Confidential Information to fulfill its obligations and exercise its rights under this Agreement. Unauthorized use or disclosure is strictly prohibited and must be prevented using all reasonable care, including a level of care at least as protective as the Receiving Party uses for its own confidential information.
- 5.1.3. **Involvement of Third Parties:** During the provision of Trial Services, we may involve third-party contractors or service providers. These parties may have access to your Confidential Information, but they are bound by confidentiality obligations at least as strict as those in this Agreement. We are committed to ensuring they keep your Confidential Information confidential.
- 5.1.4. **Legally Compelled Disclosure:** In circumstances where we are required by law, a court of competent jurisdiction, or a regulatory or administrative body to disclose your Confidential Information, we shall, where permissible by law, notify you as soon as practical before making that disclosure. We will also cooperate with you to limit the scope of such required disclosure.
- 5.1.5. **Marketing Communications:** We may use your registration information to contact you for marketing purposes. However, you retain the right to opt out of receiving such communications.

Please note that public information or information independently developed or acquired without reliance on the other party's Confidential Information is not covered by this confidentiality clause. Furthermore, please refer to our [Data Processing Agreement](#) and [Privacy Notice](#) for more detailed information on how we handle your personal data.

6. Representations and warranties disclaimer

Our Trial Services are offered with certain disclaimers to keep in mind:

- 6.1. **No Additional Warranties:** Apart from what's stated explicitly in this Agreement, neither the Provider nor the Project make any other guarantees or warranties of any nature. These may be express or implied, verbal, or written.
- 6.2. **Disclaimer of Implied Warranties:** To the fullest scope permitted by applicable law, the Provider and the Project disclaim all implied conditions and warranties. Such disclaimed conditions and warranties include but are not limited to merchantability, fitness for a particular purpose, service quality, functionality, performance, precision, and error-free service provision.

- 6.3. **Unspecified Outcomes:** No warranty states that the Trial Services will achieve any specific outcome or results.

7. Indemnification by you

As a user, there are certain protections you should be aware of:

- 7.1. **Indemnification Duty:** You agree to indemnify, defend, and hold the Project and Provider harmless from any judgments, settlements, costs, and fees reasonably incurred (including reasonable attorney fees) arising from any third-party claim, demand, lawsuit, or proceeding that alleges that Your Data or Your Trial Instance infringes on applicable laws or a third party's rights (a "Claim Against Provider and/or Project").
- 7.2. **Conditions for Indemnification:** Your obligation to indemnify is subject to the following conditions:
- 7.2.1. **Swift Notice:** The Project and/or Provider must promptly provide you with written notice of the Claim Against them.
 - 7.2.2. **User Control:** You have exclusive control over the defense and settlement of the Claim Against the Project and/or Provider. However, any settlement you propose should not infer liability on the part of the Project and/or Provider unless it categorically frees them from all liability.
 - 7.2.3. **Cooperation at Your Expense:** The Project and/or Provider will provide reasonable assistance, at your expense, to help you defend against the Claim.

8. Limitation of liability

In using our Trial Services, you should be aware of certain limitations to our liability:

- 8.1. **Excluded Matters:** Except in instances of bodily injury, death, damage to real or personal property, or liabilities that cannot be limited under applicable law (collectively, "Excluded Matters"), neither we, the Provider, nor the Project shall bear any liability to you, your employees, affiliates, agents, partners, or any third party in connection with this Trial Agreement.
- 8.2. **Type of Claims:** Our non-liability applies to all claim types, whether grounded in contract, tort (including negligence), product liability, or any other legal theory.
- 8.3. **Restricted Damages:** Save for the Excluded Matters, and unless specific law forbids limiting or excluding liability for consequential or incidental damages, in no event will the Provider or the Project be liable for lost profits or revenues, indirect, special, incidental or consequential losses, or any punitive damages. This applies regardless of the cause or whether the Provider or the Project were made aware of the possibility of such damages.

9. Term and termination

Your access to our Trial Services and the termination thereof is governed by the following terms:

- 9.1. **Duration:** The Trial Services last for 14 days from the Trial start date or until otherwise concluded. This Trial Agreement ends upon deletion of your Trial Account.
- 9.2. **Provider Termination:** The Project or Provider, at their sole discretion, can suspend or terminate the Trial Services or this Trial Agreement at any time, for any or no reason, and with or without notifying you.
- 9.3. **User Termination:** At any point within the trial period, you may request to terminate the Trial Services by emailing mautictrials@dropsolid.com.
- 9.4. **Data Deletion:** Following clause 3.2.5, all of Your Data within the Trial Services will be backed up by the Provider when the Trial Services ends or is otherwise terminated, and can be requested by mailing to mautictrials@dropsolid.com within a month of the trial ending. After deletion there is no more option to recover or export your data. Neither the Project nor the Provider provides support to recover or export your data after this date.

10. Survival

Please note that even after the termination or expiry of this Agreement, certain rights and obligations hold:

- 10.1. **Persistent Provisions:** The stipulations contained in Sections 4 (Proprietary Rights), 5 (Confidentiality), 6 (Disclaimer), 7 (Indemnification), 8 (Limitations of Liability), and 11 (Notices, Governing Law and Jurisdiction), will persist.
- 10.2. **Intended Surviving Rights:** Any other rights and obligations within this Agreement reasonably expected to endure the Agreement's termination or expiration shall remain in effect.

11. Notices, governing law and jurisdiction

The application, enforcement, and interpretation of this Agreement are subject to certain regulations:

- 11.1. **Legal Notices:** Unless specified otherwise in this Agreement, all legal notices should be sent to: Mautic % Open Source Collective, 440 N Barranca Ave #3939 Covina, CA 91723, USA, by certified mail.
- 11.2. **Governing Law:** The laws of California, USA, disregarding conflict of law principles, govern the understanding, interpretation, and enforcement of this Agreement.

- 11.3. **Relationship and Beneficiaries:** Parties participating in this Agreement are independent contractors. This Agreement doesn't create a partnership, joint venture, agency, or any other relationship. There are no third-party beneficiaries.
- 11.4. **Electronic Communications:** By accepting this Agreement and/or using the Trial Services, you agree to receive electronic communications in compliance with our Privacy Policy.
- 11.5. **Waiver of Rights:** The Project's or Provider's failure or delay to enforce a right doesn't constitute a waiver of said right.
- 11.6. **Force Majeure:** The Project or Provider shall not be held accountable for delays or failures in performing the Trial Services or this Trial Agreement due to causes beyond their reasonable control, including but not limited to fire, natural disaster, governmental laws, orders, or regulations, strikes, labor difficulties, etc., unless they are due to the fault or negligence of the Project or Provider. Such delays shall last only as long as the event remains beyond the reasonable control of the Project or Provider. The Project or Provider shall make its utmost efforts to minimize the impact of such events.
- 11.7. **Modification by Court:** When a competent court finds a provision contrary to law, it will be modified to align with the intent of the original provision. The remaining provisions will remain effective.
- 11.8. **Assignment:** Without written consent from the Project and Provider, you can't assign this Agreement or rights and obligation therein.
- 11.9. **Entirety of Agreement:** This document comprises the entirety of the agreement, superseding all prior or concurrent representations or agreements.
- 11.10. **Amendment:** The Project reserves the right to modify this Agreement. If a revision significantly alters your rights, we'll make reasonable efforts to secure your consent.