

End User License Agreement

for SUSE products



End User License Agreement for SUSE Liberty Linux products and SUSE Linux Enterprise Server with Expanded Support products

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General Terms

Audits

Licensor or an Auditor (as defined below) has the right to verify Your compliance with this Agreement. If you use a subscription offering as detailed in the section Subscription Services and Support above, You agree to:

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2. Questionnaire. Within seven (7) days of Licensor's request, You shall furnish Licensor or its designated independent auditor ("Auditor") a completed questionnaire provided by Licensor or Auditor, accompanied with a written statement signed by a director of Your Organization certifying the accuracy of the information provided; and
3. Access. Provide representatives of Licensor or Auditor any necessary assistance and access to records and computers to allow an inspection and audit of Your computers and records, during Your normal business hours, for compliance with the applicable Agreement and fully cooperate with such audit.



4. **Non-Compliance.** In the event that You have, or at any time have had, unlicensed installation, use of, or access to the Software or have otherwise breached this Agreement (a "Non-Compliance"), without prejudice to any other rights or remedies Licensor may have, including, without limitation, injunctive relief, You shall, within thirty (30) days' notice of such Non-Compliance to You, purchase sufficient licenses and or subscriptions and associated support and maintenance to cure the Non-Compliance, by paying Licensor's current (as of the date of such additional purchase) list license fees and 12-month support and maintenance fees to Licensor for such additional licenses, plus Licensor's current (as of the date of such additional purchase) list term license and support and maintenance fees and interest (compounded at 1.5% monthly or the maximum rate permitted by applicable law if lower) for such additional licenses for the time period from the commencement of the Non-Compliance until payment of the aforementioned fees, with interest payable even if an invoice was not issued at the time the Non-Compliance occurred. If Your Non-Compliance results in an underpayment of license fees of 5% or greater, You shall also reimburse Licensor for the reasonable cost of such audit in addition to other amounts due.

Law

All matters arising out of or relating to this Agreement will be governed by the substantive laws of the United States and the State of Utah without regard to its choice of law provisions. Any suit, action or proceeding arising out of or relating to this Agreement may only be brought before a federal or state court of appropriate jurisdiction in Utah. If a party initiates Agreement-related legal proceedings, the prevailing party will be entitled to recover reasonable attorneys' fees. If, however, Your principal place of business is a member state of the European Union, the European Free Trade Association or the United Kingdom, (1) the courts of Ireland shall have exclusive jurisdiction over any action of law relating to this Agreement; and (2) where the laws of such country of Your principal place of business are required to be applied to any such action of law the laws of that country shall apply. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded.

Entire Agreement

This Agreement, together with any other purchase documents or other agreement between You and Licensor, sets forth the entire understanding and agreement between You and Licensor and may be amended or modified only by a written agreement agreed to by You and an authorized representative of Licensor. NO THIRD PARTY LICENSOR, DISTRIBUTOR, DEALER, RETAILER, RESELLER, SALES PERSON, OR EMPLOYEE IS AUTHORIZED TO MODIFY THIS AGREEMENT OR TO MAKE ANY REPRESENTATION OR PROMISE THAT IS DIFFERENT FROM, OR IN ADDITION TO, THE TERMS OF THIS AGREEMENT.

Waiver

No waiver of any right under this Agreement will be effective unless in writing, signed by a duly authorized representative of the party to be bound. No waiver of any past or present right arising from any breach or failure to perform will be deemed to be a waiver of any future right arising under this Agreement.



Severability

If any provision in this Agreement is invalid or unenforceable, that provision will be construed, limited, modified or, if necessary, severed, to the extent necessary, to eliminate its invalidity or unenforceability, and the other provisions of this Agreement will remain unaffected.

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