

# Ansys Elastic Currency

If Licensee has procured Ansys Elastic Currency, as may be identified on the Quotation, Licensee has not procured fixed licenses of Program(s) but rather has procured the right to access (i) licenses of the Program(s) and/or (ii) Licensor-owned and/or operated hardware ("Hardware") listed in the applicable consumption rate table posted at <http://www.ansys.com/aeuconsumption> (collectively, the "Elastic Use Program(s) and Hardware") on an incremental basis ("Elastic Use"). The consumption rate table applicable to Licensee shall be the most recent version posted at the time of purchase, which may be updated as set forth below. Each month the Elastic Use will be decremented against the remaining balance of the Ansys Elastic Currency procured by Licensee, based on the applicable consumption rate table. Licensor may, at its discretion, update the consumption rate table to (i) add or remove Program(s), (ii) decrease the consumption rate for any Program(s), (iii) add or remove any Hardware or (iv) modify the consumption rate for any Hardware. If removing Program(s) or Hardware, Licensor will provide a 30-day notice to Licensee. Such updates will be designated by the same number to the left of the decimal point and a higher number to the right of the decimal point (e.g., version 1.4 is an update to version 1.2).

The manner by which Licensor provides access to the Elastic Use Program(s) and Hardware shall be at Licensor's discretion, may change over time and, in any case, shall require Licensee to be connected to the internet. In the event that Licensor is providing access to the Elastic Use Program(s) and Hardware via the internet on a server owned and/or operated by Licensor ("Cloud License Server") then, subject to the exceptions listed below, Licensor will use commercially reasonable efforts to make the Cloud License Server available 95% of the time during each calendar month during the License Term (referred to herein as the "Availability Commitment"). The availability of the Cloud License Server for a given month will be calculated according to the following formula (referred to herein as the "Availability"):

Where Total hours in the month = THM

Total hours in the month the Services are unavailable = THU

And:  $((THM-THU) \times 100)/THM$ .

For purposes of this calculation, the Cloud License Server will be deemed to be unavailable (referred to herein as "Unavailable") only if the Cloud License Server does not respond to HTTP requests issued by Licensor's monitoring software. Further, the Cloud License Server will not be deemed Unavailable for any downtime or outages that result from the following exceptions:

The Cloud License Server will not be considered as Unavailable (and hours will not accrue as THU) for any downtime or outages that result from any maintenance performed by Licensor or Licensor's cloud hosting provider, which shall be communicated to Licensee from time to time (collectively referred to herein as "Scheduled Maintenance"). In the event during the License Term that Ansys does not meet the Availability Commitment, as Licensee's sole and exclusive remedy for such failure, Licensee shall be entitled to be compensated with a pro-rated credit equal to one (1) hour for each hour that the Cloud License Server is Unavailable beyond the Availability Commitment (including any fractional amounts, e.g. if the Cloud License Server is Unavailable for 1.2 hours beyond the 95% Availability Commitment, then Licensee is entitled a pro-rated credit for 2 hours).

Use of the Elastic Use Program(s) and Hardware will be tracked via a monitoring and reporting tool provided by Licensor ("Reporting Tool"). The Reporting Tool will automatically generate a usage report. The usage report may be transmitted to Licensor automatically. In the event that the usage report is not automatically transmitted to Licensor, Licensee will provide the usage report within five (5) business days of Licensor's request for the same. Licensor will generate a monthly summary report that is transmitted to the Licensee that will provide the Programs and/or Hardware accessed with the corresponding Elastic Use, as well as the balance remaining of the Ansys Elastic Currency.

Licensee is aware that it is solely responsible for tracking its Elastic Use and that Licensor nor any third party hosting site (to the extent applicable) has any obligation to notify Licensee when it has utilized all of the Elastic Use for which it has paid. Any portion of the Elastic Use Amount remaining at the end of the License Term will be forfeited without refund.

Licensee will not be entitled to any credits for any errors in a monthly usage report that Licensee does not dispute within ten (10) business days after the transmission of such monthly usage report. In the event of any actual errors in the monthly usage report for which Licensee provides notice to Licensor of within ten (10) business days of the transmission of a monthly usage report, Licensor will make any necessary adjustment to the Ansys Elastic Currency balance. Licensee shall not be entitled to any refund of any kind for any errors or discrepancies with respect to monthly reports of Elastic Use.

Licensor, upon reasonable notice to Licensee, at Licensor's own cost and no more than one (1) time per year, may have a third party independent auditing firm review and examine license usage under this Agreement and for that purpose such third party firm shall be entitled to have access to Licensee's premises at a mutually agreeable time and have access to all relevant data, files and information. Such third party firm shall not have physical access to Licensee's computing devices in connection with any such audit, without Licensee's prior consent, which shall not be unreasonably withheld. Licensee will reasonably cooperate with such third-party auditor's activities under this Agreement.